

METRO NASHVILLE GOVERNMENT, TN

2018 Disparity Study



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ABOUT GRIFFIN & STRONG, P.C.

- The firm has conducted over 40 disparity studies, 50 related studies, and team members have participated in over 150 studies
- Team includes 5 Attorneys, 2 PhDs in Economics, a PhD Statistician and a PhD Candidate in Anthropology, all with expertise in disparity studies.
- Rodney K. Strong procured and managed the first post-Croson disparity study.
- Rodney K. Strong and Dr. Vince Eagan are considered two of the foremost experts on disparity studies nationally, with each holding expert witness testimony.
- Dr. Eagan has successfully defended 5 disparity studies
- Firm specializes in disparity research, contract compliance, program development, training and supplier diversity consulting.
- No study conducted by Griffin & Strong, P.C. has ever been challenged or overturned in court.



Griffin & Strong, P.C.

Project Team



- Rodney K. Strong, Esq. – Project Executive
- Michele Clark Jenkins – Project Manager
- Dr. J. Vincent Eagan- Policy Review
- Dr. Gregory Price – Sr. Economist
- David Maher, Esq.- Legal Analyst
- Sterling Johnson – Deputy Project Manager
- Imani Strong Tucker – Anecdotal Analyst
- Susan Johnson – Project Administrator
- Tanesha Jones – Sr. Data Analyst
- Felicia Loetscher – Data Analyst
- Creative Research Solutions – Survey of Business Owners

Local Team

- The Maynard Group – Anecdotal Interviews

WHAT IS A DISPARITY STUDY & WHY DO WE DO THEM?

Disparity Studies Form the Factual Basis for Remedial Programs

- City of Richmond v. J.A. Croson Co.,
488 U.S. 469 (1989) &
- Strict Scrutiny for race-based programs
(Intermediate for gender-based programs)
- Must have a factual predicate
- Methodology dictated by Case Law
- Must have narrowly-tailored remedy (to avoid over- or under-inclusion)

STUDY OBJECTIVES

1. Is there a statistically significant disparity in the relevant geographic and product markets between the percentage of qualified Minority and Woman owned firms (“MWBE”) willing and able to provide goods or services to Metro Nashville in each of the category of contracts and the percentage of dollars awarded to such firms (whether as prime contractors/consultants or subcontractors/consultants)?
2. If a statistically significant disparity exists, have factors, other than race and gender been ruled out as the cause of that disparity, such that there can be an inference of discrimination?
3. Can the discrimination be adequately remedied with race and gender-neutral remedies?
4. If race and gender-neutral remedies are not sufficient, does the evidence from the Study legally support a race and/or gender conscious remedial program?
5. Are the proposed remedies narrowly tailored to the strong basis in evidence from the disparity study?

TECHNICAL APPROACH



POLICY FINDINGS



POLICY FINDINGS

The Metro Nashville PNP is a predominantly race neutral program which, as currently implemented, is essentially outreach.

It does employ a Good Faith Efforts requirement that monitors compliance, once contractors have committed to MWBE utilization.

POLICY FINDINGS

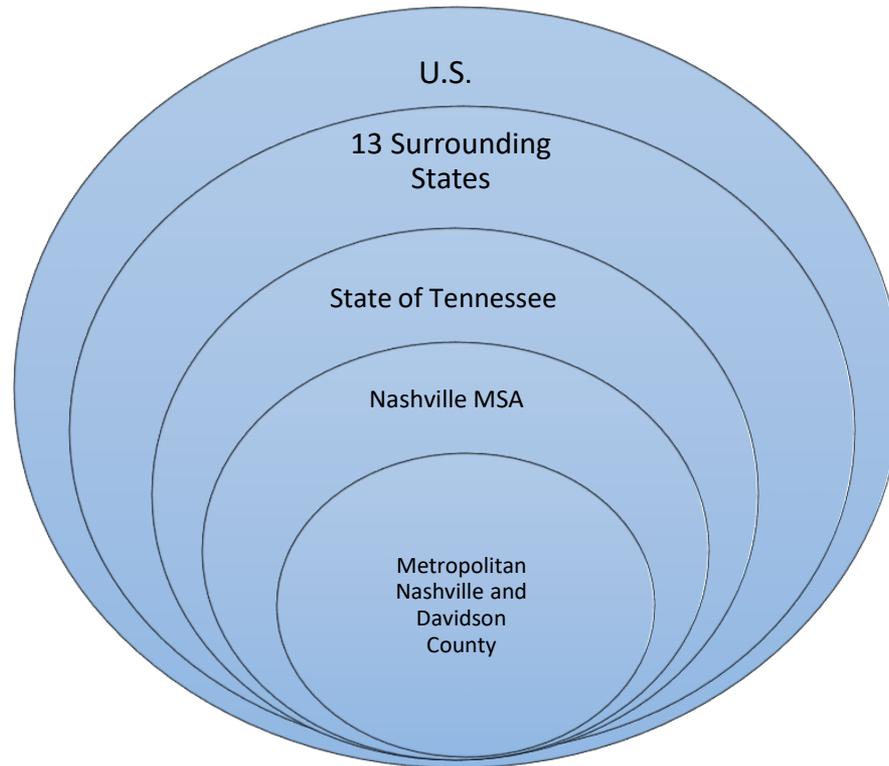
Some existing effective tools but due to lack of administrative, legislative, and infrastructure support, these tools have gone unused.

Also due to gaps in the current vendor identification, including commodity codes, work categories and contact information certain policies & programs have not been as effective as they could be. E.g. the PNP Program is a subcontractor program yet comprehensive subcontractor data has not been collected.

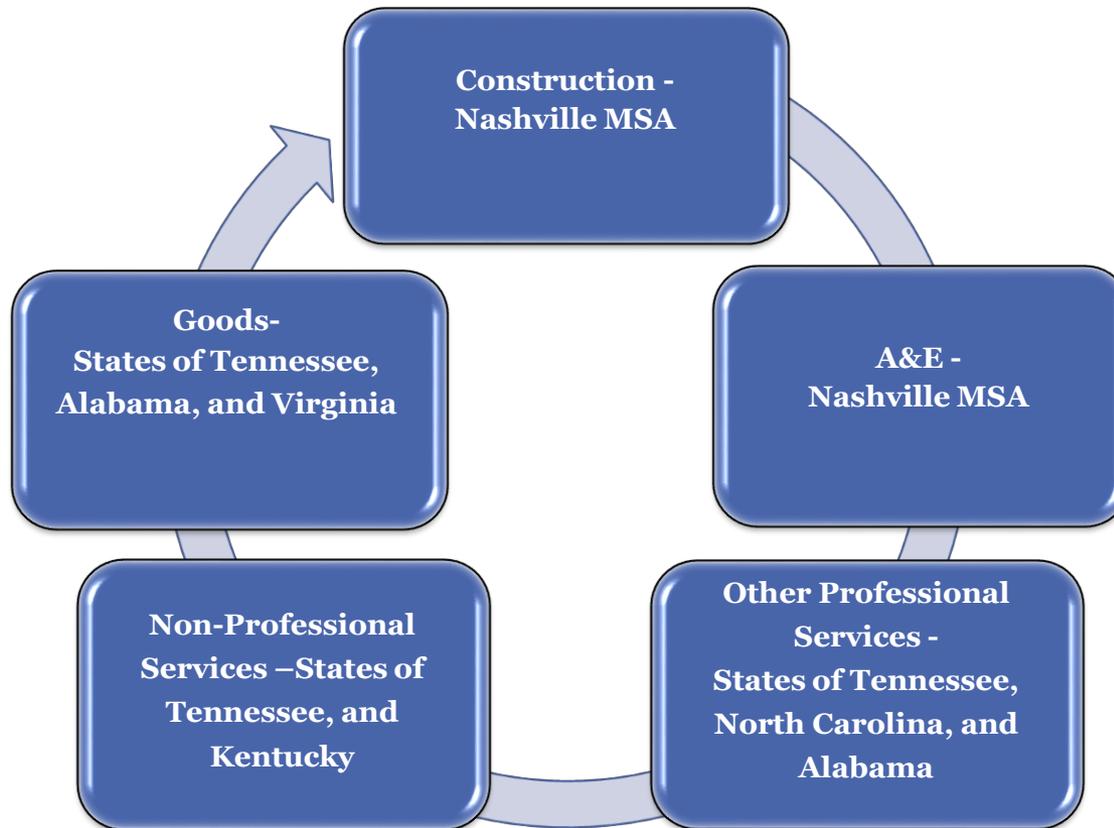
STATISTICAL FINDINGS



GEOGRAPHIC RELEVANT MARKET



GEOGRAPHIC RELEVANT MARKET



AVAILABILITY

Summary of Availability

Ethnicity	Construction	A&E	Other Professional Services	Non-Professional Services	Goods
African American	10.10%	10.19%	20.61%	19.33%	7.14%
Asian American	0.87%	1.70%	0.99%	1.35%	1.11%
Hispanic American	1.66%	0.73%	1.22%	1.89%	0.94%
Native American	0.75%	0.49%	0.76%	0.76%	0.65%
Total Minority	13.38%	13.11%	23.58%	23.33%	9.84%
Caucasian Women	12.43%	14.93%	16.41%	15.90%	10.96%
Unidentified MWBE	3.74%	2.67%	11.22%	6.51%	2.94%
Total M/WBE	29.55%	30.71%	51.21%	45.74%	23.74%
Non-M/WBE	70.45%	69.30%	48.78%	54.25%	76.25%
Total	100%	100%	100%	100%	100%

PRIME UTILIZATION

Summary of Prime Utilization

	Construction		A&E		Other Professional Services		Non-Professional Services		Goods		Total	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
African American	\$ 74,892,016	5.54%	\$ 1,258,994	0.30%	\$ 89,127	0.49%	\$ 19,488,428	8.17%	\$ 5,418,432	0.62%	\$ 101,146,997	3.49%
Asian American	\$ 3,018,829	0.22%	\$ 1,280,108	0.30%	\$ 286,608	1.57%	\$ 159,768	0.07%	\$ 530,057	0.06%	\$ 5,275,370	0.18%
Hispanic American	\$ 276,531	0.02%	\$ 1,439,795	0.34%	\$ 9,635	0.05%	\$ 8,419	0.00%	\$ 324,375	0.04%	\$ 2,058,755	0.07%
Native American	\$ 9,534,616	0.71%	\$ 21,467,995	5.06%	\$ -	0.00%	\$ 43,900	0.02%	\$ 99,288,794	11.43%	\$ 130,335,305	4.49%
Total MBE	\$ 87,721,992	6.49%	\$ 25,446,891	6.00%	\$ 385,370	2.11%	\$ 19,700,515	8.25%	\$ 105,561,658	12.16%	\$ 238,816,427	8.23%
Caucasian Women	\$ 126,972,945	9.39%	\$ 48,969,575	11.55%	\$ 746,609	4.10%	\$ 6,946,839	2.91%	\$ 51,613,058	5.94%	\$ 235,249,026	8.11%
Unidentified MWBE	\$ 49,579	0.00%	\$ -	0.00%	\$ 377,300	2.07%	\$ 149,031	0.06%	\$ 5,288,813	0.61%	\$ 5,864,723	0.20%
Total MWBE	\$ 214,744,516	15.88%	\$ 74,416,466	17.55%	\$ 1,509,279	8.28%	\$ 26,796,385	11.23%	\$ 162,463,529	18.71%	\$ 479,930,176	16.54%
Non- MWBE	\$ 1,137,428,412	84.12%	\$ 349,533,176	82.45%	\$ 16,712,068	91.72%	\$ 211,882,267	88.77%	\$ 705,858,260	81.29%	\$ 2,421,414,184	83.46%
Total	\$ 1,352,172,929	100.00%	\$ 423,949,643	100.00%	\$ 18,221,347	100.00%	\$ 238,678,652	100.00%	\$ 868,321,790	100.00%	\$ 2,901,344,360	100.00%

PRIME DISPARITY

MWBE GROUPS WITH SIGNIFICANT UNDERUTILIZATION

	Construction	A&E	Other Professional Services	Non-Professional Services	Goods
African American	X	X	X	X	X
Asian American	X	X		X	X
Hispanic American	X	X	X	X	X
Native American			X	X	
Caucasian Woman	X	X	X	X	X
Unidentified MWBEs	X	X	X	X	X

NOTE: Native American owned firms were underutilized in Construction as prime contractors but it was not statistically significant.

SUBCONTRACTOR UTILIZATION

Summary of Subcontractor Utilization

From Prime Vendor Questionnaire

Based upon Awards FY2013-FY2017

	Construction		A&E		Total	
	\$	%	\$	%	\$	%
African American	\$ 6,163,376	5.76%	\$ 451,173	9.32%	\$ 6,614,549	5.91%
Asian American	\$ 446,806	0.42%	\$ 354,476	7.32%	\$ 801,282	0.72%
Hispanic American	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
Native American	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
Total MBE	\$ 6,610,182	6.17%	\$ 805,649	16.64%	\$ 7,415,831	6.63%
Caucasian Women	\$ 5,361,425	5.01%	\$ 681,449	14.08%	\$ 6,042,874	5.40%
Unidentified MWBE	\$ -	0.00%	\$ -	0.00%	\$ -	0.00%
Total MWBE	\$ 11,971,607	11.18%	\$ 1,487,098	30.72%	\$ 13,458,705	12.03%
Non- MWBE	\$ 95,077,486	88.82%	\$ 3,353,536	69.28%	\$ 98,431,022	87.97%
Total	\$ 107,049,093	100.00%	\$ 4,840,634	100.00%	\$ 111,889,727	100.00%

SUBCONTRACTOR DISPARITY

MWBE GROUPS WITH SIGNIFICANT UNDERUTILIZATION

	Construction	A&E
African American	X	
Asian American	X	
Hispanic American	X	X
Native American	X	X
Nonminority Female	X	
Unidentified MWBEs	X	X

NOTE: African American and Nonminority Female owned firms were underutilized, but it was not statistically significant.

PRIVATE SECTOR ANALYSIS

- WBEs are less likely to be new firms, but it is not true for MBEs, SBEs, and DBEs.
 - To the extent this also implies similar knowledge/experience about bidding and securing public contracts, any disparities in public contracting outcomes between MBEs, SBEs, DBEs, and non-MWBEs can't be explained by differential market experience.
- All of the certified minority firm groups were more likely to be denied loans in the private credit market.
 - This suggests that MBEs, WBEs, SBEs, and DBEs in the Metro Nashville Market Area are likely to have the capacity to compete in the market for public procurement constrained as a result of private sector credit market discrimination.
- For MBE, WBE, SBE and DBE firms, there is no difference in the likelihood of prime bid submission.
 - This suggests that any public contracting disparities in Metro Nashville between MWSDBEs, MBEs, WBEs, SBEs, and DBEs and non-MWSDBEs, cannot be explained by differences in bid submission rates on Metro Nashville contracts.

PRIVATE SECTOR ANALYSIS

- MBEs, SBEs, and DBEs were more likely to have never served as prime contractor in Metro Nashville than non-MWBEs, this is not true of WBEs.
 - This suggests that if past success as a prime contractor has an impact on future contracting opportunities, current disparities in public contracting may be impacted by past bid failures.
- MBE and DBE status reduces the number of subcontracting opportunities in Metro Nashville relative to non-MWBEs, with the lack of experience from past contracting success also impacting future opportunities.
- But for their status as MBEs, WBEs, SBEs, and DBEs, these firms would secure more prime public contracts in the Metro Nashville market area.

ANECDOTAL FINDINGS



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1. Small firms have difficulty competing and are unfairly stereotyped as unable to do the work and lacking capacity. Small firms want to compete as primes.
2. MWBEs are often contacted to fulfill “good faith efforts” requirements, but not actually considered or utilized.
3. The proposal process is lengthy and expensive with excessive amounts of paperwork. Inconsistent communications about upcoming bids was also noted.
4. Unnecessarily high bonding and insurance requirements .
5. Lack of Coordination of Resources for small businesses leaves MBE’s “lost” in the shuffle. Most business development organizations are tailored for young technology firms dominated by non-minority males.

CONCLUSION OF FINDINGS

Metro Nashville's current program is predominantly race and gender neutral. However, the participation of minority and women owned firms as both prime and subcontractors still demonstrates statistically significant underutilization of the groups previously. This would indicate that, for reasons stated throughout these findings, a race and gender neutral program alone will not resolve the disparities.

RECOMMENDATIONS



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