

COMMITTEE OF THE WHOLE
WEDNESDAY, MAY 18, 2022 | 3:30 PM
COUNCIL CHAMBERS

MINUTES

COUNCIL PRESIDENT WARDINE T. ALEXANDER, COMMITTEE CHAIR

Councilor(s) Present: Alexander, Abbott, Clarke, Moore, O'Quinn, Smitherman, Tate, Williams, Woods

I CALL TO ORDER

The Meeting was called to order by the Committee Chair, Council President Alexander.

II APPROVAL OF MINUTES

Action Taken:

Councilor Abbott Motioned to Approve the Minutes with noted corrections.

Councilor Smitherman Seconded the Motion.

The March 28, 2022 and April 20, 2022 were approved pending noted corrections.

III UPDATE: DISPARITY STUDY

MR. COREATA HOUSER, DEPUTY DIRECTOR, IEO

Rodney Strong, Founder & CEO, Griffin & Strong, PC (GSPC) presented an update on the City of Birmingham 2022 Disparity Study (with slide presentation)

Mr. Strong discussed the legal basis for disparity studies.

City of Richmond v. J.A. Croson Co. – Decision made by the Courts in 1989.

This case stated that state and local government had to apply certain legal standards under the constitution in order to have programs that benefited minorities and women or dealt with the present affects of past discrimination.

Adarand Construction, Inc. v. Pena – Decision made by the Courts in 1995.

When the personnel of the Supreme Court changed, there was a new decision that required the Federal Government to adhere to the same standards as state and local governments.

The study period was FY2015 – FY2019 (5 years)

The industry categories included Construction, Architecture & Engineering, Professional Services, Other Services, and Goods

The relevant geographic market area includes Jefferson County and Shelby County (location of firms where at least 75% of Birmingham's dollars were spent during the Study Period).

MWBE Disparity by Industry Category in the Relevant Market (Jefferson County and Shelby County)

Categories Statistics:

Construction – Less than 80%

- There report shows underutilization in the categories of African American, Asian, Hispanic, and Native Americans, and Nonminority Female.
- Native American was too few to make a determination.
- Non-M/WBE indicated overutilization.
- Prime construction was statistically significant for Birmingham during the study period in all categories.

Architecture and Engineering:

- The study shows some overutilization for African Americans and underutilization for Asians and Hispanics.
- Total MBE was overutilized, Total M/WBE was underutilized, and Non-M/WBE was over utilized.

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Professional Services:

- African Americans were significantly underutilized.
- Asian Americans were overutilized other than A&E.
- There were not enough instances for Hispanic and Native Americans winning contracts to measure.

Other Services:

- African Americans were overutilized.
- Asian Americans were underutilized.
- There were not enough examples of Hispanics and Native Americans.
- Total MBE indicates underutilization, Total MWBE indicates underutilization and Total Non-M/WBE indicates overutilization.

Goods:

- Underutilization was statistically significant in every category.

Overall Findings:

- A regression analysis found that disparities by race, ethnicity, or gender status of the firm owners remained after controlling for capacity and other race and gender-neutral factors.
- Anecdotal findings support the statistical analysis and regression analysis.
- GSPC found that Birmingham should utilize race and gender-neutral elements and there is a factual predicate for some race and gender conscious efforts as well.

Recommendations from the Study:

- Allocate resources and staff.
- Set annual goals based upon availability.
- Set MWBE contract-by-contract subcontracting goals.
- Robust contract compliance.
- Evaluate relationship with BCIA.
- Outreach.
- Data Maintenance Reform.

Necessary Steps to Implementation:

- Accept Disparity Study Report and its recommendations.
- Gap Analysis – what needs new authorization and what is an enhancement to existing program elements.
- Determine Aspirational Goals – which are internal benchmarks of what the percentage of participation is expected to be on an annual basis.
- Draft New Program – There is no one process for developing a remedial program. Griffin & Strong will work with the City of Birmingham to create narrowly tailored remedies and processes.
- Plan for Implementation – steps, phases, and tasks.
- Determine budget and staffing needs for new program elements.
- Develop a training protocol to train staff, which includes contract-by-contract goal-setting training.
- Next Steps to Implementation

Execute the Five Steps of Contract Compliance:

- **Assessment** – MWBE availability and capacity for specific scopes of work.
- **Outreach** – Birmingham should focus on outreach to women and minority-owned businesses to participate at the prime and subcontracting levels, and alert them to new developments in the City's programs.
- **Certification and Verification** – Birmingham should continue to encourage and assist firms in getting certified through state and local agencies and accept certifications from all bona fide certification agencies, as well as BCIA.

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- **Procurement** – All applicable solicitation packages and awards contracts should include the new MWBE commitments as contract terms.
- **Monitoring and Compliance** – there should be close monitoring of vendor performance and efficient closeout of projects.
 - Ensure that MWBE's are compensated in a timely manner at the subcontractor level.

Action Taken:

The next steps include the Council accepting the recommendations and for the Administration to implement the recommendations the Council approve.

Chaz Mitchell suggested allowing the Council time to read/review the report in its entirety.

The Committee will set a timeframe for review, work with the Mayor's Administration, and schedule another meeting to move forward with the implementation steps.

Council President Alexander suggested allowing the Council time to review the report and communicate with the Administration in approximately two weeks.

Council President Alexander stated that the Councilors should submit their questions to Council Administrator/Deputy Administrator. The questions will be forwarded to Mr. Houser (IEO) and Mr. Strong (GSPC). The Committee will meet again in approximately three week to move forward with the final recommendations/approval.

No Action – Information Only.

IV OLD/NEW BUSINESS

Councilor Abbott requested recycling be an agenda item for the next scheduled Committee of the Whole.

Council Pro Tem Smitherman asked that recycling appear on the Public Improvements Committee agenda prior to the Committee of the Whole agenda.

V ADJOURNMENT

Councilor Williams Motioned to Adjourn.

Councilor Smitherman Seconded the Motion.

The Meeting was Adjourned.