



2021 Disparity and Availability Study

**Lexington-Fayette
Urban County Government**

Request for Proposals No. 32-2020

PROPOSAL

Proposal

February 1, 2021

2021 Lexington Fayette Urban County Government Disparity Study

Request for Proposals No. 32-2020

Prepared for

Lexington Fayette Urban County Government

Prepared by

BBC Research & Consulting
1999 Broadway, Suite 2200
Denver, CO 80202





February 1, 2021

Todd Slatin, Director
Division of Central Purchasing
tslatin@lexingtonky.gov

Re: Response to RFP No. 32-2020, Disparity and Availability Study

Dear Mr. Slatin:

BBC Research & Consulting (BBC) is pleased to submit this proposal to conduct a comprehensive disparity and availability study for the Lexington-Fayette Urban County Government (LFUCG). The combination of several characteristics makes BBC uniquely qualified to partner with LFUCG on this important project:

- **Disparity study expertise.** BBC is a national leader in conducting disparity studies for cities, counties, states, universities, transportation agencies, and other government organizations and helping them implement minority- and woman-owned business programs effectively and in a legally-defensible manner. We have conducted—or are conducting—more than 125 disparity studies across the country and in the Sixth Circuit.
- **Court-approved methodology.** BBC is the only disparity study firm that uses a methodology that has been approved by the Ninth Circuit Court of Appeals, which is considered the most stringent federal circuit court in the country when it comes to assessing the constitutionality of minority- and woman-owned business programs. Our methodology has also been strongly approved by the United States Department of Justice (USDOJ), the United States Department of Transportation (USDOT), the United States Congress, and other authorities.
- **Custom census availability approach.** BBC uses a true custom census approach to measure the availability of minority- and woman-owned businesses for organizations' contracts and procurements. As part of the availability analysis, we will attempt to contact thousands of businesses within relevant subindustries and the relevant geographic market area to assess whether they are potentially available for LFUCG contracts and procurements.
- **Research and data expertise.** BBC's projects are led by three research experts: Dr. Sameer Bawa, Mr. Kevin Williams, and Ms. Iris McClish, BBC Managing Directors, who are assisted on all our disparity studies by the best researchers in the industry and who collectively possess unparalleled expertise in conducting disparity studies and managing vast amounts of quantitative and qualitative data. In addition, we partner closely with, Mr. Keith Wiener,

one of the nation's preeminent lawyers in the areas of government contracting and minority- and woman-owned business programs.

- **True partnership.** BBC's success in the disparity study industry is due in large part to how closely we collaborate with all our clients to listen to and understand their needs and treat them as true partners throughout the disparity study process. In addition, we understand objectives may change and unforeseen needs may arise throughout the course of disparity studies. Our clients appreciate our ability to act quickly and address their needs, particularly as those needs evolve over the course of projects.

BBC has assembled a project team that is supremely qualified to conduct the 2021 LFUCG Disparity and Availability Study in a manner that meets the highest research, legal, and industry standards. We carefully selected each project team firm to ensure we can fully meet LFUCG's needs. We submit our proposal in partnership with four subconsultants that have expertise directly relevant to conducting the disparity study successfully and accurately:

- EHI Consultants, a Lexington-based minority-owned equity and planning firm;
- Abundant Living, a Lexington-based minority veteran-owned diversity and counseling firm;
- Holland & Knight, a national law firm and disparity study legal expert; and
- Davis Research, a California-based survey fieldwork firm.

BBC has addressed all the points presented in the Request for Proposals and acknowledges receipt of Addendum 1. As a BBC owner, I am authorized to bind our firm to contractual agreements. Please contact me directly with any questions at 303-321-2547 or sbawa@bbcresearch.com.

We greatly look forward to the possibility of serving all of LFUCG's needs on the 2021 disparity and availability study.

Sincerely,



Sameer Bawa
Managing Director

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SECTION 1.

Project Team

SECTION 1.

Project Team

BBC Research & Consulting (BBC) proposes to conduct the 2021 Lexington-Fayette Urban County Government (LFUCG) Disparity and Availability Study in partnership with four supremely qualified subconsultants, including two Lexington-based minority-owned businesses certified as minority-owned business enterprises (MBEs) or veteran-owned small businesses (VOSBs) with LFUCG:

- EHI Consultants, which is an MBE-certified Black American-owned urban planning and engineering firm based in Lexington, Kentucky;
- Abundant Living, which is an MBE-/VOSB-certified Black American woman-owned diversity psychological and coaching services firm based in Lexington, Kentucky;
- Holland & Knight, which is a law firm with offices in Atlanta, Georgia and across the country; and
- Davis Research, which is a survey fieldwork firm based in Calabasas, California.

Section 1 presents information about BBC's Project Manager for the disparity study and key personnel from each project team firm who will be involved with the study.

A. Project Manager



Key qualifications:

- 50+ disparity studies
- Research expertise
- Program development
- Community engagement
- Technical reporting

Disparity study experience:

- City of Boston
- City and County of Denver
- City of Indianapolis
- City of Virginia Beach
- Commonwealth of Virginia

Dr. Sameer Bawa, BBC Managing Director, will serve as the **Project Manager** for the disparity study. He will play a leadership role throughout the study and manage the project team to ensure the successful execution of all project tasks. He will also be responsible for providing guidance on core analyses and developing recommendations for program implementation. He will lead all project meetings and serve as the primary contact for LFUCG, including providing regular progress updates to the MBE Liaison and the Director of Central Purchasing via monthly progress reports and meetings and meeting with them at any other time upon request.

Dr. Bawa has more than 20 years of expertise in research methods, project management, quantitative data analysis, survey design, in-depth interviews, community engagement, and technical writing. He has managed and advised on more than 50 disparity studies, including

disparity studies for the Commonwealth of Virginia, the State of Indiana, the City of Virginia Beach, the City of Boston, the City of Indianapolis, the City and County of Denver, the City of Charlotte, Sound Transit, the Washington State Department of Transportation (WSDOT), and the Illinois Department of Transportation (IDOT). He provided litigation support as part of the California Department of Transportation’s (Caltrans’s) successful defense of its implementation of the Federal Disadvantaged Business Enterprise (DBE) Program and for WSDOT. Dr. Bawa has a Ph.D. in psychology from the University of Virginia.

B. Key Personnel

Dr. Bawa will be assisted on the 2021 LFUCG Disparity and Availability Study by the best staff of researchers as well as policy and legal experts in the industry. BBC and our subconsultants will only assign staff members to the project who possess the expertise necessary to conduct disparity studies accurately and successfully. All of BBC’s key personnel have extensive experience conducting disparity studies and working with B2Gnow for various municipalities and organizations, including the City of Charlotte, the City and County of Denver, the City of Indianapolis, the City of Virginia Beach, the Los Angeles County Metropolitan Transportation Authority (LA Metro), the San Diego Association of Governments, and Sound Transit. We provide brief biographies of key personnel who will be involved with LFUCG’s disparity study and resumes at the end of Section 1, including for Dr. Bawa, BBC’s Project Manager for the study.



1. Ms. Iris McClish, BBC Managing Director

Key qualifications:

- 40+ disparity studies
- Project management
- Anecdotal evidence
- Community engagement

Disparity study experience:

- City of Boston
- City of Charlotte
- City of Indianapolis
- City of Virginia Beach
- Ohio Dept. of Transportation

Ms. McClish will serve as **Assistant Project Manager** on the disparity study. She will assist in project management and oversight, play a critical role in managing and completing the utilization and availability analyses, and serve as an author for study reports and presentations. Ms. McClish has contributed to more than 40 disparity studies and is a seasoned project manager. She has managed many disparity studies—including for the City of Boston, the City of Charlotte, the City of Indianapolis, the City of Virginia Beach, IDOT, and the Ohio Department of Transportation (ODOT)—as well as complex market research projects for government agencies, educational institutions, and other organizations across the country. Ms. McClish is an expert in collecting and analyzing quantitative and qualitative data and has extensive experience presenting to and collaborating with stakeholders as part of disparity studies. She also collaborates effectively with BBC clients and partners to ensure the firm’s studies are completed on-time and meet the highest research and legal standards. She has a master’s degree in development studies from the London School of Economics and a master’s degree in education from the University of Denver.



2. Mr. Kevin Williams, BBC Managing Director

Key qualifications:

- 75+ disparity studies
- Advanced statistical application
- Marketplace research
- Data collection and management
- Quantitative modeling

Disparity study experience:

- California Dept. of Transportation
- Commonwealth of Pennsylvania
- Ohio Dept. of Transportation
- Nevada Dept. of Transportation
- San Diego Association of Governments

Mr. Williams will serve as **Project Advisor** on the disparity study. He will consult on utilization analyses, availability analyses, disparity analyses, and quantitative analyses of marketplace conditions. He has more than 20 years of experience performing disparity studies, conducting marketplace research, and working with various data systems. He is an expert in developing proprietary analysis programs and troubleshooting data systems. He has led data collection, interpretation, and analysis efforts for numerous disparity studies. He also has expertise in complex statistical analyses, quantitative modeling and simulations, and quantitative analyses of marketplace conditions. He recently led or contributed to disparity studies for the Commonwealth of Virginia, the Commonwealth of Pennsylvania, the State of Indiana, the City and County of Denver, five state agencies in Nevada, three state agencies in San Diego, Caltrans, the City of Virginia Beach, and the City of Charlotte. Mr. Williams provided litigation support in Caltrans’s successful defense of its implementation of the Federal DBE Program. He has a master’s degree from the LBJ School of Public Affairs at the University of Texas.



3. Ms. Stephanie Ayers, BBC Associate

Key qualifications:

- Project coordination
- Data collection and management
- Anecdotal evidence collection
- Community engagement

Disparity study experience:

- City and County of Denver
- City of Indianapolis
- Commonwealth of Pennsylvania
- Commonwealth of Virginia
- LA Metro

Ms. Ayers will serve as **Project Coordinator** on the disparity study. She will coordinate all quantitative and qualitative analyses as part of the study and ensure their accuracy, including data collection and compilation, survey development, and quantitative and qualitative marketplace analyses. She joined BBC in March 2018 after obtaining her master’s degree from the University of Denver in international development. Her areas of expertise include quantitative and qualitative research, data analysis and management, and technical writing. She has worked on numerous disparity studies since joining BBC, including for the Commonwealth of Pennsylvania, the City and County of Denver, the City of Asheville, the City of Indianapolis, LA Metro, and Sound Transit. She also served as BBC’s Project Coordinator on the 2020 Commonwealth of Virginia Disparity Study and is serving in a similar role on a project for the City of Virginia Beach in support of the organization’s implementation of its Small, Women-, and Minority-owned Business Program.



4. Mr. Ed Holmes, EHI Consultants President

Key qualifications:

- Urban planning and development
- Public sector contracting
- Community engagement

Mr. Holmes has more than 40 years of planning experience with a special focus on land use, comprehensive and neighborhood redevelopment planning, and urban and community engagement. He has direct experience with numerous public sector and private-sector projects throughout the Southeast United States. He served as Director of Planning for the Bluegrass Area Development District for 16 years, where he directed and led the regional land use and comprehensive planning efforts for the Central Kentucky Bluegrass Region. Mr. Holmes also served as Cabinet Secretary for the Kentucky Cabinet for Public Protection and Regulation, Vice Chairman of the Kentucky Public Service Commission, and Vice President of Cincinnati Bell Telephone. He has a bachelor's degree from the University of Cincinnati.



5. Mr. Ryan Holmes, EHI Consultants Project Manager

Key qualifications:

- Urban planning and development
- Regulatory planning
- Economic development
- Community engagement

Mr. Holmes has almost 10 years of experience with EHI Consultants in the areas of land use and regulatory planning and has managed a broad range of projects, including incorporating sustainable planning strategies into redevelopment, neighborhood planning, and community design. Mr. Holmes' responsibilities also focus on master planning, sustainable green design, and greenfield and brownfield redevelopment strategies, which emphasize community revitalization, quality of life, and economic development. He has played a key role on numerous green and sustainable municipal stormwater projects involving capital improvement planning and design, water quality planning, watershed management, and storm water management and planning. He has provided technical expertise in low impact development, green infrastructure, and stormwater best practice design and has the ability to conceptualize and develop innovative solutions to complex problems. Mr. Holmes has a master's degree from the University of Cincinnati.



6. Dr. Shambra Mulder, Abundant Living President

Key qualifications:

- Urban planning and development
- In-depth interviewing
- Diversity and equity
- Statistical analysis

Dr. Mulder established Abundant Living Psychological and Coaching Services in 2016 and has been instrumental in developing the company's goals, building its clientele, securing local and state contracts, and ensuring its increased success in a short time. Dr. Mulder holds a Ph.D. in Educational Psychology, is a licensed psychologist, and has more than 20 years of experience interacting with diverse populations in a variety of settings. She is an expert in assessments, statistical analysis, and training. Dr. Mulder has gained the knowledge of local governments and the small business community by participating in programs through the Small Business Administration, including Community Ventures, Commerce Lexington, SCORE Lexington, and Women Business Center (WBC) of Kentucky as well as having attended the Lexington Bluegrass Area Minority Business Expo for the past 8 years. Dr. Mulder has a Ph.D. in psychology from the University of Kentucky.



7. Mr. Keith Wiener, Holland & Knight Partner

Key qualifications:

- Legal analysis
- Diversity policy
- Anecdotal evidence collection

Disparity study experience:

- City and County of Denver
- City of Indianapolis
- Commonwealth of Pennsylvania
- Commonwealth of Virginia
- Ohio Dept. of Transportation

Mr. Wiener will serve as the **Lead Legal Consultant** on the disparity study. He is a national expert in disparity studies and minority- and woman-owned business programs in the Sixth Circuit and nationwide. He has practiced law for nearly 40 years, serves as Holland & Knight's State and Local Government and Government Representation Team Leader, and has extensive experience in civil rights, discrimination, government contracts and procurement, public construction law, and transportation law. Mr. Wiener has served as the Lead Legal Consultant on more than 60 BBC disparity studies. He has served in that role on studies for Sound Transit, WSDOT, Caltrans, LA Metro, IDOT, ODOT, the City of Indianapolis, the City of Virginia Beach, the City and County of Denver, the City of Asheville, the City of Charlotte, the City of Portland, the Port of Seattle, and the State of Indiana. Mr. Wiener provided litigation support to Caltrans, the City of Columbus, and myriad other organizations in their defenses of minority- and woman-owned business programs. He has a J.D. from the Emory University School of Law.



8. Mr. Jason Kerns, Davis Project Director

Key qualifications:

- Project coordination
- Data collection and management
- Survey design and execution

Disparity study experience:

- City of Boston
- Commonwealth of Virginia
- Sound Transit
- State of Indiana

Mr. Kerns will serve as the **Survey Fieldwork Expert** on the disparity study. He will lead Davis Research's efforts in programming and executing web-based surveys. Mr. Kerns brings more than 20 years of project management and survey research experience to the project team. His areas of expertise include quantitative data collection, survey design and implementation, multilingual telephone surveys, and web surveys. He has worked with BBC on more than 30 survey research projects in the past 15 years, including on customer satisfaction surveys, community surveys, and disparity studies. Mr. Kerns has recently led Davis Research's efforts in conducting telephone and online surveys with thousands of businesses as part of disparity studies for Sound Transit, the City of Boston, the Commonwealth of Virginia, and the State of Indiana. He has a bachelor's degree in Business Administration from Azusa Pacific University.

DR. SAMEER BAWA

BBC Managing Director

Dr. Bawa's expertise includes project management, social science research, data analysis, survey design, community engagement, and technical writing. Since joining BBC Research & Consulting (BBC) in 2008, Dr. Bawa has worked on more than 60 disparity studies and has managed more than 40 of them. He taught a class on disparity study methodology for the American Contract Compliance Association National Training Institute and has published research in several academic journals. Dr. Bawa has spoken on disparity studies at national conferences hosted by the National Association of State Minority, Women, and Disadvantaged Business Enterprise Directors; the Airport Minority Advisory Council; and the American Association of State Highway and Transportation Officials.

Relevant Experience

- **Disparity studies.** Dr. Bawa has served as BBC's Project Manager on disparity studies for the Commonwealth of Virginia, the City of Virginia Beach, the State of Indiana, the City of Boston, the City of Charlotte, the City of Denver, the Illinois Department of Transportation (IDOT), the Washington State Department of Transportation (WSDOT), and many other organizations. He has also contributed to many other disparity studies, including for the California Department of Transportation (Caltrans), the Commonwealth of Pennsylvania, five Nevada agencies, the City of San Diego, and the City of Indianapolis. His responsibilities have included leading core disparity study analyses, data management, community engagement, assessing marketplace conditions, client management, and technical writing.
- **Litigation support.** Dr. Bawa assisted in successfully defending Caltrans's implementation of the Federal Disadvantaged Business Enterprise Program in *Associated General Contractors of America, San Diego Chapter v. California Department of Transportation, et al.* He provided additional analyses and guidance related to the agency's successful defense. In addition, he recently provided litigation support for a state department of transportation in the western United States.
- **Program development.** Dr. Bawa worked with Purdue University to develop a program of small business and minority- and woman-owned business contracting measures. He worked closely with the university to research and develop potential measures for its program and served as the primary author of the final report. Dr. Bawa has completed similar work for many clients, including IDOT, WSDOT, the Indiana Department of Administration, and Sound Transit. He is currently working in a similar role for the Commonwealth of Virginia, the State of Indiana, and the City of Virginia Beach. Dr. Bawa has also prepared overall program goals and associated documents for various agencies, including IDOT, WSDOT, and Sound Transit.

Education

Ph.D., Psychology, University of Virginia, 2008

M.A., Psychology, University of Virginia, 2006

B.S., Psychology, University of Illinois, 2003

MS. IRIS MCCLISH

BBC Research & Consulting Director

Ms. McClish joined BBC Research & Consulting (BBC) in 2010. She is a seasoned project manager and an expert in both quantitative and qualitative research techniques. Ms. McClish guides BBC's internal and external project management for research projects across the country. Ms. McClish also advises on various project tasks, including the execution of complex quantitative and qualitative research analyses.

Relevant Project Experience

- **Project management.** Ms. McClish guides BBC's project management to ensure the firm addresses client needs and completes projects on time and within budget. She uses project planning software to manage research tasks and staff time to ensure BBC maximizes efficiencies and resources across all projects. Ms. McClish has specialized experience managing disparity studies from contract execution to final reports and presentations. She organizes staff, tasks, and subcontractors, and partners closely with BBC clients to deliver successful studies. Ms. McClish has served in a project management role on a number of recent disparity studies including for the City of Indianapolis, the City of Virginia Beach, the City of Boston, City of Charlotte, the Illinois Department of Transportation (IDOT), the Ohio Department of Transportation (ODOT), and the Ohio Turnpike Commission.
- **Quantitative data collection.** Ms. McClish is highly skilled at executing quantitative data collection and analysis. She has led or advised on quantitative research tasks for more than 30 BBC disparity studies. She has specialized experience using data collection tools such as survey instruments, executing large and complex surveys, and conducting statistical analyses. Ms. McClish has led quantitative analyses on projects for the State of Indiana, the California Department of Transportation (Caltrans), IDOT, the Regional Transportation District – Denver, Sound Transit, the Fort Worth Water Department, and Ivy Tech Community College. She is skilled at working with Microsoft Access, SPSS, STATA, and other software.
- **Qualitative research.** Ms. McClish is experienced in qualitative research techniques, including conducting focus groups, in-depth interviews, and public hearings. She has led qualitative analyses of marketplace conditions for recent disparity studies, including analyses related to human capital, financial capital, business ownership, and business success. Ms. McClish has conducted in-depth interviews, focus groups, and public hearings on behalf of the City of Charlotte, Caltrans, the Washington State Department of Transportation, ODOT, the City of Virginia Beach, and the City of Indianapolis.

Education

MA, Curriculum and Instruction, Urban Education, University of Denver, 2014

MSc, Development Studies, The London School of Economics, 2009

B.A., Economics, University of Nevada, Las Vegas, 2008

MR. KEVIN WILLIAMS

BBC Research & Consulting Managing Director

Mr. Williams joined BBC Research & Consulting (BBC) in 2005 and became a Director in 2010. His areas of expertise include disparity studies, data systems, quantitative analysis, fiscal analysis, policy analysis, and economic modeling. Since joining BBC, he has worked on more than 75 disparity studies and has managed more than 50 of them. His most recent disparity study clients include the Commonwealth of Pennsylvania, the California Department of Transportation (Caltrans), the City of Portland, five government organizations in Nevada, and three government organizations in San Diego. Before joining BBC, Mr. Williams worked as an independent consultant for nonprofits.

Relevant Project Experience

- **Disparity studies.** Mr. Williams has served as project manager on disparity studies for the Commonwealth of Pennsylvania, the City of Denver, five government organizations in Nevada, the Idaho Transportation Department, the Los Angeles County Metropolitan Transportation Authority, Caltrans (2012, 2014, 2016, 2019), the City of Portland, a consortium of three government organizations in the San Diego area, and many other organizations. Mr. Williams also played a project management role on BBC's recent disparity studies for the City and County of Denver, 11 government organizations in Indiana, and two government organizations in Ohio. Mr. Williams has also managed disparity study tasks for organizations in Virginia, Massachusetts, Georgia, and Oklahoma.
- **Procurement database analysis.** Over the past 15 years, Mr. Williams has analyzed public procurement and contract data for more than 75 government organizations throughout the country as part of disparity studies. His expertise includes data collection, data cleaning, and statistical analysis. He has worked with data from a variety of sources, including PeopleSoft, Oracle, SAP, B2GNow, FileMaker Pro, SQL Server, Microsoft Access, and Microsoft Excel. Mr. Williams also has substantial experience working with agencies to design data collection plans to supplement electronic data.
- **Litigation support.** Mr. Williams helped to conduct the 2007 Caltrans Disparity Study and assisted in successfully defending Caltrans's implementation of the Federal Disadvantaged Enterprise Program in *Associated General Contractors of America, San Diego Chapter vs. California Department of Transportation, et al.* in the United States District Court of the Eastern District of California. Mr. Williams has assisted with litigation support for a number of other clients, researching issues related to program implementation, including overconcentration, program design, and disparity study methodology.

Education

M.P.Aff. The LBJ School of Public Affairs, University of Texas, 2005
B.S., Engineering Physics, University of Colorado, 1999

MS. STEPHANIE AYERS

BBC Research & Consulting Associate

Ms. Ayers joined BBC Research & Consulting (BBC) in 2018 after obtaining her master's degree from the University of Denver. Her areas of expertise include quantitative and qualitative research, data analysis and management, survey design, and technical writing. Prior to joining BBC, Ms. Ayers was a project manager overseeing qualitative and quantitative research projects for an international non-profit. She has worked on numerous disparity studies since joining BBC, including for the City of Indianapolis, the Commonwealth of Pennsylvania, the City of Denver, the Port of Seattle, and the City of Asheville. She is currently serving as the Project Coordinator for a BBC disparity study for the Commonwealth of Virginia.

Relevant Project Experience

- **Database management.** Ms. Ayers has extensive experience with database management. She has contributed to cleaning, organizing, and preparing disparity study data for analysis and has maintained large project datasets for a variety of research initiatives in the past, including many disparity studies.
- **Survey design and analysis.** Ms. Ayers is skilled in survey development and analysis. Prior to joining BBC, she played a key role in the facilitation of a research grant for a large government agency, assisting in sample selection, survey creation, data collection, and data analysis activities. She has also contributed to the development and execution of a mobile survey designed to measure the effectiveness of an international program focused on girls' education. She has been responsible for analyzing data in connection with availability analyses on numerous disparity studies.
- **Qualitative and quantitative research.** Ms. Ayers is experienced in both quantitative and qualitative research techniques. She has experience conducting focus groups and in-depth interviews on sensitive issues such as refugee and immigration issues, race- and gender-based discrimination, and stigmas surrounding certain diseases. She has contributed to the qualitative analyses of marketplace conditions and the quantitative analyses of availability data for several recent disparity studies, including for the Commonwealth of Virginia, the City of Indianapolis, the Commonwealth of Pennsylvania, and the City of Denver. She is skilled at working with Microsoft Access, STATA, and R.
- **Technical Writing.** Ms. Ayers is experienced in scientific and technical writing. She understands how to clearly communicate study findings on complex topics to a variety of audiences. She has been a contributing author on two scientific publications detailing research findings and has produced four project reports detailing study progress and results to major grantmaking organizations. She has contributed to the development of reports for five disparity studies since joining BBC.

Education

MA, International Development, University of Denver, 2015

B.B.A., Economics, University of Georgia, 2010

MR. EDWARD HOLMES

EHI Consultants President

Mr. Holmes is president and owner of EHI Consultants, a planning and engineering firm that he founded in 1995. He has more than 40 years of experience working in the public and private sectors. Mr. Holmes served as Director of Planning for the Bluegrass Area Development District for 16 years of his career, where he directed and led the regional land use and comprehensive planning efforts for the central Kentucky Bluegrass Region. He also served as Cabinet Secretary for the Kentucky Cabinet for Public Protection and Regulation, Vice Chairman of the Kentucky Public Service Commission, and Vice President of Cincinnati Bell Telephone. His project experience includes:

- **Newtown Pike Extension.** This project involves construction of a major state highway traversing through an inner-city neighborhood. EHI Consultants is involved in numerous efforts as part of the project, including redevelopment and design of the neighborhood with reflection of the concerns of residents. Components of Mr. Holmes' responsibilities include data gathering and assessment, land use analysis, public and citizen involvement, socioeconomic analysis, zoning, permitting and regulatory coordination among local governments, the Kentucky Transportation Cabinet, and the neighborhood.
- **Lexington-Fayette Urban County Government East End Small Area Plan.** The East End Small Area Plan was a neighborhood plan incorporating a full evaluation of economic opportunities, infill redevelopment opportunities, mixed use planning, public open spaces, social capital, design codes, and environmental sensitivity and addressed those components while making recommendations for future development through identified alternatives and guidelines. Mr. Holmes led EHI Consultants' efforts in the process to achieve the final report, including public involvement.
- **Infill and redevelopment.** This project consisted of providing planning services that led to the development of a set of comprehensive regulations relating to infill and redevelopment activities within Lexington, Kentucky. The study addressed the quality of place, quality of life, and quality of process needed for a successful infill and redevelopment program. Several innovative regulatory tools were identified and are in the process of being implemented, including form-based codes, transit-oriented development, character framework maps, density bonuses, inclusionary zoning, and a housing trust fund.
- **Black American Heritage interpretive signage.** EHI Consultants provided the research, planning, and design of an interpretive signage project that tells the story of Black American experiences within Lexington stretching from times of slavery, through Jim Crow discrimination, and up to the Black Freedom Together Lexington initiative. The project involves a local coalition of community stakeholders that seeks to enhance the quality of life for residents and visitors alike.

Education

B.A., Urban Planning and Design, University of Cincinnati

MR. RYAN HOLMES

EHI Consultants Project Manager

Mr. Holmes has nearly 10 years of experience in land use and regulatory planning. His responsibilities focus on master planning, sustainable/green design, and greenfield/brownfield redevelopment strategies, which emphasize community revitalization, quality of life, and economic development. He has played a key role for numerous green and sustainable municipal stormwater projects involving capital improvement planning and design, water quality planning, watershed management, and storm water management and planning. He has provided technical expertise in low impact development, green infrastructure, and stormwater best management practice design and has the ability to conceptualize and develop innovative solutions to complex problems. His project experience includes:

- **Downtown Lexington Traffic Movement and Revitalization Study.** Mr. Holmes provided assistance with the development of the detailed crash analysis of the downtown Lexington study area, conducting research on the impacts of one-way versus two-way streets on pedestrian safety, parking and transit mobility, and assisting in regulatory and government coordination and communication.
- **Lexington-Fayette Urban County Government (LFUCG) Complete Streets Program.** The Complete Streets Program includes revisions to Lexington's Roadway Manual with an emphasis on multi-modal transportation and connectivity. Public involvement was thoroughly incorporated throughout the project, which was motivated by large-scale impacts on residents. Mr. Holmes was involved in public outreach and historical community research for the Complete Streets Program.
- **LFUCG Housing Market Study.** EHI Consultants was part of the project team that conducted the LFUCG Housing Market Study, the purpose of which was to identify several key factors related to the provision of housing within Lexington-Fayette County, including the regional share of housing, net migration of households within the region, income distribution within Lexington's housing market, supply and demand, consumer preferences, redevelopment, and affordable housing issues. As part of the project team, Mr. Holmes advised and assisted on all tasks throughout the course of the study as well as focused research on existing affordable housing providers within Lexington-Fayette County, identifying issues related to affordable housing within the community and developed affordable housing strategies.

Education

M.A., Community Planning, University of Cincinnati

M.B.A, University of Cincinnati

B.S., Business Administration, University of Louisville

DR. SHANDRA MULDER

Abundant Living President

Dr. Mulder established Abundant Living Psychological and Coaching Services in 2016 after 20 years of experience working in public schools and higher education institutions. She holds a doctorate degree in Educational Psychology from the University of Kentucky. Her educational training includes social science research, data collection, quantitative and qualitative data analysis, survey design, in-depth interviews, and research writing. She has owned a minority-owned, woman-owned, and veteran-owned business in Central Kentucky for the past 10 years.

Certifications and Licenses

Education Professional Standards Board - School Psychologist & Director of Special Education
Trauma-Focused Cognitive Behavioral Therapy
Kentucky Board of Examiners of Psychology - Licensed Psychologist

Education

Ph.D., Educational Psychology, University of Kentucky, 2010
M.A., Educational Psychology, University of Kentucky, 2008
B.A., Psychology, University of Kentucky, 1997

MR. KEITH WIENER

Holland & Knight Partner

Mr. Wiener serves as Holland & Knight's firm-wide Government Representation and State and Local Procurement Team Leader. He has practiced law for more than 35 years and has expertise in government law, disparity studies, civil rights, discrimination, diversity, government contracts and procurement, transportation law, and construction law. He has worked with BBC Research & Consulting (BBC) on disparity studies for the Commonwealth of Pennsylvania, the State of Indiana, the City of Denver, the City of Asheville, the City of Virginia Beach, the City of Boston, and scores of other organizations.

Relevant Project Experience

- **Disparity studies.** Mr. Wiener has been the Lead Legal Consultant on more than 60 BBC disparity studies including for the California Department of Transportation (Caltrans), 11 government organizations in Indiana, the City of Charlotte, the City of Portland, the City of Indianapolis, and the Commonwealth of Pennsylvania. Mr. Wiener also recently served as the Lead Legal Consultant for disparity studies for nine Minnesota local and state government agencies, the City of Madison, the Arizona Department of Transportation, and many other local and state government organizations. Those studies related to minority- and woman-owned business programs and small business programs. He has facilitated public hearings and prepared legislation concerning government contracts and purchasing, minority- and woman-owned business programs, and implementing non-discrimination-related programs and policies.
- **Government law.** Mr. Wiener has represented government organizations and businesses in the areas of minority- and woman-owned business programs, small business programs, race- and gender-neutral and conscious program measures, public transportation, public construction, government contracting and procurement, discrimination, and civil rights. He has made many presentations before various organizations and published articles concerning disparity studies, minority- and woman-owned business programs, contract compliance, civil rights, and discrimination. He has presented for various organizations including the American Public Transportation Association, the American Contract Compliance Association, and the National Association of Minority Contractors. He is also a member of the National Academy of Sciences Transportation Research Board Standing Committee for Disadvantaged Business Enterprises (DBEs).
- **Litigation.** Mr. Wiener has more than 35 years of litigation experience including in public policy and involving challenges to minority- and woman-owned business programs. Recently, he provided litigation support to successfully defend Caltrans's implementation of the Federal DBE Program. He is admitted to practice in federal courts including the United States Supreme Court.

Education

J.D., Emory University School of Law, 1978; Executive Editor for the Emory Law Journal
B.A., Syracuse University, Magna Cum Laude; Phi Beta Kappa

MR. JASON KERNS

Davis Research Project Management Director

Mr. Kerns joined Davis Research in 1994 and became the Project Management Director in 2000. His areas of expertise include survey design and implementation, quantitative data collection, and qualitative research design and implementation. He is the telephone survey methodology expert for Davis Research, and leads the education effort at Davis to ensure the team is educated on the latest trends in market research.

Relevant Project Experience

- **Project management.** Mr. Kerns has served as project manager for Davis Research's role on disparity studies for the Commonwealth of Virginia, Sound Transit, the City of Boston, the State of Indiana, the California Department of Transportation, the City of San Diego, and other organizations. He leads a team of nine project managers, assistants, and interns. He manages all aspects of those projects, including the overall scope and client relations.
- **Survey design and implementation.** Mr. Kerns has extensive experience in survey design and implementation. He has executed surveys for three disparity studies as well as a wide variety of other market research projects for various clients, including BBC Research & Consulting. He is a specialist in sampling design and multi-methodology survey research.
- **Data collection.** Mr. Kerns has more than 25 years of experience with both quantitative and qualitative data collection. He specializes in both telephone and web-based data collection efforts.

Education

B.A., Business Administration, Azusa Pacific University, 1994

SECTION 2.

Qualifications and Experience

SECTION 2.

Qualifications and Experience

BBC Research & Consulting (BBC) is the premier disparity study firm in the nation. We began conducting disparity studies in 1989, and since that time, have conducted more than 125 accurate and successful disparity studies for myriad organizations across the country, including cities, counties, states, universities, transportation agencies, and other government organizations. BBC proposes to conduct the 2021 Lexington-Fayette Urban County Government (LFUGG) Disparity and Availability Study in partnership with four supremely qualified subconsultants, including two Lexington-based Black American-owned businesses that are certified as minority-owned business enterprises (MBEs) or veteran-owned businesses (VOSBs) with LFUGG:

- EHI Consultants, which is an MBE-certified Black American-owned urban planning and engineering firm based in Lexington, Kentucky;
- Abundant Living, which is an MBE-/VOSB-certified Black American woman-owned diversity psychological and coaching services firm based in Lexington, Kentucky;
- Holland & Knight, which is a law firm with offices in Atlanta, Georgia and across the country and
- Davis Research, which is a survey fieldwork firm based in Calabasas, California.

Figure 2-1 presents an organizational chart of our project team, including information about the roles each firm will play on the disparity study.

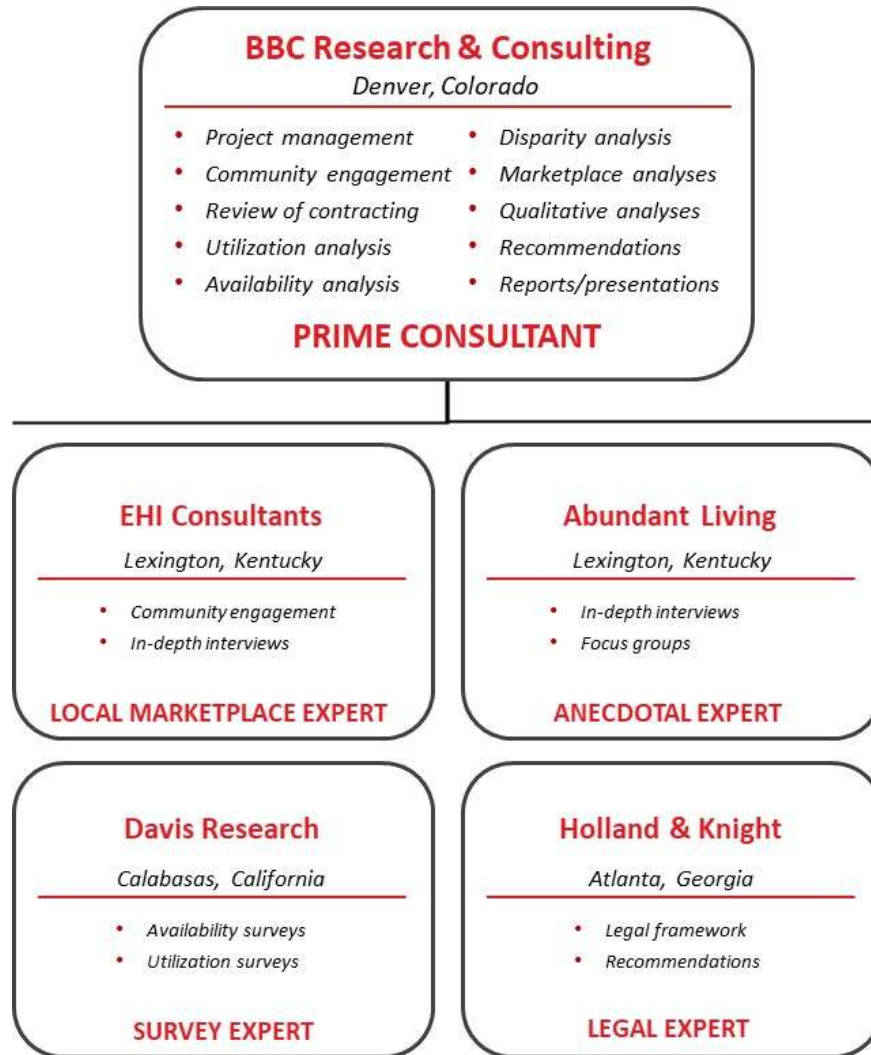
A. Qualifications

Collectively, our team possesses unparalleled experience and expertise in the areas directly relevant to conducting disparity studies accurately and successfully, including:

- Economic and social science research;
- Quantitative and qualitative data collection and analysis;
- Disparity study design and execution;
- Lexington contracting and diversity policy;
- Program development and guidance; and
- Legal review and litigation support.

We provide information about each project team firm's relevant qualifications below.

Figure 2-1.
Project team organizational chart



BBC is an economic and diversity research firm based in Denver, Colorado. We opened our doors in 1970 and began conducting disparity studies in 1989 with a study we conducted for the City and County of Denver. Since that time we have conducted disparity studies for different organizations across the country, including several studies in the Sixth Circuit. Some of our recent work includes disparity studies for the State of Indiana, the Commonwealth of Virginia, the City of Boston, the City of Indianapolis, the City of Virginia Beach, the City and County of Denver, and the Ohio Department of Transportation (ODOT). We also have extensive experience helping organizations develop minority- and woman-owned business programs to ensure they are effective and in compliance with relevant regulations and case law. We are currently providing program development services for the Commonwealth of Virginia, the State of Indiana, the City of Virginia Beach, and the City of Boston. The combination of several factors separates BBC from other firms and makes us uniquely qualified to conduct the 2021 LFUCG Disparity and Availability Study:



- **Disparity study expertise.** BBC is a national leader in conducting disparity studies for cities, counties, states, universities, transportation agencies, and other government organizations and helping them implement minority- and woman-owned business programs effectively and in a legally-defensible manner. We have conducted—or are conducting—disparity studies as the prime consultant for the State of Indiana, the Commonwealth of Virginia, the City of Boston, the City of San Diego, the City of Indianapolis, the California Department of Transportation (Caltrans), ODOT, the Ohio Turnpike Commission, among scores of other organizations. As a result of our experience, we have gained an extensive understanding of how government organizations award contracts and what measures they use to encourage the participation of minority- and woman-owned businesses. In addition, we have provided substantial litigation support to various organizations and helped them successfully defend their minority- and woman-owned business programs in court.
- **Court-approved methodology.** BBC is the only disparity study firm that uses a methodology that has been approved by the Ninth Circuit Court of Appeals, which is considered the most stringent federal circuit court in the country when it comes to assessing the constitutionality of minority- and woman-owned business programs. The firm’s methodology has also been strongly approved by the United States Department of Justice (USDOJ), the United States Department of Transportation (USDOT), the United States Congress, and other authorities. The methodology we will use for LFUCG’s disparity study will be consistent with current legal guidance as well as federal, state, and local regulations. As a result, LFUCG can be confident we will deliver a study that provides sound, accurate information allowing it to implement the Enterprise Programs, including the Minority Business Enterprise Program, effectively and in a legally-defensible manner.
- **Custom census availability approach.** BBC uses a true custom census approach to measure the availability of minority- and woman-owned businesses for organizations’ contracts and procurements. As part of the availability analysis, BBC will attempt to contact thousands of businesses within relevant subindustries and within the relevant geographic market area (RGMA) to assess whether they are potentially available for LFUCG contracts and procurements. Our approach is the best way to ensure resulting availability estimates accurately reflect all businesses working in the RGMA in an unbiased manner. Other firms’ approaches often fall short, because they focus on one segment of the business community at the expense of others or because they do not possess the research expertise or wherewithal required to collect information in a statistically-valid and unbiased manner.
- **Research and data expertise.** A disparity study is a complex quantitative and qualitative research project, albeit with very important legal implications. It is crucial for experienced researchers to conduct disparity studies in close partnership with industry-leading legal experts (and not the other way around). BBC’s projects are led by three such experts: Dr. Sameer Bawa, Mr. Kevin Williams, and Ms. Iris McClish, BBC Managing Directors, who are assisted on all BBC disparity studies by the best researchers in the industry and who collectively possess unparalleled expertise in conducting disparity studies and managing vast amounts of quantitative and qualitative data. In addition, we partner closely with Mr. Keith Wiener, who is one of the preeminent lawyers in the areas of government contracting and minority- and woman-owned business programs, on nearly all of our disparity studies.

- **True partnership.** BBC's success in the disparity study industry is due in large part to how closely we collaborate with all our clients to listen to and understand their needs and treat them as true partners throughout the disparity study process. As part of our studies, we fully leverage the expertise existing on both sides of the client-consultant relationship to ensure our studies are conducted successfully and accurately. In addition, we understand objectives may change and unforeseen needs may arise throughout the course of disparity studies. Our clients appreciate our ability to act quickly and address their needs, particularly as those needs evolve over the course of projects.

For the 2021 LFUCG Disparity and Availability Study, BBC will serve as the prime consultant and be responsible for the successful execution of all project tasks. We will lead all analyses, including the utilization, availability, and disparity analyses, and be accountable for the quality of all study deliverables. We will also partner closely with LFUCG throughout the disparity study, including numerous meetings with the MBE Liaison and Director of Central Purchasing, as desired.



EHI Consultants is a Black American-owned, MBE-certified planning and engineering firm based in Lexington, Kentucky. The firm was founded in 1995 to provide the highest quality services related to programming, planning, designing, and implementing a wide range of projects. The firm is committed to improving natural, social, physical, and cultural environments through the marriage of engineering, design, and planning services. EHI Consultant's services are defined through its staff of highly-qualified and licensed planners, urban designers, landscape architects, and civil engineers. The firm's experience and qualifications give it the unique ability to plan, design, engineer, and engage the Lexington community as part of comprehensive and inclusive planning processes. Its services also incorporate urban design, neighborhood planning, market analysis, minority- and woman-owned business program implementation, public meeting facilitation, community engagement, and outreach. EHI Consultants has been recognized by the Federal Highway Administration for its exemplary work and received awards from the Kentucky Chapters of the American Planning Association and the American Society of Landscape Architects for its planning and design projects.

For the 2021 LFUCG Disparity and Availability Study, EHI consultants will assist in various community engagement efforts, including public meetings, organizational meetings, and dissemination of study information. In addition, the firm will conduct in-depth interviews with business owners throughout the marketplace, particularly those working in the construction and construction-related engineering fields.



Abundant Living is a Black American woman-owned diversity psychological and coaching services firm based in Lexington, Kentucky that is certified as an MBE/VOSB with LFUCG. In addition, the firm is certified as an African American business enterprise, an economically disadvantaged woman-owned small business, a small disadvantaged business, a service-disabled veteran-owned business, a woman business enterprise, and a woman-owned small business. Abundant Living offers assessments, evaluations, counseling, interviewing

services, trauma therapy, coaching, and consulting services to residents and business across Central Kentucky in connection with various topics, including diversity and equity, education, and crisis management. Dr. Shambra Mulder, Abundant Living President, has more than 20 years of experience advocating for those who are considered “less than.” She combines educational training, professional experiences, personal life experiences, and her gift of discernment to provide clients with accurate and adequate information to make informed decisions.

For the 2021 LFUCG Disparity and Availability Study, Abundant Living will conduct in-depth interviews with business owners throughout the marketplace.

Holland & Knight Holland & Knight is the preeminent law firm in the nation with regard to assessing legal issues surrounding disparity studies and minority- and woman-owned business programs. The firm has contributed to more than 60 BBC disparity studies. BBC partners with Holland & Knight to develop the legal analysis and framework on disparity studies and consult on legal issues. The firm recently worked with BBC on disparity studies for 11 government organizations in Indiana, ODOT, the Washington State Department of Transportation, the City of Indianapolis, the City of Denver, the City of Virginia Beach, the City of Asheville, the City of Charlotte, the Commonwealth of Pennsylvania, the Los Angeles County Metropolitan Transportation Authority, and numerous other organizations. BBC and Holland & Knight began their work together nearly 20 years ago in the Sixth Circuit as part of the City of Columbus’s successful defense of its MBE/WBE Program, which was based on a BBC disparity study. Holland & Knight, along with BBC, also provided substantial litigation support to Caltrans in the agency’s successful defense of its implementation of the Federal Disadvantaged Business Enterprise (DBE) Program in *Associated General Contractors of America, San Diego v. the California Department of Transportation*.

For the 2021 LFUCG Disparity and Availability Study, Holland & Knight will develop the legal analysis and framework for the study and consult on legal issues, especially as they pertain to disparity study methodology and the project team’s recommendations around program refinements.

**DAVIS
RESEARCH** Since its inception in 1970, Davis Research has grown to be one of the leading survey data collection firms in the nation. The firm consistently delivers sophisticated telephone and web-based surveys with seamless programming, supremely qualified surveyors, and a customized look and feel. In addition, it offers professional computer-aided telephone interviewing services from its industry-best call centers. Davis Research’s success has come from partnering with its clients to deliver custom survey solutions that best answer research questions. The firm’s clients range from one-person consultancies to some of the world’s largest corporations. All of Davis Research’s clients value the intimate attention that the firm gives each organization and the high-quality data it delivers. Davis Research has worked with BBC for the past 15 years on myriad research projects, including disparity studies for the City of Boston, Sound Transit, the Commonwealth of Virginia, and the State of Indiana. The firm specializes in maximizing survey response rates among business owners in a statistically-valid and representative manner, resulting in the most accurate disparity studies in the industry.

For the 2021 LFUCG Disparity and Availability Study, Davis Research will be responsible for programming and fielding surveys with thousands of businesses in the local marketplace in connection with the availability and utilization analyses.

B. Disparity Study Experience

BBC has conducted more than 125 disparity studies since 1989. Just in the past 10 years, we have conducted (or are conducting) 70 disparity studies as the prime consultant, including recent studies for the State of Indiana, the Commonwealth of Virginia, the City of Indianapolis, the City of Boston, ODOT, and the Ohio Turnpike Commission. Figure 2-2 presents a list of those studies in chronological order beginning with the most recent. (Ongoing studies appear in bold.) As part of each study BBC conducts, we leverage our knowledge and expertise in research, minority- and woman-owned business programs, and relevant case law to fully meet our clients' needs and conduct accurate analyses informing organizations' minority- and woman-owned business programs. In addition, we partner closely with local minority- and woman-owned businesses—like EHI Consultants and Abundant Living—to ensure all analyses are tailored specifically to, and benefit from, nuanced information about the local marketplace. We present brief descriptions of five representative studies below that were similar in size and scope to the work we are proposing to conduct for LFUCG. We also include contact information for a reference from each organization.



1. 2020 Commonwealth of Virginia Disparity Study. BBC completed a disparity study for the Commonwealth of Virginia related to its implementation of the Small, Women-, and Minority-owned Business (SWaM) Program. We assessed disparities between the participation and availability of minority- and woman-owned businesses for construction, professional services, and goods and other services contracts and procurements the Commonwealth awarded between 2014 and 2019. We observed substantial disparities for all

relevant racial/ethnic and gender groups for key contract sets that the Commonwealth of Virginia awarded. The organization is relying on study information to refine measures it uses to encourage the participation of minority- and woman-owned businesses in its contracts and procurements. BBC is currently providing post-study support to the Commonwealth of Virginia and the Governor's Office to provide further guidance around refining the SWaM Program. Our reference for the project is:

Ms. Jennifer Mayton, Interim Director
Virginia Department of Small Business and Supplier Diversity
(t) 804-593-2007; (e) jennifer.mayton@sbsd.virginia.gov



2. 2020 State of Indiana Disparity Study. BBC conducted a disparity study for the State of Indiana related to the organization's implementation of the Minority and Women's Business Enterprises (M/WBE) Program. We assessed disparities between the participation and availability of minority-, woman-, and veteran-owned businesses for construction, professional services, and goods and other services contracts and procurements the State of Indiana awarded between 2013 and 2018. We

observed substantial disparities for all relevant racial/ethnic and gender groups as well as for veteran-owned businesses for key contract sets the State of Indiana awarded, particularly for contracts that were awarded without the use of race- and gender-conscious measures. The organization is relying on study information to refine measures that it uses to encourage the participation of minority-, woman, and veteran-owned businesses in its contracts and procurements. BBC is currently providing post-study support to the State of Indiana to provide further guidance around refining the M/WBE Program. Our reference for the project is:

Ms. Maia Saprashvili, Deputy Commissioner
 Indiana Division of Supplier Diversity
 (t) 317-234-3428; (e) msaprashvili@idoa.in.gov

Figure 2-2.
Disparity studies that BBC has conducted
(or is conducting) as the prime consultant in the past 10 years

Disparity study	
2021 California Dept. of Transportation Disparity Study	2016 Ohio Dept. of Transportation Disparity Study
2021 City of San Diego Disparity Study	2016 Ohio Turnpike Disparity Study
2020 Boston Housing Authority Disparity Study	2016 Purdue University Disparity Study
2020 Boston Planning and Development Agency Disparity Study	2016 State Lottery Commission of Indiana Disparity Study
2020 Boston Water and Sewer Commission Disparity Study	2016 University of Southern Indiana Disparity Study
2020 City of Boston Disparity Study	2016 Vincennes University Disparity Study
2020 Commonwealth of Virginia Disparity Study	2014 California Dept. of Transportation Disparity Study
2020 State of Indiana Disparity Study	2014 Imperial County Transportation Commission Disparity Study
2020 Sound Transit Disparity Study	2014 North County Transit District Disparity Study
2020 North County Transit District Disparity Study	2014 Port of Seattle Disparity Study
2020 San Diego Association of Governments Disparity Study	2014 San Diego Association of Governments Disparity Study
2019 California Dept. of Transportation Disparity Study	2013 Sound Transit Disparity Study
2019 City of Indianapolis Disparity Study	2012 California Dept. of Transportation Disparity Study
2018 City of Asheville Disparity Study	2012 Georgia Dept. of Transportation Disparity Study
2018 City of Denver Disparity Study	2012 Washington State Dept. of Transportation Disparity Study
2018 City of Virginia Beach Disparity Study	2011 City of Portland Disparity Study
2018 Commonwealth of Pennsylvania Disparity Study	2011 Mass. Dept. of Environmental Protection Disparity Study
2018 Los Angeles Metro Disparity Study	2011 Oklahoma Dept. of Transportation Disparity Study
2018 McCarran International Airport Disparity Study	2011 Portland Development Commission Disparity Study
2018 Nevada Dept. of Transportation Disparity Study	2010 Ball State University Disparity Study
2018 Pennsylvania Dept. of Transportation Disparity Study	2010 Burbank-Glendale-Pasadena Airport Authority
2018 Reno-Tahoe International Airport Disparity Study	2010 Indiana Dept. of Administration Disparity Study
2018 Southern Nevada Transportation Disparity Study	2010 Indiana Dept. of Transportation Disparity Study
2018 Washoe County Transportation Disparity Study	2010 Indiana State University Disparity Study
2017 Illinois Dept. of Transportation	2010 Indiana University Disparity Study
2017 City of Charlotte Disparity Study	2010 Ivy Tech Community College Disparity Study
2017 Idaho Transportation Dept. Disparity Study	2010 Los Angeles Metro Disparity Study
2016 Ball State University Disparity Study	2010 Metropolitan Transit System Disparity Study
2016 California Dept. of Transportation Disparity Study	2010 Orange County Transportation Authority Disparity Study
2016 Indiana Dept. of Administration Disparity Study	2010 Purdue University Disparity Study
2016 Indiana Dept. of Transportation Disparity Study	2014 San Diego Association of Governments Disparity Study
2016 Indiana State University Disparity Study	2010 San Diego County Regional Airport Authority Disparity Study
2016 Indiana University Disparity Study	2010 Southern California Regional Rail Authority Disparity Study
2016 Indianapolis Airport Authority Disparity Study	2010 University of Southern Indiana Disparity Study
2016 Ivy Tech Community College Disparity Study	2010 Vincennes University Disparity Study

3. 2019 City of Indianapolis Disparity Study. BBC conducted a comprehensive disparity study for the City of Indianapolis related to the organization’s implementation of the Minority-owned Business Enterprise/Woman-owned Business Enterprise/Veteran-owned Business-Enterprise/Disabled-owned Business Enterprise Business Utilization Plan. We assessed disparities between the participation and availability of minority-owned businesses, woman-owned businesses, veteran-owned businesses, and disabled-owned businesses for construction, professional services, goods, and non-professional services contracts and procurements the City of Indianapolis awarded between 2014 and 2018. BBC observed substantial disparities for relevant racial/ethnic and gender groups as well as for veteran-owned businesses for key contract sets. The City of Indianapolis is using information from the study to refine program measures it uses to encourage the participation of minority- and woman-owned businesses in its contracting. Our reference for the project is:

Camille Blunt, Director
City of Indianapolis Office of Minority/Women Business Development
(t) 317-327-4085; (e) camille.blunt@indy.gov



4. 2018 City of Virginia Beach Disparity Study. BBC conducted a disparity study for the City of Virginia Beach related to the organization’s implementation of its Small, Women-, and Minority-owned Business (SWaM) Program. We assessed disparities between the participation and availability of minority- and woman-owned businesses and veteran-owned businesses for construction, professional services, and goods and other services contracts and procurements the City of Virginia Beach awarded between 2012 and 2017. BBC observed substantial disparities for relevant racial/ethnic and gender groups as well as for veteran-owned businesses for key contract sets, particularly for contracts that were awarded without the use of race- and gender-conscious measures. The organization is using information from the study to refine program measures it uses to encourage the participation of minority-, woman-, and veteran-owned businesses in its contracts and procurements. BBC is currently providing post-study support to the City of Virginia Beach to provide further guidance around refining the SWaM Program. Our references for the project is:

Lavera Tolentino, Minority Business Coordinator
City of Virginia Beach Department of Economic Development
(t) 757-385-4438; (e) ltolent@vb.gov.com



4. 2018 Commonwealth of Pennsylvania Disparity Study. BBC completed a comprehensive disparity study for the Commonwealth of Pennsylvania related to the organization’s implementation of its Small Diverse Business Program. We assessed disparities between the participation and availability of minority-owned businesses, woman-owned businesses, veteran-owned businesses, service-disabled veteran-owned businesses, lesbian/gay/bisexual/transgender/queer (LGBTQ)-owned businesses, and disabled-owned businesses for construction, professional services, and goods and other services contracts the Commonwealth awarded between 2011 and 2016. We

observed substantial disparities for relevant racial/ethnic and gender groups for key contract sets the Commonwealth of Pennsylvania awarded, particularly for contracts to which race- and gender-conscious measures did not apply. The organization is relying on study information to refine measures it uses to encourage the participation of minority-, woman-, veteran-, service-disabled veteran-, LGBTQ-, and disabled-owned businesses in its contracts. Our reference for the project is:

Curt Topper, Secretary
Commonwealth of Pennsylvania, Department of General Services
(t) 717-787-5996; (e) ctopper@pa.gov

C. Legal Challenges

There is no pending litigation in connection with any of BBC's recent disparity studies. However, four implementations of minority- and woman-owned businesses programs that were based, at least in part, on BBC disparity studies have faced legal challenges, and all four programs were allowed to remain in effect, based, in part, on substantial litigation support we provided our clients. The corresponding lawsuits were:

- *Associated General Contractors of America, San Diego Chapter, Inc. v. California Department of Transportation et al.*;
- *Associated General Contracts of America v. City of Phoenix*;
- *Associated General Contractors of America et al. v. City of Columbus et al.*; and
- *Concrete Works of Colorado, Inc. v. City and County of Denver*.

The most recent case was *Associated General Contractors of America, San Diego v. Caltrans*, which involved a legal challenge to Caltrans's implementation of the Federal DBE Program. Caltrans based its implementation of the program in large part on a 2007 BBC disparity study, and it was challenged by the Associated General Contractors of America (AGC), San Diego in 2010. Caltrans retained BBC and Holland & Knight to provide litigation support, and the case was heard before the United States District Court of the Eastern District of California and the Ninth Circuit Court of Appeals. Both courts strongly approved BBC's methodology for the study and found it was "comprehensive" and provided "substantial statistical and anecdotal evidence of discrimination in the California contract industry." Moreover, the courts ruled BBC's study was sufficient to justify Caltrans's implementation of the Federal DBE Program. Our methodology was also strongly approved by USDOT, the United States Congress, and other authorities.

SECTION 3.

Samples of Similar Study Scope

SECTION 3.

Samples of Similar Study Scope

Since 1989, BBC Research & Consulting (BBC) has conducted more than 125 disparity studies that were similar in scope to the work we propose to conduct for the 2021 Lexington-Fayette Urban County Government (LFUCG) Disparity and Availability Study. As representative samples of that work, Section 3 presents the Executive Summaries of three recent disparity studies:

- 2020 Commonwealth of Virginia Disparity Study;
- 2019 City of Indianapolis Disparity Study; and
- 2018 City and County of Denver Disparity Study

We have only included the Executive Summaries for each study because of the relatively large size of each full report (between 600 and 800 pages, depending on the study). If LFUCG would like us to submit each full report, we would be pleased to do so upon request. Similarly, we would be pleased to provide additional samples of our work as desired.



2020 Disparity Study

Commonwealth of Virginia

FINAL REPORT

CHAPTER ES.

Executive Summary

The Commonwealth of Virginia (The Commonwealth) implements the Small, Women, and Minority-owned Business (SWaM) Program to encourage the participation of small businesses and minority- and woman-owned businesses in state contracts and procurements. The SWaM Program comprises various *race- and gender-neutral* measures to meet its objectives. Race- and gender-neutral measures are efforts designed to encourage the participation of all businesses—or all small businesses—in an organization’s contracting and procurement, regardless of the race/ethnicity or gender of business owners (e.g., networking and outreach events or financing and bonding assistance). In contrast, *race- and gender-conscious* measures are measures that are specifically designed to encourage the participation of minority- and woman-owned businesses in government contracting and procurement (e.g., goals for minority- and woman-owned business participation on individual contracts). The Commonwealth does not currently use any race- or gender-conscious measures as part of its contracting and procurement processes.

The Department of Small Business and Supplier Diversity (SBSD), which is responsible for operating the SWaM Program, retained BBC Research & Consulting (BBC) to conduct a *disparity study* to help evaluate the effectiveness of the program in encouraging the participation of minority- and woman-owned businesses in state contracts and procurements.¹ As part of the study, BBC assessed whether there were any disparities between:

- The percentage of contract and procurement dollars—including subcontract dollars—that Commonwealth agencies and higher education institutions (HEIs) awarded to minority- and woman-owned businesses during the study period, which was defined as July 1, 2014 through June 30, 2019 (i.e., *utilization*); and
- The percentage of contract and procurement dollars that minority- and woman-owned businesses might be expected to receive based on their availability to perform specific types and sizes of Commonwealth and HEI prime contracts and subcontracts (i.e., *availability*).

The disparity study also examined other quantitative and qualitative information related to:

- The legal framework surrounding the SWaM Program;
- Local marketplace conditions for minorities, women, and minority- and woman-owned businesses; and
- Contracting practices and business assistance programs that Commonwealth agencies have in place.

¹ “Woman-owned businesses” refers to non-Hispanic white woman-owned businesses. Information and results for minority woman-owned businesses are included along with their corresponding racial/ethnic groups.

The Commonwealth could use information from the study to help refine its implementation of the SWaM Program, including setting an overall aspirational goal for the participation of minority- and woman-owned businesses in state contracting and procurement and determining which program measures to use to encourage the participation of those businesses.

BBC summarizes key information from the 2020 Commonwealth of Virginia Disparity Study in five parts:

- A. Analyses in the disparity study;
- B. Availability analysis results;
- C. Utilization analysis results;
- D. Disparity analysis results; and
- E. Program implementation.

A. Analyses in the Disparity Study

BBC examined extensive information related to outcomes for minority- and woman-owned businesses and the SWaM Program:

- The study team conducted an analysis of regulations, case law, and other information to guide methodology for the disparity study. The analysis included a review of legal requirements related to minority- and woman-owned business programs, including the SWaM Program (see Chapter 2 and Appendix B).
- BBC conducted quantitative analyses of outcomes for minorities, women, and minority- and woman-owned businesses throughout the *relevant geographic market area (RGMA)*.² In addition, the study team collected anecdotal evidence about potential barriers that individuals and businesses face in the local marketplace through in-depth interviews, surveys, public meetings, and focus groups (see Chapter 3, Appendix C, and Appendix D).
- BBC analyzed the percentage of relevant Commonwealth and HEI contract and procurement dollars that minority- and woman-owned businesses are available to perform. That analysis was based on surveys that the study team completed with businesses that work in industries related to the specific types of construction, professional services, and goods and other services contracts and procurements that the Commonwealth and HEIs award (see Chapter 5 and Appendix E).
- BBC analyzed the dollars that minority- and woman-owned businesses were awarded on relevant construction, professional services, and goods and other services contracts and procurements that the Commonwealth and HEIs awarded during the study period (see Chapters 4 and 6).
- BBC examined whether there were any disparities between the participation and availability of minority- and woman-owned businesses on construction, professional

² BBC identified the RGMA as the entire state of Virginia.

services, and goods and other services contracts and procurements that the Commonwealth and HEIs awarded during the study period (see Chapter 7 and Appendix F).

- BBC reviewed the measures that the Commonwealth uses to encourage the participation of minority- and woman-owned businesses in state contracts and procurements as well as measures that other organizations in the region use (see Chapter 8).
- BBC provided guidance related to additional program options and potential changes to current contracting practices for the Commonwealth’s consideration (see Chapter 9).

B. Availability Analysis Results

BBC used a *custom census* approach to analyze the availability of minority- and woman-owned businesses for Commonwealth and HEI prime contracts and subcontracts, which relied on information from surveys that the study team conducted with potentially available businesses located in the RGMA and information about the contracts and procurements that the Commonwealth and HEIs awarded during the study period. That approach allowed BBC to develop a representative, unbiased, and statistically-valid database of relevant Virginia businesses to estimate the availability of minority- and woman-owned businesses for Commonwealth and HEI work. BBC presents availability analysis results for Commonwealth and HEI work overall and, specifically for the Commonwealth, different subsets of contracts and procurements.

1. All contracts and procurements. Figure ES-1 presents dollar-weighted availability estimates by relevant business group for Commonwealth contracts and procurements. Overall, the availability of minority- and woman-owned businesses for Commonwealth work is 32.8 percent, indicating that minority- and woman-owned businesses might be expected to receive 32.8 percent of the contract and procurement dollars that the Commonwealth awards in construction, professional services, and goods and other services.

Figure ES-1.
Overall availability estimates by racial/ethnic and gender group for Commonwealth work

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figure F-2 in Appendix F.

Source:

BBC Research & Consulting availability analysis.

Business group	Availability %
Non-Hispanic white woman-owned	10.9 %
Asian American-owned	6.6
Black American-owned	7.1
Hispanic American-owned	5.3
Native American-owned	2.9
<hr/>	
Total Minority-owned	21.9 %
Total Minority- and Woman-owned	32.8 %

BBC also estimated the availability of minority- and woman-owned businesses for contracts and procurements that Tier II and Tier III HEIs award. Tier II HEIs have a memorandum of understanding with the Commonwealth that allow them some contracting and procurement

autonomy, and Tier III HEIs have complete autonomy in their contracting and procurement.^{3,4,5} Figure ES-2 presents availability analysis results for Tier II HEIs considered together and Tier III HEIs considered together. As shown in figure ES-2, the availability of minority- and woman-owned businesses considered together is slightly higher for the contracts and procurements that Tier II HEIs award (30.5%) than ones that Tier III HEIs award (29.4%).

Figure ES-2.
Overall availability estimates by racial/ethnic and gender group for Tier II and Tier III HEIs

Note:
Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.
For more detail and results by group, see Figures F-18 and F-19 in Appendix F.

Source:
BBC Research & Consulting availability analysis.

Business group	HEI tier	
	Tier II	Tier III
Non-Hispanic white woman-owned	11.1 %	11.5 %
Asian American-owned	7.0	6.4
Black American-owned	5.3	7.6
Hispanic American-owned	6.0	3.2
Native American-owned	1.1	0.6
Total Minority-owned	19.4 %	17.9 %
Total Minority- and Woman-owned	30.5 %	29.4 %

2. Contract role. Many minority- and woman-owned businesses are small businesses and thus often work as subcontractors. Because of that tendency, it is useful to examine availability estimates separately for Commonwealth prime contracts and subcontracts. As shown in Figure ES-3, the availability of minority- and woman-owned businesses considered together is higher for Commonwealth prime contracts (32.8%) than for subcontracts (31.1%).

Figure ES-3.
Availability estimates by contract role for Commonwealth work

Note:
Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.
For more detail, see Figures F-8 and F-9 in Appendix F.

Source:
BBC Research & Consulting availability analysis.

Business group	Contract role	
	Prime contracts	Subcontracts
Non-Hispanic white woman-owned	10.9 %	12.4 %
Asian American-owned	6.6	5.3
Black American-owned	7.1	4.6
Hispanic American-owned	5.3	7.5
Native American-owned	2.9	1.3
Total Minority-owned	21.9 %	18.7 %
Total Minority- and Woman-owned	32.8 %	31.1 %

³ Tier II HEIs are George Mason University, Longwood University, Old Dominion University, Radford University, and the University of Mary Washington. Three additional HEIs—Christopher Newport University, Richard Bland College, and Virginia Community College System—are also considered Tier II HEIs but only have autonomy for capital outlay and information technology procurements. Their results are presented along with results for the Commonwealth.

⁴ Tier III HEIs are the College of William & Mary, James Madison University, the University of Virginia, Virginia Commonwealth University, and Virginia Tech. James Madison University was a Tier II HEI during the study period.

3. Subcontractor plans. For contracts and procurements worth \$100,000 or more, the Commonwealth’s Executive Order 35 requires that potential prime contractors submit subcontractor plans with their bids in an effort to encourage subcontractor participation in that work. BBC examined the availability of minority- and woman-owned businesses for contracts and procurements worth \$100,000 or more (*subcontractor plan* contracts) and contracts and procurements worth less than \$100,000 (*no subcontractor plan* contracts), because that information could be informative in assessing the efficacy of subcontractor plans in encouraging the participation of minority- and woman-owned businesses in Commonwealth contracts and procurements. As shown in Figure ES-4, the availability of minority- and woman-owned businesses considered together is higher for subcontractor plan contracts (33.5%) than for no subcontractor plan contracts (29.2%).

Figure ES-4.
Availability estimates for subcontractor plan and no subcontractor plan contracts and procurements

Note:
 Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.
 For more detail, see Figures F-12 and F-13 in Appendix F.

Source:
 BBC Research & Consulting availability analysis.

Business group	Subcontractor plans	
	Yes	No
Non-Hispanic white woman-owned	11.0 %	10.4 %
Asian American-owned	6.6	6.6
Black American-owned	6.8	8.5
Hispanic American-owned	5.8	3.3
Native American-owned	3.4	0.4
Total Minority-owned	22.5 %	18.8 %
Total Minority- and Woman-owned	33.5 %	29.2 %

4. Industry. BBC examined availability analysis results separately for Commonwealth construction, professional services, and goods and other services contracts. As shown in Figure ES-5, the availability of minority- and woman-owned businesses considered together is highest for Commonwealth professional services contracts (50.3%) and lowest for construction contracts (23.9%).

Figure ES-5.
Availability estimates by industry for Commonwealth work

Business group	Industry		
	Construction	Professional services	Goods and other services
Non-Hispanic white woman-owned	5.8 %	17.4 %	11.1 %
Asian American-owned	5.5	11.2	2.7
Black American-owned	8.8	8.5	2.6
Hispanic American-owned	3.8	5.4	7.8
Native American-owned	0.1	7.8	1.4
Total Minority-owned	18.1 %	32.9 %	14.4 %
Total Minority- and Woman-owned	23.9 %	50.3 %	25.5 %

Note: Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.
 For more detail and results by group, see Figures F-5, F-6, and F-7 in Appendix F.

Source: BBC Research & Consulting availability analysis.

C. Utilization Analysis Results

BBC measured the participation of minority- and woman-owned businesses in Commonwealth and HEI contracts and procurements in terms of *utilization*—the percentage of dollars that those businesses were awarded on relevant prime contracts and subcontracts during the study period. BBC measured the participation of minority- and woman-owned businesses in Commonwealth and HEI work regardless of whether they were certified as minority-owned or woman-owned businesses by SBSD.

1. All contracts and procurements. Figure ES-6 presents the percentage of total dollars that minority- and woman-owned businesses received on relevant construction, professional services, and goods and other services prime contracts and subcontracts that the Commonwealth awarded during the study period. As shown in Figure ES-6, minority- and woman-owned businesses considered together received 13.4 percent of the relevant contract and procurement dollars that the Commonwealth awarded during the study period.

Figure ES-6.
Utilization results for Commonwealth contracts and procurements

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail, see Figure F-2 in Appendix F.

Source:

BBC utilization analysis.

Business group	Utilization %
Non-Hispanic white woman-owned	5.5 %
Asian American-owned	1.1
Black American-owned	3.4
Hispanic American-owned	3.3
Native American-owned	0.1
Total Minority-owned	8.0 %
Total Minority- and Woman-owned	13.4 %

BBC also calculated the participation of minority- and woman-owned businesses in contracts and procurements that Tier II and Tier III HEIs awarded during the study period. As shown in Figure ES-7, the participation of minority- and woman-owned businesses was higher in contracts and procurements that Tier II HEIs awarded (11.1%) than in ones that Tier III HEIs awarded (8.0%).

Figure ES-7.
Utilization results for Tier II and Tier III HEIs

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figures F-18 and F-19 in Appendix F.

Source:

BBC Research & Consulting availability analysis.

Business group	HEI tier	
	Tier II	Tier III
Non-Hispanic white woman-owned	7.4 %	6.1 %
Asian American-owned	2.5	0.3
Black American-owned	0.3	1.2
Hispanic American-owned	0.6	0.2
Native American-owned	0.3	0.1
Total Minority-owned	3.7 %	1.9 %
Total Minority- and Woman-owned	11.1 %	8.0 %

2. Contract role. Figure ES-8 presents utilization analysis results separately for prime contracts and subcontracts that the Commonwealth awarded during the study period. As shown in Figure ES-3, the participation of minority- and woman-owned businesses considered together was higher in subcontracts (20.9%) that the Commonwealth awarded than in prime contracts (13.3%). Among other factors, that result could be due to the fact that subcontracts tend to be smaller in size than prime contracts, and thus may be more accessible to minority- and woman-owned businesses.

Figure ES-8.
Utilization analysis results by contract role

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail, see Figures F-8 and F-9 in Appendix F.

Source:

BBC utilization analysis.

Business group	Contract role	
	Prime contracts	Subcontracts
Non-Hispanic white woman-owned	5.4 %	10.1 %
Asian American-owned	1.1	4.4
Black American-owned	3.5	0.4
Hispanic American-owned	3.2	6.0
Native American-owned	0.1	0.0
Total Minority-owned	7.9 %	10.8 %
Total Minority- and Woman-owned	13.3 %	20.9 %

3. Subcontractor plans. BBC also examined the participation of minority- and woman-owned businesses in subcontractor plan contracts and no subcontractor plan contracts. because that information is informative about the efficacy of subcontractor plans in encouraging the participation of minority- and woman-owned businesses in Commonwealth work. As shown in Figure ES-9, the participation of minority- and woman-owned businesses was very similar in subcontractor plan (13.4%) and no subcontractor plan (13.5%) contracts, potentially indicating that requesting subcontractor plans from prime contractors at the time of bid might not be particularly effective in encouraging the participation of minority- and woman-owned businesses in Commonwealth contracts and procurements.

Figure ES-9.
Utilization results for subcontractor plan and non-subcontractor plan contracts and procurements

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail, see Figures F-12 and F-13 in Appendix F.

Source:

BBC Research & Consulting availability analysis.

Business group	Subcontractor plans	
	Yes	No
Non-Hispanic white woman-owned	5.2 %	6.6 %
Asian American-owned	1.1	1.3
Black American-owned	3.4	3.7
Hispanic American-owned	3.6	1.5
Native American-owned	0.1	0.5
Total Minority-owned	8.2 %	6.9 %
Total Minority- and Woman-owned	13.4 %	13.5 %

4. Industry. BBC also examined utilization analysis results separately for the Commonwealth's construction, professional services, and goods and other services contracts and procurements to determine whether the participation of minority- and woman-owned businesses differs by industry. As shown in Figure ES-10, the participation of minority- and woman-owned businesses

considered together was highest for the goods and other services contracts and procurements that the Commonwealth awarded during the study period (15.1%) and lowest for professional services contracts and procurements (11.2%).

Figure ES-10.
Utilization analysis results by industry

Business group	Industry		
	Construction	Professional services	Goods and other services
Non-Hispanic white woman-owned	6.9 %	2.0 %	7.4 %
Asian American-owned	0.3	2.0	1.3
Black American-owned	1.3	4.3	5.6
Hispanic American-owned	5.4	2.7	0.8
Native American-owned	0.2	0.2	0.0
Total Minority-owned	7.2 %	9.2 %	7.7 %
Total Minority- and Woman-owned	14.1 %	11.2 %	15.1 %

Note: Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figure F-5, F-6, and F-7 in Appendix F.

Source: BBC utilization analysis.

D. Disparity Analysis Results

Although information about the participation of minority- and woman-owned businesses in Commonwealth and HEI contracts and procurements is useful on its own, it is even more useful when it is compared with the level of participation one might expect based on their availability for that work. As part of the disparity analysis, BBC compared the participation of minority- and woman-owned businesses in Commonwealth and HEI prime contracts and subcontracts with the percentage of contract dollars that those businesses might be expected to receive based on their availability for that work. BBC calculated *disparity indices* for each relevant business group and for various contract sets by dividing percent utilization by percent availability and multiplying by 100. A disparity index of 100 indicates an exact match between participation and availability for a particular group for a particular contract set (referred to as *parity*). A disparity index of less than 100 indicates a disparity between participation and availability. A disparity index of less than 80 indicates a *substantial* disparity between participation and availability.

1. All contracts and procurements. Figure ES-11 presents disparity indices for all relevant prime contracts and subcontracts that the Commonwealth awarded during the study period. The line down the center of the graph shows a disparity index level of 100, which indicates parity between participation and availability. A line is also drawn at a disparity index level of 80, which indicates a substantial disparity. As shown in Figure ES-11, minority- and woman-owned businesses considered together exhibited a disparity index of 41 for contracts and procurements that the Commonwealth awarded during the study period, indicated substantial underutilization. Moreover, all individual racial/ethnic and gender groups showed substantial disparities on that work.

Figure ES-11.
Disparity analysis
results for relevant
Commonwealth
contracts and procurements

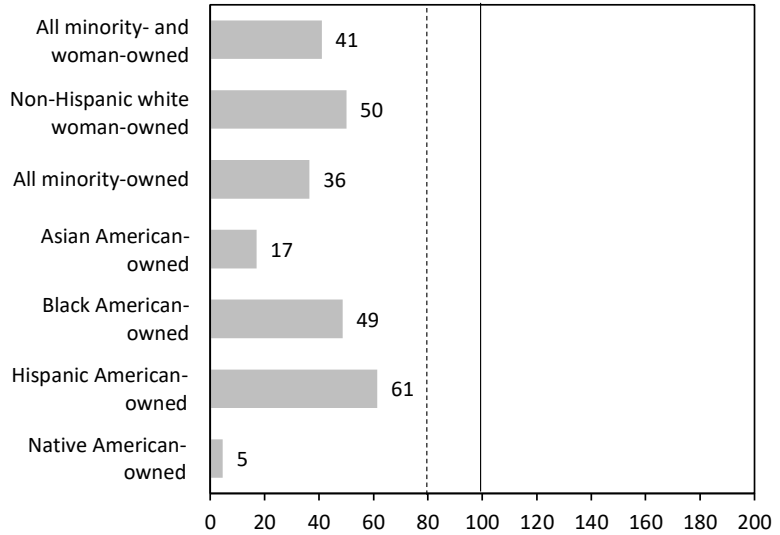
Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail, see Figure F-2 in Appendix F.

Source:

BBC disparity analysis



BBC also assessed disparities between participation and availability for contracts and procurements that Tier II and Tier III HEIs awarded during the study period. As shown in figure ES-12, minority- and woman-owned businesses considered together exhibited substantial disparities for contracts and procurements that Tier II HEIs (disparity index of 37) and Tier III HEIs (disparity index of 27) awarded during the study period. All individual business groups showed substantial disparities for both Tier II and Tier III contracts and procurements.

Figure ES-12.
Disparity analysis
results for Tier II and
Tier III HEIs

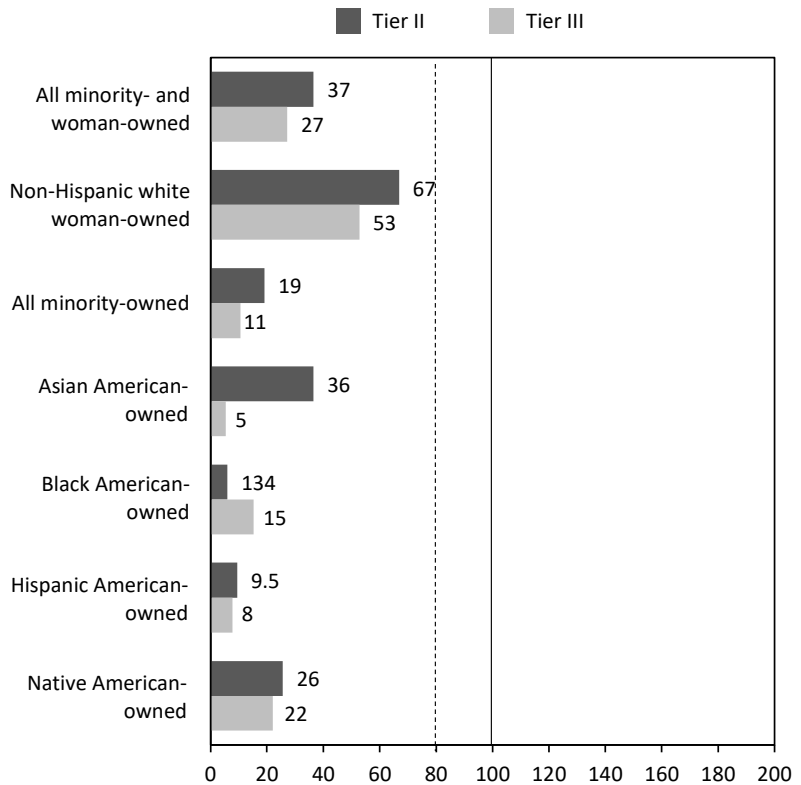
Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figures F-18 and F-19 in Appendix F.

Source:

BBC disparity analysis.



2. Contract role. Many minority- and woman-owned businesses are small businesses and thus often work as subcontractors, so it is useful to examine disparity analysis results separately for prime contracts and subcontracts. As shown in Figure ES-13, minority- and woman-owned businesses considered together showed a substantial disparity for both Commonwealth prime contracts (disparity index of 41) and subcontracts (disparity index of 67). All individual business groups showed substantial disparities for both prime contracts and subcontracts except for non-Hispanic white woman-owned businesses (disparity index of 81) and Asian American-owned businesses (disparity index of 82) on subcontracts.

Figure ES-13.
Disparity analysis
results by contract role

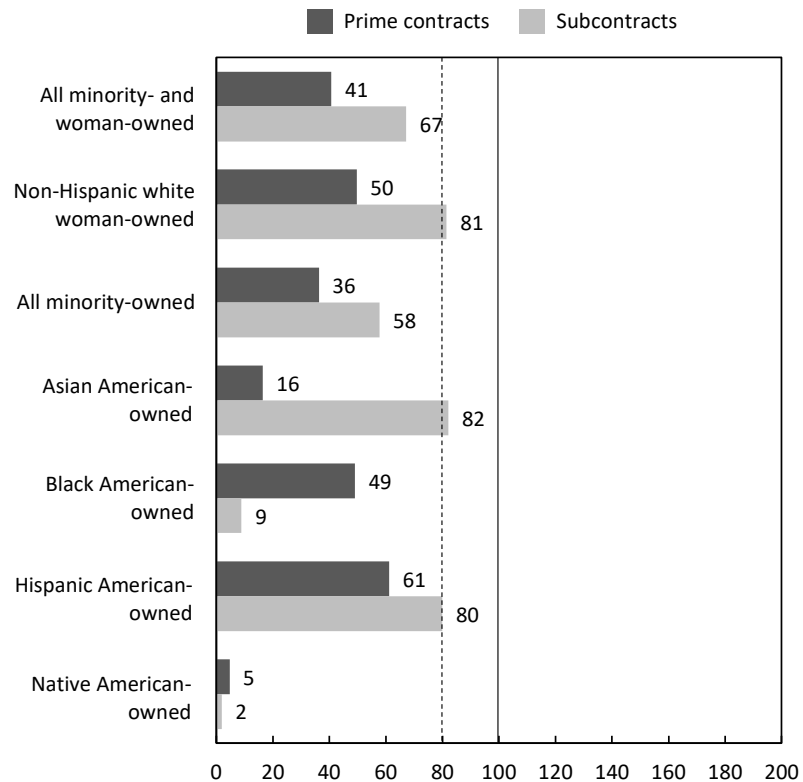
Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figure F-8 and F-9 in Appendix F.

Source:

BBC disparity analysis.



3. Subcontractor plans. BBC assessed disparities for minority- and woman-owned businesses for subcontractor plan contracts and no subcontractor plan contracts to assess the efficacy of subcontractor plans in encouraging the participation of minority- and woman-owned businesses in Commonwealth work. As shown in Figure ES-14, subcontract plans do not appear to improve outcomes for minority- and woman-owned businesses on Commonwealth contracts and procurements. Minority- and woman-owned businesses considered together exhibited substantial disparities on both subcontract plan contracts (disparity index of 40) and no subcontract plan contracts (disparity index of 46). All individual business groups showed substantial disparities for both contract sets except for Native American-owned businesses on no subcontractor plan contracts (disparity index of 140).

Figure ES-14.
Disparity analysis
results for subcontractor
plan and no subcontractor
plan contracts and
procurements

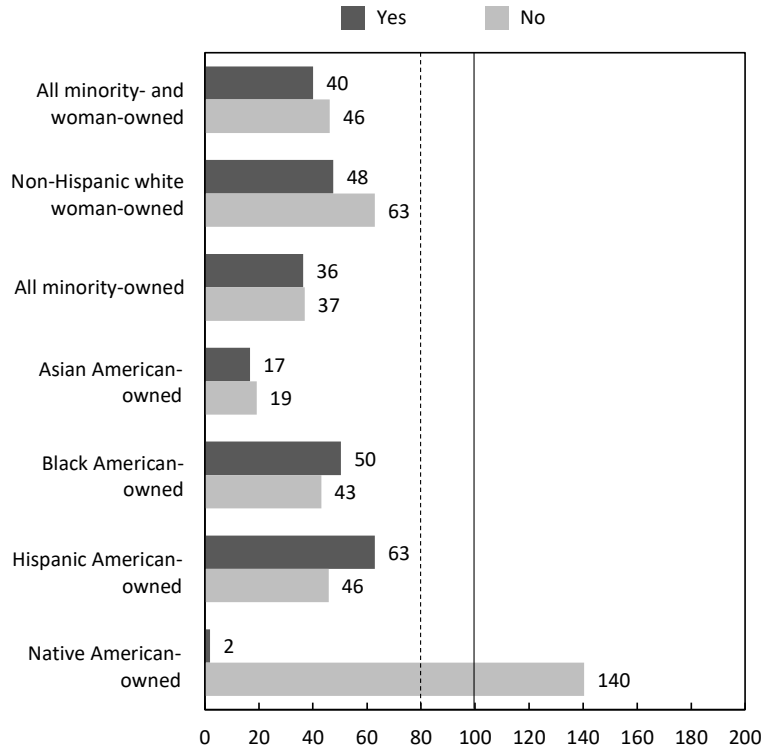
Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figure Figures F-12 and F-13 in Appendix F.

Source:

BBC disparity analysis.



4. Industry. BBC also examined disparity analysis results separately for the Commonwealth’s construction, professional services, and goods and other services contracts and procurements to determine whether disparities between participation and availability differ by work type. As shown in Figure ES-15, minority- and woman-owned businesses considered together exhibited substantial disparities for the Commonwealth’s construction (disparity index of 59), professional services (disparity index of 22), and goods and other services (disparity index of 59) contracts and procurements. Although most individual business groups showed substantial disparities for most industries, there were some exceptions:

- Non-Hispanic white woman-owned businesses (disparity index of 120), Hispanic American-owned businesses (disparity index of 144), and Native American-owned businesses (disparity index of 200+) did not exhibit disparities on construction contracts; and
- Black American-owned businesses did not exhibit a disparity on goods and other services procurements (disparity index of 200+).

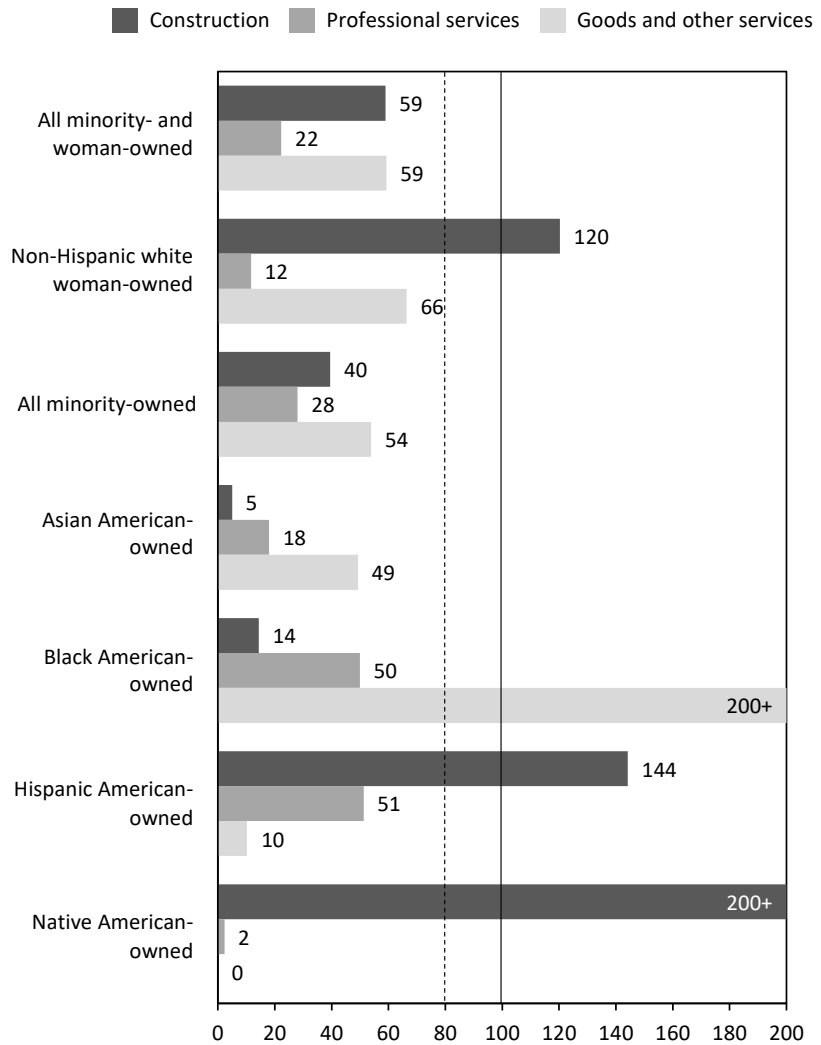
E. Program Implementation

The Commonwealth should review study results and other relevant information in connection with making decisions concerning its implementation of the SWaM Program. Key considerations in making any refinements are discussed below. When making those considerations, the Commonwealth should also assess whether additional resources, changes in internal policy, or changes in state law may be required. For additional details about program implementation, see Chapter 9.

Figure ES-15.
Disparity analysis
results by industry

Note:
 Numbers rounded to nearest
 tenth of 1 percent and thus
 may not sum exactly to
 totals.
 For more detail and results
 by group, see F-5, F-6, and
 F-7 in Appendix F.

Source:
 BBC disparity analysis.



1. Overall aspirational goal. Results from the disparity study—particularly the availability analysis, analyses of marketplace conditions, and anecdotal evidence—can be helpful to the Commonwealth in establishing an overall aspirational goal for the participation of minority- and woman-owned business in its contracting and procurement. The availability analysis indicated that minority- and woman-owned businesses might be expected to receive 32.8 percent of Commonwealth contract and procurement dollars, which the Commonwealth could consider as its *base figure* of its overall aspirational goal. In addition, the disparity study provides information about factors that the Commonwealth should review in considering whether an adjustment to its base figure is warranted, particularly information about the volume of Commonwealth work in which minority- and woman-owned businesses have participated in the past; barriers in Virginia related to employment, self-employment, education, training, and unions; barriers in Virginia related to financing, bonding, and insurance; and other relevant information.

2. Contract-specific goals. Disparity analysis results indicate that all relevant racial/ethnic and gender groups showed substantial disparities on key sets of contracts and procurements that the Commonwealth and HEIs awarded during the study period. Because the Commonwealth

uses myriad race- and gender-neutral measures to encourage the participation of minority- and woman-owned businesses in its contracting, and because those measures have not sufficiently addressed disparities for those businesses, it might consider using minority- and woman-owned business goals to award individual contracts. To do so, the Commonwealth would set participation goals on individual contracts based on the availability of minority- and woman-owned businesses for the types of work involved with the project as well as on current marketplace conditions, and, as a condition of award, prime contractors would have to meet those goals by making subcontracting commitments with certified minority- and woman-owned businesses as part of their bids or by demonstrating sufficient good faith efforts to do so. Because the use of such goals would be considered a race- and gender-conscious measure, the Commonwealth will need to ensure that the use of those measures meets the *strict scrutiny standard* of constitutional review.

3. Small business set asides. Disparity analysis results indicated substantial disparities for all relevant racial/ethnic and gender groups on prime contracts that the Commonwealth awarded during the study period. The Commonwealth might consider setting aside select small prime contracts for small business bidding to encourage the participation of small businesses, including many minority- and woman-owned businesses, as prime contractors. The Commonwealth currently has a small business set aside program where it ostensibly sets asides certain, relatively small contracts for small business bidding. However, if a larger business submits a bid that is more than 5 percent less than the lowest bid submitted by a small business, then the Commonwealth awards the contract to the larger business. To ensure that small business set asides are effectively encouraging the participation of small businesses, the Commonwealth should consider truly limiting bidding on eligible contracts to certified small businesses, regardless of whether larger business are able to submit lower bids.

4. Prompt payment. As part of in-depth interviews, several businesses, including many minority- and woman-owned businesses, reported difficulties with receiving payment in a timely manner on both private sector and public sector contracts, particularly when they work as subcontractors or on design-build contracts. Many businesses also commented that having capital on hand is crucial to business success and ready access to capital is a challenge for small businesses. The Agency Procurement and Surplus Property Manual requires prime contractors to pay subcontractors within seven days of receiving payment from state agencies. The Commonwealth should consider making efforts to further enforce those requirements. Doing so might help ensure that subcontractors receive payment in a timely manner. It may also help ensure that minority- and woman-owned businesses have enough operating capital to remain competitive and successful.

5. Capacity building. Results from the disparity study indicated that there are many minority- and woman-owned businesses in Virginia but most of them have relatively low capacities for Commonwealth work. The Commonwealth should consider various technical assistance, business development, mentor-protégé, and joint venture programs to help businesses build the capacity required to compete for relatively large Commonwealth and HEI contracts and procurements. In addition to considering programs that could be open to all small businesses, the Commonwealth could consider implementing a program to assist certain minority- and woman-owned businesses with development and growth. As part of such a program, the

Commonwealth could have an application and interview process to select businesses with which to work closely to provide specific support and resources necessary for growth.

6. Utilization of different businesses. The disparity study indicated that a substantial portion of Commonwealth contract and procurement dollars that were awarded to minority- and woman-owned businesses were largely concentrated with a relatively small number of businesses. The Commonwealth could consider using bid and contract language to encourage prime contractors to partner with subcontractors and suppliers with which they have never worked. For example, the Commonwealth might ask prime contractors to submit information about the efforts they made to identify and team with businesses with which they have not worked as part of their bids.

7. Data collection. The Commonwealth and HEIs maintain comprehensive data on the prime contracts they award, and those data are generally well-organized and accessible. However, neither the Commonwealth nor HEIs collect comprehensive data on subcontracts. The Commonwealth should consider collecting comprehensive data on *all* subcontracts, regardless of subcontractors' characteristics or whether they are certified as SWaM businesses, minority-owned businesses, or woman-owned businesses. Collecting data on all subcontracts will help ensure the Commonwealth monitors the participation of minority- and woman-owned businesses in its work accurately and will help identify additional businesses that could become certified. The Commonwealth should consider collecting those data as part of bids but also requiring prime contractors to submit data on subcontracts as part of the invoicing process for all contracts.

8. Growth monitoring. The Commonwealth might consider collecting data on the impact the SWaM Program has on the growth of minority- and woman-owned businesses over time. Doing so would require it to collect baseline information on MBE/WBE-certified businesses—such as revenue, number of locations, number of employees, and employee demographics—and continue to collect that information from each business on an annual or semiannual basis. The Commonwealth could consider collecting those data from businesses as part of certification and renewal processes. Such metrics would allow it to assess whether the program is helping businesses grow and how to tailor the measures it uses as part of the SWaM Program.

9. SBSD. Some of the considerations above might require an expansion of SBSD staff in order to effectively implement refinements to contracting policies and program measures. In particular, if the Commonwealth begins using contract-specific goals to award individual contracts, SBSD might consider hiring additional staff members to help with goal-setting and monitoring prime contractor compliance with those goals in coordination with the Department of General Services (DGS). Those additional staff members would also be able to help SBSD continue operating other aspects of the SWaM Program, including SWaM certification, business development workshops, and outreach efforts. In addition, if the Commonwealth begins using contract-specific goals, SBSD would have to work closely with DGS to ensure that the use of those goals is enforced and there is appropriate monitoring of prime contractor compliance. SBSD and DGS would have to develop a process that is consistent and appropriate across the different contracts to which such goals would apply.



2019 Disparity Study

City of Indianapolis and Marion County

FINAL REPORT

CHAPTER ES.

Executive Summary

The City of Indianapolis and Marion County (referred to together as *the City*) retained BBC Research & Consulting (BBC) to conduct a *disparity study* to help refine the organization's implementation of the Minority-owned Business Enterprise/Woman-owned Business Enterprise/Veteran-owned Business-Enterprise/Disabled-owned business enterprise (MBE/WBE/VBE/DOBE) Business Utilization Plan. The primary objective of the program is to help ensure that minority-, woman-, veteran-, and disabled-owned businesses have an equal opportunity to participate in City and municipal corporation (MC) contracts and procurements.¹

² To meet that objective, the City uses various *race- and gender-neutral* and *race- and gender-conscious measures*. In the context of contracting and procurement, race- and gender-neutral measures are measures that are designed to encourage the participation of small businesses in a government organization's contracting, regardless of the race/ethnicity or gender of the businesses' owners. In contrast, race- and gender-conscious measures are measures that are specifically designed to encourage the participation of minority- and woman-owned businesses in government contracting. As part of the disparity study, BBC assessed whether there were any disparities between:

- The percentage of contract dollars that the City and MCs spent with minority-, woman-, veteran-, and disabled-owned businesses between January 1, 2014 and December 31, 2018 (i.e., the *study period*) (i.e., *utilization*, or *participation*); and
- The percentage of contract dollars that minority-, woman-, veteran-, and disabled-owned businesses might be expected to receive based on their availability to perform specific types and sizes of City and MC prime contracts and subcontracts (i.e., *availability*).

The disparity study also examined other quantitative and qualitative information related to:

- The legal framework related to the City's implementation of the MBE/WBE/VBE/DOBE Business Utilization Plan;
- Conditions in the local marketplace for minority-, woman-, veteran-, and disabled-owned businesses; and

¹ "Woman-owned businesses" refers to non-Hispanic white woman-owned businesses. Information and results for minority woman-owned businesses are included along with their corresponding racial/ethnic groups.

² MCs are organizations that operate autonomously but are owned by Marion County. As recipients of City funding, MCs are also required to use MBE/WBE/VBE/DOBE goals in awarding individual City-funded contracts and report MBE/WBE/VBE/DOBE participation in City-funded contracts to the City. The MCs included in the disparity study were the Capital Improvement Board; Eskenazi Health; the Health & Hospital Corporation of Marion County; the Indianapolis Airport Authority; the Indianapolis Bond Bank; the Indianapolis-Marion County Building Authority; Indianapolis Public Library; and the Indianapolis Public Transportation Corporation.

- Contracting practices and business assistance programs that the City currently has in place or could consider implementing in the future.

The City could use information from the study to help refine its implementation of the MBE/WBE/VBE/DOBE Business Utilization Plan, including setting overall aspirational goals for the participation of minority-, woman-, veteran-, and disabled-owned businesses in City and MC contracting and determining which program measures to use to encourage the participation of those businesses in City and MC contracting. BBC summarizes key information from the 2019 City of Indianapolis Disparity Study in five parts:

- A. Analyses in the disparity study;
- B. Availability analysis results;
- C. Utilization analysis results;
- D. Disparity analysis results; and
- E. Program implementation.

A. Analyses in the Disparity Study

BBC examined extensive information related to outcomes for minority-, woman-, veteran-, and disabled-owned businesses and the City's implementation of the MBE/WBE/VBE/DOBE Business Utilization Plan:

- The study team conducted an analysis of federal regulations, case law, and other information to guide the methodology for the disparity study. The analysis included a review of legal requirements related to minority- and woman-owned business programs, including the MBE/WBE/VBE/DOBE Business Utilization Plan (see Chapter 2 and Appendix B).
- BBC conducted quantitative analyses of outcomes for minorities, women, veterans, people with disabilities, and the businesses that they own throughout the *relevant geographic market area*.³ In addition, the study team collected qualitative information about potential barriers that those individuals and businesses face in the local marketplace through in-depth interviews, telephone surveys, public meetings, and written testimony (see Chapter 3, Appendix C, and Appendix D).
- The study team analyzed the percentage of relevant City and MC contracting dollars that minority-, woman-, veteran-, and disabled-owned businesses are available to perform. That analysis was based on telephone surveys that the study team completed with businesses that work in industries related to the specific types of construction; architecture and engineering; other professional services; and goods and services contracts that the City and MCs award (see Chapter 5 and Appendix E).

³ BBC identified the relevant geographic market area as Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby counties in Indiana.

- BBC analyzed the dollars that minority-, woman-, veteran-, and disabled-owned businesses received on more than 95,000 construction; architecture and engineering; other professional services; and goods and services contracts that the City and MCs awarded during the study period (see Chapter 6).
- The study team examined whether there were any disparities between the participation and availability of minority-, woman-, veteran-, and disabled-owned businesses on construction; architecture and engineering; other professional services; and goods and services contracts that the City and MCs awarded during the study period (see Chapter 7).
- BBC reviewed the measures that the City uses to encourage the participation of minority-, woman-, veteran-, and disabled-owned businesses in its contracting as well as measures that other organizations in the region use (see Chapter 8).
- The study team provided guidance related to additional program options and potential changes to current contracting practices for the City's consideration (see Chapter 9).

B. Availability Analysis Results

BBC conducted a *custom census* approach to analyze the availability of minority-, woman-, veteran-, and disabled-owned businesses for City and MC prime contracts and subcontracts. BBC's approach relied on information from surveys that the study team conducted with potentially available businesses located in the relevant geographic market area that perform work within relevant subindustries. That approach allowed BBC to develop a representative, unbiased, and statistically-valid database of businesses to estimate the availability of minority-, woman-, veteran-, and disabled-owned businesses accurately.

Minority- and woman-owned businesses. BBC examined the availability of minority- and woman-owned businesses for various contract sets to assess the degree to which they are ready, willing, and able to perform different types of City and MC work.

City work. BBC assessed the availability of minority- and woman-owned businesses for contracts and procurements that the City awarded separately from those that MCs awarded.

Overall. Figure ES-1 presents dollar-weighted availability estimates by relevant business group for City contracts and procurements. Overall, the availability of minority- and woman-owned businesses for City contracts and procurements is 19.3 percent, indicating that minority- and woman-owned businesses might be expected to receive 19.3 percent of the dollars that the City awards in construction; architecture and engineering; other professional services; and goods and services.

Figure ES-1.
Overall availability estimates by racial/ethnic and gender group for City work

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figure F-2 in Appendix F.

Source:

BBC Research & Consulting availability analysis.

Business group	Availability %
Non-Hispanic white woman-owned	8.5 %
Asian Pacific American-owned	1.2
Black American-owned	6.1
Hispanic American-owned	0.8
Native American-owned	0.3
Subcontinent Asian American-owned	2.3
Total Minority-owned	10.8
Total Minority- and Woman-owned	19.3 %

Contract role. Many minority- and woman-owned businesses are small businesses and thus often work as subcontractors. Because of that tendency, it is useful to examine availability estimates separately for City prime contracts and subcontracts. Figure ES-2 presents those results. As shown in Figure ES-2, the availability of minority- and woman-owned businesses considered together is lower for City prime contracts (17.2%) than for subcontracts (31.0%). Among other factors, that result could be due to the fact that subcontracts tend to be much smaller in size than prime contracts and are thus often more accessible to minority- and woman-owned businesses.

Figure ES-2.
Availability estimates by contract role for City work

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail, see Figures F-9 and F-10 in Appendix F.

Source:

BBC Research & Consulting availability analysis.

Business group	Contract role	
	Prime contracts	Subcontracts
Non-Hispanic white woman-owned	7.7 %	13.2 %
Asian Pacific American-owned	1.2	1.6
Black American-owned	5.6	8.8
Hispanic American-owned	0.5	2.7
Native American-owned	0.3	0.3
Subcontinent Asian American-owned	2.0	4.4
Total Minority-owned	9.6	17.8
Total Minority- and Woman-owned	17.2 %	31.0 %

Industry. BBC examined availability analysis results separately for City construction; architecture and engineering; other professional services; and goods and services contracts. As shown in Figure ES-3, the availability of minority- and woman-owned businesses considered together is highest for the City's goods and services contracts (20.6%) and lowest for other professional services contracts (16.8%).

Figure ES-3.
Availability estimates by industry for City work

Business group	Industry			
	Construction	Architecture and engineering	Other professional services	Goods and services
Non-Hispanic white woman-owned	9.7 %	6.3 %	9.0 %	7.8 %
Asian Pacific American-owned	0.8	2.2	1.2	1.3
Black American-owned	5.3	2.9	4.1	10.2
Hispanic American-owned	1.1	0.0	0.2	1.3
Native American-owned	0.3	0.0	1.8	0.0
Subcontinent Asian American-owned	1.8	8.2	0.5	0.0
Total Minority-owned	9.2	13.4	7.8	12.8
Total Minority- and Woman-owned	19.0 %	19.7 %	16.8 %	20.6 %

Note: Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figure F-5, F-6, F-7, and F-8 in Appendix F.

Source: BBC Research & Consulting availability analysis.

MC work. Figure ES-4 presents dollar-weighted availability estimates by relevant business group for contracts and procurements that all MCs considered together awarded during the study period. Overall, the availability of minority- and woman-owned businesses for MC contracts and procurements is 27.1 percent, indicating that minority- and woman-owned businesses might be expected to receive 27.1 percent of the dollars that MCs award in construction; architecture and engineering; other professional services; and goods and services.

Figure ES-4.
Availability estimates for MC work

Business group	Availability %
Non-Hispanic white woman-owned	11.6 %
Asian Pacific American-owned	2.8
Black American-owned	10.2
Hispanic American-owned	0.4
Native American-owned	0.7
Subcontinent Asian American-owned	1.4
Total Minority-owned	15.5
Total Minority- and Woman-owned	27.1 %

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail, see Figures F-15 in Appendix F.

Source:

BBC Research & Consulting availability analysis.

Veteran-owned businesses. BBC examined the overall availability of veteran-owned businesses for City and MC work. The availability analysis indicated that the availability of veteran-owned businesses is 5.3 percent for City contracts and procurements and 12.2 percent for MC contracts and procurements.

Disabled-owned businesses. BBC also examined the overall availability of disabled-owned businesses for City and MC work. The availability analysis indicated that the availability of disabled-owned businesses is 3.3 percent for City contracts and procurements and 9.1 percent for MC contracts and procurements.

C. Utilization Analysis Results

BBC measured the participation of minority-, woman-, veteran, and disabled-owned businesses in City and MC contracting in terms of *utilization*—the percentage of prime contract and subcontract dollars that those businesses received on City and MC prime contracts and subcontracts during the study period. BBC measured the participation of minority-, woman-, veteran, and disabled-owned businesses in City and MC contracts regardless of whether they were certified as such through the City.

Minority- and woman-owned businesses. BBC examined the participation of minority- and woman-owned businesses for various sets of contracts that the City and MCs awarded during the study period. The study team assessed the participation of all of those businesses considered together and separately for each relevant racial/ethnic and gender group.

City work. BBC assessed the participation of minority- and woman-owned businesses separately for contracts and procurements that the City awarded and those that MCs awarded.

Overall. Figure ES-5 presents the percentage of contracting dollars that minority- and woman-owned businesses received on construction; architecture and engineering; other professional services; and goods and services contracts and procurements that the City awarded during the study period (including both prime contracts and subcontracts). As shown in Figure ES-5, overall, minority- and woman-owned businesses considered together received 14.6 percent of the relevant contracting dollars that the City awarded during the study period.

Figure ES-5.
Overall utilization
results for City work

Note:

Numbers rounded to nearest tenth of 1 percent. Numbers may not add to totals.

For more detail, see Figure F-2 in Appendix F.

Source:

BBC Research & Consulting utilization analysis.

Business group	Utilization %
Non-Hispanic white woman-owned	6.6 %
Asian Pacific American-owned	0.3
Black American-owned	4.5
Hispanic American-owned	1.1
Native American-owned	0.5
Subcontinent Asian American-owned	1.7
Total Minority-owned	8.0
Total Minority- and Woman-owned	14.6 %

Contract role. Many minority- and woman-owned businesses are small businesses and thus often work as subcontractors. In addition, the City's use of MBE/WBE goals in awarding individual contracts and procurements is designed to encourage minority- and woman-owned business participation specifically as subcontractors. Thus, it is useful to examine participation separately for City prime contracts and subcontracts. As shown in Figure ES-6, the participation of minority- and woman-owned businesses considered together was much lower in City prime contracts (8.2%) than subcontracts (51.5%). Among other factors, that result could be due to the fact that subcontracts tend to be much smaller in size than prime contracts, and are thus often more accessible to minority- and woman-owned businesses, and because the City's use of MBE/WBE goals is focused on subcontracting opportunities.

Figure ES-6.
Utilization results by contract role for City work

Numbers rounded to nearest tenth of 1 percent. Numbers may not add to totals.
For more detail, see Figures F-9 and F-10 in Appendix F.

Source:
BBC Research & Consulting utilization analysis.

Business group	Contract role	
	Prime contracts	Subcontracts
Non-Hispanic white woman-owned	4.3 %	19.7 %
Asian Pacific American-owned	0.1	1.1
Black American-owned	2.2	17.7
Hispanic American-owned	0.4	5.4
Native American-owned	0.3	1.1
Subcontinent Asian American-owned	0.9	6.5
Total Minority-owned	3.9	31.8
Total Minority- and Woman-owned	8.2 %	51.5 %

Industry. BBC examined utilization analysis results separately for City construction; architecture and engineering; other professional services; and goods and services contracts. As shown in Figure ES-7, the participation of minority- and woman-owned businesses considered together was highest for architecture and engineering contracts (27.3%) and lowest for goods and services contracts (7.6%).

Figure ES-7.
Utilization results by industry for City work

Business group	Construction	Architecture and engineering	Other professional services	Goods and services
Non-Hispanic white woman-owned	7.2 %	9.2 %	5.3 %	4.6 %
Asian Pacific American-owned	0.1	0.0	1.3	0.2
Black American-owned	5.3	7.2	2.7	2.2
Hispanic American-owned	1.6	1.6	0.1	0.5
Native American-owned	0.9	0.3	0.2	0.0
Subcontinent Asian American-owned	0.2	8.9	0.1	0.0
Total Minority-owned	8.1	18.1	4.3	3.0
Total Minority- and Woman-owned	15.3 %	27.3 %	9.6 %	7.6 %

Note: Numbers rounded to nearest tenth of 1 percent. Numbers may not add to totals.
For more detail, see Figures F-5, F-6, F-7, and F-8 in Appendix F.

Source: BBC Research & Consulting utilization analysis.

MC work. Figure ES-8 presents the participation of minority- and woman-owned businesses in contracts and procurements that MCs awarded during the study period. Overall, the participation of minority- and woman-owned businesses for MC contracts and procurements was 20.9 percent.

Veteran-Owned Businesses

BBC examined the participation of veteran-owned businesses in the contracts and procurements that the City and MCs awarded during the study period. The utilization analysis indicated that the participation of veteran-owned businesses was 2.6 percent in City contracts and procurements and 2.1 percent in MC contracts and procurements.

Figure ES-8.
Utilization results for MC work

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail, see Figure F-15 in Appendix F.

Source:

BBC Research & Consulting availability analysis.

Business group	Utilization %
Non-Hispanic white woman-owned	8.3 %
Asian Pacific American-owned	0.7
Black American-owned	7.5
Hispanic American-owned	3.6
Native American-owned	0.4
Subcontinent Asian American-owned	0.4
Total Minority-owned	12.6
Total Minority- and Woman-owned	20.9 %

Disabled-Owned Businesses

Similarly, BBC examined the participation of disabled-owned businesses in the contracts and procurements that the City and MCs awarded during the study period. The utilization analysis indicated that the participation of disabled-owned businesses was 0.5 percent in City contracts and procurements and 0.4 percent in MC contracts and procurements.

D. Disparity Analysis Results

Although information about the participation of minority-, woman-, veteran-, and disabled-owned businesses in City and MC contracts is useful on its own, it is even more useful when it is compared with the level of participation that might be expected based on their availability for City and MC work. As part of the disparity analysis, BBC compared the participation of minority-, woman-, veteran-, and disabled-owned businesses in City and MC prime contracts and subcontracts with the percentage of contract dollars that those businesses might be expected to receive based on their availability for that work. BBC calculated *disparity indices* for each relevant business group and for various contract sets by dividing percent utilization by percent availability and multiplying by 100. A disparity index of 100 indicates an exact match between participation and availability for a particular group for a particular contract set (referred to as *parity*). A disparity index of less than 100 indicates a disparity between participation and availability. A disparity index of less than 80 indicates a *substantial* disparity between participation and availability.

Minority-and woman-owned businesses. BBC examined the availability of minority- and woman-owned businesses for various contract sets to assess the degree to which they may have been underutilized on various types of City and MC work.

City work. BBC assessed disparities between the participation and availability of minority- and woman-owned businesses separately for City and MC contracts.

Overall. Figure ES-9 presents disparity indices for all relevant prime contracts and subcontracts that the City awarded during the study period. The line down the center of the graph shows a disparity index level of 100, which indicates parity between participation and availability. Disparity indices of less than 100 indicate disparities between participation and availability (i.e., *underutilization*). A line is also drawn at a disparity index level of 80, because some courts use 80 as the threshold for what indicates a substantial disparity. As shown in Figure ES-9,

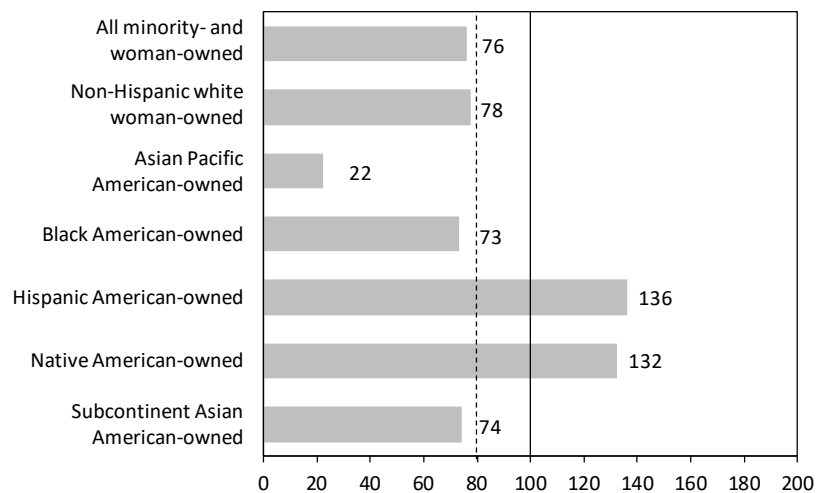
overall, the participation of minority- and woman-owned businesses in contracts that the City awarded during the study period was substantially lower than what one might expect based on the availability of those businesses for that work. The disparity index of 76 indicates that minority- and woman-owned businesses received approximately \$0.76 for every dollar that they might be expected to receive based on their availability for the relevant prime contracts and subcontracts that the City awarded during the study period. Disparity analysis results by individual racial/ethnic and gender group indicated that:

- Four groups exhibited disparity indices substantially below parity: non-Hispanic white woman-owned businesses (disparity index of 78), Asian Pacific American-owned businesses (disparity index of 22), Black American-owned businesses (disparity index of 73), and Subcontinent Asian American-owned businesses (disparity index of 74).
- Hispanic American-owned businesses (disparity index of 136) and Native American-owned businesses (disparity index of 132) did not exhibit a disparity for all City contracts considered together.

Figure ES-9.
Disparity indices by group
for City work

Note:
For more detail, see Figure F-2 in
Appendix F.

Source:
BBC Research & Consulting disparity
analysis.



Contract role. Subcontracts tend to be much smaller in size than prime contracts. As a result, subcontracts are often more accessible than prime contracts to minority- and woman-owned businesses. In addition, the City’s use of MBE/WBE goals to award individual contracts is designed to encourage minority- and woman-owned business participation specifically as subcontractors. Thus, it might be reasonable to expect better outcomes for minority- and woman-owned businesses on City subcontracts than prime contracts. Figure ES-10 presents disparity indices for all relevant groups for prime contracts and subcontracts. As shown in Figure ES-10, whereas minority- and woman-owned businesses considered together showed a substantial disparity for prime contracts (disparity index of 48), they did not show a disparity for subcontracts (disparity index of 166). Results for individual groups indicated that:

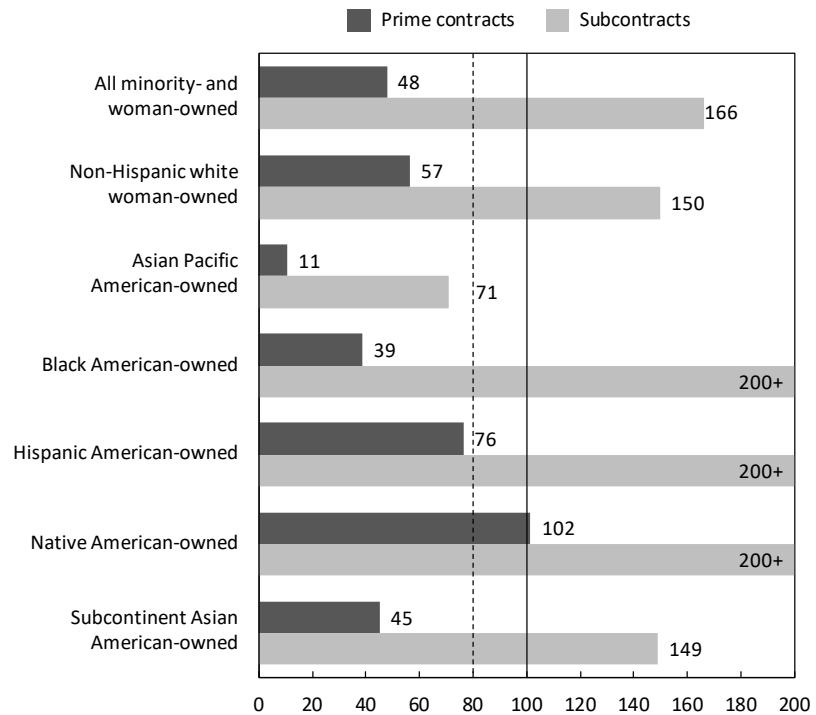
- All groups showed substantial disparities on prime contracts except for Native American-owned businesses (disparity index of 102).

- No groups showed substantial disparities on subcontracts except for Asian-Pacific American-owned businesses (disparity index of 71).

Figure ES-10.
Disparity indices by contract role for City work

Note:
 For more detail, see Figures F-9 and F-10 in Appendix F.

Source:
 BBC Research & Consulting disparity analysis.



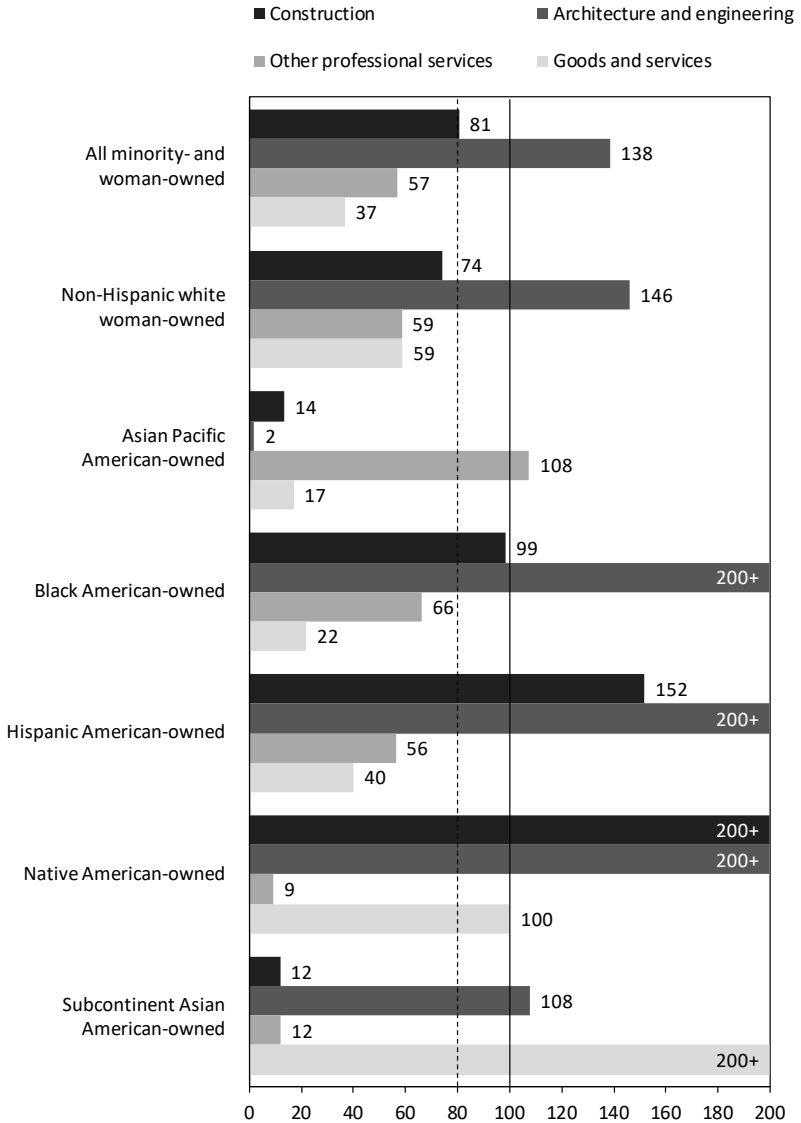
Industry. BBC examined disparity analysis results separately for the City’s construction; architecture and engineering; other professional services; and goods and services contracts. As shown in Figure ES-11, minority- and woman-owned businesses considered together showed substantial disparities for other professional services (disparity index of 57) and goods and services (disparity index of 37). Disparity analysis results differed by industry and group:

- Three individual groups showed substantial disparities on construction contracts: Non-Hispanic white woman-owned businesses (disparity index of 74), Asian Pacific American-owned businesses (disparity index of 14), and Subcontinent Asian American-owned businesses (disparity index of 12).
- No individual group showed disparities on architecture and engineering contracts except for Asian Pacific American-owned businesses (disparity index of 2).
- All individual groups showed substantial disparities on other professional services contracts except for Asian Pacific American-owned businesses (disparity index of 108).
- All individual groups showed substantial disparities on goods and services contracts except for Native American-owned businesses (disparity index of 100) and Subcontinent Asian American-owned businesses (disparity index of 200+).

Figure ES-11.
Disparity analysis results
by relevant industry for
City work

Note:
 For more detail, see Figures
 F-5, F-6, F-7, and F-8 in Appendix F.

Source:
 BBC Research & Consulting
 disparity analysis.



MCs. Figure ES-12 shows that, overall, the participation of minority- and woman-owned businesses in contracts that MCs awarded during the study period was substantially lower than what one might expect based on the availability of those businesses for that work (disparity index of 77).

Veteran-owned businesses. BBC compared participation to availability for veteran-owned businesses in City and MC work. The disparity analysis indicated that veteran-owned businesses exhibited a disparity index of 48 for City contracts and procurements and a disparity index of 17 for MC contracts and procurements, indicating that their actual participation in both City and MC contracting was substantially less than their availability.

Disabled-owned businesses. BBC also compared participation to availability for disabled-owned businesses in City and MC work. The disparity analysis indicated that disabled-owned businesses exhibited a disparity index of 14 for City contracts and procurements and a

disparity index of 4 for MC contracts and procurements, indicating that their actual participation in both City and MC contracting was substantially less than their availability.

Figure ES-12.
Disparity indices for MC work

Note:
For more detail, see Figures F-15 in Appendix F.

Source:
BBC Research & Consulting disparity analysis.



E. Program Implementation

The City should review study results and other relevant information in connection with making decisions concerning its implementation of the MBE/WBE/VBE/DOBE Business Utilization Plan. Key considerations in making any refinements are discussed below. In making those considerations, the City should also assess whether additional resources, changes in internal policy, or changes in state law may be required. For additional details about program implementation, see Chapter 9.

Overall annual aspirational goal. Section 202-401 of the City’s revised code establishes aspirational participation goals of 15 percent for minority-owned businesses, 8 percent for woman-owned businesses, 3 percent for veteran-owned businesses, and 1 percent for disabled-owned businesses in City contracts. Results from the disparity study—particularly the availability analysis, analyses of marketplace conditions, and anecdotal evidence—can be helpful to the City in revising its overall goals for minority-, woman-, veteran-, and disabled-owned business participation in its contracting and procurement. The availability analysis indicated that minority-owned businesses might be expected to receive 10.8 percent of City contract dollars; woman-owned businesses might be expected to receive 8.5 percent of City contracting dollars; veteran-owned businesses might be expected to receive 5.3 percent of City contracting dollars; and disabled-owned businesses might be expected to receive 3.3 percent of City contract dollars based on their availability for that work. The City should consider adjusting its overall aspirational goals based on that information and information about local marketplace conditions presented in Chapter 3, Appendix C, and Appendix D.

Goal-setting process. The City should consider establishing and documenting a process for setting overall annual aspirational goals and determine how frequently it will revise those goals (e.g., every three years). The City could consider adopting the two-step goal-setting process presented in Chapter 9. The City should also regularly review its goal-setting process to ensure

that it provides adequate flexibility to respond to recent changes in marketplace conditions; anticipated City work; new statistical or anecdotal evidence; and other factors.

OMWBD office. The City employs dedicated staff members to implement the MBE/WBE/VBE/DOBE Business Utilization Plan and monitor the participation of certified businesses in its contracts. However, interviews with City staff and anecdotal evidence indicated that OMWBD does not have a large enough staff to fully implement monitoring and compliance activities; supportive services programs; and other program measures that could improve the effectiveness of its business programs. In addition, the City relies largely on partnerships and external organizations to provide technical assistance and business development services to small and disadvantaged businesses. Establishing internal programs could allow the City to tailor technical assistance and other business development services to the specific needs of minority-, woman-, veteran-, and disabled-owned businesses in the local market area, but doing so would require substantial staff time. The City should consider expanding OMWBD's staff to carry out essential program functions.

Capacity building. Results from the disparity study indicated that there are many minority-, woman-, veteran-, and disabled-owned businesses throughout the Indianapolis area but most of them have relatively low capacities for City and MC work. The City should consider various technical assistance, business development, mentor-protégé, and joint venture programs to help businesses build the capacity required to compete for City and MC contracts. Anecdotal evidence indicated that businesses find that such programs, when implemented effectively, are valuable in helping them grow and learn the necessary skills required to compete in their industries. Anecdotal evidence also indicated that businesses face various challenges—such as access to financing, bonding requirements, obtaining equipment, and back office accounting—that inhibit or slow their growth. In addition to considering programs that could be open to all minority-, woman-, veteran-, and disabled-owned businesses, the City could consider implementing a program to assist certain businesses with development and growth. As part of such a program, the City could have an application and interview process to select businesses with which it would then work closely to provide the specific support and resources they need to grow.

Growth monitoring. The City might consider collecting data on the impact that the MBE/WBE/VBE/DOBE Business Utilization Plan has on the growth of minority-, woman-, veteran-, and disabled-owned businesses over time. Doing so would require the City to collect baseline information on MBE/WBE/VBE/DOBE-certified businesses—such as revenue, number of locations, number of employees, and employee demographics—and then continue to collect that information from each business on an annual basis. The City could collect those data as part of preexisting certification and renewal forms. Such metrics would allow the City to assess whether the program is helping businesses grow and refine the measures that it uses as part of the MBE/WBE/VBE/DOBE Business Utilization Plan.

Data collection. The City maintains data on the prime contracts and procurements that it awards, and those data are generally well-organized and comprehensive. The City also maintains comprehensive subcontract information on contracts awarded by the Department of Public Works (DPW). However, DPW maintains subcontract information separately from the City's centralized procurement and contract system and appears to be the only City department that maintains comprehensive subcontract information. MCs maintain subcontract information to

varying degrees. The City should consider collecting comprehensive data on *all* subcontracts, regardless of the characteristics of business owners or whether the businesses are certified as MBE/WBE/VBE/DOBEs. Collecting data on all subcontracts will help ensure that the City monitors the participation of minority-, woman-, veteran-, and disabled-owned businesses as accurately as possible and help the City identify additional businesses that could become certified. The City should also consider working with MCs to help them collect comprehensive subcontract information on their contracts. The City should train relevant department and MC staff to collect and enter subcontract data accurately and consistently.

Contract-specific goals. The City currently sets the same MBE/WBE/VBE/DOBE goals on all applicable contracts, and those goals are typically met through good faith efforts in lieu of subcontractor participation. In addition, disparity analysis results indicated that nearly all relevant groups showed substantial disparities on key sets of contracts that the City awarded during the study period, indicating that they are facing barriers as part of the City’s contracting processes. The City could consider setting *contract-specific* goals for relevant contracts. Rather than apply the same goal to each contract, the City would determine contract-specific goals based on information about market availability; project size; type of work or service required; and other factors. Doing so may bring contract goals closer in line with market realities and decrease the use of good faith efforts to meet City goals. The City could use information from the availability analysis as a starting point for establishing contract-specific goals based on work type. However, the goals that the City would use to award individual contracts would vary, and the City would not use goals to award certain contracts.

Professional services contracts. Although the City encourages the participation of MBE/WBE/VBE/DOBEs in all City contracts, it only actively reviews and enforces business participation in construction and goods and services contracts worth \$50,000 or more. Disparity study results indicated that most minority- and woman-owned business participation on construction; architecture and engineering; and goods and services contracts came from certified MBE/WBEs. In contrast, most of the minority- and woman-owned business participation on professional services contracts came from non-certified businesses. Disparity analysis results also indicated that nearly all relevant groups showed substantial disparities on the professional services contracts that the City awarded during the study period. The City should consider enforcing and monitoring goals on professional services contracts worth \$50,000 or more.

Exclusive teaming. Anecdotal evidence indicated that subcontractors are sometimes asked to enter into exclusive partnerships to be considered as part of potential project teams. As indicated by businesses during in-depth interviews, such teaming requirements ultimately limit the work available to small businesses. The City should consider prohibiting exclusive subcontracting or teaming requests by integrating such language into its bid, RFP, and contract language. For example, the Dallas/Fort Worth International Airport explicitly prohibits exclusive teaming requirements as part of its RFP language.

Using different subcontractors. The disparity study indicated that the vast majority of City contracting dollars that were awarded to minority- and woman-owned businesses were largely concentrated with a relatively small number of businesses. The City could consider using RFP and contract language to encourage prime contractors to use subcontractors and suppliers with

which they have never worked. For example, the City might ask primes to document and submit their efforts to identify and team with businesses with which they have not worked as part of their bids.

Prequalification. Per Indiana state code, vendors who are interested in proposing on public works building construction contracts worth \$150,000 or more or highway, street, road, or alley construction contracts worth \$300,000 or more must be prequalified through the Indiana Department of Administration (IDOA) or the Indiana Department of Transportation (INDOT), respectively. Prequalification through IDOA is valid for 27 months, and prequalification through INDOT is valid for one year. Vendors applying for prequalification through INDOT must also submit a certified financial audit with their initial applications and renewal documents. City staff indicated that the costs associated with conducting annual certified financial audits has been a barrier for many small businesses. The City should consider ways to offset such costs (e.g., working with local accountants to offer audits at a reduced cost) and consider other ways it can work with IDOA and INDOT to make the prequalification less cumbersome for small businesses.

Unbundling large contracts. In general, minority- and woman-owned businesses exhibited reduced availability for relatively large contracts that the City awarded during the study period. In addition, as part of in-depth interviews and public meetings, several businesses owners reported that the size of government contracts often serves as a barrier to their success. To further encourage the participation of minority-, woman-, veteran-, and disabled-owned businesses, the City should consider making efforts to unbundle relatively large prime contracts, and even subcontracts, into several smaller contract pieces. Doing so would result in that work being more accessible to small businesses, which in turn might increase opportunities for minority-, woman-, veteran-, and disabled-owned business participation.

Prime contract opportunities. Overall, disparity analysis results indicated substantial disparities for all racial/ethnic and gender groups—with the exception of Native American-owned businesses—on the prime contracts that the City awarded during the study period. The City might consider setting aside select small prime contracts for small business bidding to encourage the participation of minority-, woman-, veteran-, and disabled-owned businesses as prime contractors. Indiana state code already allows state agencies to set aside certain public works and goods and services contracts for small businesses and allows state agencies to use small business price preferences for those purchases. To implement small business contracting programs, the City would need to develop a small business certification program.

Prompt payment. As part of in-depth interviews, several businesses reported difficulties with receiving payment in a timely manner on City contracts, particularly when they work as subcontractors. Many businesses also commented that having capital on hand is crucial to business success and often a challenge for small businesses. City contracts include language to ensure payment to the prime contractor within 30 days of an accepted invoice but do not include language to ensure prompt payment of subcontractors. The City should consider including prompt payment requirements for subcontracting in all of its contracts. For example, IDOA requires prime contractors to pay their subcontractors within 10 days of receiving payment from IDOA. Doing so might help ensure that subcontractors receive payment in a timely manner. It may also help ensure that minority-, woman-, veteran-, and disabled-owned businesses have enough operating capital to remain successful.



2018 Disparity Study

City and County of Denver

FINAL REPORT

CHAPTER ES.

Executive Summary

The City and County of Denver (The City) retained BBC Research & Consulting (BBC) to conduct a *disparity study* to help refine the organization’s implementation of the Minority- and Women-owned Business Enterprise (MWBE) Program, the Emerging Business Enterprise (EBE) Program, and the Small Business Enterprise (SBE) Program for its locally-funded contracts and the Federal Disadvantaged Business Enterprise (DBE) Program for the Federal Aviation Administration (FAA)-funded contracts that the Denver International Airport (DEN) awards. The primary objectives of those programs revolve around encouraging the participation of small businesses and minority- and woman-owned businesses in City contracting.¹ To meet that objective, the City uses a combination of *race- and gender-neutral* and *race- and gender-conscious* program measures as part of its contracting practices. In the context of contracting, race- and gender-neutral measures are measures designed to encourage the participation of small businesses in a government organization’s contracting, regardless of the race/ethnicity or gender of the businesses’ owners. In contrast to race- and gender-neutral measures, race- and gender-conscious measures are measures specifically designed to encourage the participation of minority- and woman-owned businesses in government contracting, such as MWBE contract goals.

As part of the disparity study, BBC assessed whether there were any disparities between:

- The percentage of contract dollars that the City spent with minority- and woman-owned businesses during the *study period* between January 1, 2012 and December 31, 2016 (i.e., *utilization*, or *participation*); and
- The percentage of contract dollars that minority- and woman-owned businesses might be expected to receive based on their availability to perform specific types and sizes of the City’s prime contracts and subcontracts (i.e., *availability*).

The disparity study also examined other quantitative and qualitative information related to:

- The legal framework related to the City’s implementation of the MWBE, EBE, SBE, and Federal DBE Programs;
- Local marketplace conditions for minority- and woman-owned businesses; and
- Contracting practices and business assistance programs that the City currently has in place.

The City could use information from the study to help refine its implementation of the MWBE, EBE, SBE, and Federal DBE Programs, including setting aspirational goals for the participation of minority- and woman-owned businesses in City contracting; determining which program measures to use to encourage the participation of minority- and woman-owned businesses in

¹ “Woman-owned businesses” refers to non-Hispanic white woman owned businesses. Information and results for minority woman-owned businesses are included along with their corresponding racial/ethnic groups.

City contracting; and, if appropriate, determining which racial/ethnic and gender groups would be eligible to participate in any race- or gender-conscious program measures that the City might continue using in the future.

BBC summarizes key information from the 2018 City of Denver Disparity Study in five parts:

- A. Analyses in the disparity study;
- B. Availability analysis results;
- C. Utilization analysis results;
- D. Disparity analysis results; and
- E. Program implementation.

A. Analyses in the Disparity Study

Along with measuring disparities between the participation and availability of minority- and woman-owned businesses in City contracts, BBC also examined other information related to the City's implementation of the MWBE, EBE, SBE, and Federal DBE Programs:

- The study team conducted an analysis of federal regulations, case law, and other information to guide the methodology for the disparity study. The analysis included a review of legal requirements related to small business and minority- and woman-owned business programs, including the MWBE, EBE, SBE, and Federal DBE Programs (see Chapter 2 and Appendix B).
- BBC conducted quantitative analyses of outcomes for minorities; women; and minority- and woman-owned businesses throughout the *relevant geographic market area*.² In addition, the study team collected qualitative information about potential barriers faced by minorities; women; and minority- and woman-owned businesses in the local marketplace through in-depth interviews, telephone surveys, public meetings, and written testimony (see Chapter 3, Appendix C, and Appendix D).
- BBC analyzed the percentage of relevant City contracting dollars that minority- and woman-owned businesses are available to perform. That analysis was based on telephone surveys that the study team completed with nearly 900 businesses that work in industries related to the specific types of construction; professional services; and goods and services contracts that the City awards (see Chapter 5 and Appendix E).
- BBC analyzed the dollars that minority- and woman-owned businesses received on more than 22,000 construction; professional services; and goods and services contracts that the City awarded during the study period (see Chapter 6).
- BBC examined whether there were any disparities between the participation and availability of minority- and woman-owned businesses on construction; professional

² BBC identified the relevant geographic market area for the disparity study as Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson Counties in Colorado.

services; and goods and services contracts that the City awarded during the study period (see Chapter 7).

- BBC reviewed the measures that the City uses to encourage the participation of minority- and woman-owned businesses in its contracting as well as measures that other organizations in the region use (see Chapter 8).
- BBC provided guidance related to additional program options and potential changes to current contracting practices for the City’s consideration (see Chapter 9).

B. Availability Analysis Results

BBC used a *custom census* approach to analyze the availability of minority- and woman-owned businesses for City prime contracts and subcontracts. BBC’s approach relied on information from surveys that the study team conducted with potentially available businesses located in the relevant geographic market area that perform work within relevant subindustries. That approach allowed BBC to develop a representative and unbiased database of potentially available businesses to estimate the availability of minority- and woman-owned businesses in a statistically-valid manner.

Overall. Figure ES-1 presents dollar-weighted availability estimates by relevant racial/ethnic and gender group for all City contracts and procurements. Overall, the availability of minority- and woman-owned businesses for City contracts and procurements is 23.7 percent, indicating that minority- and woman-owned businesses might be expected to receive 23.7 percent of the dollars that the City awards in construction; professional services; and goods and services. Non-Hispanic white woman-owned businesses (10.9%) and Hispanic American-owned businesses (6.2%) exhibited the highest availability percentages among all groups.

Figure ES-1.
Overall availability estimates by racial/ethnic and gender group

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

For more detail and results by group, see Figure F-2 in Appendix F.

Source:

BBC Research & Consulting availability analysis.

Business group	Availability %
Non-Hispanic white woman-owned	10.9 %
Asian American-owned	3.2 %
Black American-owned	3.3 %
Hispanic American-owned	6.2 %
Native American-owned	0.1 %
Total Minority- and Woman-owned	23.7 %

Contract goals. During the study period, the City used MWBE and DBE contract goals to award many locally-funded and federally-funded contracts, respectively, to encourage the participation of minority- and woman-owned businesses. The City’s use of such contract goals is a race- and gender-conscious measure. It is useful to examine availability analysis results separately for contracts that the City awards with the use of contract goals (*goals contracts*) and contracts that the City awards without the use of goals (*no-goals contracts*). Figure ES-2 presents availability estimates separately for goals and no-goals contracts. As shown in Figure ES-2, the availability of minority- and woman-owned businesses considered together is approximately equal across goals contracts (23.1%) and no-goals contracts (24.1%).

Figure ES-2.
Availability estimates by contract goal status

Note:
Numbers rounded to nearest tenth of 1 percent. Numbers may not sum exactly to totals.

For more detail, see Figures F-16 and F-17 in Appendix F.

Source:
BBC Research & Consulting availability analysis.

Business group	Goal Status	
	Goals contracts	No-goals contracts
Non-Hispanic white woman-owned	12.2 %	10.0 %
Asian American-owned	2.0 %	4.0 %
Black American-owned	2.3 %	4.1 %
Hispanic American-owned	6.4 %	6.0 %
Native American-owned	0.2 %	0.1 %
Total Minority- and Woman-owned	23.1 %	24.1 %

Contract role. Many minority- and woman-owned businesses are small businesses and thus often operate as subcontractors. Because of that tendency, it is useful to examine availability estimates separately for prime contracts and subcontracts. Figure ES-3 presents those results. As shown in Figure ES-3, the availability of minority- and woman-owned businesses considered together is similar for City prime contracts (23.6%) and subcontracts (24.4%).

Figure ES-3.
Availability estimates by contract role

Note:
Numbers rounded to nearest tenth of 1 percent. Numbers may not sum exactly to totals.
For more detail, see Figures F-8 and F-9 in Appendix F.

Source:
BBC Research & Consulting availability analysis.

Business group	Contract Role	
	Prime contracts	Subcontracts
Non-Hispanic white woman-owned	10.8 %	11.4 %
Asian American-owned	3.4 %	2.2 %
Black American-owned	3.2 %	3.9 %
Hispanic American-owned	6.1 %	6.4 %
Native American-owned	0.1 %	0.5 %
Total Minority- and Woman-owned	23.6 %	24.4 %

Industry. BBC examined availability analysis results separately for the City's construction; professional services; and goods and services contracts. The project team combined results for goods and services contracts because the City uses similar procurement processes to award those contracts. As shown in Figure ES-4, the availability of minority- and woman-owned businesses considered together is highest for the City's professional services contracts (40.4%) and lowest for construction contracts (19.0%).

Figure ES-4.
Availability estimates by relevant industry

Note:
Numbers rounded to nearest tenth of 1 percent. Numbers may not sum exactly to totals.
For more detail, see Figures F-5, F-6, and F-7 in Appendix F.

Source:
BBC Research & Consulting availability analysis.

Business group	Industry		
	Construction	Professional services	Goods and services
Non-Hispanic white woman-owned	10.8 %	15.8 %	7.6 %
Asian American-owned	1.6 %	2.6 %	8.5 %
Black American-owned	1.9 %	11.5 %	2.2 %
Hispanic American-owned	4.6 %	10.4 %	7.9 %
Native American-owned	0.2 %	0.1 %	0.1 %
Total Minority- and Woman-owned	19.0 %	40.4 %	26.3 %

C. Utilization Analysis Results

BBC measured the participation of minority- and woman-owned businesses in City contracting in terms of *utilization*—the percentage of dollars that those businesses received on City prime contracts and subcontracts during the study period. BBC measured the participation of minority- and woman-owned businesses in City contracts regardless of whether they were certified as such with the City.

Overall. Figure ES-5 presents the percentage of contracting dollars that minority- and woman-owned businesses, considered together, received on construction; professional services; and goods and services contracts and procurements that the City awarded during the study period. As shown in Figure ES-5, overall, minority- and woman-owned businesses considered together received 14.8 percent of the relevant contracting dollars that the City awarded during the study period. Hispanic American-owned businesses (6.3%) and non-Hispanic white woman-owned businesses (5.3%) exhibited higher levels of participation in City contracts than all other groups.

Figure ES-5.
Overall utilization results by racial/ethnic and gender group

Note:

Numbers rounded to nearest tenth of 1 percent. Numbers may not sum exactly to totals.

For more detail, see Figure F-2 in Appendix F.

Source:

BBC Research & Consulting utilization analysis.

Business group	Utilization %
Non-Hispanic white woman-owned	5.3 %
Asian American-owned	1.2 %
Black American-owned	1.6 %
Hispanic American-owned	6.3 %
Native American-owned	0.5 %
Total Minority- and Woman-owned	14.8 %

Contract goals. During the study period, the City used MWBE and DBE contract goals to award many locally-funded and federally-funded contracts, respectively, to encourage the participation of minority- and woman-owned businesses. It is useful to examine utilization analysis results separately for goals contracts and no-goals contracts, because doing so provides information about outcomes for minority- and woman-owned businesses on contracts that the City awarded in a *race- and gender-neutral environment* and the efficacy of MWBE and DBE contract goals in encouraging the participation of minority- and woman-owned businesses in City contracts and procurements.

As shown in Figure ES-6, minority- and woman-owned businesses considered together showed higher participation in goals contracts (24.1%) than in no-goal contracts (8.4%). Those results might indicate the effectiveness of contract goals in encouraging the participation of minority- and woman-owned businesses in City contracts and procurements. However, examining disparity analysis results provides a better assessment of the efficacy of contract goals, because those results also take into account the availability of minority- and woman-owned businesses for goals and no-goals contracts.

Figure ES-6.
Utilization results by contract goal status

Note:

Numbers rounded to nearest tenth of 1 percent. Numbers may not sum exactly to totals.

For more detail, see Figures F-16 and F-17 in Appendix F.

Source:

BBC Research & Consulting utilization analysis.

Business group	Goal Status	
	Goals contracts	No-goals contracts
Non-Hispanic white woman-owned	8.1 %	3.3 %
Asian American-owned	1.2 %	1.2 %
Black American-owned	1.9 %	1.5 %
Hispanic American-owned	12.1 %	2.1 %
Native American-owned	0.8 %	0.3 %
Total Minority- and Woman-owned	24.1 %	8.4 %

Contract role. Many minority- and woman-owned businesses are small businesses and thus often operate as subcontractors. Because of that tendency, it is useful to examine utilization results separately for prime contracts and subcontracts. As shown in Figure ES-7, the participation of minority- and woman-owned businesses considered together was much higher in the City’s subcontracts (42.9%) than in the City’s prime contracts (8.7%). The vast majority of contracting dollars that the City awarded during the study period were associated with prime contracts.

Figure ES-7.
Utilization results by contract role

Note:

Numbers rounded to nearest tenth of 1 percent. Numbers may not sum exactly to totals.

For more detail, see Figures F-8 and F-9 in Appendix F.

Source:

BBC Research & Consulting utilization analysis.

Business group	Contract Role	
	Prime contracts	Subcontracts
Non-Hispanic white woman-owned	3.5 %	13.5 %
Asian American-owned	1.0 %	2.2 %
Black American-owned	1.1 %	3.9 %
Hispanic American-owned	2.7 %	22.4 %
Native American-owned	0.4 %	0.9 %
Total Minority- and Woman-owned	8.7 %	42.9 %

Industry. BBC examined utilization results separately for the City’s construction; professional services; and goods and services contracts. The project team combined results for goods and services contracts, because the City uses similar procurement processes to award those contracts. As shown in Figure ES-8, the participation of minority- and woman-owned businesses considered together was highest in the City’s professional services contracts (19.4%) and lowest in goods and general services contracts (10.6%). The majority of contracting dollars that the City awarded during the study period were in construction, in which the participation of minority- and woman-owned businesses was 15.2 percent.

Figure ES-8.
Utilization results by
relevant industry

Note:
 Numbers rounded to nearest tenth of 1 percent. Numbers may not sum exactly to totals.
 For more detail, see Figures F-5, F-6, and F-7 in Appendix F.
 Source:
 BBC Research & Consulting utilization analysis.

Business group	Industry		
	Construction	Professional services	Goods and services
Non-Hispanic white woman-owned	4.9 %	6.5 %	5.5 %
Asian American-owned	0.6 %	2.0 %	2.9 %
Black American-owned	0.7 %	7.3 %	0.4 %
Hispanic American-owned	8.3 %	3.6 %	1.7 %
Native American-owned	0.8 %	0.0 %	0.1 %
Total Minority- and Woman-owned	15.2 %	19.4 %	10.6 %

D. Disparity Analysis Results

Although information about the participation of minority- and woman-owned businesses in City contracts is useful on its own, it is even more useful when compared with the level of participation that might be expected based on these businesses' availability for City work. BBC calculated *disparity indices* for each relevant business group and for various contract sets by dividing percent participation by percent availability and multiplying by 100. A disparity index of 100 indicates an exact match between participation and availability for a particular group for a particular contract set (referred to as *parity*). A disparity index of less than 100 indicates a disparity between participation and availability. A disparity index of less than 80 indicates a *substantial* disparity between participation and availability.

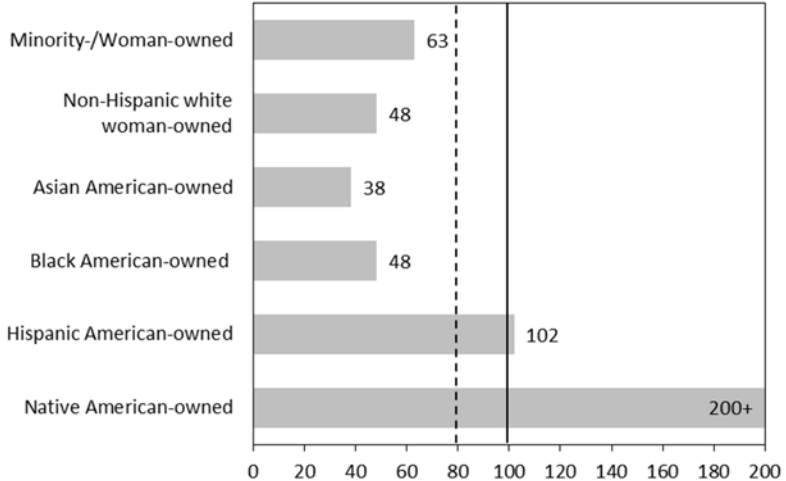
Overall. Figure ES-9 presents disparity indices for all relevant prime contracts and subcontracts that the City awarded during the study period. The line down the center of the graph shows a disparity index level of 100, which indicates parity between participation and availability. For reference, there is a line drawn at a disparity index of 100 (line of parity) and at a disparity index level of 80 (line of substantial disparity). As shown in Figure ES-9, overall, the participation of minority- and woman-owned businesses in contracts that the City awarded during the study period was substantially lower than what one might expect based on their availability for that work. The disparity index of 63 indicates that minority- and woman-owned businesses received approximately \$0.63 for every dollar that they might be expected to receive based on their availability for the relevant prime contracts and subcontracts that the City awarded during the study period. Disparity analysis results by individual group indicated that:

- Three groups exhibited disparity indices substantially below parity: non-Hispanic white woman-owned businesses (disparity index of 48), Asian American-owned businesses (disparity index of 38), and Black American-owned businesses (disparity index of 48).
- Hispanic American-owned businesses (disparity index of 102) and Native American-owned businesses (disparity index of 200+) did not exhibit a disparity.

Figure ES-9.
Disparity indices by racial/ethnic and gender group

Note:
 Numbers rounded to nearest whole number.
 For more detail, see Figure F-2 in Appendix F.

Source:
 BBC Research & Consulting disparity analysis.



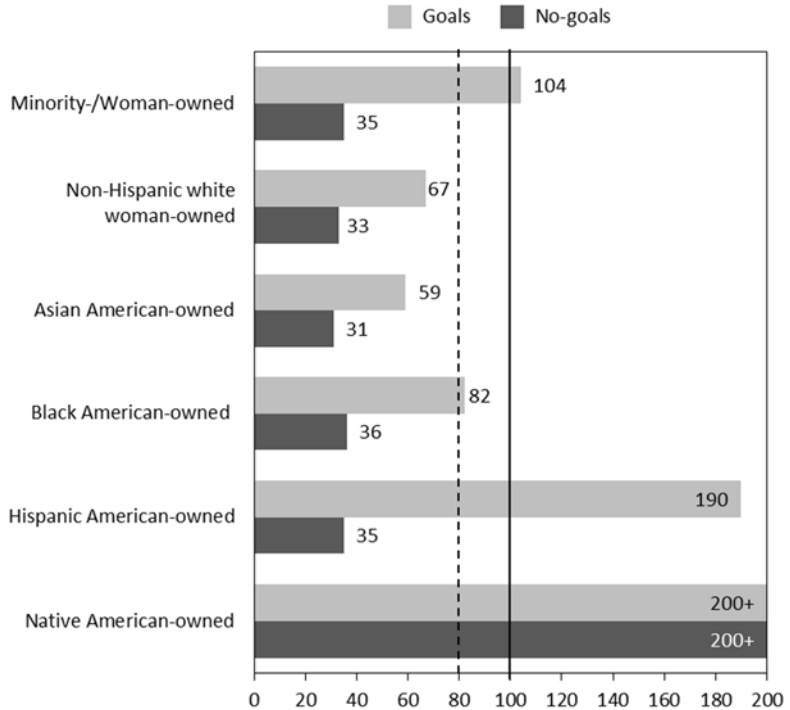
Contract goals. During the study period, the City used MWBE and DBE contract goals to award many locally-funded and federally-funded contracts, respectively, to encourage the participation of minority- and woman-owned businesses. It is useful to examine disparity analysis results separately for goals contracts and no-goals contracts. Assessing whether any disparities exist for no-goal contracts provides useful information about outcomes for minority- and woman-owned businesses on contracts that the City awarded in a *race- and gender-neutral environment* and whether there is evidence that certain groups face barriers as part of the agency’s contracting. As shown in Figure ES-10, minority- and woman-owned businesses considered together showed parity on goals contracts (disparity index of 104), but exhibited a substantial disparity on no-goals contracts (disparity index of 35). Disparity analysis results by individual group indicated that:

- Non-Hispanic white woman-owned businesses (disparity index of 67) and Asian American-owned businesses (disparity index of 59) exhibited substantial disparities on goals contracts. Black American-owned business also exhibited a disparity that was close to the threshold of being considered substantial (disparity index of 82) on goals contracts; and
- All groups except Native American-owned businesses (disparity index of 200+) exhibited substantial disparities on no-goals contracts.

Figure ES-10.
Disparity indices by
contract goal status

Note:
 Numbers rounded to nearest whole number.
 For more detail, see Figures F-16 and F-17 in Appendix F.

Source:
 BBC Research & Consulting disparity analysis.



Taken together, the results presented in Figure ES-10 show that the City’s use of MWBE and DBE contract goals is somewhat effective in encouraging the participation of minority- and woman-owned businesses in its contracts. Moreover, the results indicate that when the City does not use race- and gender-conscious measures, nearly all relevant business groups suffer from substantial underutilization in City contracting and procurement.

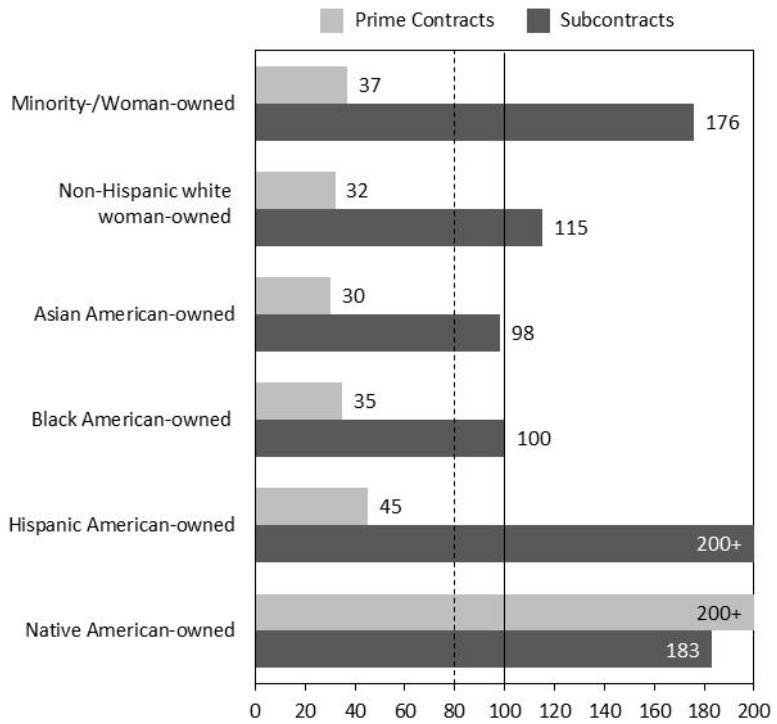
Contract role. Subcontracts tend to be much smaller in size than prime contracts. As a result, subcontracts are often more accessible than prime contracts to minority- and woman-owned businesses. In addition, the City used MWBE and DBE contract goals when awarding many contracts during the study period, which primarily affect subcontract opportunities for minority- and woman-owned businesses. Thus, it might be reasonable to expect better outcomes for minority- and woman-owned businesses on subcontracts than on prime contracts. Figure ES-11 presents disparity indices for all relevant groups separately for prime contracts and subcontracts. As shown in Figure ES-11, minority- and woman-owned businesses considered together showed a substantial disparity for prime contracts (disparity index of 37) but not for subcontracts (disparity index of 176). Results for individual groups indicated that:

- All groups showed substantial disparities on prime contracts except for Native American-owned businesses (disparity index of 200+).
- No groups exhibited substantial disparities on subcontracts.

Figure ES-11.
Disparity indices by
contract role

Note:
 Numbers rounded to nearest whole
 number.
 For more detail, see Figures F-8 and F-9
 in Appendix F.

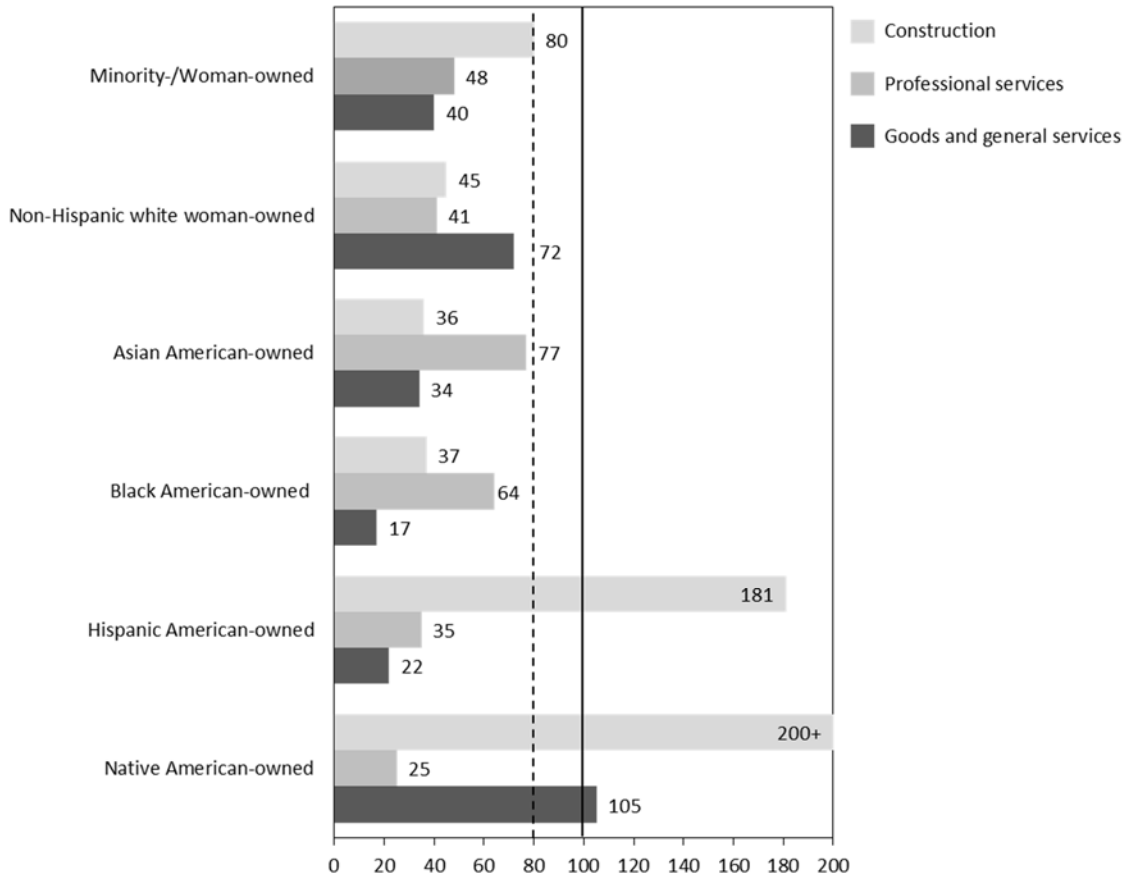
Source:
 BBC Research & Consulting disparity
 analysis.



Industry. BBC examined disparity analysis results separately for the City’s construction; professional services; and goods and services contracts. The project team combined results for goods and services contracts because the City uses similar procurement processes to award those contracts. Figure ES-12 presents disparity indices for all relevant groups by contracting area. Disparity analyses results differed by contracting area and group:

- Minority- and woman-owned businesses considered together showed a disparity on construction contracts (disparity index of 80). Three individual groups showed substantial disparities: non-Hispanic white woman-owned businesses (disparity index of 45), Asian American-owned businesses (disparity index of 36), and Black American-owned businesses (disparity index of 37).
- Minority- and woman-owned businesses considered together showed a substantial disparity on professional services contracts (disparity index of 48). All individual groups showed substantial disparities on those contracts.
- Minority- and woman-owned businesses considered together showed a substantial disparity on goods and services contracts (disparity index of 40). All individual groups showed substantial disparities except for Native American-owned businesses (disparity index of 105).

Figure ES-12.
Disparity indices by relevant industry



Note: Numbers rounded to nearest whole number.
 For more detail, see Figures F-5, F-6, and F-7 in Appendix F.
 Source: BBC Research & Consulting disparity analysis.

E. Program Implementation

The City should review study results and other relevant information in connection with making decisions concerning its implementation of the MWBE, EBE, SBE, and Federal DBE Programs. Key considerations of potential refinement are discussed below. In making those considerations, the City should also assess whether additional resources, changes in internal policy, or changes in state law may be required.

Aspirational MWBE and DBE goals. The City establishes aspirational annual goals for the participation of certified MBEs and WBEs as part of the MWBE Program and for the participation of certified DBEs as part of its implementation of the Federal DBE Program. Results from the disparity study—particularly the availability analysis and analyses of marketplace conditions—can be helpful to the City in setting its next aspirational MWBE and DBE goals.

Aspirational MWBE goals. The City sets aspirational annual MWBE goals separately for its locally-funded construction; professional services; and goods and services contracts and procurements. Currently, the City has set those goals at 24 percent for construction, 33 percent

for professional services, and 8 percent for goods and services. Information from the availability analysis provided information that the City can use as a basis for its aspirational MWBE goals. For the purposes of aspirational goal-setting, BBC calculated the availability of potential MWBEs—minority- and woman-owned businesses that are currently MWBE-certified or appear that they could be MWBE-certified based on revenue requirements set forth in the City’s MWBE Program—for locally-funded prime contracts and subcontracts that the City awarded during the study period. That analysis indicated that potential MWBEs might be expected to receive 20.5 percent of the City’s locally-funded contracting dollars based on their availability for that work. The availability of potential MWBEs is 16.5 percent for locally-funded construction contracts; 39.5 percent for locally-funded professional services contracts; and 19.8 percent for locally-funded goods and general services contracts. The City should consider that information as it sets its next aspirational MWBE goals.

Overall DBE goal. The City also sets an overall annual DBE goal for the FAA-funded contracts that DEN awards. Currently, the City has set that goal at 14.04 percent. For the purposes of helping the City determine a basis for its overall DBE goal, BBC calculated the availability of potential DBEs—minority- and woman-owned businesses that are currently DBE-certified or appear that they could be DBE-certified based on revenue requirements set forth in 49 Code of Federal Regulations Part 26.65—for FAA-funded prime contracts and subcontracts that DEN awarded during the study period. That analysis indicated that potential DBEs might be expected to received 16.2 percent of the City’s FAA-funded prime contract and subcontract dollars based on their availability for that work. The City should consider that information as it sets its next overall DBE goals for DEN’s FAA-funded contracts.

Goal adjustments. In setting aspirational annual goals, organizations often examine available evidence to determine whether an adjustment to availability is necessary to account for past participation of minority- and woman owned businesses in their contracting; current conditions in the local marketplace for minorities, women, minority-owned businesses, and woman-owned businesses; and other relevant factors. The Federal DBE Program—which organizations often use as a model to set and adjust their aspirational annual goals—outlines several factors that organizations might consider when assessing whether to adjust their goals:

1. Volume of work minority- and woman-owned businesses have performed in recent years;
2. Information related to employment, self-employment, education, training, and unions;
3. Information related to financing, bonding, and insurance; and
4. Other relevant data.³

BBC completed an analysis of each of the above factors. Much of the information that BBC examined was not easily quantifiable but is still relevant to the City as it determines whether to adjust its aspirational MWBE and DBE goals. Detailed information about those analyses are presented in Chapter 9.

³ 49 CFR Section 26.45.

Data collection. The City maintains comprehensive data on the prime contracts and procurements that it awards and maintains those data in a well-organized and intuitive manner. However, the City only maintains data on those subcontracts that are associated with prime contracts that it awards using MWBE or DBE contract goals. The City should consider collecting comprehensive data on *all* subcontracts, regardless of whether they are performed by minority- and woman-owned businesses and regardless of whether they are associated with goals contracts. Collecting data on all subcontracts will help ensure that the City monitors the participation of minority- and woman-owned businesses as accurately as possible. Collecting the following data on all subcontracts would be appropriate:

- Subcontractor name, address, phone number, and email address;
- Type of associated work;
- Subcontract award amount; and
- Subcontract paid amount.

The City should consider collecting those data as part of bids but also requiring prime contractors to submit data on subcontracts as part of the invoicing process for all contracts. The City should train relevant department staff to collect and enter subcontract data accurately and consistently.

Monitoring minority- and woman-owned business participation. The City only monitors minority- and woman-owned business participation on goals contracts, which results in a skewed representation of the participation of minority- and woman-owned businesses in City contracting overall. Disparity study results indicate that, during the study period, the participation of minority- and woman-owned businesses was much lower in contracts that the City awarded without the use of MWBE or DBE contract goals than in goals contracts, despite the availability of minority- and woman-owned businesses being very similar for both contract sets. That result underscores the importance for the City to monitor the participation of minority- and woman-owned businesses in all contracts, regardless of whether contract goals are used to award them. Doing so will help ensure that the City monitors the participation of minority- and woman-owned businesses as accurately as possible.

Prime contract opportunities. Disparity analysis results indicated substantial disparities for most racial/ethnic and gender groups on the prime contracts that the City awarded during the study period. The City has established a Defined Selection Pool Program, which limits competition on certain construction and goods and services prime contracts to certified SBEs or EBEs. The City should consider continuing and even expanding the use of the program to further encourage the participation of small businesses, including many minority- and woman-owned businesses.

Subcontract opportunities. Overall, minority- and woman-owned businesses did not show disparities on the subcontracts that the City awarded during the study period. However, subcontracting accounted for a relatively small percentage of the total contracting dollars that the City awarded during the study period. To increase the number of subcontract opportunities, the City could consider implementing a program that requires prime contractors to subcontract a certain amount of project work as part of their bids and proposals, regardless of the

race/ethnicity or gender of subcontractor owners. For specific types of contracts where subcontracting or partnership opportunities might exist, the City could set a minimum percentage of work to be subcontracted. Prime contractors would then have to meet or exceed this threshold in order for their bids to be considered responsive. If the City were to implement such a program, it should include flexibility provisions such as a *good faith efforts* process.

Contract goals. The City uses MWBE and DBE contract goals on many of the contracts that it awards. Prime contractors can meet those goals by either making subcontracting commitments with certified MWBE or DBE subcontractors at the time of bid or by submitting waivers showing that they made reasonable good faith efforts to fulfill the goals but could not do so. Disparity analysis results showed that outcomes for minority- and woman-owned businesses were better on goals contracts than no-goals contracts during the study period, indicating that the use of contract goals is an effective measure in encouraging the participation of minority- and woman-owned businesses in City contracts, particularly for Hispanic American-owned businesses. The City should consider continuing its use of MWBE and DBE contract goals in the future. The City will need to ensure that the use of those goals is narrowly tailored and consistent with other relevant legal standards (for details, see Chapter 2 and Appendix B). It is also important for the City to continue to treat contract goals as only one tactic among many to encourage minority- and woman-owned business participation in its contracting and to not treat the use of such goals as a substitute for other measures that might help build the capacity of minority- and woman-owned businesses for City work, such as technical assistance programs, mentor-protégé programs, and financial assistance.

Unbundling large contracts. In general, minority- and woman-owned businesses exhibited reduced availability for relatively large contracts that the City awarded during the study period. In addition, as part of in-depth interviews and public forums, several minority- and woman-owned businesses reported that the size of government contracts often serves as a barrier to their success (for details, see Appendix D). To further encourage the participation of small businesses, including many minority- and woman-owned businesses, the City should consider making efforts to unbundle relatively large prime contracts and even subcontracts into several smaller contracts. For example, the City of Charlotte, North Carolina encourages prime contractors to unbundle subcontracting opportunities into smaller contract pieces that are more feasible for small businesses and minority- and woman-owned businesses to work on and accepts such attempts as good faith efforts. Doing so would result in that work being more accessible to small businesses, which in turn might increase opportunities for minority- and woman-owned businesses and result in greater minority- and woman-owned business participation.

Prompt payment. As part of in-depth interviews, several businesses, including many minority- and woman-owned businesses, reported difficulties with receiving payment in a timely manner on City contracts, both when working as prime contractors and as subcontractors (for details, see Appendix D). Many businesses also commented that having capital on hand is crucial to small business success. The City should consider reinforcing its prompt payment policies with its procurement staff and prime contractors and could also consider automating payments directly to subcontractors. Doing so might help ensure that both prime contractors and subcontractors receive payment in a timely manner. It may also help ensure that minority- and woman-owned businesses have enough operating capital to remain successful.

SECTION 4.

Proposed Solution and Timeline

SECTION 4.

Proposed Solution and Timeline

Lexington-Fayette Urban County Government (LFUCG) awards nearly \$200 million each year in contracts and procurements to provide various services to residents and visitors of Lexington-Fayette County, Kentucky. As part of its efforts to encourage the participation of minority- and woman-owned businesses in its contracts and procurements, LFUCG seeks a qualified consultant to conduct a disparity and availability study to assess the participation and availability of local minority- and woman-owned businesses—including disadvantaged business enterprises (DBEs), minority-owned business enterprises (MBEs) and woman-owned business enterprises (WBEs)—for agency contracts and procurements and to determine whether any disparities exist between those measures. LFUCG will use information from the study to consider effective and legally-defensible refinements to contracting and procurement processes, program measures that are part of its Enterprise Programs, including the Minority Business Enterprise Program (MBEP), and overall minority- and woman-owned business goals. As part of the disparity study, LFUCG desires:

- **Extensive community outreach** to ensure the local business community and key stakeholders remain meaningfully informed and engaged throughout the disparity study;
- **Review of relevant regulations and case law** pertaining to minority- and woman-owned business programs and disparity studies, including *City of Richmond v. Croson* and *Adarand v. Peña*;
- **Survey-based estimates of the availability** of local minority- and woman-owned businesses for LFUCG contracts and procurements by racial/ethnic and gender group, contractor role, contract/procurement type, certification status, and other factors;
- **Collection and analysis of anecdotal evidence** related to contract awards and conditions in the local marketplace for minority- and woman-owned businesses;
- **Calculations of the utilization, or participation**, of minority- and woman-owned business in LFUCG contracts and procurements by racial/ethnic and gender group, contractor role, contract/procurement type, certification status, and other factors;
- **Assessment of any disparities** existing between the utilization and availability of minority- and woman-owned businesses for LFUCG contracts and procurements by racial/ethnic and gender group, contractor role, contract/procurement type, certification status, and other factors and **potential explanations** for any observed disparities;
- **Review of contracting processes, practices, and program measures** LFUCG uses to award contracts and procurements in relevant contracting/procurement areas and encourage minority- and woman-owned businesses participation as part of its existing Enterprise Programs, including the MBEP;
- **Recommendations regarding contracting policies and programs measures** to address any disparities, discrimination, or barriers making it more difficult for minority- and woman-owned businesses to participate in LFUCG contracts and procurements, including

recommendations related to race- and gender-neutral, and as appropriate, race- and gender-conscious program measures;

- **Guidance related to an overall percentage goal** for the participation of minority- and woman-owned businesses in LFUCG contracts and procurements as well as a plan for achieving the goal each year;
- **Analyses of discrimination or barriers** in the local public and private sectors to assess whether LFUCG is passively participating in any existing discrimination or barriers making it more difficult for minority- and woman-owned businesses to participate in its contracts and procurements;
- **Comprehensive disparity study report and corresponding presentations** summarizing disparity study research, methodology, results, implications, and recommendations; and
- **Litigation support and expert witness services** should LFUCG's Enterprise Programs, including the MBEP, be challenged in court to the extent the agency refines those programs based on the disparity study and the project team's recommendations.

A. Proposed Solution

BBC Research & Consulting (BBC) proposes to conduct an accurate and comprehensive disparity and availability study to provide LFUCG with information that will meet all the objectives described above and help it evaluate and refine its Enterprise Programs, including the MBEP. The study will help LFUCG implement those programs effectively and in a manner consistent with relevant legal standards, including the *strict scrutiny* standard of constitutional review. BBC proposes 14 major project tasks to conduct the disparity study and meet all the requirements specified in the Request for Proposals. The crux of the study will be to assess whether any statistically significant disparities exist between the participation and availability of minority- and woman-owned businesses for the construction, professional services, and goods and services contracts and procurements LFUCG awarded between July 1, 2016 and June 30, 2020 (i.e., the *study period*). The approach we propose using to conduct the disparity study has been tested and approved by authorities across the country, including the Ninth Circuit Court of Appeals, the United States Department of Justice (USDJ), the United States Department of Transportation (USDOT), the United States Congress, and other authorities.

1. Project management. BBC will be responsible for managing and coordinating all efforts related to the disparity study, including community engagement, data collection and analysis, reporting, and meeting logistics. We also proposes close collaboration with LFUCG throughout the project, and Task 1 lays the foundation for effective communication between the project team and the agency. Our Project Manager for the disparity study will be Dr. Sameer Bawa, BBC Managing Director and national disparity study expert. He will serve as LFUCG's primary point of contact for the entirety of the project and will be fully available to provide updates and reviews related to project progress and completion.

a. Disparity study report outline. Prior to project initiation, BBC will deliver a preliminary outline of the disparity study report, which will identify main sections and subsections of the report and provide detailed descriptions on the information that will be included in each section

and subsection. BBC will review the disparity study report outline with LFUCG at the project initiation meeting.

b. Project meetings. BBC will participate in numerous meetings during the course of the disparity study.¹ We will work with LFUCG to schedule and coordinate all project meetings.

i. Project initiation meeting. Based on direction from LFUCG, BBC will coordinate and participate in a project initiation meeting to begin the study within 14 days of receiving a notice to proceed. Dr. Bawa, BBC Project Manager, Ms. Iris McClish, BBC Assistant Project Manager, and other project team members will meet with LFUCG to:

- Establish effective and responsive channels of communication;
- Refine our work plan and study schedule (as necessary);
- Discuss research questions;
- Review the disparity study report outline;
- Discuss information and data requests; and
- Address other study topics.

ii. Regular project meetings. Dr. Bawa, Ms. McClish, and other project team members will participate in at least two additional project meetings per month with LFUCG via videoconference. We also recommend holding additional project meetings at key junctures of the disparity study, including when we submit draft and final disparity study reports.

c. Progress reports. BBC will prepare and deliver monthly progress reports describing progress the project team made toward completing the study in the previous month. At a minimum, each monthly progress report will include information about:

- Specific activities the project team conducted in the previous month;
- To-date progress toward each disparity study task described in our LFUCG-approved Project Management Plan;
- Specific activities the project team will conduct in the following month;
- Any potential obstacles or issues that may create delays or cost overruns and our solutions to address those obstacles or issues; and
- Any other information relevant to the execution of disparity study tasks in the next month.

BBC will deliver monthly progress reports by the 10th business day of each month.

¹ Due to travel restrictions associated with the COVID-19 pandemic, BBC proposes all meetings and presentations will take place virtually. As restrictions ease in 2021, we will adjust our approach to include in-person meetings and presentations, as appropriate, for no additional cost.

At the midpoint of the project—that is, after six months—BBC’s progress report will also include the following additional information:

- How LFUCG can access all preliminary data related to the availability and utilization analyses;
- Preliminary results and observations of analyses the project team has conducted to date, including a discussion of key assumptions;
- List of all data sources the project team reviewed and analyzed to date;
- Updated outline of the disparity study report with additional details about the information that will be included in each section and subsection of the report; and
- Any other relevant information LFUCG requests.

2. Community engagement. BBC will work with EHI Consultants, Abundant Living, and Davis Research to maximize meaningful engagement with the local business community and key stakeholders as part of the 2021 LFUCG Disparity and Availability Study. Our community engagement plan will be carefully designed to meet the following key objectives:

- *Inform* the local community about study progress and key study activities;
- *Engage* the local community with the disparity study in meaningful ways;
- *Engender support* in the local community for the study and BBC’s approach; and
- *Listen* to insights and anecdotes the local community shares about doing business in the relevant geographic market area (RGMA).

The plan will consist of two types of efforts: *informational efforts* and *engagement efforts*.

a. Informational efforts. The community engagement plan will consist of several efforts designed to provide information about the disparity study to ensure business owners, key stakeholders, and other members of the public are aware of the study and opportunities to participate in it.

i. Steering committee. If desired, BBC would work with LFUCG to develop a disparity study steering committee made up of LFUCG management and staff, local trade organization representatives, and other key stakeholders to help guide the progress of the disparity study. BBC envisions the steering committee would:

- Provide guidance throughout the course of the study;
- Help facilitate various study tasks; and
- Communicate information about the study to constituents.

BBC would communicate regularly with the steering committee to provide updates on study progress and discuss disparity study results.

ii. Webpage and e-mail address. The project team will work with LFUCG to post disparity study information and status updates on a separate page of LFUCG’s website. We will be responsible for developing content for the status updates, and LFUCG will be responsible for working with its Information Technology staff to post the information. The webpage will provide information about disparity study methodology, the project team, study progress, and the project schedule, including key upcoming meetings and events. We will provide content updates at least once per month during the course of the study.

In addition, BBC will work with LFUCG to establish an e-mail address dedicated to the disparity study (e.g., LFUCGdisparity@bbcresearch.com). The local community will be able to contact the project team directly using the e-mail address to ask questions or submit comments related to the study. Any comments the community submits will be integrated, as appropriate, into BBC’s analyses of anecdotal evidence. We will be responsible for managing the e-mail address and checking it regularly for community input.

iii. Public notices. The project team will work with LFUCG to draft public notices regarding key disparity study tasks to encourage the participation of local business owners and stakeholders in those tasks (e.g., in connection with the availability survey process, utilization survey process, and public meetings). We will submit all public notices to LFUCG for review and, upon receiving approval, will finalize them and rely on LFUCG to disseminate the notices via e-blasts, newspaper ads, trade publications, local trade organizations, and the Internet.

b. Engagement efforts. BBC’s community engagement plan will also consist of efforts designed to provide the community with opportunities to actively engage with the project team and contribute directly to disparity study results and recommendations. Insights we collect as part of engagement efforts will be included as part of our analyses of anecdotal evidence. BBC will work with LFUCG during the beginning phases of the study to identify relevant segments of the business community on which our engagement efforts should focus as well as different industry groups best representing those segments.

i. Public meetings. Near the beginning of the study, BBC will facilitate two public meetings during which we will provide information about the project team, the purpose of the study, the project approach, and how the community can participate in the study. We will also answer any questions participants may have. In addition, we will give attendees an opportunity to share any testimony about doing business in the local marketplace and working with LFUCG. Testimony from the meetings will be integrated into our analyses of anecdotal evidence. Regardless of whether the meetings take place in person or virtually, we will work with LFUCG to determine when they take place, advertise them, and coordinate transcription services. If the meetings take place in person, BBC will work with LFUCG to secure meeting locations.

ii. Utilization and availability surveys. BBC will work with Davis Research to conduct telephone and online surveys with thousands of local businesses potentially available for LFUCG work or that participated in LFUCG contracts or procurements during the study period. As part of the surveys, the project team will collect information about each business’s characteristics, which will allow BBC to accurately measure the participation and availability of minority- and woman-owned businesses for LFUCG contracts and procurements. In addition, as part of *availability surveys*, the project team will collect anecdotal evidence about businesses’

experiences working in the local marketplace—in both the public and private sectors—which we will integrate into our analyses of anecdotal evidence.

iii. In-depth interviews. The project team will conduct 40 in-depth interviews with business owners throughout the RGMA. We will interview a mix of businesses that have participated in LFUCG contracts and procurements in the past and businesses potentially available for LFUCG work that may not have been successful in obtaining it. We will generate a representative sample of businesses of different ownerships and types to collect insights from a broad cross-section of the business community within the local marketplace. Information from the interviews will be integrated into BBC’s analyses of anecdotal evidence.

iv. Focus groups. The project team will conduct two focus groups with representatives from relevant trade associations and chambers of commerce throughout the RGMA to have rich, detailed conversations about conditions in the marketplace and competing for LFUCG work. We will work with LFUCG to determine which segments of the local business population should be represented as part of each group. Insights from the focus groups will be integrated into our analyses of anecdotal evidence.

3. Legal analysis and framework. The BBC project team has a deep understanding of case law and legal guidance related to small business programs, minority- and woman-owned business programs, and disparity studies. BBC and the project team’s legal consultant, Holland & Knight, will conduct a detailed analysis of relevant federal regulations, case law, state law, and other information that will guide the project team’s methodology for the disparity study to ensure the study and our recommendations are consistent with current legal standards and federal, state, and local regulations. The analysis will include detailed information about key cases and their impact on LFUCG, including the following, seminal examples:

- *City of Richmond v. Croson*;
- *Adarand Constructors, Inc. v. Peña*;
- *Western States Paving Company v. Washington State Department of Transportation*;
- *Rothe Development Corporation v. United States Department of Defense*;
- *H.B. Rowe v. Tippett*;
- *In re City of Memphis*;
- *Associated General Contractors of America v. Drabik*;
- *Associated General Contractors of America v. City of Columbus* (a case in which BBC and Holland & Knight were involved); and
- *Associated General Contractors of America, San Diego v. California Department of Transportation et al.* (a case in which BBC and Holland & Knight were deeply involved).

a. Development of legal background. Holland & Knight will provide a legal history of challenges to state, local, and federal small business and minority- and woman-owned business programs. The firm will also summarize legal issues specific to Kentucky and the Sixth Circuit, providing an assessment of the statutory framework applicable to LFUCG. That information will form a basis

for evaluating LFUCG’s Enterprise Programs, including the MBEP, as well as any proposed program refinements. It will also provide a broader legal context for the disparity study report, the project team’s methodology, and our recommendations.

b. Analysis and reporting. Holland & Knight will monitor legal developments and make any needed revisions to the legal analysis through the end of the project. The Legal Analysis and Framework will ultimately result in a chapter as well as supporting appendix of the draft and final disparity study reports. As appropriate, it will also inform other disparity study report chapters and appendices.

4. Review of contracting practices and processes. A thorough understanding of LFUCG’s contracting practices, policies, and processes as well as of its Enterprise Programs, including the MBEP, will be essential to subsequent analyses and recommendations. BBC and EHI Consultants will research and document the practices and policies LFUCG uses to award contracts and procurements and will complete a thorough review of the agency’s implementations of its Enterprise Programs—including Contract Compliance Program management, data collection, compliance, and outreach—and the effectiveness of those programs in encouraging the participation of minority- and woman-owned businesses in LFUCG work. We will also conduct interviews with LFUCG management and staff to augment the information we collect about those topics. In addition, we will review successful efforts other local government agencies have used to encourage the participation and increase the capacity of minority- and woman-owned businesses in their own contracting.

Based on our review, BBC will assess the effectiveness of LFUCG’s current contracting practices and policies as well as its program measures and make recommendations related to policies and program measures the agency could consider using in the future to increase the participation of minority- and woman-owned businesses in its work. Information from Task 4 will help BBC:

- Assess the impact certain practices, policies, processes, and program measures have on the participation of minority- and woman-owned businesses in LFUCG work, including any policies creating barriers for those businesses;
- Assess the impact LFUCG’s contracting programs have on the participation in and availability of minority- and woman-owned businesses for agency work; and
- Inform the project team’s recommendations related to potential enhancements to LFUCG’s Enterprise Programs, including the MBEP (for details, see our description of Task 12).

5. Data assessment and collection. BBC will be responsible for collecting all data necessary for the disparity study and identifying and addressing any gaps that might exist in that information. After project initiation, our data experts—led by Dr. Sameer Bawa, Ms. Iris McClish, and Mr. Kevin Williams, BBC Managing Directors—will conduct an extensive review of electronic and hardcopy contract and vendor data LFUCG maintains related to the construction, professional services, and goods and services contracts and procurements the agency awarded during the study period. The data assessment will allow us to assess the information LFUCG maintains as well as identify and account for any gaps in that information. We will participate in a series of meetings to develop a thorough understanding of the agency’s contract and vendor data. Those meetings will include discussions about:

- Data BBC requires for the study;
- Contracts and procurements on which LFUCG maintains data in IonWave, PeopleSoft, B2Gnow, and hard copy records.
- Effective ways for BBC to make data requests and receive data; and
- Timelines for data delivery.

BBC will work with LFUCG to develop a plan for organizing and requesting all necessary data for the study. As part of the process, we will also work with the agency to refine and determine the appropriate study period for the extraction and analysis of contract and procurement data. Following the data assessment, we will submit detailed data requests specifying the information we will require for the study.

a. Contract and vendor data. BBC will work with LFUCG to compile electronic and, as necessary, hardcopy data it maintains on contracts and procurements—including small purchases and ProCard purchases—it awarded during the study period and about the vendors that participated in that work. The disparity study report will include details about all sources from which we obtained contracting and vendor data for our analyses.

i. Prime contract data. Based on information from LFUCG’s data systems, BBC will develop a database including the following information about each relevant prime contract and procurement LFUCG awarded during the study period:

- Contract title and number;
- Contract award date;
- Contractor name;
- Department/agency;
- Award amount and change order information;
- Paid-to-date amount; and
- Description or type of work involved

BBC will also request any available data for specific task orders under broader contracts (e.g., on certain professional services contracts).

ii. Subcontract data. BBC is interested in collecting data on *all* subcontracts associated with the prime contracts LFUCG awarded during the study period, regardless of whether the subcontractors that performed the work were minority- or woman-owned businesses, DBEs, MBEs, or WBEs. If, like many organizations with which work, LFUCG does not collect comprehensive data on all subcontracts in its systems or in hardcopy format, it will be BBC’s responsibility to collect that information directly from prime contractors. As necessary, we will work with LFUCG to contact prime contractors and collect the following information on all relevant subcontracts:

- Subcontractor name;
- Subcontractor contact information;
- Dollar amount of the subcontract;
- Paid-to-date amount on the subcontract; and
- Description of the type of work involved in the subcontract (if available).

We will prepare all materials required to complete the subcontract data collection effort, including letters of introduction, instructions on how prime contractors can submit requested information, and data collection forms. We will also be responsible for disseminating those materials to relevant prime contractors as well as compiling the resulting data. BBC has successfully made similar efforts to collect subcontract data on many recent disparity studies, including for the Commonwealth of Virginia, the State of Indiana, the Ohio Department of Transportation, and the Ohio Turnpike Commission.

iii. Vendor data. BBC will also compile data on businesses that performed relevant LFUCG prime contracts and subcontracts during the study period. We will collect full addresses, phone numbers, e-mail addresses, and other information for prime contractors and subcontractors that participated in agency contracts and procurements, both from data the organization maintains and data we collect directly from prime contractors. That information will help facilitate the execution of *utilization surveys* as part of the utilization analysis.

iv. Certification data. BBC will also compile historical data on businesses that were certified as DBEs, MBEs, or WBEs during the study period, which will augment vendor information we analyze as part of the utilization, availability, and disparity analyses and help ensure our business classifications are accurate.

b. Data request. BBC will work with LFUCG to develop a plan for requesting all necessary data from relevant departments. We will then submit detailed data requests to LFUCG specifying the information we require for the study. The data requests will include information about:

- Specific types and categories of data BBC requires;
- The location and availability of required data based on discussions with LFUCG;
- Formats in which LFUCG should deliver data; and
- Suggested timelines for data delivery.

c. LFUCG review. BBC will work closely with LFUCG to ask questions and discuss the data the agency delivers so we can treat that information appropriately in our analyses. In addition, we will submit all data tables we compile based on LFUCG contract and vendor data back to the agency for review and validation prior to using them in our analyses. That review process is crucial to ensure we conduct all analyses accurately and appropriately.

6. RGMA and relevant product categories. Once BBC has collected and compiled relevant contract and vendor data from LFUCG, we will use that information to confirm Lexington-Fayette County is the RGMA for LFUCG contracting and procurement. We will also determine the

relevant product categories in which the agency spends most of its contract and procurement dollars. We will base the utilization analysis, availability analysis, and other analyses on the RGMA and relevant product categories.

a. RGMA. BBC will confirm the RGMA for LFUCG contracting and procurement is Lexington-Fayette County based on information about the locations of the contractors that actually participated in LFUCG contracts and procurements during the study period. The RGMA should account for the vast majority of the contract and procurement dollars LFUCG spent during the study period (i.e., more than 75%).

b. Relevant product categories. BBC will also use contract and vendor data to determine the product categories in which LFUCG spent most of its contract and procurement dollars during the study period based on North American Industry Classification System (NAICS) or similar codes. Those analyses will include assessments of the total dollars LFUCG spent in each category during the study period as well as listings of the various goods and services the agency typically procures in construction, professional services, and goods and services.

c. Analysis and reporting. BBC will provide descriptions of the methodology we used to determine the RGMA and relevant product categories in the disparity study.

7. Availability analysis. BBC's availability analysis will yield estimates of the availability of minority- and woman-owned businesses, including DBEs, MBEs, and WBEs, ready, willing, and able to perform work on LFUCG contracts and procurements. We will use a *custom census* approach to conduct the availability analysis, which will require extensive, survey data collection from businesses performing relevant categories of work within the RGMA, augmented by information we gather from directories and listings maintained by LFUCG and other local organizations. The methodology we will use to complete the availability analysis has been strongly approved by the Ninth Circuit Court of Appeals, USDOJ, USDOT, the United States Congress, and other authorities.

Key courts have found the *capacity* of businesses to actually perform on government contracts to be an important factor in measuring availability. Consistent with those decisions, BBC will account for the capacity of businesses when measuring availability for LFUCG contracts and procurements. We will measure capacity based on responses to surveys and other available information. BBC will also use regression analyses to examine whether the capacity of minority- and woman-owned businesses is depressed relative to that of other businesses after statistically controlling for various factors that are ostensibly race- and gender-neutral. Our approach to measuring and accounting for capacity as part of availability analyses was strongly approved by USDOJ and USDOT as part of *Associated General Contractors of America, San Diego v. California Department of Transportation et al.* They specifically cited the fact we “[take] into account factors that may affect the relative capacity of [disadvantaged businesses] to undertake contracting work” in stating their approval.

a. Availability surveys. BBC will create a representative database of businesses potentially available to work on LFUCG contracts and procurements. We will begin that process by compiling a *phone book* of businesses working in relevant product categories and have locations in the RGMA. We will develop the phone book based on information from different data sources

that provide comprehensive and unbiased listings of all types of relevant businesses—that is, not just listings of minority- and woman-owned businesses—throughout the local marketplace (e.g., regional business listings, vendor registration lists, and other comprehensive business listings). We will then work with Davis Research to contact those businesses via telephone and online to complete *availability surveys* with their owners or managers.

The objective of the surveys will not be to collect information from every relevant business operating in the local marketplace. Rather, it will be to collect information from an unbiased subset of the relevant business population that appropriately represents the entire business population operating in the local marketplace. That approach will allow BBC to estimate the availability of minority- and woman-owned businesses for LFUCG contracts and procurements in an accurate, statistically-valid manner.

BBC will use availability surveys to collect information on various topics, including:

- Interest in working for LFUCG;
- Work as a prime contractor, subcontractor, or supplier;
- Primary lines of work by NAICS or comparable codes;
- *Capacity*, as measured by the largest contract or procurement bid on or performed within the recent past;
- Locations of headquarters and other branches;
- Annual revenue;
- Number of employees; and
- Race/ethnicity and gender of ownership.

BBC will verify information we collect from availability surveys from a variety of sources available in the marketplace, including LFUCG’s certification directories, the State of Kentucky certification directories, the Kentucky Transportation Cabinet’s DBE certification directory, and LFUCG’s contracting and vendor data. The availability survey will also include questions about businesses’ experiences working in the local marketplace, including any experiences with discrimination and its effects on competing for LFUCG contracts and procurements. That information will be integrated in our analyses of anecdotal evidence (for details, see Task 11).

b. Availability database. Information from availability surveys will form the core of a representative database BBC will use to identify businesses potentially available to participate in the specific prime contracts and subcontracts LFUCG awarded during the study period—which will serve as a proxy for the work LFUCG will award in the future—as well as the percentage of those businesses that are minority- or woman-owned, including DBEs, MBEs, and WBEs. We will also provide guidance on how to adjust availability estimates should the types and sizes of work LFUCG awards change substantially in the future. The database will list the various characteristics we collect from availability surveys and other data sources about each potentially available business, including:

- Business name;
- Contact information (i.e., address, phone number, and e-mail address);
- Primary lines of work by NAICS or similar codes;
- Race/ethnicity and gender of the owners/controllers;
- Contracting role (i.e., prime contractor, subcontractor, or both);
- Firm size, based on number of employees and revenue;
- *Capacity*, as measured by the largest contract or procurement bid on or performed within the recent past; and
- Locations of headquarters and other branches.

At the end of the project, BBC will deliver the availability database to LFUCG in an electronic format of its choosing (e.g., Microsoft Excel). The database will include information on all businesses BBC considered potentially available for LFUCG contracts and procurements.

c. Calculating availability. BBC will use a *contract-by-contract matching approach* to estimate availability for each relevant LFUCG prime contract and subcontract based on information from the availability database and contract and procurement data, using the following steps:

1. For each contract element, we will identify type of work, contract role, and size of work based on LFUCG's contract and procurement data.
2. We will identify businesses in the availability database that report being interested in performing that specific type of work for LFUCG in that particular contract role and having bid on or performed work of that size or larger (to take *capacity* into account).
3. We will determine the number of minority- and woman-owned businesses, including DBEs, MBEs, and WBEs, among all businesses meeting the above criteria for that particular contract element.
4. We will translate numeric availability for a contract element into percentage availability.

BBC will then multiply percentage availability by the dollars associated with the contract element, add results across all contract elements, and divide by total dollars for all contract elements to produce a dollar-weighted estimate of the proportion of LFUCG contract and procurement dollars for which minority- and woman-owned businesses might be available.

d. But-for analysis. As part of the availability analysis, BBC will assess the availability of minority- and woman-owned businesses for LFUCG contracts and procurements absent the effects of past race- or gender-based discrimination. BBC will use regression analyses to examine whether the availability of minority- and woman-owned businesses would be different *but for* the effects of discrimination. Specifically, the analysis will help determine whether the availability of minority- and woman-owned businesses for LFUCG contracts and procurements would change if minorities and women owned businesses at the same rate as non-Hispanic white men after statistically controlling for various factors that are ostensibly race- and gender neutral, such as education, homeownership, marital status, income, and age.

e. Analysis and reporting. BBC will use results from the availability analysis to estimate the availability of minority- and woman-owned business, including DBEs, MBEs, and WBEs, for LFUCG contracts and procurements. We will estimate availability based on various business characteristics and different sets of contracts. At a minimum, we will estimate availability separately for:

- Asian American-/Pacific Islander-, Black American-, Hispanic American-, Native American/Native-Alaskan-, and non-Hispanic white woman-owned businesses;
- DBEs, MBEs, WBEs, and non-certified minority- and woman-owned businesses;
- Construction, professional services, and goods and services contracts and procurements;
- Prime contracts and subcontracts;
- Contracts and procurements awarded with and without the use of race- and gender conscious measures;
- Different departments;
- Different study period years to assess past and future trends; and
- Different contract sizes according to meaningful thresholds LFUCG uses.

The availability analysis will be summarized in a chapter of the disparity study report as well as a supporting appendix, which will include a detailed discussion of the methodology we used and data sources on which we relied.

8. Utilization analysis. BBC's utilization analysis will produce calculations of the percentage of prime contract and subcontract dollars LFUCG awarded to minority- and woman-owned businesses, including DBEs, MBEs, and WBEs, on construction, professional services, and goods and services contracts and procurements during the study period. We will base the utilization analysis on LFUCG contracting and vendor data and information we collect from *utilization surveys*.

a. Utilization surveys. BBC will work with Davis Research to conduct utilization surveys via telephone and online with businesses that participated in LFUCG contracts and procurements during the study period to establish key business characteristics, including primary lines of work, locations, and the race/ethnicity and gender of ownership. Information from utilization surveys will augment LFUCG data on prime contractors and subcontractors, enabling an accurate assessment of the actual participation of minority- and woman-owned businesses in LFUCG contracts and procurements.

b. Utilization analysis. After completing utilization surveys, BBC will calculate the dollars LFUCG awarded to minority- and woman-owned businesses as a proportion of total prime contract and subcontract dollars the agency awarded to all businesses during the study period. We will assess participation for all minority- and woman-owned businesses considered together and separately for each relevant business group.

A key comparison BBC will make as part of the utilization analysis will be to compare the participation of minority- and woman-owned businesses between contracts and procurements

LFUCG awarded with the use of race- and gender-conscious measures and contracts and procurements LFUCG awarded without the use of such measures. That comparison will provide key information about the effect of race- and gender-conscious measures on outcomes for minority- and woman-owned businesses and the effectiveness of using race- and gender-neutral measures alone in encouraging the participation of those businesses in relevant work.

c. Analysis and reporting. BBC will use results from the utilization analysis to calculate the participation of minority- and woman-owned businesses in LFUCG prime contracts and subcontracts. At a minimum, we will calculate participation separately for:

- Asian American-/Pacific Islander-, Black American-, Hispanic American-, Native American-/Native-Alaskan-, and non-Hispanic white woman-owned businesses;
- DBEs, MBEs, WBEs, and non-certified minority- and woman-owned businesses;
- Construction, professional services, and goods and services contracts and procurements;
- Prime contracts and subcontracts;
- Contracts and procurements awarded with and without the use of race- and gender conscious measures;
- Different departments;
- Different study period years to assess past and future trends; and
- Different contract sizes according to meaningful thresholds LFUCG uses.

The utilization analysis will be summarized in a chapter of the disparity study report as well as a supporting appendix, which will include a detailed discussion of the methodology we used and data sources on which we relied.

9. Disparity analysis. BBC will compare the actual participation of minority- and woman-owned businesses in LFUCG contracts and procurements to the dollars those businesses would be expected to receive based on their availability for that work to determine whether any statistically significant disparities exist between those measures. For each relevant business group and for different contract sets, we will examine differences between participation and availability by calculating disparity indices, or ratios, using the following formula:

$$\frac{\% \text{ participation}}{\% \text{ availability}} \times 100$$

A disparity ratio of 100 indicates *parity* between actual participation and availability. That is, participation of a business group is largely in line with its availability. A disparity ratio of less than 100 indicates a disparity between participation and availability. That is, a business group is considered to have been *underutilized* relative to its availability. Finally, a disparity ratio of less than 80 indicates a *substantial disparity* between participation and availability. That is, a business group is considered to have been substantially underutilized relative to its availability. Substantial disparities are often considered *inferences of discrimination* against particular business groups and often serve as justification for organizations to use relatively aggressive

measures to address corresponding barriers, such as using race- and gender-conscious measures in awarding individual contracts.

As with the utilization analysis, a key comparison BBC will make as part of the disparity analysis will be to compare disparity indices for minority- and woman-owned businesses between contracts and procurements LFUCG awarded with the use of race- and gender-conscious measures and contracts and procurements LFUCG awarded without the use of such measures. That comparison will provide key information about the effect of race- and gender-conscious measures on outcomes for minority- and woman-owned businesses and the effectiveness of using race- and gender-neutral measures alone in encouraging the participation of those businesses in LFUCG work.

a. Potential explanations. If BBC observes substantial disparities between the participation and availability of minority- and woman-owned businesses for LFUCG contracting and procurement, then we will also research potential explanations of those disparities to help assess the degree to which any disparities are attributable to:

- Discrimination by LFUCG or barriers existing within its contracting policies or processes;
- Discrimination within specific, relevant industries in the RGMA; and
- Barriers unrelated to the race/ethnicity or gender of business owners potentially affecting minority- and woman-owned businesses.

Our assessment will include an analysis of the program measures LFUCG has in place as well as any contracting laws, policies, practices, or processes that may lead to the underutilization of minority- and woman-owned businesses. In addition, BBC will use regression analyses to assess whether there are independent, statistical relationships between the existence of disparities and business characteristics—such as firm size and years of experience—that are ostensibly race- and gender-neutral.

b. Analysis and reporting. BBC will calculate separate disparity indices based on various business and contract characteristics. At a minimum, we will calculate disparity indices separately for:

- Asian American-/Pacific Islander-, Black American-, Hispanic American-, Native American-/Native-Alaskan-, and non-Hispanic white woman-owned businesses;
- DBEs, MBEs, WBEs, and non-certified minority- and woman-owned businesses;
- Construction, professional services, and goods and services contracts and procurements;
- Prime contracts and subcontracts;
- Contracts and procurements awarded with and without the use of race- and gender-conscious measures;
- Different departments;
- Different study period years to assess past and future trends; and
- Different contract sizes according to meaningful thresholds LFUCG uses.

c. Analysis and reporting. The disparity analysis will be summarized in a chapter of the disparity study report as well as a supporting appendix, which will include a detailed discussion of the methodology we used and data sources on which we relied.

10. Econometric analysis of passive participation. BBC will conduct econometric analyses of potential barriers minorities, women, and minority- and woman-owned businesses face throughout the local construction, professional services, and goods and services industries, including both the private and public sectors. Those analyses will help us determine whether certain types of discriminatory practices exist in the RGMA that may adversely affect the participation of minority- and woman-owned businesses in LFUCG contracts and procurements and whether LFUCG is acting as a *passive participant* in any race- or gender-based discrimination existing in the local marketplace.

a. Business outcomes. BBC will compare business outcomes for minorities, women, and minority- and woman-owned businesses to outcomes for non-Hispanic white men and businesses owned by non-Hispanic white men in the areas of:

- **Human capital** to assess whether minorities and women face any barriers related to education, employment, and gaining managerial experience in relevant industries;
- **Financial capital** to assess whether minorities and women face any barriers related to wages; homeownership; personal wealth; or access to financing, bonding, or insurance;
- **Business ownership** to assess whether minorities and women own businesses at rates comparable to that of non-Hispanic white men; and
- **Business success** to assess whether minority- and woman-owned businesses have outcomes similar to those of businesses owned by non-Hispanic white men.

Those analyses will indicate whether there is evidence that discrimination in the RGMA—either in the public sector or private sector—has affected the ability of minority- and woman-owned businesses to form, grow, and successfully compete for project work, including for LFUCG contracts and procurements. A critical portion of the analysis will rely on regression models to examine whether there is statistical information indicating barriers in the local marketplace for minorities, women, and minority- and woman-owned businesses while statistically controlling for race- and gender-neutral characteristics.

b. Data sources. BBC will base its econometric analysis of passive participation on:

- Data collected from businesses in the utilization and availability analyses;
- United States Census data on employment, self-employment, and revenue;
- Federal Reserve Board’s Survey of Small Business Finances;
- Federal Financial Institutions Examinations Council; and
- Other data sources.

c. Analysis and reporting. Our econometric analysis of passive participation will be summarized in a chapter of the disparity study report as well as a supporting appendix, which will include a detailed discussion of the methodology we used and data sources on which we relied.

11. Qualitative analysis of anecdotal evidence. In addition to analyzing quantitative information about passive participation and barriers in the local marketplace, the BBC project team will collect extensive anecdotal evidence about potential barriers minority- and woman-owned businesses face in relevant contracting industries.

a. Public meetings. Near the beginning of the study, BBC, EHI Consultants, and Abundant Living will facilitate two public meetings, either in person or virtually. During the meetings, BBC will provide information about the project team, the purpose of the study, the project approach, and how the community can participate in the study. We will also answer any questions participants have about the study. In addition, we will give attendees an opportunity to share their perceptions and experiences about doing business in the region and attempting to work with LFUCG. Testimony from the meetings will be integrated, as appropriate, into the project team's analysis of anecdotal evidence. Regardless of whether the meetings take place in person or virtually, we will work with LFUCG to determine when they take place, advertise them, and coordinate transcription services. If the meetings take place in person, we will work with LFUCG to secure meeting locations.

b. In-depth interviews BBC, EHI Consultants, and Abundant Living will conduct 40 in-depth interviews with business owners throughout the relevant geographic market area. We will interview a mix of businesses that have participated in LFUCG contracting in the past and businesses available for LFUCG contracts that may not have been successful in obtaining that work. We will generate a representative sample of businesses of different ownerships and types to provide a broad cross-section of the business community within the local marketplace, including prime contractors, subcontractors, minority- and woman-owned businesses, businesses owned by non-Hispanic white men, construction firms, professional services firms, and goods and services suppliers. The one- to two-hour interviews will provide interviewees with opportunities to discuss various topics related to the local marketplace, including:

- Minority- and woman-owned business participation in contracting opportunities;
- Experiences working with minority- and woman-owned businesses and other businesses;
- Perceptions of certification and certification processes;
- Evidence of race- or gender-based discrimination, including systemic, institutional, and individual cases;
- Promptness of payment;
- Governmental or union practices;
- Perceived barriers to contracting in the public and private sectors;
- Difficulties accessing needed capital, bonding, and insurance;
- Experiences working as prime contractors and subcontractors;

- Effectiveness of race- and gender-neutral and race- and gender-conscious program measures; and
- Other marketplace conditions.

The resulting information will help identify prevailing practices in the public and private sectors that could lead to the underutilization of minority- and woman-owned businesses in government and LFUCG work and may also help identify the effect of certain program measures in encouraging the participation of those businesses.

c. Focus groups. BBC will conduct two in-person or virtual focus groups with trade association representatives throughout the region to have detailed conversations about conditions in the local marketplace and competition for LFUCG contracting work. The two-hour focus groups will cover many of the same topics as the in-depth interviews but will allow participants to build on each other's insights, resulting in a rich tapestry of ideas regarding marketplace conditions and barriers minority- and woman-owned businesses and other businesses face in the region. BBC will work with LFUCG to determine when the focus groups will take place and determine which segments of the business population should be represented as part of each group. Insights from the focus groups will be integrated into our analysis of anecdotal evidence.

d. Availability surveys. The BBC project team will conduct telephone and online surveys with hundreds, if not thousands, of local businesses potentially available for LFUCG contracts and procurements. As part of those surveys, we will collect anecdotal evidence about businesses' experiences working in the local marketplace in both the public and private sectors as well as with LFUCG. We will integrate that information into our analysis of anecdotal evidence.

e. Historical evidence of discrimination. BBC will rely on existing sociological, economic, legal, and other research to assess historical evidence of any race- or gender-based discrimination in the local marketplace. We will use that information to provide a broader historical context for study results and recommendations.

f. Assessment of any discrimination complaints. BBC will request information concerning any informal or formal complaints related to discrimination and contracting practices LFUCG received during the study period. We will also analyze any available judicial or administrative opinions or data regarding allegations of race- or gender-based discrimination that have been made against contractors, subcontractors, vendors, or local government agencies operating in the RGMA. BBC's qualitative analysis of anecdotal information will include an assessment of any such information.

g. Analysis and reporting. BBC will analyze all resulting anecdotal evidence and identify and report key themes and comments pertinent to the local contracting industries. Comments from public meetings, in-depth interviews, and focus groups will be presented in a detailed appendix of the disparity study reports. Several report chapters will draw on the anecdotal evidence we collect.

12. Recommendations. BBC will use information from the study and other relevant sources to provide recommendations to help LFUCG consider various measures to encourage the participation of small business and minority- and woman-owned businesses in its contracts and procurements and refine the implementation of its Enterprise Programs, including the MBEP.

a. Program measures and contract policies. Our guidance will help LFUCG improve contracting policies acting as barriers to small businesses and minority- and woman-owned businesses attempting to perform LFUCG work. We will make recommendations related to:

- Any contracting policies, practices, or processing acting as barriers to small businesses and minority- and woman-owned businesses;
- Race- and gender-neutral measures LFUCG has in place or could implement in the future;
- Race- and gender-conscious program measures LFUCG has in place or could implement in the future in a manner that meets the *strict scrutiny* standard, including which specific business groups might be considered eligible to participate in such measures;
- Overall management of the Enterprise Programs, including the MBEP, such as data collection, certification processes, compliance, and outreach; and
- How often LFUCG should consider conducting disparity studies in the future.

Our recommendations will include evaluations of the efficacy of race- and gender-neutral measures in comparison to race- and gender-conscious measures to address any existing barriers. In addition, our recommendations will take into account the effectiveness of existing program measures that are part of LFUCG's Enterprise Programs, including the MBEP.

b. Goal setting. BBC will also provide a review of LFUCG's process for setting overall aspirational goals for the participation of DBEs, MBEs, and WBEs in its contracts and procurements. We will provide legally-defensible guidance related to new percentage goals for the participation of those businesses in LFUCG contracts and procurements based on the availability analysis, econometric analysis of passive participation, qualitative analysis of anecdotal evidence, and other relevant information from the disparity study. In addition, we will provide information allowing LFUCG to develop a plan and project the portion of its overall goals it could achieve through the use of race- and gender-neutral measures alone and the portion it might achieve through the use of race- and gender-conscious measures, if appropriate. Our goal setting recommendations will take into account the effectiveness of existing program measures that are part of the Enterprise Programs, including the MBEP, as well as relevant contracting policies, state and federal regulations, and relevant case law.

c. Analysis and reporting. All our recommendations will take LFUCG resources into account as well as existing laws, rules, and policies, including the Enterprise Programs and MBEP. We will summarize recommendations in a separate chapter of the disparity study report and discuss them at length with LFUCG.

13. Reports and presentations. BBC will consider the totality of the quantitative and qualitative research we conduct as part of the disparity study to prepare draft and final disparity

study reports. In addition, we will prepare a corresponding oral presentation we will give to audiences of LFUCG's choosing at the end of the project.

a. Reports. The disparity study report will summarize results related to any disparities in the participation and availability of minority- and woman-owned businesses, including DBEs, MBEs, and WBEs, in contracts LFUCG awarded during the study period. We will present evidence overall and separately for each relevant racial/ethnic and gender group. We will also provide thoughtful recommendations related to refinements LFUCG can consider making to its contracting policies and Enterprise Programs, including the MBEP, to help ensure it continues to encourage the participation of small businesses and minority- and woman-owned businesses in its contracts and procurements effectively and in a legally-defensible manner. The reports will be written in a clear and concise manner using consistent language and terms. They will be easy to understand, organized in a logical manner, fully illustrated with relevant examples, and consistent with industry-best standards and methodology.

i. Preliminary rough draft. BBC will deliver a preliminary rough draft of the disparity study report in electronic format to Central Purchasing for LFUCG's review and comment. As the project team completes individual sections of the draft report, we will submit them to LFUCG for review. We will deliver all preliminary draft sections within 10 months of project initiation, at which point we will have completed all disparity study analyses. Figure 4-1 presents the sections BBC anticipates including in the preliminary draft report. We will discuss an outline of the report at project initiation and at subsequent management meetings. As necessary, we will reorganize the report to best meet LFUCG's needs.

ii. Revised draft report. BBC will consider all comments LFUCG provides on the preliminary rough draft sections and make all necessary revisions for a revised draft report, which will include any clarifications or supplemental information Central Purchasing requests. We will submit the revised draft report for final review within 14 days of receiving all of LFUCG's comments on the preliminary rough draft.

iii. Final report. BBC will consider all final comments LFUCG provides on the revised draft report and make all necessary revisions for a final report, which we will deliver in PDF format along with 16 bound hard copies. We will deliver the final disparity study report within 12 months of project initiation.

b. Presentations. BBC will give presentations on the disparity study to audiences of LFUCG's choosing at the end of the project or at other times during the project at the agency's request. We anticipate presenting to various stakeholder groups but, at a minimum, to the Division of Central Purchasing, other LFUCG staff, and two presentations to Urban City Council. The presentations will provide information about the purpose of the disparity study, the project team's methodology, key disparity study results, and recommendations and conclusions. We will develop the presentations in PowerPoint (or similar format) and will provide them in both hardcopy and electronic format. We will work with LFUCG to determine dates, times, and locations (if the presentations are in-person) for the final presentations.

Figure 4-1.
Proposed sections to be included in the disparity study report

Report section	Description
Chapters	
Chapter ES - Executive Summary	Summary of report, including key results and next steps
Chapter 1 - Introduction and Background	Detailed description of study background, objectives, and approach
Chapter 2 - Legal Requirements and Analysis	Guidance from applicable statutes, regulations, and case law, including citations of sources
Chapter 3 - Data Collection and Surveys	Description of the methodology used to collect data and conduct surveys
Chapter 4 - Availability Analysis	Results from the availability analysis
Chapter 5 - Utilization Analysis	Results from the utilization analysis
Chapter 6 - Disparity Analysis	Results from the disparity analysis and potential explanations for any disparities
Chapter 7 - Review of Policies and Programs	Description of contracting policies and program measures LFUCG currently uses
Chapter 8 - Econometric Analysis of Passive Participation	Results from econometric analysis around conditions in the local marketplace
Chapter 9 - Qualitative Analysis of Anecdotal Evidence	Key themes and insights from qualitative analysis of anecdotal evidence
Chapter 10 - Program Guidance, Considerations, and Goal Setting	Recommendations related to race- and gender-neutral and race- and gender-conscious programs, contracting policies, program measures, and goal setting
Appendices	
Appendix A - Definition of Terms	Definition of terms used in report
Appendix B - Legal Requirements	Detailed summary of relevant statutes, regulations, and case law
Appendix C - Availability Analysis Methodology	Description of project team's availability analysis approach
Appendix D - Econometric Analysis	Detailed results from econometric analysis project team conducts
Appendix E - Anecdotal Evidence	Anecdotal evidence that project team collected
Appendix F - Disparity Analysis Results Tables	Detailed disparity analysis results tables

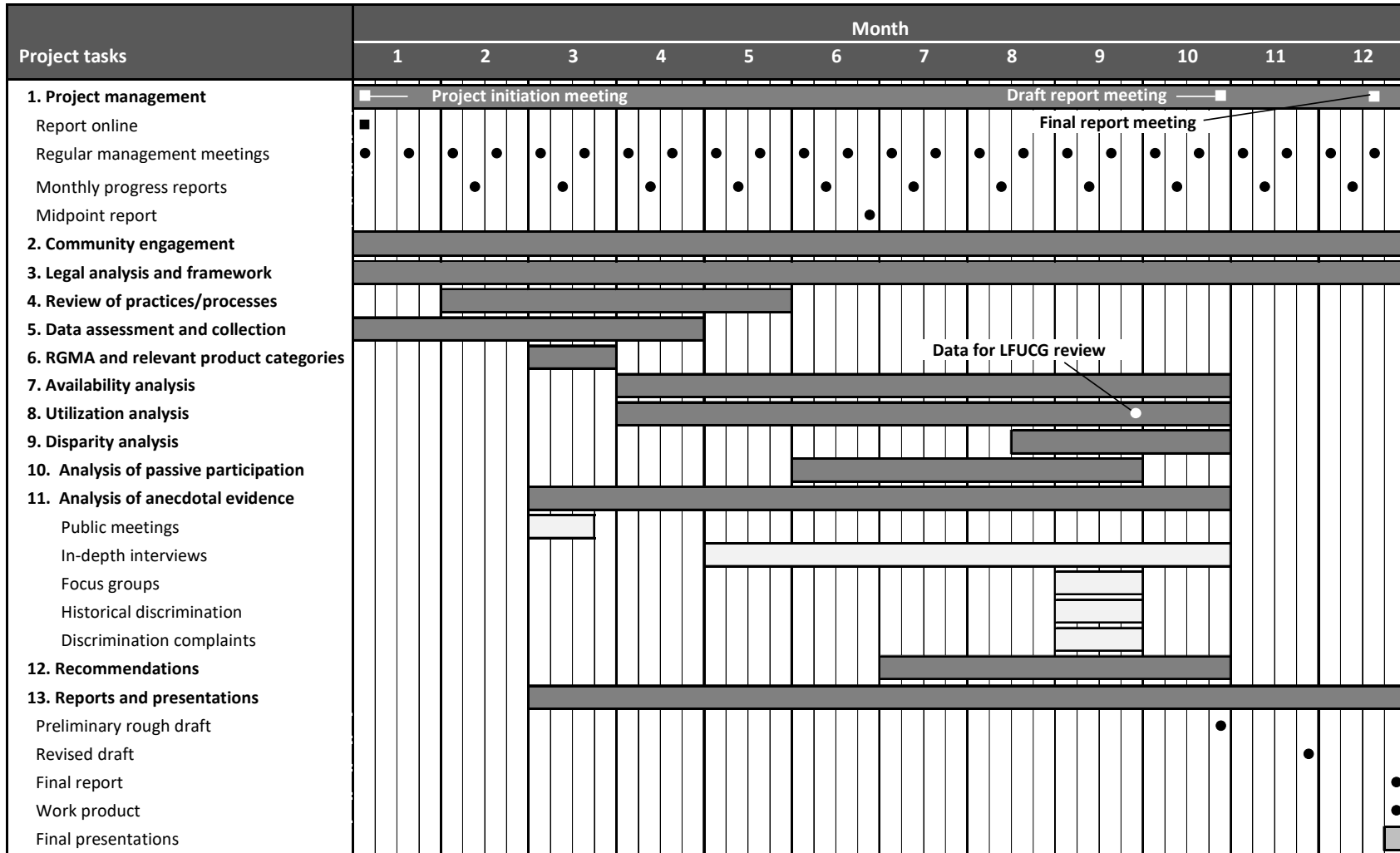
c. Data and work product. LFUCG will own all data and work product BBC collects, compiles, and creates as part of the disparity study. At the end of the project, we will provide all notes, work papers, underlying records, documentation, analyses, data, and computer databases related to the disparity study. Those work products will be useful to LFUCG in defending its Enterprise Programs, including the MBEP, if they are challenged in court and to the extent they are based on information from the disparity study.

14. Litigation support (IF NECESSARY). BBC will be fully available to provide litigation support and testify as expert witnesses in any litigation if LFUCG’s Enterprise Programs, including the MBEP, are challenged in court and to the extent they are based on information from the disparity study. Dr. Sameer Bawa, BBC’s Project Manager and national disparity study expert, would lead the project team’s efforts as part of any necessary litigation support.

B. Proposed Timeline

BBC proposes to conduct the 2021 LFUCG Disparity and Availability Study within 12 months of project initiation, which includes delivering a preliminary rough draft of the disparity study report within 10 months, a revised draft report within 11 months, and final report within 12 months. Figure 4-2 presents BBC’s proposed schedule to complete the study, including key project milestones.

Figure 4-2.
Proposed timeline



Note: ● = deliverable; ■ = meeting

SECTION 5.

Cost Proposal

SECTION 5.

Cost Proposal

BBC Research & Consulting (BBC) proposes to conduct the 2021 Lexington-Fayette Urban County Government (LFUCG) Disparity and Availability Study for a not-to-exceed cost of **\$389,910**, inclusive of all professional fees and direct costs. We have committed nearly 13 percent of our total cost to EHI Consultants, which is a minority-owned business enterprise (MBE) certified through LFUCG, and more than 3 percent of our total cost to Abundant Living, which is a veteran-owned small business (VOSB) certified through LFUCG. Figure 5-1 presents BBC's costs by the project tasks presented in Section 4.

Figure 5-1.
Costs by project tasks

Project task	Cost
1. Project management	\$ 20,320
2. Community engagement	\$ 14,000
3. Legal analysis and framework	\$ 37,520
4. Review of contracting	\$ 16,000
5. Data assessment and collection	\$ 11,700
6. RGMA and relevant products	\$ 5,000
7. Availability analysis	\$ 55,900
8. Utilization analysis	\$ 72,400
9. Disparity analysis	\$ 23,400
10. Analysis of passive participation	\$ 18,800
11. Analysis of anecdotal evidence	\$ 63,200
12. Recommendations	\$ 10,260
13. Reports and presentations	\$ 41,410
Total	\$ 389,910

BBC estimates the cost to re-evaluate the availability and utilization of minority- and woman-owned businesses for LFUCG contracts and procurements—and any resulting disparities between those measures—four years after we complete the 2021 LFUCG Disparity and Availability Study would be **\$197,575**, inclusive of all professional fees and direct costs. LFUCG would be able to use information from the re-evaluation to assess the effectiveness of any program and policy changes subsequent to the 2021 study. BBC would work closely with LFUCG to determine the final scope and costs for the re-evaluation effort.

SECTION 6.

Required Forms

AFFIDAVIT

Comes the Affiant, Sameer Bawa, and after being first duly sworn, states under penalty of perjury as follows:

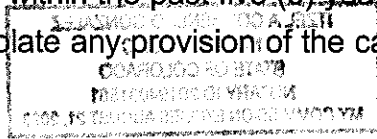
1. His/her name is Sameer Bawa and he/she is the individual submitting the proposal or is the authorized representative of BBC Research & Consulting, the entity submitting the proposal (hereinafter referred to as "Proposer").

2. Proposer will pay all taxes and fees, which are owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, prior to award of the contract and will maintain a "current" status in regard to those taxes and fees during the life of the contract.

3. Proposer will obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of the contract.

4. Proposer has authorized the Division of Central Purchasing to verify the above-mentioned information with the Division of Revenue and to disclose to the Urban County Council that taxes and/or fees are delinquent or that a business license has not been obtained.

5. Proposer has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky within the past five (5) years and the award of a contract to the Proposer will not violate any provision of the campaign finance laws of the Commonwealth.



6. Proposer has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as "Ethics Act."

Continued on next page

7. Proposer acknowledges that "knowingly" for purposes of this Affidavit means, with respect to conduct or to circumstances described by a statute or ordinance defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Further, Affiant sayeth naught.

Sameer Bawa

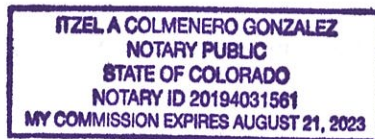
STATE OF Colorado

COUNTY OF Denver

The foregoing instrument was subscribed, sworn to and acknowledged before me by Sameer Bawa on this the 1st day of February, 2021.

My Commission expires: 08/21/2023

Itzel A. Colmenero Gonzalez
NOTARY PUBLIC, STATE AT LARGE



Affirmative Action and Equity Commitment

BBC Research & Consulting (BBC) is committed to fostering, cultivating, and preserving a culture of equity and inclusion, both in the work that we do and in our office. We are a national leader in helping organizations understand the degree to which discrimination affects their local marketplaces. For the past 30 years, we have conducted equity and inclusion research in connection with healthcare, business success, hiring practices, transit use, and various other social and economic outcomes. We have studied discrimination and disparities based on myriad individual characteristics, including race, gender, sexual orientation, disability status, and veteran status. We do that work, because it is important to us and defines who we are as researchers and people.

In addition to building our business on studying equity and diversity, BBC cultivates a culture of equity and inclusion in our office. Our employees' individual differences, unique life experiences, and distinct talents are reflected in all of our work and contribute substantially to BBC's culture, reputation, and achievements. We embrace and encourage employment diversity with regard to age, gender identity, appearance, education, race, ethnicity, national origin, language, religion, marital status, family status, physical ability, political affiliation, sexual orientation, socioeconomic status, veteran status, and other characteristics that make our employees unique. As indicators of BBC's diversity and our commitment to inclusion, 40 percent of our staff is made up of individuals who identify as racial/ethnic minorities—including 40 percent of our ownership—and 50 percent is made up of women, not to speak of the diversity that we collectively exhibit in our life experiences, sexual orientation, marital status, family status, and other individual characteristics.

BBC also adheres strictly to a diversity and inclusiveness policy that is applicable to our practices in recruitment and hiring; compensation and benefits; professional development and training; social and recreational programs, layoffs; terminations; and the ongoing development of our work environment. It is built on the premise of equity that encourages and enforces:

- Hiring and retention measures that ensure a diverse staff;
- Partnership and collaborative initiatives that encourage work with diverse businesses;
- Respectful communication and cooperation among all employees;
- Effective teamwork on both client work and internal engagements;
- Work/life balance that accommodates employees' differing needs; and
- Contributions in the communities that we serve to promote diversity and inclusiveness.

All BBC employees have a responsibility to treat others with dignity and respect at all times. All employees are expected to exhibit conduct that reflects inclusion during work; at work functions on or off the work site; and at company-sponsored events. Any employee found to have exhibited any inappropriate conduct or behavior against others are subject to disciplinary action. Employees who believe that they have been subjected to any kind of discrimination that conflicts with the company's diversity policy and initiatives or who have questions about our Diversity and Inclusiveness Policy can seek assistance from Ms. Iris McClish, BBC Managing Director and our firm's Equal Employment Opportunity Coordinator.

EQUAL OPPORTUNITY AGREEMENT

The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- Section 503 of the Rehabilitation Act of 1973 states:

The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability.

- Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal contracts.
- Section 206(A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:


The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.

The Lexington-Fayette Urban County Government practices Equal Opportunity in recruiting, hiring and promoting. It is the Government's intent to affirmatively provide employment opportunities for those individuals who have previously not been allowed to enter into the mainstream of society. Because of its importance to the local Government, this policy carries the full endorsement of the Mayor, Commissioners, Directors and all supervisory personnel. In following this commitment to Equal Employment Opportunity and because the Government is the benefactor of the Federal funds, it is both against the Urban County Government policy and illegal for the Government to let contracts to companies which knowingly or unknowingly practice discrimination in their employment practices. Violation of the above mentioned ordinances may cause a contract to be canceled and the contractors may be declared ineligible for future consideration.

Please sign this statement in the appropriate space acknowledging that you have read and understand the provisions contained herein. Return this document as part of your application packet.

Bidders

I/We agree to comply with the Civil Rights Laws listed above that govern employment rights of minorities, women, Vietnam veterans, handicapped and aged persons.



Signature

BBC Research & Consulting

Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: BBC Research & Consulting

Categories	Total	White (Not Hispanic or Latino)		Hispanic or Latino		Black or African- American (Not Hispanic or Latino)		Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino)		Asian (Not Hispanic or Latino)		American Indian or Alaskan Native (not Hispanic or Latino)		Two or more races (Not Hispanic or Latino)		Total	
		M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Administrators	5	3								1	1					4	1
Professionals	5	1	2		1						1					1	4
Superintendents																	
Supervisors																	
Foremen																	
Technicians																	
Protective Service																	
Para-Professionals																	
Office/Clerical																	
Skilled Craft																	
Service/Maintenance																	
Total:	10	4	2		1					1	2					5	5

Prepared by: Sameer Bawa, Managing Director
(Name and Title)

Date: 1 / 27 / 2021
Revised 2015-Dec-15

ATTACHMENT B



LFUCG MWDBE PARTICIPATION FORM
Bid/RFP/Quote Reference # 32-2020

The MWDBE and/or veteran subcontractors listed have agreed to participate on this Bid/RFP/Quote. If any substitution is made or the total value of the work is changed prior to or after the job is in progress, it is understood that those substitutions must be submitted to Central Purchasing for approval immediately. **Failure to submit a completed form may cause rejection of the bid.**

MWDBE Company, Name, Address, Phone, Email	MBE WBE or DBE	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1. EHI Consultants 333 West Vine Street Ste. 300 Lexington, Kentucky 40507 859-321-5643 holmes@ehiconsultants.com	MBE	Community engagement In-depth interviews	\$49,850	12.8%
2. Abundant Living 1500 Leestown Rd. #326 Lexington, KY 40511 859-587-9023 drshambramulder@abundantlivingpsychologicalandcoachingservices.com	MBE/VOSB	In-depth interviews Focus groups	\$12,150	3.2%
3.				
4.				

The undersigned company representative submits the above list of MWDBE firms to be used in accomplishing the work contained in this Bid/RFP/Quote. Any misrepresentation may result in the termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

BBC Research & Consulting
Company

January 28, 2021
Date

Sameer Bawa
Company Representative

Managing Director
Title



MWDBE QUOTE SUMMARY FORM

Bid/RFP/Quote Reference #32-2020

The undersigned acknowledges that the minority subcontractors listed on this form did submit a quote to participate on this project.

Company Name BBC Research & Consulting	Contact Person Sameer Bawa
Address/Phone/Email 1999 Broadway St. Suite 2200 Denver, CO 80202 (t): 303-321-2547x247 (e): sbawa@bbcresearch.com	Bid Package / Bid Date #32-2020 February 3, 2021

MWDBE Company Address	Contact Person	Contact Information (work phone, Email, cell)	Date Contacted	Services to be performed	Method of Communication (email, phone meeting, ad, event etc)	Total dollars \$\$ Do Not Leave Blank (Attach Documentation)	MBE * AA HA AS NA Female	Veteran
Abundant Living 1500 Leestown Rd. #326 Lexington, KY 40511	Shambra Mulder	859-587-9023	1/4/2021	Community Engagement Interviews	telephone and email	\$12,150	MBE AA	VOSB
EHI Consultants 333 W. Vine St. Ste. 300 Lexington, KY 40507	Ed Holmes	859-321-5643 holmes@ehiconsultants.com	1/4/2021	Interviews Focus Group	telephone and email	\$49,850	MBE AA	

(MBE designation / AA=African American / HA= Hispanic American/AS = Asian American/Pacific Islander/ NA= Native American)

The undersigned acknowledges that all information is accurate. Any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

BBC Research & Consulting
Company

Sameer Bawa
Company Representative

January 28, 2021
Date

Managing Director
Title

GENERAL PROVISIONS

1. Each Respondent shall comply with all Federal, State & Local regulations concerning this type of service or good.

The Respondent agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, *29 U.S.C. 650 et. seq.*, as amended, and KRS Chapter 338. The Respondent also agrees to notify the LFUCG in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Respondent agrees to indemnify, defend and hold the LFUCG harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

2. Failure to submit ALL forms and information required in this RFP may be grounds for disqualification.
3. Addenda: All addenda, if any, shall be considered in making the proposal, and such addenda shall be made a part of this RFP. Before submitting a proposal, it is incumbent upon each proposer to be informed as to whether any addenda have been issued, and the failure to cover in the bid any such addenda may result in disqualification of that proposal.
4. Proposal Reservations: LFUCG reserves the right to reject any or all proposals, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by a Respondent in the preparation of proposals.
6. Changes/Alterations: Respondent may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the proposal, and received by LFUCG prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of proposal".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from a Respondent.
8. Bribery Clause: By his/her signature on the bid, Respondent certifies that no employee of his/hers, any affiliate or Subcontractor, has bribed or attempted to bribe an officer or employee of the LFUCG.
9. Additional Information: While not necessary, the Respondent may include any product brochures, software documentation, sample reports, or other documentation that may assist LFUCG in better understanding and evaluating the Respondent's response. Additional documentation shall not serve as a substitute for other documentation which is required by this RFP to be submitted with the

proposal,

10. Ambiguity, Conflict or other Errors in RFP: If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify LFUCG of such error in writing and request modification or clarification of the document if allowable by the LFUCG.
11. Agreement to Bid Terms: In submitting this proposal, the Respondent agrees that it has carefully examined the specifications and all provisions relating to the work to be done attached hereto and made part of this proposal. By acceptance of a Contract under this RFP, proposer states that it understands the meaning, intent and requirements of the RFP and agrees to the same. The successful Respondent shall warrant that it is familiar with and understands all provisions herein and shall warrant that it can comply with them. No additional compensation to Respondent shall be authorized for services or expenses reasonably covered under these provisions that the proposer omits from its Proposal.
12. Cancellation: If the services to be performed hereunder by the Respondent are not performed in an acceptable manner to the LFUCG, the LFUCG may cancel this contract for cause by providing written notice to the proposer, giving at least thirty (30) days notice of the proposed cancellation and the reasons for same. During that time period, the proposer may seek to bring the performance of services hereunder to a level that is acceptable to the LFUCG, and the LFUCG may rescind the cancellation if such action is in its best interest.

A. Termination for Cause

- (1) LFUCG may terminate a contract because of the contractor's failure to perform its contractual duties
- (2) If a contractor is determined to be in default, LFUCG shall notify the contractor of the determination in writing, and may include a specified date by which the contractor shall cure the identified deficiencies. LFUCG may proceed with termination if the contractor fails to cure the deficiencies within the specified time.
- (3) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to:
 - (a) Failure to perform the contract according to its terms, conditions and specifications;
 - (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
 - (c) Late payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;
 - (d) Failure to diligently advance the work under a contract for construction services;
 - (e) The filing of a bankruptcy petition by or against the contractor;

- or
- (f) Actions that endanger the health, safety or welfare of the LFUCG or its citizens.

B. At Will Termination

Notwithstanding the above provisions, the LFUCG may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent, Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. **Assignment of Contract:** The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. **No Waiver:** No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.
15. **Authority to do Business:** The Respondent must be a duly organized and authorized to do business under the laws of Kentucky. Respondent must be in good standing and have full legal capacity to provide the services specified under this Contract. The Respondent must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Respondent to enter into this Contract. The Respondent will provide LFUCG with a copy of a corporate resolution authorizing this action and a letter from an attorney confirming that the proposer is authorized to do business in the State of Kentucky if requested. All proposals must be signed by a duly authorized officer, agent or employee of the Respondent.
16. **Governing Law:** This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Contract, the Parties agree that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.
17. **Ability to Meet Obligations:** Respondent affirmatively states that there are no actions, suits or proceedings of any kind pending against Respondent or, to the knowledge of the Respondent, threatened against the Respondent before or by

any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Respondent to perform its obligations under this Contract, or which question the legality, validity or enforceability hereof or thereof.

18. Contractor understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Contractor is an independent contractor at all times during the performance of the services specified.
19. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.
20. If any term or provision of this Contract shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.



Signature

January 27, 2021

Date

Firm Submitting Proposal: Browne, Bortz & Coddington, Inc. DBA BBC Research & Consulting

Complete Address: 1999 Broadway St. Suite 2200 Denver, CO 80202
 Street City Zip

Contact Name: Sameer Bawa Title: Managing Director

Telephone Number: 303-321-2547 x247 Fax Number: 303-399-0448

Email address: sbawa@bbcresearch.com



ADDENDUM #1

RFP Number: #32-2020

Date: January 19, 2021

Subject: Disparity and Availability Study

Address inquiries to:
Todd Slatin
(859) 258-3320
tslatin@lexingtonky.gov

TO ALL PROSPECTIVE SUBMITTERS:

Please be advised of the following clarifications to the above referenced RFP:

Posting of Q and A document and pre-proposal meeting participant list.

Questions & Answers

1. Is there a point difference based on outside vs. inside Kentucky for this proposal?

Response: No

2. Why did LFUCG decide to conduct a disparity and availability study?

Response: LFUCG had numerous discussions to conduct a disparity and availability study for several years and due to lack of funding, a study has not been conducted. However, due to recent protests and social unrest in the city of Lexington and a recent demand to increase minority business participation and spend, funds were approved to conduct a study. The disparity study will show the availability of Disadvantaged Business Enterprises (DBE's), Minority Business Enterprises (MBE's) and Women Business Enterprises (WBE's) in Lexington-Fayette County, Kentucky, to assist with goal setting, and to review current procurement processes/practices as they may relate to racial biases. In addition, the results of the disparity study will allow LFUCG to update its current procurement regulations and policies in this area in a legally defensible manner and better inform its decision making on providing potential necessary resources to certain businesses and the community, which in some instances may be based upon race or ethnicity if warranted.

3. Do you have a database system to supply operation contracts from LFUCG?



Response: LFUCG has three systems, i.e. PeopleSoft –financial, onboard vendors; Ionwave system – purchasing software system that notifies vendors of bid and proposal opportunities. Vendors can select a special classification such as DBE, MBE, WBE, VOSB and/or SDVOSB upon registration and provide copies of certification documents; B2GNow -Diverse Business Management System-utilized to track and monitor diverse spend on large contracts, subcontractor payments and the 10% MWDBE and 3% Veteran goals.

4. Does LFUCG have an amount budgeted for the disparity study or a budget range?

Response: Urban County Council has approved funds to conduct the disparity study; however, the budgeted amount cannot be disclosed. The range could possibly be \$350,000 - \$500,000 based on funds available.

5. In your contract database, does LFUCG have a concentration of businesses located in Lexington, KY or outside the city?

Response: Mostly concentrated in Lexington, KY and surrounding counties as it relates to the highest spend amount.

6. Do you define calendar period for the length of study?

Response: Per the second paragraph of Section III, *Empirical and Anecdotal Data Collection*, the study scope is the last four fiscal years.

7. Is LFUCG willing to write a letter of support/response to participants involved in the disparity study?

Response: Yes. In addition, an outreach event(s) will be scheduled to educate, and engage the contractor community related to the disparity study.

8. Can contact information be posted in of those who attendee?

Response: Yes. Contact information for those who attended the pre-proposal meeting will be provided via an addendum.

9. Is the disparity study a controversial issue or is there interest from the community?

Response: No. The disparity study is not a controversial issue. The disparity study has the support of LFUCG leadership and local leaders in the Lexington community who want an increase in diverse spend and minority business participation in LFUCG's enterprise programs.



10. In terms of data, can assistance be provided to make data fluent to the successful firm?

Response: Yes. Some of the data from our three primary systems will be easily decipherable (B2GNow & IonWave) while others (PeopleSoft & older tabulation sheets) will require more assistance from LFUCG.

11. Can you describe the review of the proposals? Review committee?

Response: The RFP selection committee will consist of LFUCG staff, leaders from state government entities, and other supplier diversity professionals from partnering entities such as University of Kentucky, Fayette County Public Schools (FCPS).

12. As it relates to survey involvement, are there survey research groups in Lexington, KY?

Response: We are not aware of any survey research groups in Lexington other than marketing type agencies; however, there are consultants who conduct surveys on the certified list of minority, women and veteran owned businesses.

13. As it related to Affirmative Action, has there been any litigation or lawsuits for this disparity study?

Response: This will be first disparity study conducted by LFUCG and research show litigation and lawsuits are possible.

14. For the cost proposal, is LFUCG requesting price on the tasks or deliverables? The cost for the Initial study and a refresher study separately or together?

Response: We would like to see a breakdown of tasks and deliverables for the initial study and a separate estimate for the refresher study.

15. Where should a respondent list the cost for the refresher study, i.e. in the methodology?

Response: A respondent may utilize their own template to respond to the scope of work for the disparity study.

16. Who is included in this study? The divisions that are referenced on LFUCG's website?



Response: LFUCG only and those divisions referenced on the website. The Bluegrass Airport and Lex Tran are separate entities from LFUCG and will not be a part of this disparity study.

17. The study scope includes DBE's. Does LFUCG receive federal funds directly or a sub-recipient?

Response: Depending on the type of contract, LFUCG can receive federal funds directly or as a sub-recipient. There are contracts related to highway construction and are funded by federal funds through the Kentucky Transportation Cabinet (KYTC) and KYTC assist the MBE Liaison with setting the DBE goals on those particular projects.

18. Is LFUCG procurement centralized in one system or will the respondent need to request information from other divisions to get data?

Response: Procurement is centralized in one office, all data from the study should come from Purchasing.

19. Is LFUCG interested in both winners and losers of the proposal and their racial/ethnicity?

Response: Yes. This data allows LFUCG to track businesses who are interested in doing business or have done business in order to track and monitor the diverse spend and MWDBE and Veteran goals.

20. Do you have bidder data in a particular format or database?

Response: The majority of our current bidder data will be in Excel or SQL. Some older information (bid tabulation sheets) will be in PDF format.

21. Are there waivers for incompetent bidders or do you have a waiver system?

Response: The Kentucky Model Procurement Code KRS 45 A was referenced.

22. Has LFUCG had to reissue bids or proposals?

Response: LFUCG typically releases 150 -175 bids annually and 50 -60 RFP's. Bids are typically reissued rather than RFP's. RFP's typically do not have to be reissued.

23. What are the racial/ethnic percentages for Lexington –Fayette, Kentucky?

Response: Please reference the Census website below,
<https://www.census.gov/quickfacts/lexingtonfayettekentucky>



24. Do you collect comprehensive subcontractor data, i.e. all subcontractors or specifically certified MWDBE and veteran subcontractors?

Response: LFUCG collects and tracks all subcontractor data regardless if they are certified or non-certified, disadvantaged, minority, women, and/or veteran owned by contract award.

25. Can you define the racial/ethnicities for the disparity study?

Response: Per Section IV, *Availability Study*, the racial ethnic categories are specified, i.e. African American, Asian American/Pacific Islander, Hispanic American, and Native American/Native Alaskan Indian.

26. Have there been any studies on racial profiling at traffic stops in Lexington Fayette County?

Response: We are not aware of any studies conducted by LFUCG on racial profiling at traffic stops in Lexington, Kentucky.

27. For the prime contract, MWBE subcontract and non-MWBE subcontract data the LFUCG maintains, please note whether these data include the following information for all, some, or none of the contracts. Please answer separately for each industry to be included in the study; also note whether the data are available electronically or as hard copy.

Firm name.
 Firm address, city, state, zip code.
 Firm phone number.
 Firm email address.
 Firm contact person.
 Firm owner race and gender.
 Firm owner veteran status.
 Prime contract number.
 Prime contract title.
 Start date of contract.
 End date of contract.
 Award amount.
 Amount paid (total or to date).
 Type of work performed.
 Industry category code, such as NAICS or NIGP.



Response: We have most of this information available for tracked contracts in B2GNow for primes, MWBEs and non-MWBE sub-contractors. Exceptions being, firm owner race and gender (data is available for approximately 50% of contracts), type of work performed (information is available for subcontractors but not primes) and industry code (self-reported by the vendor so it's not always listed). Some of the missing industry code/commodity code information from B2GNow may be ascertained from the IonWave database.

Pre-Proposal Meeting Email List
tslatin@lexingtonky.gov
smiller@lexingtonky.gov
jennifer.tuchband@keenindependent.com
vanessa@go2girl4results.com
DBlake@mtaltd.com
sbawa@bbcresearch.com
rholmes@ehiconsultants.com
holmes@ehiconsultants.com
benford@ehiconsultants.com
nayak@mwlight.com
nirnaya@mwlight.com
pia.bernardini@fourtheconomy.com
lmiller@miller3group.com
ilene.grossman@mwbelaw.com
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mcjenkins@GSPCLAW.COM
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SAyers@bbcresearch.com



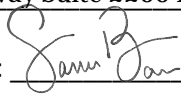


Todd Slatin, Director
Division of Central Purchasing

All other terms and conditions of the RFP and specifications are unchanged. This letter should be signed, attached to and become a part of your submittal.

COMPANY NAME: BBC Research & Consulting

ADDRESS: 1999 Broadway Suite 2200 Denver, CO 80202

SIGNATURE OF BIDDER:  _____

