

MWBE Disparity Study:

What Does it Mean?

April 18, 2019



What are disparity studies and are local governments required to have them?

- ▶ Disparity studies are designed to document past discrimination in the awarding of contracts by a particular [jurisdictional unit] as well as in the industry in general (Source: UNC School of Government)

- *Evaluates past contracting & procurement practices of local government*
- *Analyzes market area from which the contractors are drawn, and the availability of qualified M/WBE contractors within that market area*
- *Study then analyzes whether there is a statistically significant disparity between availability vs utilization of businesses*
- *Study evaluates anecdotal and statistical evidence, of discrimination in the local marketplace to determine if the governmental unit has been a passive participant in industry-wide discrimination.*



What are disparity studies and are local governments required to have them?

- ▶ Provides historical legal basis for the advent of disparity studies
 - *United States Supreme Court & Fourth Circuit Court of Appeals established & applied constitutional standards for affirmative action programs involving governmental procurement of goods & services*
 - Requires public entities to establish race- or ethnicity-specific programs based upon a compelling governmental interest in remedying past identified discrimination or its present effects
 - Established that the use of any such measure is narrowly tailored to achieve the governmental interest/goal of remedying the identified discrimination.
- ▶ Local governments are not required to have them, but they may work to support the constitutionality of a local government's M/WBE program
- ▶ Disparity Studies are agency specific for utilization analysis



NC State Agencies Disparity Study Procurements

Agency	Cost	Consulting Firm	Disparity Details
City of Asheville	\$319,948	BBC Research & Consulting	2018 Disparity Study 5-Yr Trend Study from July 1, 2012 – June 30, 2017 - Draft completed November 2018
City of Charlotte	\$345,750	BBC Research & Consulting Griffin & Strong, PC (hired for post-study work – Fee \$50,000)	2016-17 Disparity Study - Indicated the higher cost due to the volume of hard copy documents 5-Yr Trend Study from July 1, 2011 and June 30, 2016 - Completed November 2017
City of Durham/ Durham County	\$300,000	Griffin & Strong, PC	2015 Disparity Study 5-Yr Trend Study from July 1, 2007 – June 30, 2012 - Completed January 2015
City of Greensboro	\$299,320	Griffin & Strong, PC	2012 Disparity Study (Completed by MGT of America, Inc) 2018 Disparity Study - Fee also included add'l year consulting 5-Yr Study from July 1, 2011 – June 30, 2016 - Completed February 2018.
Guilford County Schools	\$199,899	MGT of America	2015 Disparity Study 4-Yr Trend Study from July 1, 2010 – June 30, 2014 - Completed July 2016.
NC DOA	\$1,000,000	Griffin & Strong, PC	2019 Disparity Study - Legislative approval for new study 2019 - Contract awarded Mar 2019
NC DOT	\$500,000 (2014) \$725,000 (2019)	Colette Holt & Associates (2014) Griffin & Strong, PC (2019)	2014 Disparity Study \$500,000 3-Yr Study July 1, 2010 – June 30, 2012 2019 Disparity Study \$725,000 (Amended from \$575,00 Original Contract) - Completion scheduled – Fall 2019
City of Winston-Salem	\$330,000	MGT of America, Inc.	2019 Disparity Study 5-Yr Trend Study for July 1 2012 – June 30, 2017 - Contract awarded Apr 2019 - Kick-off Mid-April 2019

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Guilford County - Current Snapshot...

- ▶ Guilford County has never had a disparity study
- ▶ Currently has limited MWBE program in place
 - *Currently not capturing sub-contractor & sub-consultant level utilization*
 - *Currently has minimal process for owner required Good Faith Efforts protocol*
 - *Currently does not have an adopted policy in place to ensure uniform program compliance*
 - *Recently established MWBE Director position to focus initiatives to increase MWBE utilization; establish county-wide MWBE Utilization Plan*
- ▶ Benefit of disparity Study
 - *An independent, objective review of MWBE participation in prime contracts and subcontracts*
 - Valuable information to both County leadership and to external groups that may be monitoring County's contracting practices
 - *Detailed policy review, identify if policies present barriers to MWBE inclusion*
 - *Recommendations for policy modifications with current information about the local marketplace to promote MWBE inclusion*
- ▶ Approximate estimated costs for Guilford County study \$300,000 - \$375,000

