

GUILFORD COUNTY, NC

2023 Disparity Study



GRIFFIN &
STRONG P.C.

235 Peachtree Street, NE Suite 400
Atlanta, GA 30303
Phone: (404) 584-9777
Fax: (404) 584-9730

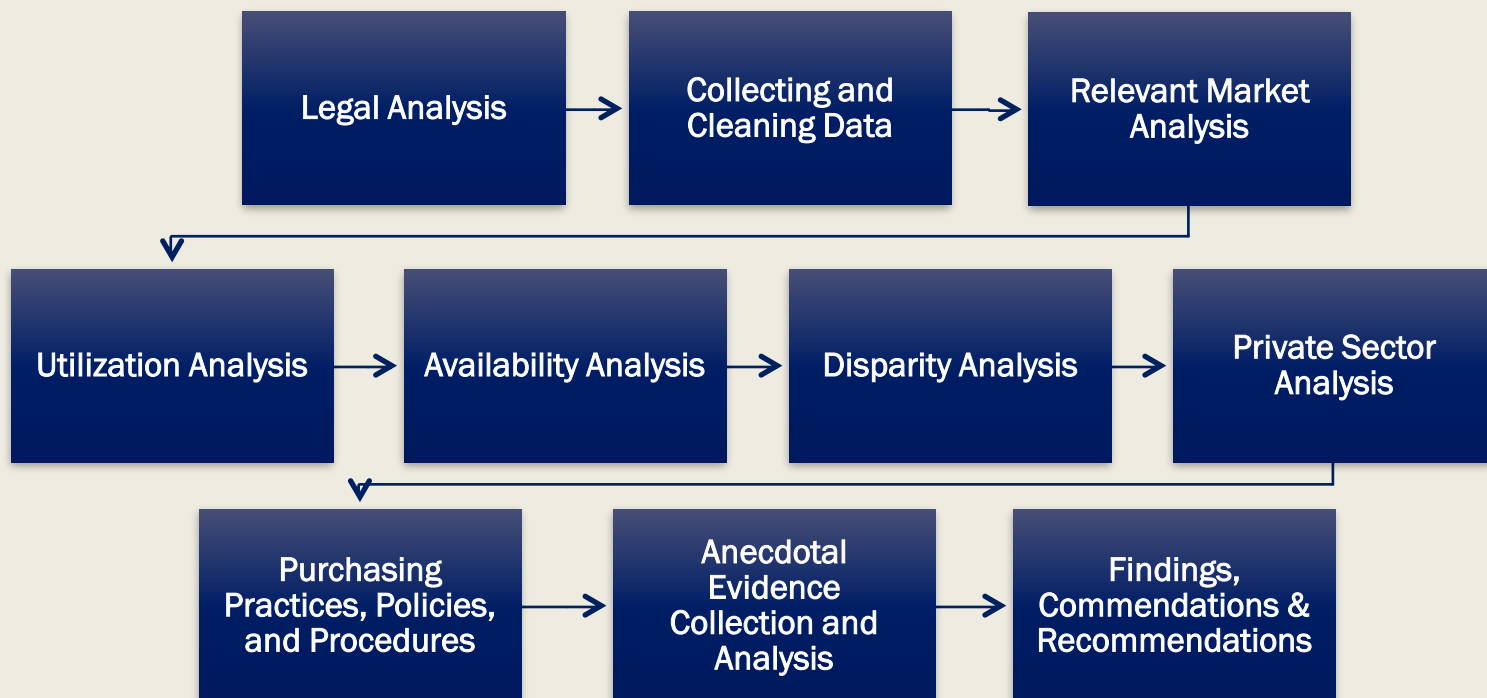
GUILFORD COUNTY, NC

2023 DISPARITY STUDY

AGENDA

1. Study Methodology
2. Study Parameters
3. Legal Findings
4. Quantitative Findings
 - Relevant Market
 - Utilization
 - Availability
 - Disparity
 - Marketplace Disparities
5. Qualitative Findings
 - Policy, Practices & Procedures Findings
 - Anecdotal Evidence
6. Overall Findings
7. Commendations
8. Recommendations

METHODOLOGY



STUDY PARAMETERS

Study Period:

FY2016-FY2020 (5 years)

Industry Categories

with Spend during Study Period (after exclusions):

- **Construction - \$45,294,545**
- **A&E – 7,069,509**
- **Professional Services - \$43,971,062**
- **Other Services - \$189,891,485**
- **Goods - \$169,117,875**
- **Total - \$455,344,476**

LEGAL FINDINGS

STUDY OUTCOMES

- GSPC found that Guilford County has a factual basis for establishing a race and gender-conscious program in addition to race and gender-neutral efforts.
- A regression analysis found that disparities by race, ethnicity, or gender status of the firm owners remained after controlling for capacity and other race and gender-neutral factors.
- Anecdotal findings and practices & procedures findings support the statistical analysis and regression analysis.

QUANTITATIVE FINDINGS

RELEVANT MARKET

- The geographic location (by county) where Guilford County spent at least 75% of its dollars during the Study Period.
- Guilford's Relevant Market is the 27 counties of: Guilford, Alamance, Caswell, Orange, Rockingham, Chatham, Hoke, Lee, Montgomery, Moore, Randolph, Richmond, Scotland, Davidson, Davie, Forsyth, Rowan, Stokes, Durham, Franklin, Granville, Person, Surry, Vance, Wake, Warren, and Yadkin Counties.
- Within those counties, Guilford Co spent
 - *94.81 % of Construction dollars*
 - *89.33 % of A&E dollars*
 - *80.58 % of Professional Services dollars*
 - *77.17 % of Other Services dollars*
 - *78% of Goods dollars*

QUANTITATIVE FINDINGS

MWBE TOTAL UTILIZATION (Prime + Sub) by Industry Category (in the Relevant Geographic Market)

| Business Ownership Classification | Construction | A&E | Professional Services | Other Services | Goods | TOTAL |
|-----------------------------------|----------------|----------------|-----------------------|----------------|----------------|----------------|
| | (%) | (%) | (%) | (%) | (%) | (%) |
| African American | 9.90% | 0.18% | 17.13% | 3.75% | 0.42% | 4.51% |
| Asian American | 0.00% | 0.00% | 0.13% | 1.32% | 8.71% | 3.71% |
| Hispanic American | 0.00% | 3.03% | 0.00% | 0.29% | 0.01% | 0.18% |
| American Indian | 0.00% | 0.00% | 0.00% | 0.01% | 0.00% | 0.00% |
| TOTAL MINORITY | 9.90% | 3.21% | 17.26% | 5.37% | 9.14% | 8.40% |
| Non-Minority Female | 3.04% | 51.47% | 9.85% | 5.48% | 1.91% | 5.12% |
| TOTAL MWBE | 12.93% | 54.68% | 27.11% | 10.85% | 11.05% | 13.52% |
| TOTAL NON-MWBE | 87.07% | 45.32% | 72.89% | 89.15% | 88.95% | 86.48% |
| TOTAL FIRMS | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% |

QUANTITATIVE FINDINGS

MWBE AVAILABILITY by Industry Category (in the Relevant Geographic Market)

| Business Ownership Classification | Construction | A&E | Professional Services | Other Services | Goods | All Industry Categories |
|-----------------------------------|----------------|----------------|-----------------------|----------------|----------------|-------------------------|
| | (%) | (%) | (%) | (%) | (%) | (%) |
| African American | 17.89% | 10.20% | 41.07% | 33.94% | 15.41% | 26.89% |
| Asian American | 1.34% | 5.10% | 2.29% | 2.21% | 1.81% | 2.12% |
| Hispanic American | 6.46% | 3.40% | 1.07% | 1.79% | 2.07% | 3.03% |
| American Indian | 0.54% | 0.00% | 0.61% | 0.45% | 0.52% | 0.47% |
| TOTAL MINORITY | 26.23% | 18.70% | 45.04% | 38.39% | 19.82% | 32.51% |
| Non-Minority Female | 15.94% | 22.38% | 11.91% | 11.33% | 17.36% | 13.98% |
| TOTAL MWBE | 42.17% | 41.08% | 56.95% | 49.72% | 37.18% | 46.49% |
| TOTAL NON-MWBE | 57.83% | 58.92% | 43.05% | 50.28% | 62.82% | 53.51% |
| TOTAL FIRMS | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% |

QUANTITATIVE FINDINGS

MWBE DISPARITIES

Summary of Underutilization of MWBEs in Total Utilization

| Business Owner Classification | Construction | A&E | Professional Services | Other Services | Goods |
|-------------------------------|--------------|-----|-----------------------|----------------|-------|
| African American | X | X | X | X | X |
| Asian American | X | X | X | X | **** |
| Hispanic American | X | X* | X | X | X |
| American Indian | X | ** | X | X | X |
| Non-minority Women | X | *** | X | X | X |

*Not statistically significant

** There was zero utilization and zero availability.

*** Non-minority women have a large share of a low overall County A&E spend

**** High spend with a small number of firms.

QUANTITATIVE FINDINGS

MARKETPLACE DISPARITIES

As determined through Regression Analysis, Survey of Business Owners & Building Permit Data,

In the Greensboro-High Point Metropolitan Statistical Area (“MSA”) from the US Census Bureau.

- **Controlling for race and gender-neutral factors, as compared to non-MWBEs:**
 - *Women, African Americans and Pacific Islanders are less likely to be self-employed.*
 - *African Americans and Native Americans (whether or not certified) have more loan denials.*
 - *Firms owned by Hispanic Americans and Women are more likely to have never secured a contract as a prime or subcontractor with the County.*
 - *Firm ownership by African Americans, Other Race Americans and Women report experiencing perceived discrimination in the marketplace.*
 - *Non-MWBEs account for almost all Building Permits.*

QUALITATIVE FINDINGS: POLICIES, PRACTICES & PROCEDURES REVIEW

As determined through personnel interviews and documents review.

Bonding & Insurance

- Performance and payment bonds are required for construction and repair contracts of more than \$300K which can act as barrier to MWBE participation but CMAA and Mentor/Protégé project models support MWBE participation. Over 10% of African American and Hispanic American firm owners surveyed named performance bond requirements as a barrier to doing business with the County.

Prompt Payment

- There are reported complaints about issues regarding prompt payment.

MWBE Office.

- There is no written MWBE policy, but goal-based requirements were included in RFP language during the Study Period and points were given for MWBE participation. The current staff works with bidders to meet the aspirational goals from 10% to 16% for total MWBE participation as set by the Board of Commissioners in early 2017. The County uses the state's Good Faith Efforts point system and works with bidders who make a good faith effort but do not meet the goals.

Certification

- The MWBE Office accepts certified HUB and non-certified HUB vendors.

Budget & Staffing

- The current MWBE office is staffed with less than the requested positions.

QUALITATIVE FINDINGS: ANECDOTAL EVIDENCE

As determined through 4 public meetings totaling 62 attendees, 3 focus groups totaling 13 participants, 31 1-on-1 interviews, 145 Survey of Business Owner responses.

- There are concerns about efforts to avoid Good Faith Efforts.
- Many firms report competing with large companies as a barrier to doing business with the County.
- Access to commercial financing acts a barrier, particularly for African American owned firms.
- A majority of firm owners report an informal network as a barrier to doing business with the County.
- There is a lack of clarity among firm owners about how to get registered with the County.

COMMENDATIONS

COMMENDATION 1: Staffing Changes

COMMENDATION 2: Use of CMAR & Mentor/Protégé model to increase minority firm participation

RECOMMENDATIONS

RECOMMENDATION 1: DRAFT OFFICIAL MWBE PROGRAM POLICY WITH ATTACHED PROCEDURAL MANUAL INCLUDING:

Delegation Authority to Craft Procedure to Implement Policy-provides the authority to shape the program elements without having to come back to the County Commission.

Commercial Non-Discrimination Procurement Provision-provides the authority to question any discriminatory behaviors and reject bids if discrimination is found; and to work with with apparent awardees to adhere to goals.

RECOMMENDATIONS

RECOMMENDATION 2: SET MBE AND WBE CONTRACT-BY-CONTRACT GOALS

Based upon disparities found in the Study, the County should set individual goals based upon the NIGP Codes of work on each contract when there are subcontracting opportunities. Firms should demonstrate a Good Faith Effort if goals are not met.

RECOMMENDATIONS

RECOMMENDATION 3: INSTITUTE A SHELTERED MARKET PROGRAM

The County will set a dollar threshold under which only small businesses can bid on contracts. This is a race-neutral remedy.

RECOMMENDATIONS

RECOMMENDATION 4: ENHANCE CONTRACT COMPLIANCE EFFORTS

Assessment – An initial assessment of individual firm availability and capacity for specific scopes of work.

•Outreach – An on-going campaign to let the MWBE business community know that the County wants to do business with them and that the County is willing to work with firms to create opportunities and assist, particularly local firms in building capacity.

•Certification/Verification –the County should continue to encourage and assist firms in getting certified with the HUB office.

•Procurement – All applicable solicitation packages and awarded contracts should include the MWBE commitments as contract terms, as well as County participation requirements, such as all firms performing commercially useful functions.

•Tracking & Monitoring – It is essential that there is close tracking and monitoring of vendor performance and the efficient closeout of projects to verify that MWBE firms are actually performing the work that they contracted to perform and that they are compensated in a timely manner and in the amounts committed. Monitoring vendor performance should also assure equal and fair treatment on contracts.

RECOMMENDATIONS

RECOMMENDATION 5: REVIEW BONDING REQUIREMENTS

Although there was a relatively small percentage of firms that complained of bonding being a barrier, more than 10% of African American and Hispanic American owned firms stated that bonding was a barrier. Therefore, it suggests that the County should at least regularly review bonding requirements on low-risk projects and permit the purchasing agent to waive bonding on low-risk contracts.

RECOMMENDATIONS

RECOMMENDATION 6: IMPLEMENT PROCUREMENT FORECASTING AT 12-18 MONTHS PRIOR TO SOLICITATION

56.6% of all respondents to the Survey of Business Owners complained of an informal network. Part of an informal network is that firms that already have relationships with the County might know about bids before they are issued. One way to partially address this issue is to forecast upcoming solicitation opportunities as far ahead of the bid as possible. This should be done once the annual budget is approved giving equal time to prepare for bids, time to team or joint venture, and time for the County to do targeted outreach.

RECOMMENDATIONS

RECOMMENDATION 7: IMPROVE COMMUNICATION BETWEEN COUNTY, BIDDERS AND POTENTIAL BIDDERS

Business owners reported to GSPC a desire for more specific methods of learning about bids, checking on bid status and receiving feedback on submitted bids. Three ways to improve communication are:

- 1. Provide Debriefings*
- 2. Better Explain the scoring matrix and provide budget information*
- 3. Provide clear directions and guidance on how to do business with the County*

RECOMMENDATIONS

RECOMMENDATION 8: INVEST IN BROADER AND MORE TARGETED OUTREACH & SUPPORTING SERVICES

It is recommended that the County:

1. Invest in more training for certification/registration
2. Partner with higher education resources to ready a pipeline of entrepreneurs and trades.
3. Offer professional development
4. Offer routine information and support meetings

RECOMMENDATIONS

RECOMMENDATION 9: REQUIRE JOINT VENTURES ON LARGE CONSTRUCTION PROJECTS

It is recommended that the County require prime contractors to joint venture with another firm that “does not look like them” on large construction projects. This provides capacity building to smaller firms.

RECOMMENDATIONS

RECOMMENDATION 10: INSTITUTE DATA REFORM

It is recommended that the County:

1. Add unique vendor numbers & NIGP code to vendor system.
2. Track subcontractor award and payment data for all subcontractors. Highly recommended that the County secure contract compliance software which will reduce the staff efforts needed to track and can make prime contractors more accountable to secure and pay subcontractors.
3. Track awards and amendments and connect them to payments.
4. Create a database of bidders.

RECOMMENDATIONS

RECOMMENDATION 11: ALLOCATE ADDITIONAL RESOURCES & STAFFING

The recommendations are a substantial change to the current efforts to increase MWBE participation. The current staffing levels are insufficient to implement the program recommendations. Therefore, the staffing and resources plans should accompany any plans to implement the recommendations.

NEXT STEPS TO IMPLEMENTATION

The next step to implement the Recommendations is for the County Commission to accept the Findings of the Study and adopt its Recommendations.

Find us on the Web At
Www.gspclaw.com

Q&A

