

Cook County, Illinois Disparity Study 2022



COOK COUNTY DISPARITY STUDY

2022

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About the Study Team

Colette Holt & Associates (“CHA”), is a national law and consulting firm specializing in issues related to Minority, Women and Disadvantaged Business Enterprise programs, business diversity initiatives, and affirmative action issues. The firm has conducted court-approved disparity studies and designed court-approved programs for over 30 years, including for numerous governments. CHA also provides training, monitoring and investigative services across the country to agencies and businesses. CHA is led by Colette Holt, J.D., the founding principal of Colette Holt & Associates and a nationally recognized attorney and expert. Ms. Holt is also a frequent expert witness, and a media author, on these issues. In addition to Ms. Holt, the firm consists of Steven C. Pitts, Ph. D., who serves as the team’s economist and statistician; Ilene Grossman, B.S., Project Administrator; Glenn Sullivan, B.S., Director of Technology; Victoria Farrell, MBA, Director Qualitative Data Collection; and Joanne Lubart, J.D., Associate Counsel.

Sandi Llano & Associates, Inc. With more than 30 years of experience, Sandi Llano established Sandi Llano & Associates, Inc. to continue advocating for equal access to business opportunities for disadvantaged, minority- and women-owned firms. After retiring as the Disadvantaged Business Enterprise Director for Metra, Ms. Llano provides consulting services to governments and firms on compliance with contracting equity requirements, best practices for M/W/DBE programs, and representation for M/W/DBEs as their mentor and advocate.

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I. EXECUTIVE SUMMARY

Colette Holt & Associates (“CHA”) was retained by Cook County (“County”) to perform a disparity study examining its Minority- and Women-owned Business Enterprise (“M/WBE”) Program for contracts issues by Cook County Government and Cook County Health and Hospital System (“Hospitals”). In this Study, we determined Cook County’s utilization of M/WBEs during fiscal years 2015 through 2019; the availability of these firms as a percentage of all firms in the County’s geographic and industry market areas; and any disparities between Cook County’s utilization of M/WBEs and M/WBE availability. We further analyzed disparities in the Chicago Metropolitan Area and the wider Illinois economy, where affirmative action is rarely practiced, to evaluate whether barriers continue to impede opportunities for minorities and women when remedial intervention is not imposed. We also gathered qualitative data about the experiences of minority- and woman-owned firms in obtaining Cook County contracts and the associated subcontracts. Based on these findings, we evaluated the Cook County M/WBE Program for conformance with constitutional standards and national best practices for government contracting affirmative action programs.

The methodology for this study embodies the constitutional principles of *City of Richmond v. Croson*, Seventh Circuit Court of Appeals case law and best practices for designing race- and gender-conscious and small business contracting programs. The CHA approach has been specifically upheld by the federal courts. It is also the approach developed by Ms. Holt for the National Academy of Sciences that is now the recommended standard for designing legally defensible disparity studies.

A. Summary of Strict Constitutional Standards Applicable to Cook County’s Affirmative Action Program

To be effective, enforceable, and legally defensible, a race-based program for public sector contracts must meet the judicial test of constitutional “strict scrutiny”. Strict scrutiny is the highest level of judicial review. Cook County must meet this test to ensure any race- and gender-conscious program is in legal compliance.

Strict scrutiny analysis has two prongs:

1. The government must establish its “compelling interest” in remediating race discrimination by current “strong evidence” of the persistence of discrimination. Such evidence may consist of the entity’s “passive participation” in a system of racial exclusion.

2. Any remedies adopted must be “narrowly tailored” to that discrimination; the program must be directed at the types and depth of discrimination identified.¹

The compelling governmental interest prong has been met through two types of proof:

1. Statistical evidence of the underutilization of minority or woman firms by the agency and/or throughout the agency’s geographic and industry market area compared to their availability in the market area.
2. Anecdotal evidence of race- or gender-based barriers to the full and fair participation of minority and woman firms in the market area and seeking contracts with the agency. Anecdotal data can consist of interviews, surveys, public hearings, academic literature, judicial decisions, legislative reports, and other information.

The narrow tailoring prong has been met by satisfying five factors to ensure that the remedy “fits” the evidence:

1. The necessity of relief;
2. The efficacy of race-neutral remedies at overcoming identified discrimination;
3. The flexibility and duration of the relief, including the availability of waiver provisions;
4. The relationship of numerical goals to the relevant market; and
5. The impact of the relief on the rights of third parties.

Most federal courts have subjected preferences for Woman-Owned Business Enterprises to “intermediate scrutiny”. Gender-based classifications must be supported by an “exceedingly persuasive justification” and be “substantially related to the objective”.² The quantum of evidence necessary to satisfy intermediate scrutiny is less than that required to satisfy strict scrutiny. However, appellate courts have applied strict scrutiny to the gender-based presumption of social disadvantage in reviewing the constitutionality of the DBE program or held that the results would be the same under strict scrutiny.

Proof of the negative effects of economic factors on M/WBEs and the unequal treatment of such firms by actors critical to their success will meet strict scrutiny. Studies have been conducted to gather the statistical and anecdotal evidence necessary to support the use of race- and gender-conscious measures to combat discrimination. These are commonly referred to as “disparity studies” because they analyze any disparities between the opportunities and experiences of minority-

1. *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989).

2. *Cf. United States v. Virginia*, 518 U.S. 515, 532 n.6 (1996).

and woman-owned firms and their actual utilization compared to White male-owned businesses. Specific evidence of discrimination or its absence may be direct or circumstantial and should include economic factors and opportunities in the private sector affecting the success of M/WBEs. High quality studies also examine the elements of the agency's program to determine whether it is sufficiently narrowly tailored.

B. Cook County's Minority- and Woman-owned Business Enterprise Program

1. Governing Statutes, Policy and Objectives

Cook County has adopted a policy to prevent discrimination in its procurement process and to eliminate barriers to participation in procurements by all persons, regardless of race, sex, or ethnicity. The County's first affirmative action Program was adopted in 1988 to achieve full and equitable participation of M/WBEs. After ceasing to set goals because of a 2001 injunction, the County commissioned a review of the utilization of M/WBEs in its construction contracts and two subsequent disparity studies. These reports found ample evidence to support the use of narrowly tailored race- and gender-conscious remedies. The Program is currently authorized under Cook County's Code of Ordinances ("M/WBE Ordinance"), Division 8, §34-260 et seq.

2. M/WBE Program Administration and Elements

The Program is administered by the Office of Contract Compliance ("OCC"), under the direction of the Contract Compliance Director ("CCD"). The OCC has five primary responsibilities:

1. Certification of Minority-, Women-, Veteran-, and Service-Disabled Veteran-owned Business Enterprises ("MBE", "WBE", "VBE", "SDVBES").
2. Ensuring that all County purchases comply with the M/WBE Ordinance.
3. Educating County User Departments and vendors on the importance and the process of complying with the M/WBE Ordinance.
4. Encouraging greater inclusion of M/WBEs and VBEs on County procurements and
5. Monitoring the success of the process.

The CCD is assisted by the using departments to carry out these functions. This includes setting contract specific goals, identifying available M/WBEs, and notification of instances of suspected non-compliance and fraud. A Contract Compliance Committee reviews procedures, proposed modifications to the

Program or Division 8 of the Ordinance, and complaints referred by the CCD or the Chief Procurement Officer (“CPO”).

a. M/WBE Program Eligibility

To participate in the M/WBE Program, a firm must be a for-profit enterprise at least 51% owned, managed and controlled day-to-day by a minority individual or a woman. Ownership must be demonstrated in the firm’s relevant legal documents including by-laws, shareholder agreements, partnership agreements, or operating agreements. The majority minority or woman owner must be an “economically disadvantaged” individual, defined as a personal net worth less than \$2M, which is indexed annually. The current limit is \$2,210,847.

M/WBEs must also be small, local business enterprises. The County has adopted the small business size standards set by the U.S. Small Business Administration. A “Local Business” is defined as a business located within the Illinois counties of Cook, DuPage, Kane, Lake, McHenry or Will and has the majority of its regular full-time work force located in this region.

b. Race- and Gender-Neutral Measures

The Ordinance specifies implementation of race- and gender-neutral measures that benefit and assist all small businesses equally, including certified firms. These include providing information on upcoming contacts; offering training and technical assistance; holding pre-bid conferences to assist certified firms to understand the requirements of a specific project and to network with other firms; maintaining databases of interested firms; monitoring compliance with Program requirements; and developing reports for the Board and the public.

c. Program Goals

The County has adopted an overall, annual aspirational goal of 25% participation by MBEs and 10% participation by WBEs for non-construction contracts. For construction contracts, the annual aspirational goal is 24% for MBEs and 10% for WBEs. In addition, the County has set an annual “best efforts” goal of 35% for participation of Protected Class Enterprises.

MBE and WBE participation goals are established by the Director, in consultation with the CPO and the using agency. Contract goals are set based on the availability of three or more certified MBEs and WBEs in the subcontractable scopes of work required by the procurement.

d. Program Compliance Policies and Procedures

In general, Cook County follows the outlines of the Disadvantaged Business Enterprise (“DBE”) Program for U.S. Department of Transportation contracts, contained in 49 C.F.R. Part 26.

All compliance documents, including a Utilization Plan and a Letter of Intent from each M/WBE that will perform on the contract and its Letter of Certification, must be submitted with the bid or proposal. If the bidder or proposer is unable to meet the M/WBE goals for the contract, a Good Faith Efforts Transparency Report, Good Faith Efforts Transparency Report Guide and Petition for Waiver, must be submitted with the bid or proposal to be considered responsive to the solicitation. A bidder that is unable to meet the contract despite its GFEs to do so, may request a partial or full waiver of the goal(s).

e. Counting Participation

A contractor, subcontractor or supplier cannot be utilized as both an MBE and a WBE on the same Contract. Only the amount or dollar value of work performed by the MBE’s or WBE’s own workforce is counted toward the goal. This includes the cost of supplies, materials and equipment leased or provided by the MBE and WBE and the amount of fees or commissions charged by the MBE or WBE firm, as long as they are reasonable and are customary. For Joint Ventures, only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that is performed by the MBE or WBE with its own workforce is counted.

f. Outreach Activities

Cook County conducts broad-based outreach to encourage M/WBE participation in County procurement opportunities and to assist M/WBEs in meeting their strategic and financial objectives. The Cook County Small Business Source offers free one-on-one advisory services through a number of local Business Support Organizations. In addition to advisory services, these organizations provide access to events and other resources.

M/WBEs can take advantage of many programs and resources offered by the County’s Department of Planning and Development, which helps businesses further their growth objectives via tax incentives and the BUILT IN COOK loan program. BUILT IN COOK includes a special Emerging Business Development Loan program for certified M/WBEs, with loans ranging in size from \$35,000 to \$500,000 used typically to finance assets needed for construction, procurement, or other services provided to public or institutional users.

OCC also partners with over 18 local organizations that offer resources and technical assistance to M/WBE firms. Cook County departments, in cooperation with State of Illinois and City of Chicago agencies, host various fairs, conferences and meetings throughout the year. The County also participates in events and meetings sponsored by assist agencies, universities and local government agencies. The Office of the Chief Procurement Officer (“OCPO”) publishes an annual Buying Plan that is posted to the OCC website. The Buying Plan provides insight into the OCPO’s operations and serves as a resource to help vendors to plan for future solicitations.

g. Post Award Compliance

OCC, in cooperation with the using departments, monitors compliance with the approved Utilization Plan during contract performance. The County implements the electronic data collection and management system used by most Chicago agencies, including the City of Chicago. This system provides subcontractors with information about the payments claimed by the prime contractor. It also provides reports to track in close to real time achievement of goals and any shortfalls, so that problems can be addressed while there is time to correct them. Failure to comply with the approved Utilization Plan constitutes a breach of contract and is grounds for rejection of a subsequent bid or proposal and may expose the relevant contractor and subcontractors to additional sanctions and penalties.

3. Business Owners’ Experiences with Cook County’s M/WBE Program

To explore the experiences of businesses seeking opportunities on County contracts, we solicited input from 93 individuals and sought their suggestions for changes. We also collected written comments from 447 businesses about their experiences with Cook County’s Program through an electronic survey. The following are summaries of the issues discussed during the interviews and in the survey comments.

a. Business Owner Interviews

Access to Information and Networking Opportunities: Several interviewees reported that they found it challenging to obtain information about upcoming opportunities or access feedback about their bids. Some MBEs reported that they were unable to get answers about the reason they were not selected or even the status of the solicitation. Lack of information about the outcomes of specific solicitations and prime contractors’ compliance with M/WBE requirements was a repeated source of frustration.

Obtaining work on County projects: There was near universal agreement that contract goals remain necessary to ensure M/WBE participation. Several M/WBEs praised the County's Program. Some certified firm owners requested more opportunities to network with larger firms. Several MBEs suggested a size-based setaside program to allow similar firms to compete against one another. Issues with prompt payment by the County hindered M/WBEs' ability to work on agency jobs. It was reported that the contract close out process especially delayed payments.

There were numerous complaints about the County's (and other local agencies') use of construction managers to oversee its projects. Some MBEs stated that the County staff overseeing construction projects need more in-depth understanding of the industry.

Technical assistance and supportive services: M/WBE requested additional support for navigating the certification process. A mentor-protégé program or one-to-one coaching were additional initiatives that would help M/WBEs. This was supported by a large prime construction contractor.

Meeting MBE and WBE Goals: Most bidders reported they were able to meet contract goals. Some large vendors, especially in health care, often struggled to meet contract goals. A few bidders were not able to meet goals. Some large firms suggested more training for M/WBEs so that the small firms can be successful on County projects. Slow payment by the County hampers the ability of large prime firms to work with small firms and M/WBEs. Many primes stated that using the County's reporting system for Program compliance was easy.

b. Business Owner Survey Comments

Survey comments were consistent with those from the interviews. Overall, minority and woman business owners strongly supported the Program. Certification and goals remain critical to obtaining work. However, several respondents noted some challenges. M/WBEs thought the County could do more to encourage M/WBE participation by offering more technical support, promoting networking between M/WBE and prime firms, performing more Program oversight to ensure compliance and overcoming barriers such as insurance and bonding requirements. Slow payment by both the County and prime contractors that creates additional financial strain was also reported.

C. Utilization, Availability and Disparity Analyses of Cook County’s Contracts

The Study examined Cook County’s contract dollars awarded for fiscal years 2015 through 2019. The contracts covered those issued by Cook County Government (hereinafter, “Main Data”) contracts and those issued by Cook County Health and Hospital System (hereinafter, “Hospital”). Because of the large number of contracts, we developed a stratified random sample from the initial 1,624 contracts. The Main Data Final Contract Data File (“MFCDF”) contained 144 prime contracts and 264 subcontracts.³ The net dollar value of contracts to prime contractors and subcontractors was \$768,668,485. The Hospital Final Contract Data File (“HFCDF”) contained 223 prime contracts and 302 subcontracts. The net dollar value of contracts to prime contractors and subcontractors was \$1,238,088,349. The following tables present key results of this analysis.

1. Utilization, Availability and Disparity Analyses of Cook County’s Contracts – Main Data

Table 1-1 presents data on the 115 North American Industry Classification System (“NAICS”) codes contained in the MFCDF. The third column represents the share of all contracts to firms performing work in a particular NAICS code. The fourth column presents the cumulative share of spending from the NAICS code with the largest share to the NAICS code with the smallest share.

Table 1-1: Industry Percentage Distribution of Cook County Contracts by Dollars – Main Data

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
524114	Direct Health and Medical Insurance Carriers	53.8%	53.8%
541511	Custom Computer Programming Services	11.2%	65.1%
238210	Electrical Contractors and Other Wiring Installation Contractors	5.7%	70.8%
236220	Commercial and Institutional Building Construction	3.9%	74.7%
333318	Other Commercial and Service Industry Machinery Manufacturing	3.1%	77.8%
238290	Other Building Equipment Contractors	1.9%	79.7%

3. Missing North American Industry Classification System (“NAICS”) codes of prime contractors and subcontractors were assigned by CHA.

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
541330	Engineering Services	1.9%	81.7%
541512	Computer Systems Design Services	1.9%	83.5%
237310	Highway, Street, and Bridge Construction	1.5%	85.0%
811213	Communication Equipment Repair and Maintenance	1.3%	86.3%
522110	Commercial Banking	1.1%	87.4%
517911	Telecommunications Resellers	1.0%	88.4%
541611	Administrative Management and General Management Consulting Services	0.9%	89.3%
561440	Collection Agencies	0.9%	90.2%
237130	Power and Communication Line and Related Structures Construction	0.9%	91.1%
541211	Offices of Certified Public Accountants	0.9%	92.0%
238220	Plumbing, Heating, and Air-Conditioning Contractors	0.8%	92.9%
423830	Industrial Machinery and Equipment Merchant Wholesalers	0.6%	93.4%
238330	Flooring Contractors	0.6%	94.0%
561320	Temporary Help Services	0.5%	94.5%
424130	Industrial and Personal Service Paper Merchant Wholesalers	0.3%	94.8%
811111	General Automotive Repair	0.3%	95.1%
238910	Site Preparation Contractors	0.3%	95.3%
561720	Janitorial Services	0.2%	95.6%
811211	Consumer Electronics Repair and Maintenance	0.2%	95.8%
323111	Commercial Printing (except Screen and Books)	0.2%	96.0%
424410	General Line Grocery Merchant Wholesalers	0.2%	96.2%
238120	Structural Steel and Precast Concrete Contractors	0.2%	96.3%
237990	Other Heavy and Civil Engineering Construction	0.2%	96.5%
424120	Stationery and Office Supplies Merchant Wholesalers	0.1%	96.7%
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	0.1%	96.8%
541810	Advertising Agencies	0.1%	96.9%

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NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
541370	Surveying and Mapping (except Geophysical) Services	0.1%	97.1%
424950	Paint, Varnish, and Supplies Merchant Wholesalers	0.1%	97.2%
541380	Testing Laboratories	0.1%	97.3%
624190	Other Individual and Family Services	0.1%	97.4%
238310	Drywall and Insulation Contractors	0.1%	97.5%
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	0.1%	97.6%
424420	Packaged Frozen Food Merchant Wholesalers	0.1%	97.7%
441110	New Car Dealers	0.1%	97.8%
518210	Data Processing, Hosting, and Related Services	0.1%	97.9%
238160	Roofing Contractors	0.1%	98.0%
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers	0.1%	98.1%
424440	Poultry and Poultry Product Merchant Wholesalers	0.1%	98.2%
423840	Industrial Supplies Merchant Wholesalers	0.1%	98.3%
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	0.1%	98.4%
423110	Automobile and Other Motor Vehicle Merchant Wholesalers	0.1%	98.5%
541310	Architectural Services	0.1%	98.5%
541519	Other Computer Related Services	0.1%	98.6%
238350	Finish Carpentry Contractors	0.1%	98.7%
423510	Metal Service Centers and Other Metal Merchant Wholesalers	0.1%	98.8%
424690	Other Chemical and Allied Products Merchant Wholesalers	0.1%	98.8%
561730	Landscaping Services	0.1%	98.9%
444190	Other Building Material Dealers	0.1%	99.0%
813319	Other Social Advocacy Organizations	0.1%	99.0%
323113	Commercial Screen Printing	0.1%	99.1%
484110	General Freight Trucking, Local	0.1%	99.1%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
562998	All Other Miscellaneous Waste Management Services	0.1%	99.2%
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	0.04%	99.2%
624110	Child and Youth Services	0.04%	99.3%
484210	Used Household and Office Goods Moving	0.04%	99.3%
424480	Fresh Fruit and Vegetable Merchant Wholesalers	0.04%	99.3%
443142	Electronics Stores	0.04%	99.4%
541110	Offices of Lawyers	0.03%	99.4%
812930	Parking Lots and Garages	0.03%	99.4%
541990	All Other Professional, Scientific, and Technical Services	0.03%	99.5%
562910	Remediation Services	0.03%	99.5%
238990	All Other Specialty Trade Contractors	0.03%	99.5%
237110	Water and Sewer Line and Related Structures Construction	0.03%	99.6%
621420	Outpatient Mental Health and Substance Abuse Centers	0.03%	99.6%
423710	Hardware Merchant Wholesalers	0.02%	99.6%
332312	Fabricated Structural Metal Manufacturing	0.02%	99.6%
541614	Process, Physical Distribution, and Logistics Consulting Services	0.02%	99.7%
511210	Software Publishers	0.02%	99.7%
423420	Office Equipment Merchant Wholesalers	0.02%	99.7%
423440	Other Commercial Equipment Merchant Wholesalers	0.02%	99.7%
812990	All Other Personal Services	0.02%	99.7%
423690	Other Electronic Parts and Equipment Merchant Wholesalers	0.02%	99.8%
541870	Advertising Material Distribution Services	0.02%	99.8%
424490	Other Grocery and Related Products Merchant Wholesalers	0.02%	99.8%
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	0.02%	99.8%

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NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
624310	Vocational Rehabilitation Services	0.01%	99.8%
424110	Printing and Writing Paper Merchant Wholesalers	0.01%	99.8%
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	0.01%	99.8%
238140	Masonry Contractors	0.01%	99.9%
238320	Painting and Wall Covering Contractors	0.01%	99.9%
621330	Offices of Mental Health Practitioners (except Physicians)	0.01%	99.9%
811412	Appliance Repair and Maintenance	0.01%	99.9%
813311	Human Rights Organizations	0.01%	99.9%
541613	Marketing Consulting Services	0.01%	99.9%
811121	Automotive Body, Paint, and Interior Repair and Maintenance	0.01%	99.9%
561790	Other Services to Buildings and Dwellings	0.01%	99.9%
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers	0.01%	99.9%
561990	All Other Support Services	0.01%	99.9%
541214	Payroll Services	0.01%	99.9%
424210	Drugs and Druggists' Sundries Merchant Wholesalers	0.01%	99.9%
423210	Furniture Merchant Wholesalers	0.01%	99.95%
621112	Offices of Physicians, Mental Health Specialists	0.01%	99.96%
238150	Glass and Glazing Contractors	0.01%	99.97%
541430	Graphic Design Services	0.01%	99.97%
561612	Security Guards and Patrol Services	0.01%	99.98%
623220	Residential Mental Health and Substance Abuse Facilities	0.003%	99.98%
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	0.003%	99.98%
541620	Environmental Consulting Services	0.003%	99.98%
424710	Petroleum Bulk Stations and Terminals	0.003%	99.99%
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	0.003%	99.99%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
332321	Metal Window and Door Manufacturing	0.002%	99.99%
423390	Other Construction Material Merchant Wholesalers	0.002%	99.99%
812331	Linen Supply	0.002%	99.99%
541219	Other Accounting Services	0.002%	99.997%
238340	Tile and Terrazzo Contractors	0.001%	99.998%
424990	Other Miscellaneous Nondurable Goods Merchant Wholesalers	0.001%	99.999%
339950	Sign Manufacturing	0.001%	99.9997%
337212	Custom Architectural Woodwork and Millwork Manufacturing	0.0003%	99.99997%
492210	Local Messengers and Local Delivery	0.00003%	100.00000%
TOTAL		100.0%	

Source: CHA analysis of Cook County data

To determine the geographic market area, we applied the standard of identifying the firm locations that account for at least 75% of contract and subcontract dollar payments in the MFCDF.⁴ Firm location was determined by ZIP code and aggregated into counties as the geographic unit. The State of Illinois accounted for 92.2% of the MFCDF. When we examined the six primary counties of the Chicago metropolitan area— Cook, DuPage, Will, Lake, Kane, and McHenry— these counties captured 91.9% of the MFCDF. Therefore, we used these six counties as the geographic market.

We next determined the dollar value of Cook County’s utilization of M/WBEs as measured by payments to prime firms and subcontractors and disaggregated by race and gender.⁵

Table 1-2 presents the distribution of contract dollars. Chapter IV provides detailed breakdowns of these results.

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4. J. Wainwright and C. Holt, *Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program*, National Academies of Sciences, Engineering, and Medicine, 2010, at p. 29 (“*National Disparity Study Guidelines*”).
 5. For our analysis, the term “M/WBE” or HUB includes firms that are certified by government agencies and minority- and woman-owned firms that are not certified.

**Table 1-2: Percentage Distribution of Contract Dollars by Race and Gender –
Main Data
(share of total dollars)**

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
236220	2.4%	0.0%	0.0%	0.0%	2.4%	0.2%	2.6%	97.4%	100.0%
237110	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
237130	42.3%	0.0%	0.0%	0.0%	42.3%	57.7%	100.0%	0.0%	100.0%
237310	3.1%	17.4%	0.0%	0.0%	20.5%	0.2%	20.7%	79.3%	100.0%
237990	13.3%	86.7%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
238120	0.0%	21.7%	0.0%	0.0%	21.7%	78.3%	100.0%	0.0%	100.0%
238140	13.7%	0.0%	0.0%	0.0%	13.7%	86.3%	100.0%	0.0%	100.0%
238150	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238160	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238210	12.1%	18.6%	2.3%	0.0%	33.0%	10.1%	43.0%	57.0%	100.0%
238220	28.9%	30.9%	0.0%	0.0%	59.8%	35.9%	95.8%	4.2%	100.0%
238290	20.8%	0.0%	0.0%	0.0%	20.8%	3.2%	24.0%	76.0%	100.0%
238310	0.0%	99.7%	0.0%	0.0%	99.7%	0.0%	99.7%	0.3%	100.0%
238320	87.3%	0.0%	0.0%	0.0%	87.3%	12.7%	100.0%	0.0%	100.0%
238330	0.0%	0.0%	78.5%	0.0%	78.5%	21.5%	100.0%	0.0%	100.0%
238340	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238350	84.9%	15.1%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
238910	5.1%	16.7%	0.0%	0.0%	21.8%	14.3%	36.1%	63.9%	100.0%
238990	0.0%	0.0%	0.0%	0.0%	0.0%	18.3%	18.3%	81.7%	100.0%
323111	0.0%	24.1%	0.0%	0.0%	24.1%	14.5%	38.6%	61.4%	100.0%
323113	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
332312	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
332321	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
333318	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
337212	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423110	0.0%	6.0%	0.0%	0.0%	6.0%	0.0%	6.0%	94.0%	100.0%
423120	0.0%	93.6%	0.0%	0.0%	93.6%	6.4%	100.0%	0.0%	100.0%
423210	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%

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NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
423320	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423390	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423440	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423450	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
423510	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
423710	0.0%	0.0%	0.0%	0.0%	0.0%	11.0%	11.0%	89.0%	100.0%
423720	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423730	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423810	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423830	0.0%	0.0%	23.6%	0.0%	23.6%	0.1%	23.7%	76.3%	100.0%
423840	2.5%	95.3%	2.2%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423850	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423990	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
424110	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424120	5.0%	0.0%	0.0%	0.0%	5.0%	95.0%	100.0%	0.0%	100.0%
424130	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424210	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
424410	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424420	5.4%	68.1%	26.5%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424440	4.2%	35.8%	60.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424480	6.5%	93.5%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424490	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424690	0.0%	0.0%	8.3%	0.0%	8.3%	25.2%	33.5%	66.5%	100.0%
424710	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424720	0.0%	0.0%	83.6%	0.0%	83.6%	16.4%	100.0%	0.0%	100.0%
424950	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
424990	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
441110	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
444190	1.1%	0.0%	0.0%	0.0%	1.1%	98.9%	100.0%	0.0%	100.0%
484110	0.0%	62.3%	0.0%	0.0%	62.3%	37.7%	100.0%	0.0%	100.0%

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NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
484210	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
492210	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
518210	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
524114	0.1%	0.0%	0.0%	0.0%	0.1%	8.2%	8.4%	91.6%	100.0%
541110	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
541211	18.1%	12.1%	3.8%	0.0%	34.0%	0.0%	34.0%	66.0%	100.0%
541219	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
541310	9.0%	0.0%	0.0%	0.0%	9.0%	91.0%	100.0%	0.0%	100.0%
541330	22.3%	5.6%	8.5%	0.0%	36.4%	0.0%	36.4%	63.6%	100.0%
541370	89.5%	10.5%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541380	60.2%	22.7%	17.1%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541430	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541511	10.1%	10.7%	6.8%	0.0%	27.6%	0.0%	27.6%	72.4%	100.0%
541512	70.9%	0.0%	29.1%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541611	16.7%	0.0%	0.0%	0.0%	16.7%	39.3%	56.0%	44.0%	100.0%
541613	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541614	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541620	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541810	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
541870	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
541990	57.4%	0.0%	4.0%	0.0%	61.5%	7.0%	68.5%	31.5%	100.0%
561320	22.1%	0.0%	0.0%	0.0%	22.1%	0.0%	22.1%	77.9%	100.0%
561440	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561720	70.4%	0.0%	0.0%	0.0%	70.4%	29.6%	100.0%	0.0%	100.0%
561730	0.0%	80.5%	0.0%	0.0%	80.5%	19.5%	100.0%	0.0%	100.0%
561790	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561990	0.0%	18.9%	0.0%	58.5%	77.4%	16.2%	93.6%	6.4%	100.0%
562910	0.0%	99.3%	0.0%	0.0%	99.3%	0.0%	99.3%	0.7%	100.0%
562998	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
621112	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
621330	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
621420	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
623220	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624110	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624190	0.0%	8.8%	0.0%	0.0%	8.8%	0.0%	8.8%	91.2%	100.0%
624310	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
811111	0.0%	5.8%	0.0%	0.0%	5.8%	19.2%	25.0%	75.0%	100.0%
811121	0.0%	71.5%	0.0%	0.0%	71.5%	28.5%	100.0%	0.0%	100.0%
811211	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
811213	0.0%	0.0%	0.0%	0.0%	0.0%	30.4%	30.4%	69.6%	100.0%
811310	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
811412	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
812331	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
812930	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813311	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813319	50.4%	0.0%	0.0%	0.0%	50.4%	0.0%	50.4%	49.6%	100.0%
Total	6.1%	4.5%	2.6%	0.0%	13.1%	8.5%	21.6%	78.4%	100.0%

Source: CHA analysis of Cook County data

Using the modified “custom census” approach to estimating availability and the further assignment of race and gender using the MFCDF, the Master M/WBE Directory and other sources, we determined the unweighted availability of M/WBEs in Cook County’s market area. For further explanation of the role of unweighted and weighted availability and how these are calculated, please see Appendix D.⁶

We next determined the aggregated availability of M/WBEs, weighted by Cook County’s spending in its geographic and industry markets. Table 1-3 presents these results.

6. The USDOT “Tips for Goal Setting” urges recipients to weight their headcount of firms by dollars spent. See Tips for Goal-Setting in the Disadvantaged Business Enterprise Program, <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>.

Table 1-3: Aggregated Weighted Availability for County Contracts – Main Data

Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
3.8%	1.8%	1.4%	0.04%	6.9%	6.3%	13.3%	86.7%	100.0%

Source: CHA analysis of Cook County data; Hoovers; CHA Master Directory

We next calculated disparity ratios for total M/WBE utilization compared to the total weighted availability of M/WBEs, measured in dollars paid.

A *disparity ratio* is the relationship between the utilization and weighted availability, determined above. Mathematically, this is represented by:

$$DR = U/WA$$

Where DR is the disparity ratio; U is utilization rate; and WA is the weighted availability.

The courts have held that disparity results must be analyzed to determine whether the results are “significant”. There are two distinct methods to measure a result’s significance. First, a “large” or “substantively significant” disparity is commonly defined by courts as utilization that is equal to or less than 80% of the availability measure. A substantively significant disparity supports the inference that the result may be caused by the disparate impacts of discrimination.⁷ Second, statistically significant disparity means that an outcome is unlikely to have occurred as the result of random chance alone. The greater the statistical significance, the smaller the probability that it resulted from random chance alone.⁸ A more in-depth discussion of statistical significance is provided in Chapter IV and Appendix C.

Table 1-4 presents the calculated disparity ratios for each demographic group. The disparity ratio for Native Americans is substantively significant. The disparity ratios for MBEs, M/WBEs, and Non-M/WBEs are statistically significant: the ratios for MBEs and M/WBEs are statistically significant at the 0.001 level and the ratio for Non-M/WBEs are statistically significant at the 0.01 level.

7. See U.S. Equal Employment Opportunity Commission regulation, 29 C.F.R. §1607.4(D) (“A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact.”).

8. A chi-square test – examining if the utilization rate was different from the weighted availability – was used to determine the statistical significance of the disparity ratio.

Table 1-4: Disparity Ratios by Demographic Group – Main Data

	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE
Disparity Ratio	161.2%	256.8%	189.0%	13.5%‡	188.5%***	134.8%	163.0%***	90.4%**

Source: CHA analysis of Cook County data

‡ Indicates substantive significance

**** Statistically significant at the 0.001 level*

*** Statistically significant at the 0.01 level*

It is standard CHA practice to explore any M/WBE disparity ratio that exceeds 100%. This is to ensure that any abnormal pattern of M/WBE concentration does not account for disparity ratios greater than 100%, thereby leading to the unwarranted conclusion that race- or gender-conscious remedies are no longer needed to redress discrimination against a particular socially disadvantaged group. It is possible that a group's disparity ratio that is larger than 100% might be the result of the success of a few firms and not indicative of the experiences of the broad set of firms in that group. Overall, we found that, compared to non-M/WBEs, minority- and woman-owned firms were concentrated in a different subset of industries. Further, in some industries, only a few M/WBEs received contracts in contrast to non-M/WBEs. This suggests that although the County's M/WBE Program has been quite successful in creating opportunities for minority and woman firms, these benefits have not been spread evenly across all groups or subindustries. (Chapter IV provides more detail on this analysis of the level of M/WBE firm concentration.)

2. Utilization, Availability and Disparity Analyses of Cook County's Contracts – Hospital

We replicated the above steps when examining the County's Hospital contracts. Table 1-5 presents data on the 135 NAICS codes contained in the HFCDF.

**Table 1-5: Industry Percentage Distribution of Cook County Contracts by Dollars
– Hospital**

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
424210	Drugs and Druggists' Sundries Merchant Wholesalers	30.6%	30.6%
524292	Third Party Administration of Insurance and Pension Funds	17.1%	47.7%
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	11.3%	59.0%
541511	Custom Computer Programming Services	5.6%	64.7%
621330	Offices of Mental Health Practitioners (except Physicians)	3.2%	67.8%
561320	Temporary Help Services	2.7%	70.6%
813212	Voluntary Health Organizations	2.1%	72.6%
541512	Computer Systems Design Services	1.6%	74.2%
621111	Offices of Physicians (except Mental Health Specialists)	1.5%	75.7%
236220	Commercial and Institutional Building Construction	1.5%	77.3%
238220	Plumbing, Heating, and Air-Conditioning Contractors	1.3%	78.6%
561440	Collection Agencies	1.3%	79.9%
492210	Local Messengers and Local Delivery	1.3%	81.1%
238210	Electrical Contractors and Other Wiring Installation Contractors	1.1%	82.2%
541611	Administrative Management and General Management Consulting Services	1.1%	83.3%
541519	Other Computer Related Services	1.0%	84.3%
722310	Food Service Contractors	1.0%	85.3%
238910	Site Preparation Contractors	1.0%	86.3%
485991	Special Needs Transportation	1.0%	87.3%
238120	Structural Steel and Precast Concrete Contractors	0.7%	88.0%
621610	Home Health Care Services	0.7%	88.7%
424130	Industrial and Personal Service Paper Merchant Wholesalers	0.7%	89.4%
238150	Glass and Glazing Contractors	0.7%	90.1%
238310	Drywall and Insulation Contractors	0.7%	90.7%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
511210	Software Publishers	0.6%	91.3%
541310	Architectural Services	0.6%	91.9%
621511	Medical Laboratories	0.4%	92.3%
441110	New Car Dealers	0.4%	92.8%
541219	Other Accounting Services	0.4%	93.2%
238350	Finish Carpentry Contractors	0.4%	93.6%
236210	Industrial Building Construction	0.4%	94.0%
541618	Other Management Consulting Services	0.4%	94.3%
561110	Office Administrative Services	0.3%	94.7%
238290	Other Building Equipment Contractors	0.3%	95.0%
532420	Office Machinery and Equipment Rental and Leasing	0.3%	95.2%
488510	Freight Transportation Arrangement	0.3%	95.5%
621498	All Other Outpatient Care Centers	0.2%	95.7%
541330	Engineering Services	0.2%	96.0%
492110	Couriers and Express Delivery Services	0.2%	96.2%
238110	Poured Concrete Foundation and Structure Contractors	0.2%	96.4%
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	0.2%	96.6%
237310	Highway, Street, and Bridge Construction	0.2%	96.8%
621999	All Other Miscellaneous Ambulatory Health Care Services	0.2%	96.9%
624190	Other Individual and Family Services	0.2%	97.1%
424120	Stationery and Office Supplies Merchant Wholesalers	0.2%	97.3%
493190	Other Warehousing and Storage	0.1%	97.4%
541380	Testing Laboratories	0.1%	97.5%
424480	Fresh Fruit and Vegetable Merchant Wholesalers	0.1%	97.6%
238990	All Other Specialty Trade Contractors	0.1%	97.7%
238320	Painting and Wall Covering Contractors	0.1%	97.8%
561720	Janitorial Services	0.1%	97.9%
561439	Other Business Service Centers (including Copy Shops)	0.1%	98.0%

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NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
446199	All Other Health and Personal Care Stores	0.1%	98.1%
238330	Flooring Contractors	0.1%	98.2%
812990	All Other Personal Services	0.1%	98.2%
541110	Offices of Lawyers	0.1%	98.3%
484220	Specialized Freight (except Used Goods) Trucking, Local	0.1%	98.4%
238160	Roofing Contractors	0.1%	98.5%
562910	Remediation Services	0.1%	98.5%
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	0.1%	98.6%
813319	Other Social Advocacy Organizations	0.1%	98.7%
541690	Other Scientific and Technical Consulting Services	0.1%	98.7%
611710	Educational Support Services	0.1%	98.8%
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	0.1%	98.9%
423510	Metal Service Centers and Other Metal Merchant Wholesalers	0.1%	98.9%
221310	Water Supply and Irrigation Systems	0.1%	99.0%
562111	Solid Waste Collection	0.1%	99.0%
561730	Landscaping Services	0.1%	99.1%
332322	Sheet Metal Work Manufacturing	0.1%	99.1%
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing	0.05%	99.2%
621991	Blood and Organ Banks	0.04%	99.2%
813910	Business Associations	0.04%	99.3%
813211	Grantmaking Foundations	0.04%	99.3%
332312	Fabricated Structural Metal Manufacturing	0.03%	99.3%
238390	Other Building Finishing Contractors	0.03%	99.4%
811111	General Automotive Repair	0.03%	99.4%
561612	Security Guards and Patrol Services	0.03%	99.4%
444190	Other Building Material Dealers	0.03%	99.5%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
333922	Conveyor and Conveying Equipment Manufacturing	0.03%	99.5%
339950	Sign Manufacturing	0.03%	99.5%
813410	Civic and Social Organizations	0.03%	99.5%
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	0.03%	99.6%
621399	Offices of All Other Miscellaneous Health Practitioners	0.03%	99.6%
561710	Exterminating and Pest Control Services	0.02%	99.6%
624229	Other Community Housing Services	0.02%	99.6%
561990	All Other Support Services	0.02%	99.7%
423690	Other Electronic Parts and Equipment Merchant Wholesalers	0.02%	99.7%
541890	Other Services Related to Advertising	0.02%	99.7%
238140	Masonry Contractors	0.02%	99.7%
712110	Museums	0.02%	99.7%
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	0.02%	99.7%
423460	Ophthalmic Goods Merchant Wholesalers	0.02%	99.8%
541930	Translation and Interpretation Services	0.02%	99.8%
811211	Consumer Electronics Repair and Maintenance	0.01%	99.8%
541430	Graphic Design Services	0.01%	99.8%
561312	Executive Search Services	0.01%	99.8%
323111	Commercial Printing (except Screen and Books)	0.01%	99.8%
541810	Advertising Agencies	0.01%	99.8%
424490	Other Grocery and Related Products Merchant Wholesalers	0.01%	99.9%
454210	Vending Machine Operators	0.01%	99.9%
541370	Surveying and Mapping (except Geophysical) Services	0.01%	99.9%
339112	Surgical and Medical Instrument Manufacturing	0.01%	99.9%
562998	All Other Miscellaneous Waste Management Services	0.01%	99.9%
561520	Tour Operators	0.01%	99.9%

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NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
621340	Offices of Physical, Occupational and Speech Therapists, and Audiologists	0.01%	99.9%
423490	Other Professional Equipment and Supplies Merchant Wholesalers	0.01%	99.9%
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	0.01%	99.9%
325412	Pharmaceutical Preparation Manufacturing	0.01%	99.9%
541990	All Other Professional, Scientific, and Technical Services	0.01%	99.9%
541320	Landscape Architectural Services	0.01%	99.95%
611699	All Other Miscellaneous Schools and Instruction	0.00%	99.96%
562991	Septic Tank and Related Services	0.004%	99.96%
561611	Investigation Services	0.004%	99.97%
332618	Other Fabricated Wire Product Manufacturing	0.004%	99.97%
541620	Environmental Consulting Services	0.003%	99.97%
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing	0.003%	99.98%
423390	Other Construction Material Merchant Wholesalers	0.003%	99.98%
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	0.003%	99.98%
238340	Tile and Terrazzo Contractors	0.003%	99.99%
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers	0.002%	99.99%
327331	Concrete Block and Brick Manufacturing	0.002%	99.99%
561311	Employment Placement Agencies	0.002%	99.99%
541350	Building Inspection Services	0.002%	99.99%
238130	Framing Contractors	0.002%	99.99%
541614	Process, Physical Distribution, and Logistics Consulting Services	0.001%	99.996%
624310	Vocational Rehabilitation Services	0.001%	99.997%
423130	Tire and Tube Merchant Wholesalers	0.001%	99.997%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	0.001%	99.998%
722513	Limited-Service Restaurants	0.001%	99.999%
332311	Prefabricated Metal Building and Component Manufacturing	0.0005%	99.999%
541613	Marketing Consulting Services	0.0004%	99.999%
512110	Motion Picture and Video Production	0.0004%	99.9998%
453210	Office Supplies and Stationery Stores	0.0001%	99.9999%
561499	All Other Business Support Services	0.0001%	99.999996%
722511	Full-Service Restaurants	0.000004%	100.0%
TOTAL		100.0%	

Source: CHA analysis of Cook County data

To determine the geographic market area for the Hospital contracts, we applied the same standard as was used for the Main Data contracts. For the Hospital data, the State of Illinois accounted for 85.5% of the HFCDF. The six primary counties of the Chicago metropolitan area – Cook, DuPage, Will, Lake, Kane, and McHenry – captured 85.2% of the FCDF. Once again, we used these six counties as the geographic market.

Table 1-6 presents the distribution of these contract dollars disaggregated by race and gender. Chapter IV provides detailed breakdowns of these results.

Table 1-6: Percentage Distribution of Contract Dollars by Race and Gender – Hospital
(share of total dollars)

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
221310	0.0%	0.0%	0.0%	0.0%	0.0%	11.4%	11.4%	88.6%	100.0%
236210	97.9%	0.0%	0.0%	0.0%	97.9%	0.0%	97.9%	2.1%	100.0%
236220	3.9%	0.9%	0.0%	0.0%	4.7%	7.6%	12.4%	87.6%	100.0%
237310	66.5%	0.0%	0.0%	0.0%	66.5%	0.0%	66.5%	33.5%	100.0%
238110	95.6%	0.0%	0.0%	0.0%	95.6%	0.0%	95.6%	4.4%	100.0%
238120	0.0%	91.5%	0.0%	0.0%	91.5%	0.0%	91.5%	8.5%	100.0%
238130	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
238140	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238150	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238160	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238210	21.9%	11.0%	0.0%	0.0%	32.8%	1.3%	34.1%	65.9%	100.0%
238220	1.2%	15.5%	0.1%	0.0%	16.8%	4.0%	20.7%	79.3%	100.0%
238290	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238310	0.0%	82.3%	0.0%	0.0%	82.3%	6.4%	88.7%	11.3%	100.0%
238320	91.8%	0.0%	0.0%	0.0%	91.8%	0.0%	91.8%	8.2%	100.0%
238330	0.0%	2.9%	0.0%	0.0%	2.9%	0.0%	2.9%	97.1%	100.0%
238340	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238350	0.0%	0.0%	0.0%	0.0%	0.0%	69.3%	69.3%	30.7%	100.0%
238390	0.0%	0.0%	0.0%	0.0%	0.0%	2.6%	2.6%	97.4%	100.0%
238910	56.7%	0.4%	0.0%	0.0%	57.1%	18.5%	75.6%	24.4%	100.0%
238990	19.6%	33.1%	8.3%	0.0%	61.0%	15.5%	76.5%	23.5%	100.0%
323111	11.1%	86.8%	0.0%	0.0%	97.9%	2.1%	100.0%	0.0%	100.0%
325412	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
327331	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
332312	66.0%	0.0%	8.4%	0.0%	74.4%	0.0%	74.4%	25.6%	100.0%
332322	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
339112	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
339950	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423130	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423390	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423430	0.0%	0.0%	29.4%	0.0%	29.4%	70.6%	100.0%	0.0%	100.0%
423450	0.1%	0.0%	0.0%	0.0%	0.1%	0.0%	0.1%	99.9%	100.0%
423490	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423510	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
423610	73.9%	5.0%	0.0%	0.0%	78.9%	20.2%	99.1%	0.9%	100.0%
423690	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423720	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%

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NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
423990	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
424120	16.7%	0.0%	4.4%	0.0%	21.0%	0.0%	21.0%	79.0%	100.0%
424130	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
424210	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
424480	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
424490	0.0%	56.4%	0.0%	0.0%	56.4%	43.6%	100.0%	0.0%	100.0%
424720	0.0%	41.6%	0.0%	0.0%	41.6%	57.0%	98.6%	1.4%	100.0%
441110	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
444190	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
446199	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
453210	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
454210	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
484220	80.8%	19.2%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
485991	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
488510	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
492110	0.0%	0.0%	0.0%	0.0%	0.0%	17.2%	17.2%	82.8%	100.0%
492210	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
493190	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
512110	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
524292	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
532412	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
532490	0.0%	5.6%	0.0%	0.0%	5.6%	0.0%	5.6%	94.4%	100.0%
541110	4.2%	0.0%	27.3%	0.0%	31.5%	0.0%	31.5%	68.5%	100.0%
541219	0.0%	0.0%	0.0%	0.0%	0.0%	38.1%	38.1%	61.9%	100.0%
541310	6.2%	0.1%	0.0%	0.1%	6.4%	22.6%	29.0%	71.0%	100.0%
541320	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541330	4.0%	66.2%	2.3%	0.0%	72.5%	21.5%	94.0%	6.0%	100.0%
541370	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
541380	28.6%	8.1%	0.0%	0.0%	36.7%	61.5%	98.1%	1.9%	100.0%
541430	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
541511	0.0%	0.0%	0.0%	0.0%	0.0%	48.1%	48.1%	51.9%	100.0%
541512	0.1%	41.9%	0.0%	0.0%	42.1%	57.9%	100.0%	0.0%	100.0%
541519	0.1%	0.0%	0.0%	0.0%	0.1%	99.9%	100.0%	0.0%	100.0%
541611	9.1%	0.0%	0.0%	0.0%	9.1%	9.5%	18.6%	81.4%	100.0%
541613	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541614	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
541618	18.7%	22.1%	0.0%	0.0%	40.8%	2.9%	43.7%	56.3%	100.0%
541620	2.6%	97.4%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541810	47.0%	0.0%	0.0%	0.0%	47.0%	53.0%	100.0%	0.0%	100.0%
541930	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541990	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561110	0.0%	26.1%	0.0%	0.0%	26.1%	73.9%	100.0%	0.0%	100.0%
561320	10.0%	0.0%	0.0%	0.0%	10.0%	6.8%	16.9%	83.1%	100.0%
561440	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561499	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561520	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561612	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561710	23.0%	0.0%	0.0%	0.0%	23.0%	0.0%	23.0%	77.0%	100.0%
561720	10.0%	26.0%	15.2%	0.0%	51.3%	43.3%	94.6%	5.4%	100.0%
561730	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
561990	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
562111	31.1%	0.0%	0.0%	0.0%	31.1%	0.0%	31.1%	68.9%	100.0%
562910	0.0%	89.7%	0.0%	0.0%	89.7%	3.8%	93.5%	6.5%	100.0%
562991	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
562998	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
611699	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
621111	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
621330	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
621340	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
621399	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
621610	44.1%	0.0%	55.9%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
621991	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624190	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624229	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624310	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
712110	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
722310	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
722511	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
811111	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
811211	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
811310	0.0%	22.1%	0.0%	0.0%	22.1%	0.0%	22.1%	77.9%	100.0%
812990	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
813211	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813319	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813410	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813910	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Total	4.0%	2.8%	4.5%	0.0%	11.3%	5.7%	17.0%	83.0%	100.0%

Source: CHA analysis of Cook County data

We next determined the aggregated availability of M/WBEs, weighted by Cook County’s spending in its geographic and industry markets. Table 1-7 presents these results.

Table 1-7: Aggregated Weighted Availability for County Contracts – Hospital

Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
7.0%	2.3%	2.3%	0.01%	11.6%	11.5%	23.1%	76.9%	100.0%

Source: CHA analysis of Cook County data; Hoovers; CHA Master Directory

We next calculated disparity ratios for total M/WBE utilization compared to the total weighted availability of M/WBEs, measured in dollars paid.

Table 1-8 presents the calculated disparity ratios for each demographic group. The disparity ratios for Blacks, Native Americans, White women, and M/WBEs

are substantively significant. The disparity ratios for M/WBEs and non-M/WBEs are statistically significant at the 0.05 level.

Table 1-8: Disparity Ratios by Demographic Group – Hospital

	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE
Disparity Ratio	57.2%‡	122.6%	192.3%	2.6%‡	97.1%	49.4%‡	73.3%‡*	108.0%*

Source: CHA analysis of Cook County data

‡ Indicates substantive significance

* Statistically significant at the 0.05 level

Applying the framework, we used to examine the County’s Main Data contracts to understand the pattern of M/WBE firm concentration, we analyzed the pattern of M/WBE firm concentration in the County’s Hospital contracts. Overall, we found that, compared to non-M/WBEs, minority- and woman-owned firms were concentrated in a different subset of industries. Further, in some industries, only a few M/WBEs received contracts in contrast to non-M/WBEs. This suggests that although the County’s M/WBE Program has been quite successful in creating opportunities for minority and woman firms, these benefits have not been spread evenly across all groups or subindustries. We find the data as a whole support the conclusion that minority and woman firms have not reached parity in all industries of County contracting compared to non-M/WBE firms.

3. Weighted Availability for Combined Main Data and Hospital Contracts

When an agency sets its overall aspirational goal, it is important to examine the weighted availability based upon all of the contracts it has let. Having determined the weighted availability for the Main Data contracts and Hospital contracts separately, we combined the two data sets and recalculated the weighted availability. Table 1-9 presents the results of that analysis. The overall M/WBE weighted availability of 19.2% can be used by Cook County to determine it overall, aspirational goal.

Table 1-9: Aggregated Weighted Availability for County Contracts – Main Data and Hospital Combined

Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
5.7%	2.1%	1.9%	0.0%	9.7%	9.5%	19.2%	80.8%	100.0%

Source: CHA analysis of Cook County data; Hoovers; CHA Master Directory

D. Analysis of Disparities in the Cook County Area Economy

Evidence of the experiences of minority- and woman-owned firms outside of Cook County’s M/WBE Program is relevant and probative of the likely results of the County adopting a race-neutral program, because contracting diversity programs are rarely imposed outside of specific government agencies. To examine the outcomes throughout the Cook County area economy, we explored two Census Bureau datasets and the government and academic literature relevant to how discrimination in the County’s industry market and throughout the wider economy affects the ability of minorities and women to engage in the County’s prime contract and subcontract opportunities fairly and fully.

We analyzed the following data and literature:

- Chicago Metropolitan Area data from the Census Bureau’s *American Community Survey* from 2015 through 2019. This rich data set establishes with greater certainty any causal links between race, gender and economic outcomes. We employed a multiple regression statistical technique to examine the rates at which minorities and women form firms. In general, we found that even after considering potential mitigating factors, business formation rates by Blacks, Hispanics and White women are lower compared to White males. The data indicate that non-Whites and White women receive lower wages and Blacks and White women receive lower business earnings after controlling for possible explanatory factors. These analyses support the conclusion that barriers to business success do affect non-Whites and White women entrepreneurs.
- State of Illinois Industry Data from the Census Bureau’s *2017 Annual Business Survey*, the most recent data available. This dataset indicated large disparities between M/WBE firms and non-M/WBE firms when examining the sales of all firms, the sales of employer firms (firms that employ at least one worker), and the payroll of employer firms.
- Surveys and literature on barriers to access to commercial credit and the development of human capital further establish that minorities continue to

face constraints on their entrepreneurial success based on race. These constraints negatively impact the ability of firms to form, to grow, and to succeed. These results support the conclusions drawn from the anecdotal interviews and analysis of Cook County's contract data that M/WBEs face obstacles to achieving success on contracts outside of M/WBE programs.

All three types of evidence have been found by the courts, including the Seventh Circuit Court of Appeals, to be relevant and probative of whether a government will be a passive participant in overall marketplace discrimination without some type of affirmative intervention. This evidence supports the conclusion that the County should consider the use of race-conscious contract goals to ensure a level playing field for all firms.

E. Qualitative Evidence of Race and Gender Barriers in Cook County's Market

In addition to quantitative data, anecdotal evidence of firms' marketplace experiences is relevant to evaluating whether the effects of current or past discrimination continue to impede opportunities for M/WBEs such that race-conscious contract goals are needed to ensure equal opportunities to compete for contracts. To explore this type of anecdotal evidence, we received input from 93 participants in small group business owner interviews. We also received 447 net responses to an electronic anecdotal survey and written comments during the study period.

1. Business Owner Interviews

Many minority and woman business owners reported that while some progress has been made in integrating their firms into public and private sector contracting activities through race- and gender-conscious contracting programs, significant barriers remain.

The following are brief summaries of the most common views expressed by numerous participants.

- Many minority or woman owners frequently suffered from negative biases, stereotypes and questions about their competency and capabilities. There is often a stigma to being an M/WBE.
- Minority- and woman-owned firms were often viewed a risky, and therefore agencies seek price reductions.
- Perseverance is critical to overcoming these biases and negative stereotypes.
- Some minority entrepreneurs had endured blatant harassment.

- Women, especially in the construction industry, still encountered outright sexism.

2. Electronic Business Owner Survey

Results from the electronic survey were similar to those of the interviews. Almost 45% (44.8%) reported that they still experience barriers to equal contracting opportunities; almost one third (31.4%) said their competency was questioned because of their race or gender; and almost one quarter (23.5%) indicated that they had experienced job-related sexual or racial harassment or stereotyping.

Responses to the survey's open-ended questions expressed these experiences in further detail. The following is a summary of the most common written responses received.

- Many minorities reported that fair opportunities to compete for contracts were not available because of systemic racial barriers.
- A large number of minority respondents reported their credentials and competency are routinely questioned.
- Several minority business owners related instances of overt racism, demeaning comments and harassment.
- Woman respondents reported experiencing sexist attitudes about their competency, skill and professionalism.
- Many minority and woman business owners felt excluded from formal and informal networks.
- Some M/WBE firms reported that being small and/or new put them more at a disadvantage.
- Some minority and woman respondents felt that prime bidders often use them only to meet affirmative action goals.
- Some M/WBEs reported discriminatory obstacles when trying to obtain financing, bonding and insurance that have reduced their ability to compete on an equal basis. Small and new firms face particularly large challenges.
- Some minority and woman respondents reported they are charged higher pricing by suppliers than non-M/WBE firms.
- Many reported pressure to reduce pricing or the inability to receive fair compensation relative to their White male counterparts based on their M/WBE status.

F. Recommendations for Enhancements to Cook County's M/WBE Program

The quantitative and qualitative data in this study provide a thorough examination of the evidence of the experiences of M/WBEs in Cook County's geographic and industry markets and on County and Hospital contracts. As required by strict constitutional scrutiny, we analyzed evidence of the County's and the Hospital's utilization of M/WBEs as a percentage of all firms as measured by dollars spent, as well as M/WBEs' experiences in obtaining contracts in the public and private sectors. We gathered statistical and anecdotal data to provide the County with the evidence necessary to determine whether there is a strong basis in evidence for the continued use of race- and gender-conscious goals for its M/WBE Program, and if so, how to narrowly tailor its Program.

The County has implemented an aggressive and successful Program for many years. Utilization of M/WBEs has exceeded availability for most groups. This is the outcome of setting goals, conducting outreach, and enforcing requirements. The results have been exemplary.

However, evidence beyond the County's achievements strongly suggests these results reflect the success of the Program countering the discrimination in its contracting markets. Outside of County and other local government contracts, M/WBEs face large disparities in opportunities for public sector and private sector work, as well as discrimination in the access to business capital. Our Disparity Studies for other Chicago area governments and the State of Illinois support the conclusion that the current effects of past discrimination and ongoing bias would be barriers to County work in the absence of affirmative action remedies. Chicago area business owners reported instances of bias and discrimination, and that they receive little work without the use of contract goals.

We found that although M/WBEs as a whole received ample dollars on County jobs, opportunities were somewhat concentrated amongst a small group of firms and were mostly in subcontracting. Further, we found large and statistically significant disparities for M/WBEs as a whole on Hospital contracts.

These results provide the County with the evidence necessary to support the continuing need for race- and gender-conscious remedies and to narrowly tailor those remedies.

Based upon these results, we make the following recommendations.

1. Augment Race- and Gender-Neutral Measures

The courts require that governments use race- and gender-neutral approaches to the maximum feasible extent to address identified discrimination. Increased

participation by M/WBEs through race-neutral measures will also reduce the need to set M/WBE contract goals. We therefore suggest the following enhancements of the County's current efforts.

a. Pay Promptly and Ensure Prime Vendors Promptly Pay Subcontractors

Slow payment by the County was a widely shared major criticism. Beyond monthly pay applications, slow change order processing and contract close-out delays were additional problems. More staff resources should be devoted to ensuring that the information is received in a timely manner and is then timely reviewed by the County. Slow payments from prime vendors to subcontractors and suppliers were also reported and should be monitored.

b. Develop Virtual Training Tools for County Staff and Vendors

The County should create targeted training videos for all aspects of the Program. These should include certification criteria and processes, contract goal setting, good faith efforts and other bid submission documents, compliance monitoring, substitution requests and working with the Contract Compliance Department. Videos should be directed to specific audiences such as prime vendors, subcontractors, and particular County and Hospital departments.

The County should also conduct refresher training for County user departments once any amendments to the County's authorizing Ordinance have been adopted. This should include affirmation of the Program's objectives, components and processes and collection of additional feedback on how its operations may be improved.

c. Focus on Supporting Opportunities for M/WBEs to Perform as Prime Contractors

While certified firms no longer experience disparities in access to County subcontracts, contracts for prime work are either out of reach for most M/WBEs (especially Black contractors), or too risky to take on, especially in industry codes of large County spending. We recommend the County place special emphasis in reducing barriers to prime awards, so that M/WBE dollars are not concentrated in less lucrative subsectors, through the following elements:

i. Increase Contract "Unbundling"

Unbundling projects, providing longer lead times and simplifying requirements would assist smaller businesses to take on more County work as prime contractors, as well as subcontractors of large, complex

projects. Unbundling must be conducted within the constraints of the need to ensure efficiency and limit costs to taxpayers.

ii. Provide Mobilization Payments and “Quick Pay” Schedules

Having the cash or access to working capital to perform a larger County job is a major barrier for M/WBEs and all small firms. Increasing the use of upfront mobilization payments and more frequent payment schedules (often called “quick pay”) will reduce structural barriers to the participation of a broader group of contractors.

d. Ensure Full and Complete Contract Data Collection

All departments must enter their contract data in the B2Gnow system. Payments to the non-certified subcontractors must be entered into the system and fully tracked. This is necessary to develop narrowly tailored estimates of M/WBE availability and to develop the overall group of firms of which M/WBE will comprise some fraction. It will also reduce the costs and time to conduct the court-mandated regular reviews of the Program.

e. Adopt a Race- and Gender-Neutral Target market Program

We suggest that contracts with few or no subcontracting opportunities or involving subindustries in which M/WBE utilization on County or Hospital contracts has been significantly above availability be evaluated for inclusion in a small business target market program. Small, local firms owned by economically disadvantaged individuals would be eligible to submit bids on SBE target market solicitations. At least three bids or proposals must be received to consider awarding a contract using this procurement method. If an insufficient number of competitive bids are received, then the County would readvertise the opportunity in the open market. This will require a process for firms that are not already certified as MBEs or WBEs or DBEs under the US Department of Transportation’s program to become certified to participate.

f. Increase Program Resources

While the Office of Contract Compliance has been an exemplary job with the resources it has, more staff and funding would support enhancements to current activities to ensure national best practices are employed to support the growth and development of M/WBEs.

- More management level staff are needed. Deputies should be appointed to manage the certification process for Program eligibility; compliance with pre- and post -award Program requirements; vendor outreach and support; and day-to-day administration.

- A dedicated communications person should be hired to conduct outreach events, vendor fairs, work with assist agencies, maintain the website, promote training opportunities and ensure M/WBEs receive appropriate bid notices.
- Additional B2Gnow modules should be procured for tasks that are currently being performed.
- The Office's role as an ombudsman for M/WBEs should be expanded and promoted. Many firms did not know to whom to turn for help with specific issues.

2. Continue to Implement Narrowly Tailored Race- and Gender-Conscious Measures

The County's M/WBE Program has been very successful in opening opportunities for minority and woman firms on its contracts. As reported in Chapter IV, utilization has been significantly higher than availability for all groups except Native Americans for Cook County government contracts. When we examined whether firms were concentrated within an industry or between industries on the basis of race or gender, however, a picture emerged of somewhat unequal outcomes for M/WBEs compared to non-M/WBEs. Further, there were large and statistically significant disparities for MBEs as a group and for M/WBEs in the aggregate on Hospital contracts.

In addition, as documented in Chapter V, when examining outcomes in the wider economy, it is clear that M/WBEs do not yet enjoy full and fair access to opportunities to compete. Data from the Census Bureau's Annual Business Survey and American Community Survey indicate very large disparities between M/WBEs and non-M/WBEs firms. The results of numerous small business credit surveys reveal that M/WBEs, especially Black-owned firms, suffer significant barriers to business financing. There are also race-based barriers to the development of the human capital necessary for entrepreneurial success.

Our interviews with individual business owners and stakeholders and the results of our survey further buttress the conclusion that race and sex discrimination remain persistent barriers to equal contacting opportunities. Many minority and female owners reported that they still encounter barriers based on their race and/or gender and that without affirmative intervention to increase opportunities through contract goals, they will continue to be denied full and fair chances to compete.

In our judgment, the County's utilization of M/WBEs is primarily the result of the operations of its Program, not the cessation of discrimination in the overall

economy. Without the use of goals, Cook County may become a “passive participant” in the market failure of discrimination.

We therefore recommend that the County continue to use narrowly tailored race- and gender-based measures.

a. Reaffirm the Current MBE and WBE Program Goals

The County should continue to set annual, overall targets for utilization of MBEs and WBEs on its contracts. The current goals of 30 percent for MBE participation and 10 percent for WBE participation have been achieved and there is no reason to expect that these levels cannot be maintained going forward.

b. Use the Detailed Study Availability Data to Set MBE and WBE Contract Goals

Using study data to set legally defensible contract goals will provide transparency and defensibility, as well as reduce requests for goal reductions or full waivers. Goal setting involves four steps:

1. Weight the estimated dollar value of the scopes of the contract by six-digit NAICS codes, as determined during the process of creating the solicitation.
2. Determine the unweighted availability of MBEs and WBEs in those scopes, as estimated in the Disparity Study.
3. Calculate a weighted goal based upon the scopes and the availability of at least three available firms in each scope.
4. Adjust the resulting percentage based on current market conditions and progress towards the annual goals.

The B2Bnow electronic data collection and monitoring system contains a contract goal setting module developed to utilize the study data as the starting point. Written procedures spelling out these steps should also be drafted. By employing the B2Bnow system as the starting point for goal setting, and fully documenting any adjustments, bidders will gain confidence that the goals are based on demonstrable evidence that the targets are reasonable and achievable.

We further urge the County to bid some contracts without goals that are determined to have significant opportunities for MBE or WBE participation, or that involve scopes of work with high utilization. These control contracts can illuminate whether certified firms are used or even solicited in the absence of goals. The development of some “unremediated markets” data, as held by the courts, including the Seventh Circuit Court of Appeals, will be probative of whether the Program remains needed to level the playing field

for minorities and women. The outcomes of “no goals” contracts will be critical in evaluating how effective race-neutral measures are in achieving non-discriminatory outcomes.

For contracts with few scopes, such as demolition work, the County should consider setting a combined goal for MBEs and WBEs, especially if there is the possibility that the awardee might be a certified firm, so that smaller contractors can reap the benefits of serving as the prime contractor without the burden of trying to further subdivide the work.

c. Review Program Eligibility Standards and Processes

The current limits on the annual gross receipts of a certified firm and on the personal net worth of its owner were major impediments to the growth and development of M/WBEs, especially as prime contractors. We recognize the courts have held that strict constitutional scrutiny requires some limits on who can be considered a socially and economically disadvantaged individual. The current approach, which originates from the national standard under the U.S. DOT DBE program, in our view is too restrictive for a market as complex, expensive and large as Cook County’s. We suggest some additional refinements to the current approach. These changes will also again align the County’s standards with recent amendments to the City of Chicago’s construction program.

i. Revise the Business Size Standard for Program Eligibility

The County averages the firm’s gross receipts or number of employees, over a five-year period. While these vary by six-digit NAICS code, these national numbers do not fully reflect the costs of doing business in the Chicago marketplace. Firms somewhat above these thresholds are still not able to fully compete with long established non-M/WBEs, who in many cases, have had decades to make critical business and financial connections, build client networks, gain expertise, acquire market share and build their businesses from public contracts. We therefore suggest that the threshold be raised to 150 percent of the applicable NAICS code size standard for all industries.

We further recommend that the period over which gross receipts or number of employees will be averaged be lengthened to seven years from the current five-year period. This will more accurately reflect the market strength of the certified firm.

ii. Revise the Personal Net Worth Standard for Program Eligibility

The personal net worth limit likewise functions as a ceiling on the growth and success of certified firms. While also required by the courts, the current personal net worth test does not reflect the actual cash

flow needs of firms. We therefore suggest that the County count only assets that are fully liquid, that is, cash on hand and in brokerage accounts of marketable securities. The classes of assets not subject to the calculation would include equity interests in other businesses other than publicly traded stocks and funds; equity interests in real estate; the market value of goods such as art, furnishings, jewelry, vehicles, and other non-monetary assets; and the full value of all retirement accounts.

iii. Revise the Employee Location Requirement for Program Eligibility

Since the inception of the ordinance, not only must the applicant firm be located in the six-County Chicago region, but also that the majority of its full-time work force must live in the region. The County and the City of Chicago's programs may be unique in the nation by imposing this extra requirement. In our view, this is an unnecessary limitation on the pool of available M/WBEs while no such restriction is imposed on non-M/WBEs. The legal standard is whether the firm operates in the agency's market, not whether the firm's employees reside or have their work location there. The residence or location of a firm's employees has no relationship to whether the firm faces discriminatory barriers on the basis of the race or gender of its owner and this limitation should be dropped.

iv. Address Certification and Recertification Delays

We suggest that the County review this process for timeliness, and work towards eliminating any roadblocks. While Program integrity is of paramount value, legitimate firms can be discouraged by reports of long wait times. Prime contractors who might otherwise use new sub-contractors, may demur because of concerns that a firm will not be certified or remain certified by the time of bid or proposal submission.

Another revision that will reduce the impact of delays on recertification would be to eliminate the expiration of certification status, as is the case in the USDOT DBE program, so that eligibility must be affirmatively removed. Annual "No Change" affidavits and other materials requested by the County would still be required, but the firm would remain certified until its recertification application has been denied. This shifts the risk of County delays away from the applicant and any prime bidder seeking to commit to use that recertification applicant onto the County.

d. Update Program Administration Policies and Procedures

While the current Program has produced admirable results, there are some possible revisions that can strengthen the County's efforts.

- Numerous prime contractors reported that it is difficult to meet contract goals. Many will not bid a project unless they are certain they will meet the goals. We recommend that the County provide targeted training on how to submit acceptable GFEs.
- To assist firms that have grown beyond the size or personal net worth limits of the Program, we suggest that a prime bidder's utilization of such firms be counted towards evidence of its GFEs to meet a contract goal.
- Clean up and modernize Program documents, including the form for documenting a bidder's GFEs to meet contract goals.
- Permit a short window (perhaps close of business the next day) after the time of bid or proposal submission to submit Letters of Intent from certified firms proposed to meet contract goals. The current process militates against using new firms who may not be familiar with the process or who may not have worked with the bidder. A short period will not be sufficient time for prime contractors to shop subcontractors' bids.
- Standardize counting of regular dealers and suppliers to all contracts, regardless of industry. This will reduce confusion and complexity and harmonize with the DBE regulations and the practices of other local programs.

e. Ensure Contract Monitoring

More staff to conduct actual field audits, and/or requiring that project managers from the user departments conduct commercially useful function and prompt payment reviews, would alleviate concerns about the actual operations of the Program after contracts have been awarded. In addition, major departments should appoint a liaison to Contract Compliance, and be given access to B2Gnow to assist with Program monitoring.

f. Implement a Technical Assistance, Capital Access and Guaranteed Surety Bonding Program for M/WBEs

While there are many training opportunities available through local assist agencies, M/WBE and non-M/WBE interview participants suggested that the County develop a robust technical assistance, capital access and bonding support program for construction firms. A program might include:

- Consultative and technical assistance, including one-on-one coaching.
- Contractor assessments.

- Referrals to qualified partner resources, including surety brokers, insurance brokers, lenders, certified public accountants and construction attorneys.
- Educational opportunities for contractors (bonding, QuickBooks® and other systems training, estimating, marketing, etc.).
- Surety partner commitments.
- Pre-claims resolution.

Business owners and stakeholder group representatives reported that the Illinois Tollway has implemented a program along these lines and that M/WBEs found it to be helpful. Perhaps the County can partner with the Tollway to increase the availability of these services and the pool of firms that can participate. Relationships with other government agencies should also be explored.

3. Develop Performance Measures for Program Success

The County should develop quantitative performance measures for M/WBEs and the overall success of the Program to evaluate its effectiveness in reducing the systemic barriers identified in this Report. Possible benchmarks might be:

- Decreased number of bids or proposals, by industry and the dollar amount of the awards and the goal shortfall, where the bidder was unable to meet the goals and submitted good faith efforts to do so.
- Decreased number, dollar amount and the industry code of bids or proposals rejected as non-responsive for failure to make GFEs to meet the goal.
- Decreased M/WBE substitutions during contract performance by the number, industry and dollar amount of the substitution.
- Increased bidding by certified firms as prime vendors.
- Increased prime contract awards to certified firms.
- Increased M/WBE bonding limits, size of jobs, profitability, complexity of work, etc.
- Increased variety in the industries in which minority- and woman-owned firms are awarded prime contracts and subcontracts.

4. Continue to Conduct Regular Program Reviews

The County adopted a sunset date for the current Program, which expires on Dec. 31, 2022, and we suggest this approach be continued. Data should be reviewed approximately every five to six years, to evaluate whether race- and gender-based barriers have been reduced such that affirmative efforts are no longer needed. If such measures are necessary, the County must ensure that they remain narrowly tailored.

II. LEGAL STANDARDS FOR LOCAL GOVERNMENT CONTRACTING AFFIRMATIVE ACTION PROGRAMS

A. Summary of Constitutional Equal Protection Standards

To be effective, enforceable, and legally defensible, a race-based affirmative action program for public sector contracts, regardless of funding source, must meet the judicial test of constitutional “strict scrutiny”.⁹ Strict scrutiny constitutes the highest level of judicial review.¹⁰ The strict scrutiny analysis is comprised of two prongs or elements:

1. The government must establish its “compelling interest” in remediating race discrimination by current “strong evidence” of the persistence of discrimination. Such evidence may consist of the entity’s “passive participation” in a system of racial exclusion.
2. Any remedies adopted must be “narrowly tailored” to that discrimination; the program must be directed at the types and depth of discrimination identified.¹¹

The compelling governmental interest prong has been met through two types of proof:

1. Quantitative evidence of the underutilization of minority- or woman-owned firms by the agency and/or throughout the agency’s geographic and industry market area as compared to their availability in the market area.
2. Qualitative evidence of race- or gender-based barriers to the full and fair participation of minority- and woman-owned firms in the market area or in

9. *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989).

10. Strict scrutiny is used by courts to evaluate governmental action that classifies persons on a “suspect” basis, such as race. It is also used in actions purported to infringe upon fundamental rights. Legal scholars frequently note that strict scrutiny constitutes the most rigorous form of judicial review. *See, for example*, Richard H. Fallon, Jr., *Strict Judicial Scrutiny*, 54 *UCLA Law Review* 1267, 1273 (2007).

11. *Croson*, 488 U.S. at 510.

seeking contracts with the agency.^{12, 13} Anecdotal data can consist of interviews, surveys, public hearings, academic literature, judicial decisions, legislative reports, and other information.

The narrow tailoring prong has been met by satisfying the following five factors to ensure that the remedy “fits” the evidence upon which the agency relies:

1. The necessity of relief;¹⁴
2. The efficacy of race-neutral remedies at overcoming identified discrimination;¹⁵
3. The flexibility and duration of the relief, including the availability of waiver provisions;¹⁶
4. The relationship of numerical goals to the relevant labor market;¹⁷ and
5. The impact of the relief on the rights of third parties.¹⁸

In *Adarand Constructors, Inc. v. Peña*,¹⁹ the United States Supreme Court extended the analysis of strict scrutiny to race-based federal enactments such as the United States Department of Transportation (“USDOT”) federal Disadvantaged Business Enterprise (“DBE”) program for federally assisted transportation contracts.²⁰ Just as in the local government context, the national legislature must have a compelling governmental interest for the use of race-conscious programs adopted by state and local governments, and the remedies adopted must be narrowly tailored to that evidence.²¹

Most federal courts, including the Seventh Circuit,²² have subjected preferences for Woman-Owned Business Enterprises (“WBEs”) to “intermediate scrutiny”.²³ Gender-based classifications must be supported by an “exceedingly persuasive justification” and be “substantially related to the objective”.²⁴ The quantum of evidence necessary to satisfy intermediate scrutiny is less than that required to sat-

12. *Id.* at 509.

13. For this Study, CHA has included the qualitative or anecdotal evidence collected for our Chicago area and Illinois studies as Appendix E.

14. *Id.* at 507; *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 237-238 (1995) (“*Adarand III*”).

15. *United States v. Paradise*, 480 U.S. 149, 171 (1987).

16. *Id.*

17. *Id.*

18. *Croson*, 488 U.S. at 506.

19. *Adarand III*, 515 U.S. 200.

20. The federal DBE Program regulation is set forth in 49 Code of Federal Regulations Part 26 and Part 23. Part 26 addresses participation by DBEs in United States Department of Transportation Financial Assistance Programs. Part 23 deals with participation of DBEs in airport concessions.

21. See, for example, *Croson*, 488 U.S. at 492-493; *Adarand III*, 515 U.S. 200, 227; see generally *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013).

22. *W.H. Scott Construction Co., Inc., v. City of Jackson, Mississippi*, 199 F.3d 206, 215 n.9 (5th Cir. 1999).

isfy strict scrutiny. However, appellate courts have applied strict scrutiny to the gender-based presumption of social disadvantage in reviewing the constitutionality of the DBE program²⁵ or held that the results would be the same under strict scrutiny.²⁶

Classifications not based upon a suspect class (race, ethnicity, religion, national origin or gender) are subject to the lesser standard of review referred to as “rational basis scrutiny”.²⁷ The courts have held there are no equal protection implications under the Fourteenth Amendment of the United States Constitution for groups not subject to systemic discrimination.²⁸ In contrast to both strict scrutiny and intermediate scrutiny, rational basis means the governmental action or statutory classification must be “rationally related” to a “legitimate” government interest.²⁹ Thus, preferences for persons with disabilities or veteran status may be enacted with vastly less evidence than that required for race- or gender-based measures to combat historic discrimination.³⁰

Unlike most legal challenges, the defendant bears the initial burden of producing “strong evidence” in support of its race-conscious program.³¹ As held by the Seventh Circuit,³² the plaintiff must then proffer evidence to rebut the government’s case, and bears the ultimate burden of production and persuasion that the affirmative action program is unconstitutional.³³ “[W]hen the proponent of an affirmative action plan produces sufficient evidence to support an inference of discrimination, the plaintiff must rebut that inference in order to prevail.”³⁴

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23. See, e.g., *Associated Utility Contractors of Maryland v. Mayor of Baltimore*, 83 F. Supp. 2d 613, 620 (D. Md. 2000) (“*Baltimore I*”); *Scott*, 199 F.3d at 206, 215, *Engineering Contractors Association of South Florida, Inc. v. Metropolitan Dade County*, 122 F.3d 895 (11th Cir. 1997) (“*Engineering Contractors II*”); *Concrete Works of Colorado, Inc. v. City and County of Denver*, 36 F.3d 1513, 1519 (10th Cir. 1994) (“*Concrete Works II*”); *Contractors Association of Eastern Pennsylvania v. City of Philadelphia*, 6 F.3d 990, 1009-1011 (3rd Cir. 1993) (“*Philadelphia II*”); *Coral Construction Co. v. King County, Washington*, 941 F.2d 910, 930-931 (9th Cir. 1991).
 24. Cf. *United States v. Virginia*, 518 U.S. 515, 532 n.6 (1996).
 25. *Northern Contracting, Inc. v. Illinois Department of Transportation*, 473 F.3d 715 (7th Cir. 2007), cert. denied 15-1827, June 26, 2017 (“*Northern Contracting III*”).
 26. *Western States Paving Co., Inc. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005), cert. denied, 546 U.S. 1170 (2006).
 27. See generally, *Coral Construction Co v. King County*, 941 F. 2d 910 (9th Cir. 1991); *Equal. Found. v. City of Cincinnati*, 128 F. 3d 289 (6th Cir. 1997).
 28. *United States v. Carolene Products Co.*, 304 U.S. 144 (1938).
 29. *Heller v. Doe*, 509 U.S. 312, 320 (1993).
 30. The standard applicable to status based on sexual orientation or gender identity has not yet been clarified by the courts.
 31. *Aiken v. City of Memphis*, 37 F.3d 1155, 1162 (6th Cir. 1994).
 32. See generally *Dunnett Bay Construction Company v. Borggren*, 799 F. 3d 676, 2015 WL 4934560 at **18-22 (7th Cir. 2015).
 33. *Scott*, 199 F.3d at 219; *Adarand Constructors, Inc. v. Slater*, 228 F.3d 1147, 1166 (10th Cir. 2000), 532 U.S. 941, cert. granted then dismissed as improvidently granted, 534 U.S. 103 (2001) (“*Adarand VII*”).
 34. *Engineering Contractors II*, 122 F.3d at 916.

A plaintiff “cannot meet its burden of proof through conjecture and unsupported criticism of [the government’s] evidence.”³⁵ To successfully rebut the government’s evidence, a plaintiff must introduce “credible, particularized evidence” that rebuts the government’s showing of a strong basis in evidence.³⁶ For example, in the challenge to the Minnesota and Nebraska DBE programs, “plaintiffs presented evidence that the data was susceptible to multiple interpretations, but they failed to present affirmative evidence that no remedial action was necessary because minority-owned small businesses enjoy non-discriminatory access to, and participation in, federally assisted highway contracts. Therefore, they failed to meet their ultimate burden to prove that the DBE program is unconstitutional on this ground.”³⁷ When the statistical information is sufficient to support the inference of discrimination, the plaintiff must prove that the statistics are flawed.³⁸ A plaintiff cannot rest upon general criticisms of studies or other related evidence; it must meet its burden that the government’s proof is inadequate to meet strict scrutiny, rendering the legislation or government program illegal.³⁹

To meet strict scrutiny, studies have been conducted to gather the statistical and anecdotal evidence necessary to support the use of race- and gender-conscious measures to combat discrimination. These are commonly referred to as “disparity studies” because they analyze any disparities between the opportunities and experiences of minority- and woman-owned firms and their actual utilization compared to White male-owned businesses. More rigorous studies also examine the elements of the agency’s program to determine whether it is sufficiently narrowly tailored. The following is a detailed discussion of the legal parameters and the requirements for conducting studies to support legally defensible programs.

B. Elements of Strict Constitutional Scrutiny

In its decision in *City of Richmond v. J.A. Croson Co.*, the United States Supreme Court established the constitutional contours of permissible race-based public contracting programs. Reversing long established Equal Protection jurisprudence,⁴⁰ the Court, for the first time, extended the highest level of judicial exam-

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35. *Concrete Works of Colorado, Inc. v. City and County of Denver*, 321 F.3d 950, 989 (10th Cir. 2003), *cert. denied*, 540 U.S. 1027 (2003) (10th Cir. 2003) (“*Concrete Works IV*”).
 36. *H.B. Rowe Co., Inc. v. W. Lyndo Tippet, North Carolina DOT, et al.*, 615 F.3d 233 (4th Cir. 2010); *Midwest Fence Corp. v. U.S. Department of Transportation, Illinois Department of Transportation, Illinois State Toll Highway Authority*, 84 F. Supp. 3d 705 (N.D. Ill. 2015) (“*Midwest Fence I*”), *affirmed*, 840 F.3d 932 (7th Cir. 2016) (“*Midwest Fence II*”).
 37. *Sherbrooke Turf, Inc. v. Minnesota Department of Transportation*, 345 F.3d. 964, 970 (8th Cir. 2003), *cert. denied*, 541 U.S. 1041 (2004).
 38. *Coral Construction*, 941 F. 2d at 921; *Engineering Contractors II*, 122 F.3d at 916.
 39. *Adarand VII*, 228 F.3d at 1166; *Engineering Contractors II*, 122 F.3d at 916; *Concrete Works II*, 36 F.3d at 1513, 1522-1523; *Webster v. Fulton County, Georgia*, 51 F.Supp.2d 1354, 1364 (N.D. Ga. 1999), *aff’d per curiam*, 218 F. 3d 1267 (11th Cir. 2000); *see also Wygant v. Jackson Board of Education*, 476 U.S. 267, 277-278 (1986).

ination from measures designed to limit the rights and opportunities of minorities to legislation that inures to the benefit of these victims of historic, invidious discrimination. Strict scrutiny requires that a government entity prove both its “compelling governmental interest” in remediating identified discrimination based upon “strong evidence”⁴¹ and that the measures adopted to remedy that discrimination are “narrowly tailored” to that evidence. However benign the government’s motive, race is always so suspect a classification that its use must pass the highest constitutional test of “strict scrutiny”. Many programs fail to meet the “compelling governmental interest” requirement, the “narrow tailoring” requirement, or both.

The Court struck down the City of Richmond’s Minority Business Enterprise Plan (“Plan”) because it failed to satisfy the strict scrutiny analysis applied to “race-based” government programs. The City’s “set-aside” Plan required prime contractors awarded City construction contracts to subcontract at least 30% of the project to Minority-Owned Business Enterprises (“MBEs”).⁴² A business located anywhere in the nation was eligible to participate so long as it was at least 51% owned and controlled by minority citizens or lawfully-admitted permanent residents.

The Plan was adopted following a public hearing during which no direct evidence was presented that the City had discriminated on the basis of race in contracts or that its prime contractors had discriminated against minority subcontractors. The only evidence before the City Council was: (a) Richmond’s population was 50% Black, yet less than one percent of its prime construction contracts had been awarded to minority businesses; (b) local contractors’ associations were virtually all White; (c) the City Attorney’s opinion that the Plan was constitutional; and (d) generalized statements describing widespread racial discrimination in the local, Virginia, and national construction industries.

In affirming the court of appeals’ determination that the Plan was unconstitutional, Justice Sandra Day O’Connor’s plurality opinion rejected the extreme positions that local governments either have *carte blanche* to enact race-based legislation or must prove their own active participation in discrimination:

[A] state or local subdivision...has the authority to eradicate the effects of private discrimination within its own legislative jurisdiction.... [Richmond] can use its spending powers to remedy private discrimination, if it identifies that discrimination with the particularity required by the Fourteenth Amendment...[I]f the City could show that

40. U.S. Const. Amend. XIV, §1.

41. There is no precise mathematical formula to assess what rises to the level of “strong evidence”. However, statistical evidence of discrimination constitutes a primary method used to determine whether strong evidence exists to adopt a program to remediate that discrimination.

42. The City described its Plan as remedial. It was enacted to promote greater participation by minority business enterprises in public construction projects.

it had essentially become a “passive participant” in a system of racial exclusion ...[it] could take affirmative steps to dismantle such a system.⁴³

Strict scrutiny of race-based remedies is required to determine whether racial classifications are in fact motivated by notions of racial inferiority or blatant racial politics. This highest level of judicial review “smokes out” illegitimate uses of race by ensuring that the legislative body is pursuing an important enough goal to warrant use of a highly suspect tool.⁴⁴ It also ensures that the means chosen “fit” this compelling goal so closely that there is little or no likelihood that the motive for the classification was illegitimate racial prejudice or stereotype. The Court made clear that strict scrutiny is designed to expose racial stigma; racial classifications are said to create racial hostility if they are based on notions of racial inferiority.

Richmond’s evidence was found to be lacking in every respect.⁴⁵ The City could not rely upon the disparity between its utilization of MBE prime contractors and Richmond’s minority population because not all minority persons would be qualified to perform construction projects; general population representation is irrelevant. No data were presented about the availability of MBEs in either the relevant market area or their utilization as subcontractors on City projects.

According to Justice O’Connor, the extremely low MBE membership in local contractors’ associations could be explained by “societal” discrimination or perhaps Blacks’ lack of interest in participating as business owners in the construction industry. To be relevant, the City would have to demonstrate statistical disparities between eligible MBEs and actual membership in trade or professional groups. Further, Richmond presented no evidence concerning enforcement of its own anti-discrimination ordinance. Finally, the City could not rely upon Congress’ determination that there has been nationwide discrimination in the construction industry. Congress recognized that the scope of the problem varies from market to market, and, in any event, it was exercising its powers under Section Five of the Fourteenth Amendment. Local governments are further constrained by the Amendment’s Equal Protection Clause.

In the case at hand, the City has not ascertained how many minority enterprises are present in the local construction market nor the level of their participation in City construction projects. The City points to no evidence that qualified minority contractors have been passed over for City contracts or subcontracts, either as a group or in any individual

43. 488 U.S. at 491-92.

44. See also *Grutter v. Bollinger*, 539 U.S. 306, 327 (2003) (“Not every decision influenced by race is equally objectionable, and strict scrutiny is designed to provide a framework for carefully examining the importance and the sincerity of the reasons advanced by the governmental decisionmaker for the use of race in that particular context.”).

45. The City cited past discrimination and its desire to increase minority business participation in construction projects as the factors giving rise to the Plan.

case. Under such circumstances, it is simply impossible to say that the City has demonstrated “a strong basis in evidence for its conclusion that remedial action was necessary.”⁴⁶

This analysis was applied only to Blacks. The Court emphasized that there was “absolutely no evidence” of discrimination against other minorities. “The random inclusion of racial groups that, as a practical matter, may have never suffered from discrimination in the construction industry in Richmond, suggests that perhaps the City’s purpose was not in fact to remedy past discrimination.”⁴⁷

Having found that Richmond had not presented evidence in support of its compelling interest in remediating discrimination—the first prong of strict scrutiny—the Court made two observations about the narrowness of the remedy—the second prong of strict scrutiny. First, Richmond had not considered race-neutral means to increase MBE participation. Second, the 30% quota had no basis in evidence, and was applied regardless of whether the individual MBE had suffered discrimination.⁴⁸ The Court noted that the City “does not even know how many MBEs in the relevant market are qualified to undertake prime or subcontracting work in public construction projects.”⁴⁹

Recognizing that her opinion might be misconstrued to eliminate all race-conscious contracting efforts, Justice O’Connor closed with these admonitions:

Nothing we say today precludes a state or local entity from taking action to rectify the effects of identified discrimination within its jurisdiction. If the City of Richmond had evidence before it that non-minority contractors were systematically excluding minority businesses from subcontracting opportunities, it could take action to end the discriminatory exclusion. Where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or the locality’s prime contractors, an inference of discriminatory exclusion could arise. Under such circumstances, the City could act to dismantle the closed business system by taking appropriate measures against those who discriminate based on race or other illegitimate criteria. In the extreme case, some form of narrowly tailored racial preference might be necessary to break down patterns of deliberate exclusion... Moreover, evidence of a pattern of individual discriminatory acts can, if supported by

46. *Croson*, 488 U.S. at 510.

47. *Id.*

48. *See Grutter*, 529 U.S. at 336-337 (quotas are not permitted; race must be used in a flexible, non-mechanical way).

49. *Croson*, 488 U.S. at 502.

appropriate statistical proof, lend support to a local government's determination that broader remedial relief is justified.⁵⁰

While much has been written about *Croson*, it is worth stressing what evidence was, and was not, before the Court. First, Richmond presented *no* evidence regarding the availability of MBEs to perform as prime contractors or subcontractors and *no* evidence of the utilization of minority-owned subcontractors on City contracts.⁵¹ Nor did Richmond attempt to link the remedy it imposed to any evidence specific to the program; it used the general population of the City rather than any measure of business availability.

Some commentators have taken this dearth of any particularized proof and argued that only the most particularized proof can suffice in all cases. They leap from the Court's rejection of Richmond's reliance on only the percentage of Blacks in the City's population to a requirement that only firms that bid or have the "capacity" or "willingness" to bid on a particular contract at a particular time can be considered in determining whether discrimination against Black businesses infects the local economy.⁵²

This argument has been rejected explicitly by some courts. In denying the plaintiff's summary judgment motion to enjoin the City of New York's Minority- and Woman-Owned Business Enterprise ("M/WBE") construction ordinance, the court stated:

[I]t is important to remember what the *Croson* plurality opinion did and did not decide. The Richmond program, which the *Croson* Court struck down, was insufficient because it was based on a comparison of the minority population in its entirety in Richmond, Virginia (50%) with the number of contracts awarded to minority businesses (0.67%). There were no statistics presented regarding the number of minority-owned contractors in the Richmond area, *Croson*, 488 U.S. at 499, and the Supreme Court was concerned with the gross generality of the statistics used in justifying the Richmond program. There is no indication that the statistical analysis performed by [the consultant] in the present case, which does contain statistics regarding minority contractors in New York City, is not sufficient as a matter of law under *Croson*.⁵³

50. *Id.* at 509 (citations omitted).

51. *Id.* at 502.

52. *See, for example, Northern Contracting III*, 473 F.3d at 723.

53. *North Shore Concrete and Associates, Inc. v. City of New York*, 1998 U.S. Dist. Lexis 6785, *28-29 (E.D. N.Y. 1998); *see also Harrison & Burrowes Bridge Constructors, Inc. v. Cuomo*, 981 F.2d 50, 61-62 (2nd Cir. 1992) ("Croson made only broad pronouncements concerning the findings necessary to support a state's affirmative action plan"); *cf. Concrete Works II*, 36 F.3d at 1528 (City may rely on "data reflecting the number of MBEs and WBEs in the marketplace to defeat the challenger's summary judgment motion").

Further, Richmond made no attempt to narrowly tailor a goal for the procurement at issue that reflected the reality of the project. Arbitrary quotas, and the unyielding application of those quotas, did not support the stated objective of ensuring equal access to City contracting opportunities. The *Croson* Court said nothing about the constitutionality of flexible goals based upon the availability of MBEs to perform the scopes of the contract in the government’s local market area. In contrast, the USDOT DBE program avoids these pitfalls. The federal DBE program “provides for a flexible system of contracting goals that contrasts sharply with the rigid quotas invalidated in *Croson*.”⁵⁴

While strict scrutiny is designed to require clear articulation of the evidentiary basis for race-based decision-making and careful adoption of remedies to address discrimination, it is not, as Justice O’Connor stressed, an impossible test that no proof can meet. Strict scrutiny need not be “fatal in fact”.

C. Establishing a “Strong Basis in Evidence” for Cook County Government’s Program for Minority- and Woman-Owned Businesses

The case law on the DBE program should guide the County’s program for locally funded contracts. Whether the program is called an M/WBE program or a DBE program or any other moniker, the strict scrutiny test applies. As discussed, 49 C.F.R. Part 26 has been upheld by every court, and local programs for M/WBEs will be judged against this legal framework.⁵⁵ As previously noted, programs for veterans, persons with disabilities, preferences based on geographic location or truly race- and gender-neutral small business efforts are not subject to strict scrutiny but rather the lower level of scrutiny called “rational basis”. Therefore, no evidence comparable to that in a disparity study is needed to enact such initiatives.

It is well established that disparities between an agency’s utilization of M/WBEs and their availability in the relevant marketplace provide a sufficient basis for the consideration of race- or gender-conscious remedies. Proof of the disparate impacts of economic factors on M/WBEs and the disparate treatment of such firms by actors critical to their success is relevant and probative under the strict scrutiny standard. Discrimination must be shown using sound statistics and econometric models to examine the effects of systems or markets on different groups, as well as by evidence of personal experiences with discriminatory conduct, policies or systems.⁵⁶ Specific evidence of discrimination or its absence may be direct

54. *Western States Paving*, 407 F.3d at 994.

55. *Midwest Fence II*, 840 F.3d. at 953.

56. *Adarand VII*, 228 F.3d at 1166 (“statistical and anecdotal evidence are appropriate”).

or circumstantial and should include economic factors and opportunities in the private sector affecting the success of M/WBEs.⁵⁷

Croson's admonition that “mere societal” discrimination is not enough to meet strict scrutiny is met where the government presents evidence of discrimination in the industry targeted by the program. “If such evidence is presented, it is immaterial for constitutional purposes whether the industry discrimination springs from widespread discriminatory attitudes shared by society or is the product of policies, practices, and attitudes unique to the industry... The genesis of the identified discrimination is irrelevant.” There is no requirement to “show the existence of specific discriminatory policies and that those policies were more than a reflection of societal discrimination.”⁵⁸

The County need not prove that it is itself guilty of discrimination to meet its burden. In upholding Denver’s M/WBE construction program, the court stated that Denver can show its compelling interest by “evidence of private discrimination in the local construction industry coupled with evidence that it has become a passive participant in that discrimination...[by] linking its spending practices to the private discrimination.”⁵⁹ Denver further linked its award of public dollars to discriminatory conduct through the testimony of M/WBEs that identified general contractors who used them on City projects with M/WBE goals but refused to use them on private projects without goals.

The following are the evidentiary elements courts will examine in determining the constitutional validity of the County’s race- and gender-conscious program and the steps in performing a disparity study necessary to meet those elements.

1. Define Cook County Government’s Market Area

The first step is to determine the relevant geographic market area in which the County operates. *Croson* states that a state or local government may only remedy discrimination within its own contracting market area. The City of Richmond was specifically faulted for including minority contractors from across the country in its program, based on national data considered by Congress.⁶⁰ The County must therefore empirically establish the geographic and product dimensions of its contracting and procurement market area to ensure that the program meets strict scrutiny. This is a fact driven inquiry; it may or may not be the case that the market area is the government’s jurisdictional boundaries.⁶¹ This study employs long established economic principles to empirically estab-

57. *Id.*

58. *Concrete Works IV*, 321 F.3d at 976.

59. *Id.* at 977.

60. *Croson*, 488 U.S. at 508.

61. *Concrete Works II*, 36 F.3d at 1520 (to confine data to strict geographic boundaries would ignore “economic reality”).

lish the County's geographic and product market area to ensure that any program based on the study satisfies strict scrutiny.

A commonly accepted definition of geographic market area for disparity studies is the locations that account for at least 75% of the agency's contract and subcontract dollar payments.⁶² Similarly, the accepted approach is to analyze those detailed industries that make up at least 75% of the prime contract and associated subcontract payments for the study period.⁶³ This produces the utilization results within the geographic market area.⁶⁴

2. Determine Cook County Government's Utilization of M/WBEs

The study should next determine the County's utilization of M/WBEs in its geographic market area. Generally, this analysis should be limited to formally procured contracts, since it is unlikely that it is realistic or useful to set goals on small dollar purchases. Developing the file for analysis involves the following steps:

- Develop the initial contract data files. This involves first gathering the County's records of its payments to prime contractors, and if available, associated subcontractors.
- Develop the final contract data file. Whatever data are missing (often race and gender ownership, North American Industry Classification System ("NAICS") or other industry codes, work descriptions or other important information not collected by the agency) must be reconstructed by the consultant. Using surveys is unlikely to yield sufficient data. It is also important to research whether a firm that has an address outside the market area has a location in the geographic market area (contract records often have far flung addresses for payments). All necessary data for at least 80% of the contract dollars in the final contract data files should be collected to ensure a comprehensive file that mirrors the County's contracting and procurement activities.

3. Determine the Availability of M/WBEs in Cook County Government's Market Area

Next, the study must estimate the availability of minorities and women in the County's relevant geographic market area to participate in the County's con-

62. J. Wainwright and C. Holt, *Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program*, National Academies of Sciences, Engineering, and Medicine, 2010 ("*National Disparity Study Guidelines*").

63. *Id.* at 50-51.

64. For this Report, we found the County's market area to be Cook, Dupage, Kane, Lake, McHenry and Will counties. Please see Chapter IV for additional details.

tracts as prime contractors and associated subcontractors. Based on the product and geographic utilization data, the study should calculate unweighted and weighted M/WBE availability estimates of ready, willing and able firms in the County's market. These results will be a narrowly tailored, dollar-weighted average of all the underlying industry availability numbers; larger weights will be applied to industries with relatively more spending and lower weights applied to industries with relatively less spending. The availability figures should be sub-divided by race, ethnicity, and gender.

The availability analysis involves the following steps:

1. The development of the Merged Business Availability List. Three data sets are used to develop the Merged Business Availability List:
 - The firms in the M/WBE Master Directory. This methodology includes both certified firms and non-certified firms owned by minorities or women.⁶⁵ The Master Directory consists of all available government and private D/M/WBE directories, limited to firms within the County's geographic and product market.
 - The firms contained in the County's contract data file. This will require the elimination of any duplications because a firm might have received more than one contract for work in a given NAICS code during the study period.
 - Firms extracted from the Dun & Bradstreet MarketPlace/Hoovers database, using the relevant geographic and product market definitions.
2. The estimation of unweighted availability. The Merged Business Availability List will be the available universe of relevant firms for the study. This process will significantly improve the identification of minority-owned and woman-owned businesses in the business population. Race and sex must be assigned to any firm not already classified.⁶⁶ This will produce estimates of woman and minority business availability in the County's markets for each NAICS code in the product market; for woman and minority business availability for all NAICS codes combined; and for the broad industry categories of goods, services and construction. The detailed results should also be the basis for contract specific goal setting methodology.

65. See *National Disparity Study Guidelines*, Chapter III, at 33-34.

66. We note this is an improvement over the approach described in the *National Disparity Study Guidelines*, which recommended a survey to assign classifications. While it is more labor intensive to actually assign race, gender and industry code to each firm than using a mathematical formula derived from survey results, it greatly improves the accuracy of the assignments, resulting in more narrowly tailored results.

3. The estimation of weighted availability. Using the weights from the utilization analysis, the unweighted availability should be adjusted for the share of the County's spending in each NAICS code. The unweighted availability determination will be weighted by the share of dollars the County actually spends in each NAICS code, derived from the utilization analysis. These resulting weighted availability estimates will be used in the calculation of disparity indices.

This adjustment is important for two reasons. First, disparity analyses compare utilization and availability. The utilization metrics are shares of dollars. The unweighted availability metrics are shares of firms. In order to make comparable analyses, the dollar shares are used to weight the unweighted availability. Second, any examination of the County's overall usage of available firms must be conducted with an understanding of what NAICS codes received what share of agency spending. Absent this, a particular group's availability share (high or low) in an area of low spending would carry equal weight to a particular group's availability share (high or low) in an area of large spending.

This methodology for estimating availability is usually referred to as the "custom census" approach with refinements. This approach is favored for several reasons. As recognized by the courts and the *National Disparity Study Guidelines*,⁶⁷ this methodology in general is superior to the other methods for at least four reasons.

- First, it provides an internally consistent and rigorous "apples to apples" comparison between firms in the availability numerator and those in the denominator. Other approaches often have different definitions for the firms in the numerator (*e.g.*, certified M/WBEs or firms that respond to a survey) and the denominator (*e.g.*, registered vendors or the Census Bureau's County Business Patterns data).
- Second, by examining a comprehensive group of firms, it "casts a broader net" beyond those known to the agency. As held by the federal court of appeals in finding the Illinois Department of Transportation's program to be constitutional, the "remedial nature of [DBE programs] militates in favor of a method of DBE availability calculation that casts a broader net" than merely using bidders lists or other agency or government directories.⁶⁸ A broad methodology is also recommended by the Federal DBE Program, which has been upheld by every court.⁶⁹ A custom census

67. *National Disparity Study Guidelines*, at 57-58.

68. *Northern Contracting III*, 473 F.3 at 723.

69. *See Tips for Goal Setting in the Disadvantaged Business Enterprise (DBE) Program*, https://www.transportation.gov/sites/dot.gov/files/docs/Tips_for_Goal-Setting_in_DBE_Program_20141106.pdf.

is less likely to be tainted by the effects of past and present discrimination than other methods, such as bidders lists, because it seeks out firms in the agency's market areas that have not been able to access its opportunities.

- Third, this approach is less impacted by variables affected by discrimination. Factors such as firm age, size, qualifications, and experience are all elements of business success where discrimination would be manifested. Several courts have held that the results of discrimination – which impact factors affecting capacity – should not be the benchmark for a program designed to ameliorate the effects of discrimination. They have acknowledged that minority and woman firms may be smaller, newer, and otherwise less competitive than non-M/WBEs because of the very discrimination sought to be remedied by race-conscious contracting programs. Racial and gender differences in these “capacity” factors are the *outcomes* of discrimination and it is therefore inappropriate as a matter of economics and statistics to use them as “control” variables in a disparity study.⁷⁰
- Fourth, it has been upheld by every court that has reviewed it, including in the failed challenge to the Illinois Department of Transportation's DBE program⁷¹ and most recently in the successful defense of the Illinois State Toll Highway's DBE program.⁷²

Other methodologies relying only on vendor or bidder lists may overstate or understate availability as a proportion of the County's actual markets because they reflect only the results of the agency's own activities, not an accurate portrayal of marketplace behavior. Other methods of whittling down availability by using assumptions based on surveys with limited response rates or guesses about firms' capacities easily lead to findings that woman and minority businesses no longer face discrimination. Firms that fail to respond to a survey are called “unavailable” even if the firm is actually working on agency contracts.

Many plaintiffs have argued that studies must somehow control for “capacity” of M/WBEs to perform specific agency contracts. The definition of “capacity” has varied based upon the plaintiff's particular point of view, but it has generally meant firm age, firm size (full time employees), firm revenues, bonding limits and prior experience on agency projects (no argument has been made outside of the construction industry).

70. For a detailed discussion of the role of capacity in disparity studies, see the *National Disparity Study Guidelines*, Appendix B, *Understanding Capacity*.

71. *Northern Contracting III*, 473 F.3d 715.

72. *Midwest Fence, Corp. v. U.S. Department of Transportation et al*, 840 F.3d 932 (2016); see also *Northern Contracting III*, 473 F.3d 715 (CHA served as testifying experts for the Tollway).

This test has been rejected by the courts when directly addressed by the plaintiff and the agency. As recognized by the courts and the *National Disparity Study Guidelines*, these capacity factors are not race- and gender-neutral variables. Discriminatory barriers depress the formation of firms by minorities and women, and the success of such firms in doing business in both the private and public sectors. In a perfectly discriminatory system, M/WBEs would have no “capacity” because they would have been prevented from developing any “capacity”. That certainly would not mean that there was no discrimination or that the government must sit helplessly and continue to award tax dollars within the “market failure” of discrimination and without recognition of systematic, institutional race- and gender-based barriers. It is these types of “capacity” variables where barriers to full and fair opportunities to compete will be manifested. Capacity limitations on availability would import the current effects of past discrimination into the model, because if M/WBEs are newer or smaller because of discrimination, then controlling for those variables will mask the phenomenon of discrimination that is being studied. In short, identifiable indicators of capacity are themselves impacted and reflect discrimination. The courts have agreed. Based on expert testimony, judges understand that factors such as size and experience reflect outcomes influenced by race and gender: “M/WBE construction firms are generally smaller and less experienced *because* of discrimination.”⁷³ Significantly, *Croson* does not “require disparity studies that measure whether construction firms are able to perform a *particular contract*.”⁷⁴

To rebut this framework, a plaintiff must proffer its own study showing that the disparities disappear when whatever variables it believes are important are held constant and that controlling for firm specialization explained the disparities.⁷⁵ “Since the state defendants offered evidence to do so, the burden then shifted to Midwest Fence to show a genuine issue of material fact as to whether the state defendants had a substantial basis in evidence for adopting their DBE programs. Speculative criticism about potential problems will not carry that burden.”⁷⁶ “To successfully rebut the [Illinois] Tollway's evidence of discrimination, [plaintiff] Midwest {Fence] must come forward with a neutral explanation for the disparity, show that the Tollway's statistics are flawed, demonstrate that the observed disparities are insignificant, or present contrasting data of its own. *See Concrete Works IV*, 321 F.3d at 959 (citation omitted). Again, the Court finds that Midwest has failed to make this showing.”⁷⁷

73. *Concrete Works IV*, 321 F.3d at 983 (emphasis in the original).

74. *Id.*

75. Conjecture and unsupported criticism of the government are not enough. The plaintiff must rebut the government's evidence and introduce “credible, particularized evidence” of its own. *See Midwest Fence II*, 840 F.3d at 942 (upholding the Illinois Tollway's program for state funded contracts modeled after Part 26 and based on CHA's expert testimony).

76. *Midwest Fence II*, 840 F.3d at 952.

There are also practical reasons to not circumscribe availability through “capacity” limitations. First, there is no agreement concerning what variables are relevant or how those variables are to be measured for the purpose of examining whether race and gender barriers impede the success of minority and woman entrepreneurs. [“Plaintiff’s’ expert] and Midwest Fence have not explained how to account for relative capacity.”⁷⁸ For example, a newly formed firm might be the result of a merger of much older entities or have been formed by highly experienced owners; it is unclear how such variations would shed light on the issues in a disparity study. Second, since the amount of necessary capacity will vary from contract to contract, there is no way to establish universal standards that would satisfy the capacity limitation. Third, firms’ capacities are highly elastic. Businesses can add staff, rent equipment, hire subcontractors or take other steps to be able to perform a particular scope on a particular contract. Whatever a firm’s capacity might have been at the time of the study, it may well have changed by the time the agency seeks to issue a specific future solicitation. Fourth, there are no reliable data sources for the type of information usually posited as important by those who seek to reduce availability estimates using capacity factors. While a researcher might have information about firms that are certified as M/WBEs or that are prequalified by an agency (which usually applies only to construction firms), there is no database for that information for non-certified firms, especially White male-owned firms that usually function as subcontractors. Any adjustment to the numerator (M/WBEs) must also be made to the denominator (all firms), since a researcher cannot assume that all White male-owned firms have adequate capacity but that M/WBEs do not.

Capacity variables, such as the length of time the owner has been in business, the receipts of the firms, the number of employees and other information, should be examined at the economy-wide level of business formation and earnings, discussed in Chapter V, not at the first stage of the analysis. To import these variables into the availability determination would confirm the downward bias that discrimination imposes on M/WBEs’ availability and the upward bias enjoyed by non-M/WBEs. These factors should also be explored during anecdotal data collection, discussed in Chapter VI, to develop data on how the formation and development of M/WBEs are affected by these types of factors. The ability of firms to perform a particular contract or scope of work is also relevant to contract goal setting, where the agency must use its judgment about whether to adjust the initial goal that results from the study data based on current market conditions and current firm availability.

77. *Midwest Fence I*, 84 F. Supp. 3d 705.

78. *Midwest Fence II*, 840 F.3d at 952.

4. Examine Disparities between Cook County Government's Utilization of M/WBEs and M/WBE Availability

A disparity study for a local government must analyze whether there are statistically significant disparities between the availability of M/WBEs and their utilization on agency contracts.

Where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or the locality's prime contractors, an inference of discriminatory exclusion could arise... In the extreme case, some form of narrowly tailored racial preference might be necessary to break down patterns of deliberate exclusion.⁷⁹

This is known as the "disparity ratio" or "disparity index" which is a critical element of the statistical evidence. A disparity ratio measures the participation of a group in the government's contracting opportunities by dividing that group's utilization by the availability of that group and multiplying that result by 100. Courts have looked to disparity indices in determining whether strict scrutiny is satisfied.⁸⁰ An index less than 100% indicates that a given group is being utilized less than would be expected based on its availability.

The courts have held that disparity results must be analyzed to determine whether the results are "significant". There are two distinct methods to measure the significance of a result. First, a "large" or "substantively significant" disparity is commonly defined by courts as utilization that is equal to or less than 80% of the availability measure. This is based on the Equal Employment Opportunity Commission's "eighty percent rule" that a ratio less than 80% presents a *prima facie* case of discrimination by supporting the inference that the result may be caused by the disparate impacts of discrimination.⁸¹ Second, statistically significant disparity means that an outcome is unlikely to have occurred as the result of random chance alone. The greater the statistical significance, the smaller the probability that it resulted from random chance alone.⁸² A more in-depth discussion of statistical significance is provided in Appendix C.

79. *Croson*, 488 U.S. at 509; see *Webster*, 51 F.Supp.2d at 1363, 1375.

80. *W. H. Scott Construction*, 199 F.3d at 218; see also *Concrete Works II*, 36 F.3d at 1526-1527; *O'Donnell Construction Co., Inc. v. State of Columbia*, 963 F.2d 420, 426 (D.C. Cir. 1992); *Cone Corporation v. Hillsborough County*, 908 F.2d 908, 916 (11th Cir. 1990), *cert. denied*, 498 U.S. 983 (1990).

81. 29 C.F.R. §1607.4(D) ("A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact."); see *Engineering Contractors II*, 122 F3d at 914.

In addition to creating the disparity ratio, correct measures of availability are necessary to determine whether discriminatory barriers depress the formation of firms by minorities and women, and the success of such firms in doing business in both the private and public sectors, known as an “economy-wide” disparity analysis.⁸³

The County need not prove that the statistical inferences of discrimination are “correct”. In upholding Denver’s M/WBE Program, the Tenth Circuit Court of Appeals noted that strong evidence supporting Denver’s determination that remedial action was necessary need not have been based upon “irrefutable or definitive” proof of discrimination. Statistical evidence creating inferences of discriminatory motivations was sufficient and, therefore, evidence of market area discrimination was properly used to meet strict scrutiny. To rebut this type of evidence, the plaintiff must prove by a preponderance of the evidence that such proof does not support those inferences.⁸⁴

Nor must the County demonstrate that the “ordinances will *change* discriminatory practices and policies” in the local market area; such a test would be “illogical” because firms could defeat the remedial efforts simply by refusing to cease discriminating.⁸⁵

The County need not prove that private firms directly engaged in any discrimination in which the government passively participates do so intentionally, with the purpose of disadvantaging minorities and women.

Denver’s only burden was to introduce evidence which raised the inference of discriminatory exclusion in the local construction industry and link its spending to that discrimination.... Denver was under no burden to identify any specific practice or policy that resulted in discrimination. Neither was Denver required to demonstrate that the purpose of any such practice or policy was to disadvantage women or minorities. To impose such a burden on a municipality would be tantamount to requiring proof of discrimination and would eviscerate any reliance the municipality could place on statistical studies and anecdotal evidence.⁸⁶

82. A chi-square test – examining if the utilization rate was different from the weighted availability - is used to determine the statistical significance of the disparity ratio.

83. *Northern Contracting, Inc. v. Illinois Department of Transportation*, 2005 U.S. Dist. LEXIS 19868 at *69 (Sept. 8, 2005) (“*Northern Contracting II*”) (IDOT’s custom census approach was supportable because “discrimination in the credit and bonding markets may artificially reduce the number of M/WBEs”).

84. *Concrete Works IV*, 321 F. 3d at 971.

85. *Id.* at 973 (emphasis in the original).

86. *Id.* at 971.

Similarly, statistical evidence by its nature cannot identify the individuals responsible for the discrimination; there is no need to do so to meet strict scrutiny, as opposed to an individual or class action lawsuit.⁸⁷

5. Analyze Economy-Wide Evidence of Race- and Gender-Based Disparities in the Chicago Area Market

The courts have repeatedly held that analysis of disparities in the rates at which M/WBEs in the government's markets form businesses compared to similar non-M/WBEs, their earnings from such businesses, and their access to capital markets are highly relevant to the determination of whether the market functions properly for all firms regardless of the race or gender of their ownership. These analyses contributed to the successful defense of the Illinois Tollway's DBE program⁸⁸. As similarly explained by the Tenth Circuit, this type of evidence

demonstrates the existence of two kinds of discriminatory barriers to minority subcontracting enterprises, both of which show a strong link between racial disparities in the federal government's disbursements of public funds for construction contracts and the channeling of those funds due to private discrimination. The first discriminatory barriers are to the formation of qualified minority subcontracting enterprises due to private discrimination, precluding from the outset competition for public construction contracts by minority enterprises. The second discriminatory barriers are to fair competition between minority and non-minority subcontracting enterprises, again due to private discrimination, precluding existing minority firms from effectively competing for public construction contracts. The government also presents further evidence in the form of local disparity studies of minority subcontracting and studies of local subcontracting markets after the removal of affirmative action programs.... The government's evidence is particularly striking in the area of the race-based denial of access to capital, without which the formation of minority subcontracting enterprises is stymied.⁸⁹

87. *Id.* at 973.

88. *Midwest Fence I*, 84 F. Supp. 3d 705 (“Colette Holt's updated census analysis controlled for variables such as education, age, and occupation and still found lower earnings and rates of business formation among women and minorities as compared to white men.”).

89. *Adarand VII*, 228 F.3d at 1147, 1168-69.

Business discrimination studies and lending formation studies are relevant and probative because they show a strong link between the disbursement of public funds and the channeling of those funds due to private discrimination. “Evidence that private discrimination results in barriers to business formation is relevant because it demonstrates that M/WBEs are precluded *at the outset* from competing for public construction contracts. Evidence of barriers to fair competition is also relevant because it similarly demonstrates that *existing* M/WBEs are precluded from competing for public contracts.”⁹⁰ Despite the contentions of plaintiffs that possibly dozens of factors might influence the ability of any individual to succeed in business, the courts have rejected such impossible tests and held that business formation studies are not flawed because they cannot control for subjective descriptions such as “quality of education”, “culture” and “religion”.⁹¹

For example, in unanimously upholding the Federal DBE Program for federally assisted transportation-related-contracts, the courts agree that disparities between the earnings of minority-owned firms and similarly situated non-minority-owned firms and the disparities in commercial loan denial rates between Black business owners compared to similarly situated non-minority business owners are strong evidence of the continuing effects of discrimination.⁹² The Eighth Circuit Court of Appeals took a “hard look” at the evidence Congress considered, and concluded that the legislature had

spent decades compiling evidence of race discrimination in government highway contracting, of barriers to the formation of minority-owned construction businesses, and of barriers to entry. In rebuttal, [the plaintiffs] presented evidence that the data were susceptible to multiple interpretations, but they failed to present affirmative evidence that no remedial action was necessary because minority-owned small businesses enjoy non-discriminatory access to and participation in highway contracts. Thus, they failed to meet their ultimate burden to prove that the DBE program is unconstitutional on this ground.⁹³

90. *Id.*

91. *Concrete Works IV*, 321 F.3d at 980.

92. *Id.*; *Western States*, 407 F.3d at 993; *Northern Contracting, Inc. v. Illinois Department of Transportation*, 2004 U.S. Dist. LEXIS 3226 at *64 (N.D. Ill., Mar. 3, 2004) (“*Northern Contracting I*”).

93. *Sherbrooke*, 345 F.3d. at 970; *see also, Adarand VII*, 228 F.3d at 1175 (Plaintiff has not met its burden “of introducing credible, particularized evidence to rebut the government’s initial showing of the existence of a compelling interest in remedying the nationwide effects of past and present discrimination in the federal construction procurement subcontracting market.”).

6. Evaluate Anecdotal Evidence of Race- and Gender-Based Barriers to Equal Opportunities in the Chicago Area Market

A study should further explore anecdotal evidence of experiences with discrimination in contracting opportunities because it is relevant to the question of whether observed statistical disparities are due to discrimination and not to some other non-discriminatory cause or causes. As observed by the Supreme Court, anecdotal evidence can be persuasive because it “brought the cold [statistics] convincingly to life.”⁹⁴ Testimony about discrimination practiced by prime contractors, bonding companies, suppliers, and lenders has been found relevant regarding barriers both to minority firms’ business formation and to their success on governmental projects.⁹⁵ While anecdotal evidence is insufficient standing alone, “[p]ersonal accounts of actual discrimination or the effects of discriminatory practices may, however, vividly complement empirical evidence. Moreover, anecdotal evidence of a [government’s] institutional practices that exacerbate discriminatory market conditions are [sic] often particularly probative.”⁹⁶ “[W]e do not set out a categorical rule that every case must rise or fall entirely on the sufficiency of the numbers. To the contrary, anecdotal evidence might make the pivotal difference in some cases; indeed, in an exceptional case, we do not rule out the possibility that evidence not reinforced by statistical evidence, as such, will be enough.”⁹⁷

There is no requirement that anecdotal testimony be “verified” or corroborated, as befits the role of evidence in legislative decision-making as opposed to judicial proceedings. “[Plaintiff] offered no rationale as to why a fact finder could not rely on the State’s ‘unverified’ anecdotal data. Indeed, a fact finder could very well conclude that anecdotal evidence need not – and indeed cannot – be verified because it ‘is nothing more than a witness’ narrative of an incident told from the witness’ perspective and including the witness’ perceptions.”⁹⁸ Likewise, the Tenth Circuit held that “Denver was not required to present corroborating evidence and [plaintiff] was free to present its own witnesses to either refute the incidents described by Denver’s witnesses or to relate their own perceptions on discrimination in the Denver construction industry.”⁹⁹

94. *International Brotherhood of Teamsters v. United States*, 431 U.S. 324, 399 (1977).

95. *Adarand VII*, 228 F.3d at 1168-1172.

96. *Concrete Works II*, 36 F.3d at 1520,1530.

97. *Engineering Contractors II*, 122 F.3d at 926.

98. *Rowe*, 615 F.3d at 249.

99. *Concrete Works IV*, 321 F.3d at 989.

D. Narrowly Tailoring a Minority- and Woman-Owned Business Enterprise Program for Cook County Government

Even if the County has a strong basis in evidence to believe that race-based measures are needed to remedy identified discrimination, the program must still be narrowly tailored to that evidence. In striking down the City of Chicago’s earlier M/WBE construction program, the court held that “remedies must be more akin to a laser beam than a baseball bat.”¹⁰⁰ In contrast, as discussed above, programs that closely mirror those of the Federal DBE Program¹⁰¹ have been upheld using that framework.¹⁰² The courts have repeatedly examined the following factors in determining whether race-based remedies are narrowly tailored to achieve their purpose:

- The necessity of relief;¹⁰³
- The efficacy of race- and gender-neutral remedies at overcoming identified discrimination;¹⁰⁴
- The relationship of numerical benchmarks for government spending to the availability of minority- and woman-owned firms and to subcontracting goal setting procedures;¹⁰⁵
- The flexibility of the program requirements, including the provision for good faith efforts to meet goals and contract specific goal setting procedures;¹⁰⁶
- The relationship of numerical goals to the relevant market;¹⁰⁷
- The impact of the relief on third parties;¹⁰⁸ and
- The overinclusiveness of racial classifications.¹⁰⁹

100. *Builders Association of Greater Chicago v. City of Chicago*, 298 F. Supp.2d 725, 742 (N.D. Ill. 2003).

101. Although numerous regulatory pronouncements have been issued since the federal DBE program was revamped in 1999, the 1999 rule remains in effect.

102. *See, e.g., Midwest Fence II*, 840 F.3d at 953 (upholding the Illinois Tollway’s program for state funded contracts modelled after Part 26 and based on CHA’s expert testimony).

103. *Croson* at 507; *Adarand III* at 237-238.

104. *Paradise* at 171.

105. *Id.*

106. *Id.*

107. *Id.*

108. *Croson* at 506.

109. *Paradise*, 480 U.S. at 149, 171; *see also Sherbrooke*, 345 F.3d at 971-972.

1. Consider Race- and Gender-Neutral Remedies

Race- and gender-neutral approaches are necessary components of a defensible and effective M/WBE program,¹¹⁰ and the failure to seriously consider such remedies has proven fatal to several programs.¹¹¹ Difficulty in accessing procurement opportunities, restrictive bid specifications, excessive experience requirements, and overly burdensome insurance and/or bonding requirements, for example, might be addressed by the County without resorting to the use of race or gender in its decision-making. Effective remedies include unbundling of contracts into smaller units that facilitate small business participation; providing technical support; and developing programs to address issues of financing, bonding, and insurance important to all small and emerging businesses.¹¹² Further, governments have a duty to ferret out and punish discrimination against minorities and women by their contractors, staff, lenders, bonding companies or others.¹¹³

The requirement that the agency must meet the maximum feasible portion of the goal through race-neutral measures, as well as estimate that portion of the goal that it predicts will be met through such measures, has been central to the holdings that the DBE program rule meets narrow tailoring.¹¹⁴ The highly disfavored remedy of race-based decision making should be used only as a last resort.

However, strict scrutiny does not require that every race-neutral approach must be implemented and then proven ineffective before race-conscious remedies may be utilized.¹¹⁵ While an entity must give good faith consideration to race-neutral alternatives, “strict scrutiny does not require exhaustion of every possible such alternative ... however irrational, costly, unreasonable, and unlikely to succeed such alternative might be... [S]ome degree of practicality is

110. *Croson*, 488 U.S. at 507 (Richmond considered no alternatives to race-based quota); *Associated General Contractors of Ohio v. Drabik*, 214 F.3d 730, 738 (6th Cir. 2000) (“*Drabik II*”); *Contractors Association of Eastern Pennsylvania v. City of Philadelphia*, 91 F.3d 586, 609 (3rd Cir. 1996) (“*Philadelphia III*”) (City’s failure to consider race-neutral alternatives was particularly telling); *Webster*, 51 F.Supp.2d at 1380 (for over 20 years County never seriously considered race-neutral remedies); cf. *Aiken*, 37 F.3d at 1164 (failure to consider race-neutral method of promotions suggested a political rather than a remedial purpose).

111. See, e.g., *Florida A.G.C. Council, Inc. v. State of Florida*, Case No.: 4:03-CV-59-SPM at 10 (N. Dist. Fla. 2004) (“There is absolutely no evidence in the record to suggest that the Defendants contemplated race-neutral means to accomplish the objectives” of the statute.); *Engineering Contractors II*, 122 F.3d at 928.

112. See 49 C.F.R. §26.51; *Midwest Fence I*, 2015 WL 1396376 at *22 (“the Illinois Tollway has implemented at least four race-neutral programs to increase DBE participation, including: a program that allows smaller contracts to be unbundled from larger ones, a Small Business Initiative that sets aside contracts for small businesses on a race-neutral basis, partnerships with agencies that provide support services to small businesses, and other programs designed to make it easier for smaller contractors to do business with the Tollway in general. The Tollway’s race-neutral measures are consistent with those suggested under the Federal Regulations”).

113. *Croson*, 488 U.S. at 503 n.3; *Webster*, 51 F.Supp.2d at 1380.

114. See, e.g., *Sherbrooke*, 345 F.3d. at 973.

115. *Grutter*, 529 U.S. at 339.

subsumed in the exhaustion requirement.”¹¹⁶ Actual results matter, too. “Like [the Illinois Department of Transportation], the [Illinois] Tollway uses race- and gender-neutral measures.... Those measures have not produced substantial DBE participation, however, so the Tollway also sets DBE participation goals.”¹¹⁷

2. Set Targeted M/WBE Goals

Numerical goals or benchmarks for M/WBE participation must be substantially related to their availability in the relevant market.¹¹⁸ For example, the DBE program rule requires that the overall goal must be based upon demonstrable evidence of the number of DBEs ready, willing, and able to participate on the recipient’s federally assisted contracts.¹¹⁹ “Though the underlying estimates may be inexact, the exercise requires the States to focus on establishing realistic goals for DBE participation in the relevant contracting markets. This stands in stark contrast to the program struck down in *Croson*.”¹²⁰

It is settled case law that goals for a particular solicitation should reflect the particulars of the contract, not reiterate annual aggregate targets; goals must be contract specific. In holding the City of Chicago’s former construction program to be insufficiently narrowly tailored, the court found that the MBE and WBE goals were “formulistic” percentages not related to the availability of firms.¹²¹ Contract goals must be based upon availability of M/WBEs to perform the anticipated scopes of the contract, location, progress towards meeting annual goals, and other factors.¹²² Not only is transparent, detailed contract goal setting legally mandated,¹²³ but this approach also reduces the need to conduct good faith efforts reviews, as well as the temptation to create “front” companies and sham participation to meet unreasonable contract goals. While this is more labor intensive than defaulting to the annual, overall goals, narrow tailoring requires contract goal setting.

116. *Coral Construction*, 941 F.2d at 923.

117. *Midwest Fence II*, 840 F. 3d at 938.

118. *Webster*, 51 F.Supp.2d at 1379, 1381 (statistically insignificant disparities are insufficient to support an unexplained goal of 35% M/WBE participation in County contracts); *see also Baltimore I*, 83 F.Supp.2d at 613, 621.

119. 49 C.F.R. §26.45 (b).

120. *Sherbrooke*, 345 F.3d. at 972.

121. *BAGC v. Chicago*, 298 F. Supp.2d at 740.

122. *Midwest Fence I*, 2015 WL 1396376 at *23.

123. *See also Coral Construction*, 941 F.2d at 924.

3. Ensure Flexibility of Goals and Requirements

It is imperative that remedies not operate as fixed quotas.¹²⁴ An M/WBE program must provide for contract awards to firms who fail to meet the contract goals but make good faith efforts to do so. In *Croson*, the Court refers approvingly to the contract-by-contract waivers used in the USDOT’s DBE program,¹²⁵ a feature that has been central to the holding that the DBE program meets the narrow tailoring requirement. If the standards for evaluating whether a bidder who fails to meet the contract goal has made good faith efforts to so

seems vague, that is likely because it was meant to be flexible.... A more rigid standard could easily be too arbitrary and hinder prime contractors’ ability to adjust their approaches to the circumstances of particular projects. Midwest Fence’s real argument seems to be that in practice, prime contractors err too far on the side of caution, granting significant price preferences to DBEs instead of taking the risk of losing a contract for failure to meet the DBE goal. Midwest Fence contends this creates a de facto system of quotas because contractors believe they must meet the DBE goal in their bids or lose the contract. But Appendix A to the [DBE program] regulations cautions against this very approach.... Flexibility and the availability of waivers affect whether a program is narrowly tailored. The regulations caution against quotas; provide examples of good faith efforts prime contractors can make and states can consider; and instruct a bidder to use “good business judgment” to decide whether a price difference between a DBE and a non-DBE subcontractor is reasonable or excessive in a given case. For purposes of contract awards, this is enough to “give fair notice of conduct that is forbidden or required,” [citation omitted].¹²⁶

Chicago’s program failed narrow tailoring by imposing a “rigid numerical quota” on prime bidders’ utilization of MBEs and WBEs.¹²⁷ By contrast, the constitutionally sound Illinois Tollway’s program provides for detailed waiver provisions, including rights of appeal of adverse determinations that the bidder made a good faith effort to meet a contract goal.¹²⁸

124. See 49 C.F.R. §26.43 (quotas are not permitted and set-aside contracts may be used only in limited and extreme circumstances “when no other method could be reasonably expected to redress egregious instances of discrimination”).

125. *Croson*, 488 U.S. at 508; see also *Adarand VII*, 228 F.3d at 1181.

126. *Midwest Fence II*, 840 F3d at 948.

127. *BAGC v. Chicago*, 298 F. Supp.2d at 740 (“Waivers are rarely or never granted... The City program is a rigid numerical quota...formulistic percentages cannot survive strict scrutiny.”).

128. *Midwest Fence I*, 2015 WL 1396376 at *23.

4. Review Program Eligibility Over-Inclusiveness and Under-Inclusiveness

The over- or under-inclusiveness of those persons to be included in the County's program is an additional consideration and addresses whether the remedies truly target the evil identified. Over-inclusiveness addresses the question whether a remedial program grants preferences or confers benefits to groups without examining whether each group is actually disadvantaged.

The groups to include must be based upon evidence demonstrating disparities caused by discrimination.¹²⁹ The "random inclusion" of ethnic or racial groups that may never have experienced discrimination in the entity's market area may indicate impermissible "racial politics".¹³⁰ In striking down Cook County, Illinois' construction program, the Seventh Circuit remarked that a "state or local government that has discriminated just against Blacks may not by way of remedy discriminate in favor of Blacks and Asian-Americans and women."¹³¹ However, at least one court has held some quantum of evidence of discrimination for each group is sufficient; *Croson* does not require that each group included in the ordinance suffer equally from discrimination.¹³² Therefore, remedies should be limited to those firms owned by the relevant minority groups, as established by the evidence, that have suffered actual harm in the market area.¹³³

The over-inclusiveness concern is mitigated by the requirement that the firm's owner(s) must be disadvantaged.¹³⁴ The Federal DBE Program's rebuttable presumptions of social and economic disadvantage, including the requirement that the disadvantaged owner's personal net worth not exceed a certain ceiling and that the firm meet the Small Business Administration's size definitions for its industry, have been central to the courts' holdings that it is narrowly tailored.¹³⁵ "[W]ealthy minority owners and wealthy minority-owned firms are excluded, and certification is available to persons who are not presumptively

129. *Philadelphia II*, 6 F.3d 990, 1007-1008 (strict scrutiny requires data for each minority group; data was insufficient to include Hispanics, Asians or Native Americans).

130. *Webster*, 51 F.Supp.2d at 1380-1381.

131. *Builders Association of Greater Chicago v. County of Cook*, 256 F.3d 642, 646 (7th Cir. 2001).

132. *Concrete Works IV*, 321 F.3d at 971 (Denver introduced evidence of bias against each group; that is sufficient); cf. *Midwest Fence II*, 840 F.3d at 945 ("Midwest has not argued that any of the groups in the table [in the expert report] were not in fact disadvantaged at all.").

133. *Rowe*, 615 F.3d at 233, 254 ("[T]he statute contemplates participation goals only for those groups shown to have suffered discrimination. As such, North Carolina's statute differs from measures that have failed narrow tailoring for over-inclusiveness.").

134. In the DBE program, preferences are limited to small businesses and owners whose personal net worth is not over the prescribed threshold. Additionally, a qualifying small business owned by a White male can become a program beneficiary based upon criteria set forth in Part 26 for an individual showing of social and economic disadvantage. See generally, *Northern Contracting I*; Part 26, Appendix E: *Individual Determinations of Social and Economic Disadvantage*.

[socially] disadvantaged but can demonstrate actual social and economic disadvantage. Thus, race is made relevant in the program, but it is not a determinative factor.”¹³⁶ In contrast, Chicago’s program was held to fail strict scrutiny because “[t]he ‘graduation’ revenue amount is very high, \$27,500,000, and very few have graduated. There is no net worth threshold. A third generation Japanese-American from a wealthy family, and with a graduate degree from MIT, qualifies (and an Iraqi immigrant does not).”¹³⁷

5. Evaluate the Burden on Third Parties

Failure to make “neutral” changes to contracting and procurement policies and procedures that disadvantage M/WBEs and other small businesses may result in a finding that the program unduly burdens non-M/WBEs.¹³⁸ The trial court in the City of Chicago case noted that “there was little testimony about the effectiveness of race-neutral programs.”¹³⁹ However, “innocent” parties can be made to share some of the burden of the remedy for eradicating racial discrimination.¹⁴⁰

The Court reiterates that setting goals as a percentage of total contract dollars does not demonstrate an undue burden on non-DBE subcontractors. The Tollway's method of goal setting is identical to that prescribed by the Federal Regulations, which this Court has already found to be supported by “strong policy reasons” [citation omitted].... Here, where the Tollway Defendants have provided persuasive evidence of discrimination in the Illinois road construction industry, the Court finds the Tollway Program's burden on non-DBE subcontractors to be permissible.¹⁴¹

135. *Sherbrooke*, 345 F.3d at 973; *see also Grutter*, 539 U.S. at 341; *Adarand VII*, 228 F.3d at 1183-1184 (personal net worth limit is element of narrow tailoring); *cf. Associated General Contractors of Connecticut v. City of New Haven*, 791 F.Supp. 941, 948 (D. Conn. 1992), *vacated on other grounds*, 41 F.3d 62 (2nd Cir. 1992) (definition of “disadvantage” was vague and unrelated to goal).

136. *Sherbrooke*, 345 F.3d. at 973.

137. *BAGC v. Chicago*, 298 F. Supp.2d at 739-740.

138. *See Engineering Contractors Assoc. of South Florida, Inc. v. Metropolitan Dade County*, 943 F.Supp. 1546, 1581-1582 (S.D. Fla. 1996) (“*Engineering Contractors I*”) (County chose not to change its procurement system).

139. *BAGC v. Chicago*, 298 F. Supp.2d at 742.

140. *Concrete Works IV*, 321 F.3d at 973; *Wygant*, 476 U.S. at 280-281; *Adarand VII*, 228 F.3 at 1183 (“While there appears to be no serious burden on prime contractors, who are obviously compensated for any additional burden occasioned by the employment of DBE subcontractors, at the margin, some non-DBE subcontractors such as *Adarand* will be deprived of business opportunities”); *cf. Northern Contracting II*, at *5 (“Plaintiff has presented little evidence that is [sic] has suffered anything more than minimal revenue losses due to the program.”).

141. *Midwest Fence I*, 84 F. Supp. 3d 705.

Burdens must be proven and cannot constitute mere speculation by a plaintiff.¹⁴² “Implementation of the race-conscious contracting goals for which [the federal authorizing legislation] provides will inevitably result in bids submitted by non-DBE firms being rejected in favor of higher bids from DBEs. Although the result places a very real burden on non-DBE firms, this fact alone does not invalidate [the statute]. If it did, all affirmative action programs would be unconstitutional because of the burden upon non-minorities.”¹⁴³

Narrow tailoring does permit certified firms acting as prime contractors to count their self-performance towards meeting contract goals if the study finds discriminatory barriers to prime contract opportunities. There is no requirement that a program be limited only to the subcontracting portions of contracts. Part 26 provides this remedy for discrimination against DBEs seeking prime contractor work,¹⁴⁴ and it does not limit the application of the program to only subcontracts.¹⁴⁵ The trial court in upholding the Illinois DOT’s DBE program explicitly recognized that barriers to subcontracting opportunities also affect the ability of DBEs to compete for prime work on a fair basis.

This requirement that goals be applied to the value of the entire contract, not merely the subcontracted portion(s), is not altered by the fact that prime contracts are, by law, awarded to the lowest bidder. While it is true that prime contracts are awarded in a race- and gender-neutral manner, the Regulations nevertheless mandate application of goals based on the value of the entire contract. Strong policy reasons support this approach. Although laws mandating award of prime contracts to the lowest bidder remove concerns regarding direct discrimination at the level of prime contracts, the indirect effects of discrimination may linger. The ability of DBEs to compete successfully for prime contracts may be indirectly affected by discrimination in the subcontracting market, or in the bonding and financing markets. Such discrimination is particularly burdensome in the construction industry, a highly competitive industry with tight profit margins, considerable hazards, and strict bonding and insurance requirements.¹⁴⁶

142. *Rowe*, 615 F.3d at 254 (prime bidder had no need for additional employees to perform program compliance and need not subcontract work it can self-perform).

143. *Western States Paving*, 407 F.3d at 995.

144. 49 C.F.R. §26.53(g) (“In determining whether a DBE bidder/offeror for a prime contract has met the contractor goal, count the work the DBE has committed to perform with its own forces as well as the work that it has committed to be performed by DBE subcontractors and suppliers.”).

145. 49 C.F.R. §26.45(a)(1).

146. *Northern Contracting II*, 2005 U.S. Dist. LEXIS 19868 at 74.

6. Examine the Duration and Review of the Program

Race-based programs must have durational limits. A race-based remedy must “not last longer than the discriminatory effects it is designed to eliminate.”¹⁴⁷ The unlimited duration and lack of review were factors in the court’s holding that the earlier iteration of the City of Chicago’s M/WBE construction program was no longer narrowly tailored; Chicago’s program was based on 14-year-old information which, while it supported the program adopted in 1990, no longer was sufficient standing alone to justify the City’s efforts in 2004.^{148,149} How old is too old is not definitively answered¹⁵⁰; however, governments would be wise to analyze data at least once every five or six years.¹⁵¹

In contrast, the Federal DBE Program’s periodic review by Congress has been repeatedly held to provide adequate durational limits.^{152,153} Similarly, “two facts [were] particularly compelling in establishing that [North Carolina’s M/WBE program] was narrowly tailored: the statute’s provisions (1) setting a specific expiration date and (2) requiring a new disparity study every five years.”¹⁵⁴

E. Cases from the Seventh Circuit Court of Appeals

Although discussed above as part of the elements of studies upon which successful race- and gender-conscious programs have been defended, it is instructive to review the three cases from the Seventh Circuit Court of Appeals, which governs Illinois, to illustrate almost all of these principles.

147. *Adarand III*, 515 U.S. at 238.

148. *BAGC v. Chicago*, 298 F.Supp.2d at 739.

149. The City’s program was revised to comply with the court’s decision in 2004 and subsequently reauthorized based on new data in 2009 and 2015.

150. See, e.g., *Associated General Contractors of Ohio, Inc. v. Drabik*, 50 F.Supp.2d 741, 747, 750 (S.D. Ohio 1999) (“*Drabik I*”) (“A program of race-based benefits cannot be supported by evidence of discrimination which is now over twenty years old.... The state conceded that it had no additional evidence of discrimination against minority contractors, and admitted that during the nearly two decades the Act has been in effect, it has made no effort to determine whether there is a continuing need for a race-based remedy.”); *Brunet v. City of Columbus*, 1 F.3d 390, 409 (6th Cir. 1993), cert. denied sub nom. *Brunet v. Tucker*, 510 U.S. 1164 (1994) (fourteen-year-old evidence of discrimination was “too remote to support a compelling governmental interest.”).

151. Chicago’s program was amended based on new evidence in 2009 and 2015.

152. See *Western States Paving*, 407 F.3d at 995.

153. The Federal DBE Program was reauthorized in the Infrastructure and Investment and Jobs Act, Public Law No: 117-58 earlier this year.

154. *Rowe*, 615 F.3d at 253.

1. ***Builders Association of Greater Chicago v. City of Chicago***

Plaintiff brought suit in 1996 to challenge the constitutionality of the City of Chicago’s construction M/WBE Program. In defending the action, the City relied upon the types and quality of evidence discussed above in establishing its strong basis in evidence for its M/WBE program designed to remedy discrimination against minority- and woman-owned construction firms.¹⁵⁵ However, the program as implemented in 2003 when the case was tried, had not been reviewed since its inception in 1990. The court therefore found it was no longer sufficiently narrowly tailored to meet strict constitutional scrutiny. The court stayed the final order enjoining the implementation of the Program for six months, to permit the City to review the ruling and adopt a new program.¹⁵⁶

The opinion first reviews the historical proof of discrimination against minorities, particularly Blacks, in the Chicago construction industry. While not legally mandated, Chicago was a *de facto* segregated city and “City government was implicated in that history.” After the election of Harold Washington as the first Black mayor in 1983, several reports focused on the exclusion of minorities and women from City procurement opportunities as well as pervasive employment discrimination by City departments. Mayor Washington imposed an executive order mandating that at least 25% of City contracts be awarded to minority-owned businesses and five percent to woman-owned businesses.

In response to *Croson*, Chicago commissioned a Blue Ribbon Panel in 1990 to recommend an effective program that would survive a constitutional challenge. Based upon the Panel’s Report, and 18 days of hearings with over 40 witnesses and 170 exhibits, Chicago adopted a new program that retained the 25% MBE and five percent WBE goals; and provided that larger construction contracts could have higher goals.

The court held that the playing field for minorities and women in the Chicago area construction industry in 2003 was still not level. The City presented a great amount of statistical evidence. Despite the plaintiff’s attacks about over-aggregation and disaggregation of data and which firms were included in the analyses, “a reasonably clear picture of the Chicago construction industry emerged... While the size of the disparities was disputed, it is evident that minority firms, even after adjustment for size, earn less and work less, and have less sales compared to other businesses”. That there was perhaps over-

155. *BAGC v. Chicago*, 298 F. Supp.2d 725.

156. A similar suit was filed against Cook County’s Program, which was declared unconstitutional in 2000. *Builders Association of Greater Chicago v. County of Cook*, 123 F.Supp.2d 1087 (N.D. Ill. 2000); *aff’d*, 256 F.3d 642 (7th Cir. 2001). In contrast to the City of Chicago, Cook County presented very little statistical evidence, and none directed towards establishing M/WBE availability, utilization, economy-wide evidence of disparities, or other proof beyond anecdotal testimony. It also provided no evidence related to narrow tailoring.

utilization of M/WBEs on City projects was not sufficient to abandon remedial efforts, as that result is “skewed by the program itself.”

Further, while it is somewhat unclear whether disparities for Asians and Hispanics result from discrimination or the language and cultural barriers common to immigrants, there were two areas “where societal explanations do not suffice”. The first is the market failure of prime contractors to solicit M/WBEs for non-goals work. Chicago’s evidence was consistent with that presented of the effects of the discontinuance or absence of race-conscious programs throughout the country and in Illinois. Not only did the plaintiff fail to present credible alternative explanations for this universal phenomenon but also this result “follows as a matter of economics... [P]rime contractors, without any discriminatory intent or bias, are still likely to seek out the subcontractors with whom they have had a long and successful relationship... [T]he vestiges of past discrimination linger on to skew the marketplace and adversely impact M/WBEs disproportionately as more recent entrants to the industry... [T]he City has a compelling interest in preventing its tax dollars from perpetuating a market so flawed by past discrimination that it restricts existing M/WBEs from unfettered competition in that market.”¹⁵⁷

The judge also relied upon the City’s evidence of discrimination against minorities in the market for commercial loans. Even the plaintiff’s experts were forced to concede that, at least as to Blacks, credit availability appeared to be a problem. Plaintiff’s expert also identified discrimination against White females in one data set.

The City provided a witness who spoke of market failures resulting in the inability of minority and woman owners to meet the three imperatives of construction: management, money, and markets. Market failure, in particular, resulted from prime contractors’ failure to solicit minority and woman business owners for non-goals work. Fourteen minority and woman construction firm owners testified to the race- and gender-based discrimination and barriers they encountered to full and fair opportunities to compete for City prime and subcontracts in construction. The overriding theme was that these firms were not solicited or were rarely solicited for non-goals works by prime contractors that bid city jobs, even though the M/WBEs expressed interest in performing private work.

After finding that Chicago met the test that it present “strong evidence” of its compelling interest in taking remedial action, the court held that the program was no longer narrowly tailored to address these market distortions and barriers because:

157. *BAGC v. Chicago*, 298 F. Supp.2d at 738.

- There was no meaningful individualized review of M/WBEs' eligibility;
- There was no sunset date for the ordinance or any means to determine a date;
- The graduation threshold of \$27.5M was very high and few firms had graduated;
- There was no personal net worth limit;
- The percentages operated as quotas unrelated to the number of available firms;
- Waivers were rarely granted;
- No efforts were made to impact private sector utilization of M/WBEs; and
- Race-neutral measures had not been promoted, such as linked deposit programs, quick pay, contract downsizing, restricting prime contractors' self-performance, reducing bonds and insurance requirements, local bid preferences for subcontractors and technical assistance.

2. *Northern Contracting, Inc. v. Illinois Department of Transportation*

In this challenge to the constitutionality of the DBE program, the Seventh Circuit Court of Appeals affirmed the district court's trial verdict that the Illinois Department of Transportation's application of Part 26 was narrowly tailored.¹⁵⁸ Like every other circuit that has considered the issue, the court held that IDOT had a compelling interest in remedying discrimination in the market area for federally funded highway contracts, and its DBE Plan was narrowly tailored to that interest and in conformance with the regulations.

To determine whether IDOT met its constitutional and regulatory burdens, the court reviewed the evidence of discrimination against minority and woman construction firms in the Illinois area. IDOT had commissioned an Availability Study to meet Part 26 requirements. The IDOT Study included a custom census of the availability of DBEs in IDOT's market area similar to that employed in this Report, weighted by the location of IDOT's contractors and the types of goods and services IDOT procures. The Study determined that DBEs comprised 22.77% of IDOT's available firms.¹⁵⁹ It next examined the possible impact of discrimination on the formation of firms. As required by "step 2" of Part 26,

158. *Northern Contracting III*, 473 F.3d 715. Ms. Holt authored IDOT's DBE goal submission and testified as IDOT's expert witnesses at the trial.

159. This baseline figure of DBE availability is the "Step 1" estimate USDOT grant recipients must make pursuant to 49 C.F.R. §26.45(c).

IDOT considered whether to adjust the step 1 base figure to account for the “continuing effects of past discrimination” (often called the “but for” discrimination factor).¹⁶⁰ The Availability Study analyzed Census Bureau data to determine whether and to what extent there are disparities between the rates at which DBEs form businesses relative to similarly situated non-minority men, and the relative earnings of those businesses. Controlling for numerous variables such as the owner’s age, education, and the like, the Study found that in a race- and gender-neutral market area the availability of DBEs would be approximately 20.8% higher, for an estimate of DBE availability “but for” discrimination of 27.51%.

In addition to the IDOT Study, the court also relied upon:

- An Availability Study conducted for Metra, the Chicago-area commuter rail agency;
- Expert reports relied upon in *BAGC v. Chicago*;
- Expert reports and anecdotal testimony presented to the Chicago City Council in support of the City’s revised 2004 M/WBE Program ordinance;
- Anecdotal evidence gathered at IDOT’s public hearings on the DBE program;
- Data on DBE involvement in construction projects in markets without DBE goals;¹⁶¹ and
- IDOT’s “zero goals” experiment. This was designed to test the results of “race-neutral” contracting policies, that is, the utilization of DBEs on contracts without goals. IDOT issued some solicitations for which there was significant DBE availability to perform the scopes of work without a DBE goal. In contrast to contracts with goals, DBEs received approximately 1.5% of the total value of these “zero goals” contracts.

Based upon this record, the Court of Appeals agreed with the trial court’s judgment that the Program was narrowly tailored. IDOT’s plan was based upon sufficient proof of discrimination such that race-neutral measures alone would be inadequate to assure that DBEs operate on a “level playing field” for government contracts.

The stark disparity in DBE participation rates on goals and non-goals contracts, when combined with the statistical and

160. 49 C.F.R. §26.45(d)(3).

161. *Northern Contracting III*, 473 F.3d at 719 (“Also of note, IDOT examined the system utilized by the Illinois State Toll Highway Authority, which does not receive federal funding; though the Tollway has a DBE goal of 15%, this goal is completely voluntary -- the average DBE usage rate in 2002 and 2003 was 1.6%. On the basis of all of this data, IDOT adopted 22.77% as its Fiscal Year 2005 DBE goal.”).

anecdotal evidence of discrimination in the relevant marketplaces, indicates that IDOT's 2005 DBE goal represents a "plausible lower-bound estimate" of DBE participation in the absence of discrimination.... Plaintiff presented no persuasive evidence contravening the conclusions of IDOT's studies, or explaining the disparate usage of DBEs on goals and non-goals contracts.... IDOT's proffered evidence of discrimination against DBEs was not limited to alleged discrimination by prime contractors in the award of subcontracts. IDOT also presented evidence that discrimination in the bonding, insurance, and financing markets erected barriers to DBE formation and prosperity. Such discrimination inhibits the ability of DBEs to bid on prime contracts, thus allowing the discrimination to indirectly seep into the award of prime contracts, which are otherwise awarded on a race- and gender-neutral basis. This indirect discrimination is sufficient to establish a compelling governmental interest in a DBE program.... Having established the existence of such discrimination, a governmental entity has a compelling interest in assuring that public dollars, drawn from the tax contributions of all citizens, do not serve to finance the evil of private prejudice.¹⁶²

3. *Midwest Fence, Corp. v. U.S. Department of Justice, Illinois Department of Transportation and the Illinois Tollway*

Most recently and saliently for the City of Chicago's local M/WBE construction program, the challenge to Part 26, IDOT's implementation of those regulations and its DBE program for state funded contracts, and to the Illinois Tollway's¹⁶³ separate DBE program was rejected.¹⁶⁴

Plaintiff Midwest Fence is a White male-owned fencing and guardrail specialty contractor owned and controlled by White males that typically bids on projects as a subcontractor. From 2006-2010, Midwest generated average gross sales of approximately \$18M per year. It alleged that the DBE programs failed to meet the requirement that they be based on strong evidence of discrimination, and that the remedies were neither narrowly tailored on their face nor as applied. In sum, plaintiff's argument was that the agencies lacked proof of discrimination, and it bore an undue burden under the programs as a specialty

162. *Northern Contracting II*, at *82 (internal citations omitted); see *Croson*, 488 U.S. at 492.

163. The Tollway is authorized to construct, operate, regulate, and maintain Illinois' system of toll highways. The Tollway does not receive any federal funding.

164. *Midwest Fence I*, 84 F. Supp. 3d 705.

trade firm that directly competes with DBEs for prime contracting and subcontracting opportunities.

The district court granted summary judgment in favor of all defendants on all claims. It found that the USDOT DBE Program serves a compelling government interest in remedying a history of discrimination in highway construction contracting. The court observed that Midwest Fence's challenge to the Tollway's program¹⁶⁵ mirrored the challenge to the IDOT's program and held that the Tollway, like IDOT, established a strong basis in evidence for its remedial program, finding that both programs imposed minimal burdens on non-DBEs, employed numerous race-neutral measures, and ensured significant and ongoing flexibility and adaptability to local conditions.¹⁶⁶

The Seventh Circuit Court of Appeals affirmed the district court's grant of summary judgment. It reiterated its decision in *Northern Contracting III* that the USDOT DBE Program is facially constitutional. "We agree with the district court and with the Eighth, Ninth, and Tenth Circuits that the federal DBE program is narrowly tailored on its face, so it survives strict scrutiny."¹⁶⁷

The bases for holding the Tollway's program were constitutional are especially instructive for the City of Chicago. Before adopting the Program, the Tollway set aspirational goals on a number of small contracts. These attempts failed: in 2004, the Tollway did not award a single prime contract or subcontract to a DBE. Additionally, in adopting its program, the Tollway considered anecdotal evidence provided in *Northern Contracting* consisting of the testimony of several DBE owners regarding barriers they faced.¹⁶⁸

The Tollway's DBE program substantially mirrors that of Part 26 and was based on studies similar to those relied upon by IDOT.

Further, its

method of goal setting is identical to that prescribed by the Federal Regulations, which this Court has already found to be supported by "strong policy reasons". [citation omitted] Although the Tollway is not beholden to the Federal Regulations, those policy reasons are no different here... [W]here the Tollway Defendants have provided persuasive evidence of discrimination in the Illinois road construction industry, the Court finds the Tollway Program's burden on non-

165. The Tollway adopted its own DBE program in 2005. Although the Tollway does not receive federal funds, it opted to mostly mirror the provisions of Part 26.

166. *Midwest Fence II*, 840 F.3d at 932.

167. *Midwest Fence II*, 840 F.3d at 945.

168. *Northern Contracting II*, 2005 WL 2230195 at *13-14.

DBE subcontractors to be permissible... The Tollway's race-neutral measures are consistent with those suggested under the Federal Regulations. *See*, 49 U.S.C. §26.51. The Court finds that the availability of these programs, which mirror IDOT's, demonstrates 'serious, good faith consideration of workable race-neutral alternatives.' [citations omitted] In terms of flexibility, the Tollway Program, like the Federal Program, provides for waivers where prime contractors are unable to meet DBE participation goals, but have made good faith efforts to do so... Because the Tollway demonstrated that waivers are available, routinely granted, and awarded or denied based on guidance found in the Federal Regulations, the Court finds the Tollway Program sufficiently flexible. Midwest's final challenge to the Tollway Program is that its goal-setting process is "secretive and impossible to scrutinize." [reference omitted] However, the Tollway has plainly laid out the two goal-setting procedures it has employed since the program's enactment... The Tollway Defendants have provided a strong basis in evidence for their DBE Program. Midwest, by contrast, has not come forward with any concrete, affirmative evidence to shake this foundation.¹⁶⁹

169. *Midwest Fence I*, 84 F. Supp. 3d 705.

III. COOK COUNTY'S MINORITY- AND WOMAN-OWNED BUSINESS ENTERPRISE PROGRAM

A. Cook County's M/WBE Program

1. Governing Statutes, Policy and Objectives

Cook County has adopted a policy to prevent discrimination in the County's procurement process and to eliminate barriers to participation in procurements by all persons, regardless of race, sex, or ethnicity. The County's first affirmative action program was adopted in 1988 to achieve full and equitable participation of minority- and woman-owned enterprises. After the 1989 United States Supreme Court's decision in *City of Richmond v. Croson*, discussed in Chapter II, the County Board commissioned a Predicate Study of its program in approximately 1992 ("1992 Study"). The 1992 Study concluded that the County had experienced a drastic reduction in M/WBE construction prime contract and subcontract participation in the wake of *Croson*, and that race- and gender-based discrimination persisted.

In 2005, after ceasing to set goals because of a 2001 injunction, the County commissioned a review of the utilization of M/WBEs in its construction contracts. Disparity studies were conducted by Colette Holt & Associates in 2010 and 2015 to examine whether the County had a strong basis in evidence to conclude that discrimination persisted in its marketplace and what narrowly tailored remedies were appropriate. Both Studies found ample evidence to support the use of narrowly tailored race- and gender-conscious remedies.

To address disparities identified in its studies to date, the County adopted its current Minority- and Woman-Owned Business Enterprise Program Ordinance ("Ordinance").¹⁷⁰ Revisions to the Ordinance were made in 2016 and 2017. The County has adopted Program Rules and Regulations.¹⁷¹

170. Cook County's Code of Ordinances, Division 8, § 34-260 et seq.

2. M/WBE Program Administration and Elements

a. Program Administration

The Program is administered by the Office of Contract Compliance (“OCC”), under the direction of the Contract Compliance Director (“CCD”). The OCC’s mission is to “certify Minority-, Women-, Veteran-, and Service-Disabled Veteran-owned Business Enterprises (“MBE/WBE/VBE/SDVBEs”), to ensure that all County purchases comply with the Cook County Minority- and Women-owned Business Enterprise Ordinance, to educate County User Departments and Vendors on the importance and the process of complying with the Ordinance, encourage greater inclusion of MBE/WBE and VBEs on County procurements, and to work together as a team to monitor the success of the process.”

The responsibilities of the Contract Compliance Director include:

- Formulating, promulgating and implementing rules and regulations for the development, implementation and monitoring of the Program, certification process, and the recertification process, including time limitations for the submission of documents and information regarding certification, recertification and contract participation.
- Providing information and assistance to M/WBEs and Small Businesses relating to the Program, and serve as a liaison to community, contractor, professional and supplier groups, and associations and organizations.
- Establishing uniform policies and procedures for certifying, recertifying and decertifying firms as M/WBEs, accepting certifications by other agencies, and maintaining a directory of certified firms.
- Establishing contract specific goals on Cook County and Cook County Health contracts based upon the availability of M/WBEs to provide the supplies, materials, equipment or services required by the Contract.
- Monitoring Contracts to evaluate and enforce compliance with contract specific goals and commitments.
- Cooperating with, and helping, County Using Agencies to facilitate participation by M/WBEs in procurements.

171. The Cook County Procurement Code and the Program Rules and Regulations can be accessed at <https://www.cookcountytill.gov/agency/contract-compliance>.

- Reviewing, approving or rejecting Utilization Plans for achievement of contract specific goals, and evaluating the extent to which goals were achieved.
- Monitoring contracts to ensure compliance with Section 34-388, Prompt Payment of Protected Class Enterprises (“PCEs”).
- Receiving, reviewing, and acting upon complaints and suggestions concerning the Program.
- Evaluating the effectiveness and utility of the Program.
- Monitoring the Program and the County's progress towards the Program Goals.
- Reporting to the Contract Compliance Committee as defined in Section 34-266, at its request, information regarding the administration of the Program and its progress toward achieving the Program Goals.
- Developing and implementing strategies and initiatives to promote the capacity of MBE/WBE/VBE/SDVBEs to participate in County contracts.

A Contract Compliance Committee (“CCC”),¹⁷² reviews procedures, proposed modifications to the Program or Division 8 of the Ordinance, and complaints referred by the CCD or the Chief Procurement Officer (“CPO”). The CCC is a Standing Committee of the Board of Commissioners and is comprised of seven board members.

b. Program Eligibility

To participate in the M/WBE Program, a firm must be a for-profit enterprise at least 51% owned, managed and controlled day-to-day by a minority individual or a woman. Ownership must be demonstrated in the firm’s relevant legal documents including by-laws, shareholder agreements, partnership agreements, or operating agreements.

“Minority Individual” is defined as an individual in one of the following groups:

- African-Americans or Blacks, which includes persons having origins in any of the Black racial groups of Africa;

172. Chapter 2, Article III, Section 2-105 of the Code.

- Hispanic-Americans, which includes persons who are Mexican, Puerto Rican, Cuban, Caribbean, Dominican, Central or South American, regardless of race;
- Native-Americans, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; or
- Asian-Americans (persons whose origins are in any of the original peoples of the Far East Asia, Southeast Asia, the islands of the Pacific or the Northern Marianas, or the Indian Subcontinent); or
- Other groups, including, but not limited to, Arab-Americans, found by the County to be socially disadvantaged by having suffered racial or ethnic prejudice or cultural bias within American society, without regard to individual qualities, resulting in decreased opportunities to compete in the County's Marketplace.

A woman is defined as a person of the female gender.

To qualify for certification, the majority minority or woman owner must be considered an “economically disadvantaged” individual, defined in the Cook County Procurement Code as a personal net worth less than \$2M indexed annually for the Chicago Metro Area Consumer Price Index for Urban Wage Earners and Clerical Workers.¹⁷³ The current personal net worth limit is \$2,210,847.¹⁷⁴

M/WBEs must also meet the definition of small, local business enterprises. The County has adopted the small business size standards set by the U.S. Small Business Administration.¹⁷⁵ These size standards are based on the firm’s annual gross receipts averaged over the preceding five years. A “Local Business” is defined as a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois which has the majority of its regular full-time work force located in this region.

Certification is limited to its area of specialty as defined by the North American Industry Classification System code(s) in which it can perform.

Cook County and the City of Chicago have entered into a reciprocity agreement, whereby the M/WBE certification by one agency will be honored by the other agency.

Certifications must be completed online and are valid for five years, after which, a recertification application must be submitted and approved to

173. Published by the U.S. Department of Labor, Bureau of Labor Standards, beginning January 2008

174. Excludes the individual’s ownership interest in the M/WBE firm and the equity of the owner’s primary residence.

175. 13 C.F.R. Part 121.

retain M/WBE status. The County charges \$250.00 for the initial certification application and \$250.00 for the recertification application. M/WBEs must also file an annual No Change Affidavit supplying documentation to demonstrate their eligibility for certification in their area specialty or expertise. There is no charge for the annual No Change Affidavit.

c. Race- and Gender-Neutral Measures

The Ordinance specifies implementation of race- and gender-neutral measures that benefit and assist all small businesses equally, including certified firms. The measures include:

- Establishing schedules for submitting bids and quotations with adequate time frames for identifying and contacting M/WBEs qualified to participate in the procurement;
- Segmenting Procurements to facilitate the participation of MBEs, WBEs and other Small Businesses;
- Providing timely information on contracting procedures, bid preparation and specific contracting opportunities;
- Holding pre-bid conferences, where appropriate, to explain the projects and to encourage contractors to use available qualified M/WBEs;
- Reviewing retainage, bonding and insurance requirements to eliminate unnecessary barriers to contracting with the County;
- Collecting information from all contractors detailing the bids or proposals received from all subcontractors for procurements and the expenditures to M/WBEs;
- At the discretion of the CCD, in cooperation with the CPO, periodically entering into a procurement process without Program Goals or project specific goals in order to determine MBE and WBE utilization in the absence of such goals;
- Referring complaints of discrimination to Cook County's Commission on Human Rights, or other appropriate authority, for investigation.

i. Program Goals

The County has adopted an overall, annual aspirational goal of 25% participation by MBEs and 10% participation by WBEs for non-construction contracts. For construction contracts, the annual aspirational goal is 24% for MBEs and 10% for WBEs. In addition, the County has set an annual “best efforts” goal of 35% for participation of PCEs.

MBE and WBE participation goals are established by the Director, in consultation with the CPO and the using agency. Contract goals are set based on the availability of three or more certified MBEs and WBEs in the subcontractable scopes of work required by the procurement. In addition to availability, additional criteria are taken into consideration such as scope of work, quantity of items, estimated dollar amount and feedback received from the using department(s). When only one or two certified MBEs/WBEs are available, the goal applied equals one-half of the annual participation goal. The CCD may elect not to set goals when MBEs/WBEs are not sufficiently available for the project scope or if it is in the best interest of the County.

In reference to establishing goals, the Ordinance states, “No goal shall be treated as a quota nor shall it be used to discriminate against any Person on the basis of race, color, national origin, religion or sex.”¹⁷⁶

ii. Program Compliance Policies and Procedures

In general, Cook County follows the outlines of the Disadvantaged Business Enterprise (“DBE”) Program for U.S. Department of Transportation contracts, contained in 49 C.F.R. Part 26. These include:

- The criteria for determining whether the firm is owned, managed and controlled by a socially and economically disadvantaged minority group member or a woman; is independent; and not an affiliate of another business.
- Standards for evaluating joint venture arrangements involving certified firms.
- Challenges to a firm’s eligibility for the Program.
- Counting the participation of certified firms, including as regular dealers and suppliers.
- Standards to determine whether the certified firm is performing a commercially useful function.
- Criteria to evaluate whether a bidder that failed to meet the goal made Good Faith Efforts (“GFEs”) to do so and is therefore entitled to a waiver or reduction of the goal.
- Standards for substituting a certified firm during contract performance.

All compliance documents, including a Utilization Plan and a Letter of Intent from each M/WBE that will perform on the contract and its Letter of Certification, must be submitted with the bid or proposal. If the

176. Section 34-267(c) of the Code of Ordinances, Cook County, Illinois.

bidder or proposer is unable to meet the M/WBE goals for the contract, a Good Faith Efforts Transparency Report, Good Faith Efforts Transparency Report Guide and Petition for Waiver, must be submitted with the bid or proposal to be considered responsive to the solicitation. Bidders or proposers must supply any additional information within three business days of the OCC's request, or the submission will be rejected as not responsive.

Utilization Plans are reviewed and approved by the Director. In review of the Plan, the CCD considers whether the commercially useful function ("CUF") requirements have been met. A CUF is defined as the performance of a distinct element of work required for the procurement, with the requisite skill and expertise.

A bidder that is unable to meet the contract despite its GFEs to do so, may request a partial or full waiver of the goal(s). The OCC evaluates GFE submissions based on whether the bidder:

- Used lists of available M/WBEs;
- Divided the procurement into discrete tasks to facilitate participation;
- Adjusted insurance requirements or offered assistance to encourage participation;
- Made timely attempts to contact relevant M/WBEs;
- Followed up with initial contacts;
- Negotiated in good faith and on a timely basis with qualified M/WBEs;
- Established schedules to encourage participation;
- Attempted to use the services and assistance of the CCD staff;
- Made timely notifications to appropriate community and minority and women's business organizations;
- Established a mentor-protégé agreement; and
- Demonstrated that no M/WBE exists with which to develop a mentor/protégé relationship.

Additional factors are taken into consideration for non-construction and professional services contracts, where particular training and experience are necessary. These include whether subcontractors are, or may be typically used, for the type of procurement and whether the bidder has a supplier diversity plan and submitted information about the degree the plan and program goals are being met.

Once approved, the Utilization Plan cannot be revised without the prior written approval by the CCD. Substitutions of M/WBE subcontractors are permitted only in the following circumstances:

- Unavailability after receipt of reasonable notice to proceed;
- Failure of performance;
- Financial incapacity;
- Refusal by the subcontractor to honor the bid or proposal price;
- Mistake of fact or law about the elements of the scope of work of a solicitation where agreement upon a reasonable price cannot be reached;
- Failure of the subcontractor to meet insurance, licensing or bonding requirements;
- The subcontractor's withdrawal of its bid or proposal;
- The Decertification of the relevant M/WBE contractor; or
- Other factors or circumstances that, in the sole discretion CCD, promote the intents and purposes of the M/WBE Program.

iii. Counting Participation

A contractor, subcontractor or supplier cannot be utilized as both an MBE and a WBE on the same Contract. Only the amount or dollar value of work performed by the MBE's or WBE's own workforce is counted toward the goal. This includes the cost of supplies, materials and equipment leased or provided by the MBE and WBE and the amount of fees or commissions charged by the MBE or WBE firm, as long as they are reasonable and are customary. For Joint Ventures, only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that is performed by the MBE or WBE with its own workforce is counted. Reflecting the Ordinance's subdivision into contraction and other types of procurements, dollars paid to a certified distributor or regular dealer are counted at 60% of the cost for construction contracts and at 100% for non-construction contracts.

If a firm ceases to be certified for reasons other than exceeding the size or personal net worth standards, the dollar value of the work performed after it ceased to be certified is not counted.

d. Outreach Activities

Over the past five years, Cook County and its OCC engage in broad-based outreach to encourage M/WBE participation in County procurement

opportunities and to assist M/WBEs in meeting their strategic and financial objectives.

To get M/WBEs started, OCC offers monthly “Doing Business with Cook County” workshops to help businesses with the M/WBE certification process and contracting opportunities. Cook County and Cook County Health vendors can sign up to receive notification of new opportunities via email.

The Cook County Small Business Source offers free one-on-one advisory services through a number of local Business Support Organizations (“BSOs”). In addition to advisory services, these organizations provide access to events and other resources. Several of the County BSOs are dedicated to supporting M/WBEs; these include:

- Chicago Minority Supplier Development Council
- Chicago TREND
- Chicago Urban League
- Cook County Black Chamber of Commerce
- Illinois Hispanic Chamber of Commerce
- Women’s Business Development Center

M/WBEs can take advantage of many programs and resources offered by the County’s Department of Planning and Development, which helps businesses further their growth objectives via tax incentives and the BUILT IN COOK loan program. BUILT IN COOK includes a special Emerging Business Development Loan program for certified M/WBEs, with loans ranging in size from \$35,000 to \$500,000 used typically to finance assets needed for construction, procurement, or other services provided to public or institutional users.

OCC also partners with over 18 local organizations that offer resources and technical assistance to M/WBE firms. These resources include certification assistance, loan programs, small business incubators, educational cohorts, legal and business support and training programs. The County also helps to promote opportunities available to M/WBEs through other governmental agencies.

Cook County departments, in cooperation with State of Illinois and City of Chicago agencies, host various fairs, conferences and meetings throughout the year. In 2020, events included:

- Virtual Vendor Fair - City of Chicago: Doing Business with Cook County Departments

- Central Management Services Health Choice Illinois Supplier Diversity Symposium
- Office of the Chief Procurement Officer & Contract Compliance - Vendor Fair
- Cook County Small Business and Supplier Diversity Commission Meeting

The County also participates in events and meetings sponsored by assist agencies, universities and local government agencies, including the Chicago Minority Supplier Development Council Presents: Supplier Diversity Pivots- Adapting to Change, and the University of Illinois at Chicago Diversity Healthcare Expo.

In addition, the OCC website serves as a portal for:

- M/WBE certification information, policies and procedures, and online registration.
- Information on contracting opportunities at Cook County, Cook County Health and other government agencies.
- A searchable M/W/VBE certification directory.

The Office of the Chief Procurement (“OCPO”) publishes an annual Buying Plan that is posted to the OCC website. The Buying Plan provides insight into the OCPO’s operations and serves as a resource to help vendors to plan for future solicitations.

e. Post Award Compliance

OCC, in cooperation with the using departments, monitors compliance with the approved Utilization Plan during the course of the contract.

To support monitoring of compliance with contract obligations, the County implements the electronic data collection and management system used by most Chicago agencies, including the City of Chicago. This system provides subcontractors with information about the payments claimed by the prime contractor. It can also provide reports to track in close to real time achievement of goals and any shortfalls, so that problems can be addressed while there is time to correct them.

Contractors are required to pay their subcontractors and suppliers within 15 days after receipt of payment from the County. CCD investigates any complaint or charge of excessive delay in payment.

Failure to comply with the approved Utilization Plan constitutes a breach of contract and is grounds for rejection of a subsequent bid or proposal and

may expose the relevant contractor and subcontractors to additional sanctions and penalties as provided in the County Code and these policies and procedures.

B. Experiences with Cook County’s Contracting Policies and Procedures

To explore the impacts of race- and gender-neutral contracting policies and procedures and the implementation of the County’s M/WBE program, we interviewed 93 individuals about their experiences and solicited their suggestions for changes. We also collected written comments from 447 M/WBE and non-M/WBE businesses about their experiences with the County’s programs through an electronic survey. We also received written comments throughout the study period.

The following are summaries of the topics discussed during the group interviews. Quotations are indented and have been edited for readability. They are representative of the views expressed during seven sessions by participants.

1. M/WBEs’ Experiences with Cook County’s M/WBE Program’s Policies and Procedures: Business Owner and Stakeholder Comments

a. Access to information and networking opportunities

Several interviewees reported that they found it challenging to obtain information about upcoming opportunities or access feedback about their bids.

Since 2018, I've not gotten any information in regards to County projects.

They don't necessarily have a very robust, transparent system for letting you know who's won a job.

Some MBEs reported that they were unable to get answers about the reason they were not selected or even the status of the solicitation.

Not only were we not selected, we weren't told why we weren't selected. So, my issue is one of communication.

Never ever heard what happened.... We were shortlisted and interviewed. I had emailed and she would say it hasn't been awarded yet. It hasn't been awarded yet. So, that was over a year ago.... We spent a lot of time and money putting

that thing together. And it would've just been nice to know. I mean, she did tell me the last time I talked or got an email from her, it still hadn't been awarded.

Lack of information about the outcomes of specific solicitations and prime contractors' compliance with M/WBE requirements was a repeated source of frustration.

Is there ever going to be, or is there now, and I don't know about it, some sort of compliance? Because we all talked about these jobs, and they had M/WBE goals. We think they met the goals. We're not sure if they met the goals. Cook County's a disaster, as far as letting people know whether the goals have been met or not. Why can't they publish something after the contract has been awarded to the prime that says, "We've met..." Well, DOT does it. They send you out a letter that says, "So-and-so was awarded." I got number seven. And these six people were listed as DBEs. Is it a big deal? Why can't the County do it?

b. Obtaining work on County projects

There was near universal agreement that contract goals remain necessary to ensure M/WBE participation.

Will they use you if we didn't have certification? And my personal experience is generally a lot less.

If there's no requirement, then they don't need to engage [MBEs].

The primes see us as a burden, that they have to, because of the compliance. So, they want to give us the least attractive work staffing and they can take out any time they want.

Most contractors MBE, DBE, WBE would be absolutely devastated if [there were no contract goals].

People do sometimes feel a bit forced. In my experience, no one has really come around to say, can I help you do better? Or what can we do?

If you leave it to this major prime, they don't want us.

Several M/WBEs praised the County's Program.

The Cook County minority procurement program had really worked fair and effective for our firm.

Cook County is doing a fabulous job doing business with minority vendors compared to those other [local governments].

We submitted on RFP, or RFQ, for a [project name] job at the Cook County Hospital at Stroger. And they realized our qualifications and went above and beyond to award it to the woman-owned, to meet their goals, I guess. But they helped us with paperwork ... because we hadn't done work with them before, but they knew that we had the capabilities for this job, and they really wanted to award it to a woman-owned or to a minority firm. So, we found that part as a good thing.

Some certified firm owners requested more opportunities to network with larger firms.

They don't do enough meet-and-greets for primes to meet subs.

Several MBEs suggested a size based setaside program to allow like-size firms to compete against one another.

Maybe like a target market or the Small Business Initiative like the City [of Chicago] has.

There needs to be something that takes the big boys, primarily, out of the competition.

Issues with prompt payment by the County hindered M/WBEs' ability to work on agency jobs.

I have issues with getting paid.

Part of the problem there is the Cook County Health System is divided up among five or six major buildings. Like Stroger, the professional building, the core center, and then a whole lot of small clinics. They all use our services, but their management is not consolidated, even though the contract is consolidated.

Closing out contracts especially delayed payments.

It took almost a year for me to get paid out. So, what's being done about the payment process?

We have some jobs that are out there for two years waiting for final payment.

There's no real reason why a contract should not be final paid in four years.

There were numerous complaints about the County's (and other local agencies') use of construction managers to oversee its projects.

The bane of our existence today is construction managers. They have no skin in the game, they don't care. Years ago, when you would work for a general contractor, you'd shake the man's hand, because it was never a woman's hand. You'd go to work, you'd send them a bill, they pay your bill. The way that the industry around here has changed so drastically in the past 30 years, to me, is disgusting.

Biggest problem was construction manager and that seems to be the biggest problem for all of us on all of these projects. It's trying to get past the construction managers and their pre-qualification forms. I look at the pre-qualification forms as a great disqualifier.

The great pushback that we're getting is the pre-qualification [required by construction managers], because even though we qualify for different jobs, we're told that we can't have those jobs.

Some MBEs stated that the County staff overseeing construction projects needs more in depth understanding of the industry.

The County needs to do a better job of bringing in construction professionals that know how to manage large construction projects.... With all the documentation and the constant fits and starts with that project, we all had to wind up calling the county screaming and yelling, "When are we going to get our money?" That's just not me, that's a lot of people on this call.... It needs to be someone that knows what they're doing, knows how to administer the contract from soup to nuts, all the way down to GC down to the supplier.

c. Technical assistance and supportive services

The M/WBE certification process is one area where firms requested additional County support.

The process of getting certified is so daunting.

A mentor-protégé program or one-to-one coaching were additional initiatives that would help M/WBEs.

I would like to see a mentor protege program established with the county. That particular program is a really good tool for small businesses.

I really would love some more one-on-one or even group education.... Am I doing the wrong thing or where should I be looking? What should I be signing up for?

A large prime construction contractor representative agreed.

A formal mentor-protégé relationship that adds some direct benefit for both the prime and for the DBE, kind of formalizing that with, "Okay prime, if you can mentor DBE Firm A into getting their qualifications for this skill set, maybe we'll kind of play with the numbers a little bit, less onerous for both of you."

d. Meeting MBE and WBE contract goals

Most large bidders reported they were able to meet contract goals.

I don't think we've ever had any trouble meeting our goals. Our [job order contracting] program, we sub basically everything out. So, we have really good luck meeting our goals and we're doing well. I just pulled up our participation with [project], and we're on track to exceed those goals as well. So, we've never, in my tenure here, never had to do any sort of good faith efforts waiver.

We've always been able to meet it, so we haven't done a good faith effort.

Because you hear that a lot. "We can't find MBE, WBE subcontractors." There's more than enough. You just have to look. You have to look and give that opportunity. My biggest thing right about now as the director of diversity, and when I'm talking to other firms that don't look like our firm, I tell them in a minute that we have to be intentional. If you want to be diverse, be intentional about it.

We ended up hiring two woman-owned minority firms there in Cook County, and we've gone through flawlessly without any wrinkles or anything. It really is. The whole

experience has just been life-changing for our company, as well as the subcontractors that are working for us. I have nothing but praise. It was a win-win situation where everybody in the entire partnership benefited. The County, benefited, the subcontractors benefited, and we, of course, benefited.

We have a good list of MBE vendors, WBE vendors that we keep track of and we get those services.

We haven't had any issues. It's pretty easy to work with the County.

Other large vendors, especially in health care, often struggled to meet contract goals.

Meeting some of these requirements have been a little bit challenging in terms of the actual dollar amount, because of knowing what we're going to have to be purchasing, or the county's going to be purchasing. A lot of its spot-buying. So, for us, good faith efforts have been something that we've executed recently.

So even if it's a larger-sized project, if there's not many different scopes of work, it's sometimes hard to fill those requirements.

The M/WBE program is somewhat of a challenge for us.... And we ourselves are not a large company.... Every time we renew a contract, that becomes a big discussion. And we try hard. We have a logistics company that we use for shipping that is woman owned, and they've been a fantastic business partner. We use them for everything. They've done such a good job for us. So, I think that's something really good that has come out of the Program.... But the good that has come out of the program is that it has caused us to look really hard for those types of business partners. And has provided those opportunities.

There's a strong desire to partner with these kind of entities and transact business this way, but there are certain requirements that we won't be able to meet. So, we're relegated to either asking for waivers because we can't find a way, even though we're willing to, or finding it and transacting it through a distributor transacting the shipping component through a viable entity.

We've had to do a lot of the training for [our MBE sub]. And I think it really comes down to, if there's only one real option and if you're going to put out an RFP and require 35%, you really need to know the options that are out there.

A few bidders were not able to meet goals.

We are not able to meet the goals. We have never been able to meet the goals, and now they're increasing.... t's just not possible to take somebody off the street, a distributor who has not been trained or doesn't have any knowledge about it and have them go in and set things up and do the training. They certainly wouldn't know how to configure the microscope system so that the end user is going to get the best result that they're looking for.

When we have partnered with organizations for that, the staff that they offer us, do not meet our qualifications. They're not skilled enough. So, what we've had to do is, under the table, provide them a qualified person, but then bill us for which negates the point. Just checking a box. Yeah. And then, we've had instances where the organizations have closed while we've been in partnership. That's our current situation.... When I've presented [the County] the issues in the past, it's been more like, "Well, here's the list again, please go through the list and try to find somebody." So, it hasn't really felt like a very collaborative conversation.

Some large firms suggested more training for M/WBEs so that the small firms can be successful on County projects.

Can [the County] start offering some type of courses in quality assurance or quality training? I think that's important, because we are looking at it and I know from coming out of COVID, we are highly looking at scrutinizing all of the suppliers that we work with. All the suppliers we work with regardless of, you know, if they're diverse or not. That quality assurance, that risk assessment, their business capabilities, that's kind of where we are today.

Slow payment by the County hampers the ability of large prime firms to work with small firms and M/WBEs.

We're willing to work with them, but even as a large business, our finance team is like, "We can't continue to bank roll that operation, and extend our credit terms beyond what is contractually written in the contract." So, if they're going to hold us accountable, we actually have to hold them accountable, too.

We definitely have struggled over the years with payment.

Our subs don't complain about getting paid because we have to pay them before we get paid or they wouldn't make it. We wait a long time to get paid and they can't wait that long.... The DBEs are just not big enough to handle that. And then, we're waiting and 60, 90 days plus.... [The cost of financing the County] gets built into the bid. Absolutely.

Many primes stated that using the County's reporting system for program compliance was easy.

The system and logging in is simple.

C. Even with the reporting, it's easy. The system's easy.

1. M/WBEs' Experiences with Cook County's M/WBE Program's Policies and Procedures: Survey Comments

a. Impact of the M/WBE Program

Minority and woman respondents widely supported the Program. Many stated the Program was essential to obtaining County business.

If not for the MBE requirements of the Old Cook County Hospital (Market Rate) project, we would not have been invited to participate on that project. We provided a core service to the project to the satisfaction of the client, and that project has become a showcase project in our portfolio.

Without my certification, I would get zero work. So, it has helped greatly. We just need more opportunities.

I was originally hired because my expertise was known; however, I'm currently expecting my first major contract that was likely spurred by my status as a WBE.

CCH is a major client for our firm, providing ... quality opportunities to provide ... services and support for CCH to achieve its objectives.

Yes, we have been a sub-contractor on a few projects due to the program. In one case, it helped establish a relationship which led to teaming on another winning proposal.

The County helped us obtain our firm's first large project in 2015.

The goals required that primes seek MBE firms and so we were contracted and ultimately selected.

Being selected as a prime contractor for Cook County Health significantly increased our stature in our industry. The ability to secure a government contract on our own made larger industry competitors recognize our potential.

[The program] has given us the opportunity to subcontract to larger primes.

[The program] has provided steady income to allow us to grow.

I have had several important projects that I was well qualified for and I believe that my WBE status helped obtain the contract.

[The Program] definitely helped us get our foot in the door.

It has given the firm the chance to work with clients that we have not had the opportunity to work with in the past.

Opened up a new world to growing my business. Exceptional program.

Provides opportunities to provide legal services for governmental agencies.

Provides opportunities on highway/hospital projects.

Cook County Forest Preserves helped us grow revenue.

The county has reached out to our business to help supply services during COVID, which we were able to provide under a purchase order.

The information has been beyond eye-opening, super helpful and it doesn't feel like business isn't that difficult to close with the right resources.

We are now on an even playing field with other Vendors.

Many M/WBE respondents praised the program for providing more exposure and access to both prime contract and subcontracting opportunities.

The program has made us more visible to contractors who may not have known about us before.

It has allowed us to bid on some opportunities we would not have had access to otherwise.

[The program has helped my business] by publishing opportunities and hosting outreach meetings.

Informed [us of] job listings/lettings etc.

It helps me identify and find projects to quote for.

Thus far, it has notified me of MBE opportunities in my area which helps our chances of seeing the opportunity in a timely manner and preparing a proposal if deemed capable.

[The Program] provides relevant information.

The M/WBE certification is definitely a plus.

[Vendor] listing has brought in a partnering agency.

The M/WBE category helps primes identify us for specific partnerships.

Several respondents complimented the program and their experiences working with CCD.

It has been hard to “break in” and get projects but the Compliance Department is top notch.

The people in the MBE Compliance Office have been extremely helpful and responsive. I like working with them. And you can tell them I said that and for them to keep up the great work.

Some M/WBE respondents thought the County could do more to encourage M/WBE participation.

Force primes to give subs meaningful participation. Higher goals. We are able to perform but the primes split the goals by many subs, so for a 24% goal we may get 5% of that.

Offer more incentives to engage the M/WBE company in the larger project.

My belief MBE/WBE programs are unfair. I want the major opportunity...Not the 'minority' share.

Please increase WBE requirements so that we can have a large enough part of projects to actually make a difference on the outcome and direction of those projects.

Higher MBE goals & Trade Specific MBE goals [would be helpful].

Give small firms with a demonstrated corporate track record the opportunity to manage large scale projects. Be intentional about ensuring \$1 million + assignments go to minority firms.

A larger public commitment by Cook County to engage with MBE law firms and encouragement of County vendors to utilize MBE law firms.

Some woman firm owners suggested that the County set the same goals for MBEs and WBEs.

Not having a 2-goal system. It is unfair to women.

Stop discriminating against white women.

The allocation should be the same for WBE and MBE companies.

b. Access to County Contracting Opportunities

Some M/WBEs stated that prime bidders often use them only to meet affirmative action goals.

Large billion-dollar primes throw me a bone to meet the required WBE amount.

I get calls from contractors who are angry about being required to hire minority businesses, who reluctantly reach out to us. They view us as unnecessary. At least they are calling.

Firms that approach me just want to add my firm without even discussing scope or my rate.

Legitimate opportunities that we are involved in the early stages instead of a last second request for my team to put pricing together. Sometimes my team feels it is just a check the box request. Usually that is because we get no feedback about our proposals. This is a clear indication we were a check number.

One MBE firm, however, noted that the program was instrumental in its obtaining non-goals work.

Keep up the work please! It hasn't been perfect but it HAS made a huge difference in Prime firms looking to us to provide a service, and once they work with us, they often come back again even on projects without MBE requirements. Without MBE requirements Prime firms would not leave their 'comfort zone' of working with other non-minority consultants.

Several M/WBEs stated that the County and prime contractors repeatedly use the same firms.

It's been difficult getting an opportunity to do work for Cook County because many of the prime vendors already have their "go-to" MBEs. This makes it difficult for any new businesses to get a foothold in an opportunity. It doesn't matter how knowledgeable or skilled your company is, you will not get an opportunity.

Allow new companies to have a first chance at some contracts, or allow them to team up with your preferred veterans, you will never know the talent unless you give them the opportunity.

Consider other M/WBEs instead of feeding the same vendors.

Diversify the minority opportunities for contracts instead of just going with the lowest bidder, let us know where we need to be to get an opportunity.

Some thought the County could do a better job of making contract award criteria more transparent. The perception is that the process is sometimes not fair to M/WBEs.

More transparency in bids and awarded bids.

Provide the opportunity, then give it to someone that is not connected. I worked days on a bid and learned that it was a bidding exercise. They always intended to give it to the White prime.

Real opportunities and if not awarded a document scorecard and reasons for not being award in order to improve.

What's the point?! They will give the contract to whom they want to have it.

Being contracted for the projects we assist in winning. We actively participated in the response/interview with [big prime] on [Cook County project] but we're cut out of the project team due to final terms negotiated between [big prime] and the County.

A few respondents thought the County could do more to create more contract opportunities for non-construction firms.

Be much more aggressive in opening up opportunities to professional service firms.

I just wish there were more opportunities for professional service consultants.

As a professional services firm, projects are not put up for bid or are simply sole-sourced.

More professional services opportunities - most RFPs are either construction or goods.

Some respondents thought the County could do more to open up contracting opportunities for small firms, including non-M/WBE firms.

Expanding the opportunities to non-M/WBE, and maybe just not include extremely large businesses. Some businesses like ours, have a niche and can save the county money, even though we are not M/WBE.

It has been in the past that Cook County contracts were based on aggregate of work. That allows a firm like ours to bid competitively and perform extra-ordinarily well. But now, we have large firms bidding on the same aggregate of work as medium firms like ours.

Please reach out to the small firms.

Provide more help for small business to get their first contract.

The County lumps all of its snow removal contracts into one big award that eliminates most small companies. I would like to see the County break up those Municipal Snow Removal and Landscaping contracts by site to create a more even playing field.

Many requested the County make bidding and RFP documents less complicated.

Easier Bid paperwork. Have information entered once and saved in the system.

Make your bid documents easier to understand and more easily accessible.

Simplify the RFP process and ensure solicitation matches skill set.

Easier to understand bid documents.

Don't make the paperwork to submit a bid so tedious.
STREAMLINE.

Better specifications that allow more inclusion and opportunities for minority vendors.

Several prime contractors agreed.

- Clean up the paperwork.
- It'd be nice if there was a standardized format for indicating MBE/WBE participation requirements on RFPs. And if there's no participation requirement, stating that in the same format.
- Simplify your process and make requirements clear [in RFPs and bidding documents].

Several respondents found insurance requirements, particularly for professional services firms, overly onerous.

Improved RFP/RFQ processes, more realistic insurance requirements. We have insurance requirements equivalent to as if we were building bridges or roads. We do community engagement or write policy plans. The high requirements make no sense.

Review insurance requirements.

Some M/WBE respondents requested more opportunities to perform as prime contractors.

Stop working with the same vendors you've had for 40 years and consider new primes.

Opportunities to bid as a prime contractor. Often subcontractors do not receive the recognition for the work performed. The large companies get the recognition and continue to expand.

Smaller bid packages so DBEs can bid as a prime.

There has been an elevated attention to bringing in MBE/WBEs, but the assignments need to be more substantial, and not just go to large firms.

We only need the opportunity to work directly with Cook County Health for their procurement of Medical Supplies and Equipment and cut out the middleman.

Keep things strict where they really need to be but make it more flexible to allow small W/MBEs to grow larger and into more prime opportunities.

One method to increase prime contracting opportunities would be to offer smaller projects or “unbundle” contracts.

Provide opportunities for unbundling prime projects and competing projects among similarly sized organizations like the [City of Chicago's] S[mall] B[usiness] I[nitiative] program.

Access to smaller sized projects [would be helpful].

[Our firm is looking for] just a small portion of a bigger contract.

Availability or access to contracts specifically for small businesses on the professional services side.

More, smaller project opportunities for more firms.

Targeted contracts or unbundled contracts that parse out services.

Give more opportunities to M/WBEs, even if it means splitting up the scope of the work.

Un-bundling so the smaller companies can participate as Prime.

Another approach would be set-asides for all small firms.

If small businesses can submit for the set aside portions only.

A grant set-a-side for operational cost as a new entity. Preliminary letters of commitment for funding to use in RFP responses.

More small business set aside programs for us to be able to bid on.

Small Business Set Aside Contracts.

Small business set aside opportunities so that I can be a small prime on projects.

Have setaside projects under \$100K that do not require the mountain of paperwork and RFPs that is a burden for small companies.

Some M/WBE respondents were in favor of set-asides only for certified firms.

An increase in set-aside RFPs/IFBs for M/WBEs.

The county should set aside projects less than \$100K for minority companies.

Carve out lucrative Setaside opportunities for Professional Services and Contracting firms give extra incentive points to Prime who add an additional MBE to their current MBE partner to scale that firm.

Many M/WBEs requested more technical support and training to respond to contract solicitations and RFPs.

Better communication and help through the [bidding] process.

Business education on how to successfully bid on county contracts given the complexity.

Learning how to complete the applications and bidding.

Getting more educated on how to bid for government jobs and upfront financing.

Developing a step-by-step guide in researching opportunities and preparing bids.

RFP training.

I would love to have a counselor that knows all of the ins and outs of the county health and hospital systems.

Webinars that outline how to use the directory of contract opportunities.

c. Cook County M/WBE Program Compliance

M/WBE respondents often requested more oversight to ensure prime contractors comply with M/WBE goal requirements.

Compliance should do quarterly reviews to identify and remediate lack of participation with primes and MBE subcontractors.

What would help my business grow is equity, inclusion and diversity enforced and follow-up for women-owned businesses.

Make sure PRIME CONTRACTORS are not able to use the exception rules to not use MBEs. Meaning ENFORCE.

More tracking on compliance with primes who promise to work with M/WBEs.

There is no follow-thru to see if the primes actually utilize the services of minorities or women on the projects.

Stringent, enforced participation goals.

Follow through of primes and other companies to meet their diversity goals.

[The Program needs] enforcement of existing policies.

M/WBE reports of slow payments by both the County and prime contractors were numerous.

Payment was terrible working with them [the County].

Do more to ensure MBE contractors are paid in a timely manner. Funding operations is the most difficult part of business ownership.

Payment should be part of compliance. We are asked to come up with so much before the job starts to stay in compliance. Pay should be part of the GC's and entity's compliance.

If the County could pay their bills in a timely manner that would be helpful - especially to small businesses. We've contracted with them since 2004 and our biggest issue is with their ability to pay their invoices in a timely manner.

Cash flow for small, growing M/WBE firms is critical. We cannot be put in situations where we are bearing the financial burden of carrying a significant amount of A/R with clients. Prompt payment is critical to our ability to grow and reinvest.

Some jobs were worthwhile but the turnaround for payment is too long for a small business like ours.

Please make sure Prime Contractors pay their subcontractors on time.

Being paid on time and not having to continually fight (expend time) to get paid the money we are owed for the work we have already done.

If I get paid in a timely matter and reduce the scope of the job to Minorities Companies capacity therefore, they can bid as Prime.

Access to prompt payment including direct pay to subcontractors.

Prompt payments, better project scheduling to allow for proper sequencing of activities, more transparency.

Overall, a good experience but the problem is that the Prime refuses to pay in a timely matter or at all.

A non-M/WBE respondent also encountered late payments.

To be paid timely. We are over 12 months in waiting on payment for services performed for CCH[HS].

d. M/WBE Certification Process

Many M/WBE respondents found the certification process burdensome, challenging to navigate and paperwork intensive.

Be more flexible and require less documentation, and less fees.

I just wish the certification process were more streamlined and professional. I think my certification is good for 5-year terms with annual renewals. I don't want to criticize for fear of retribution. It is never a positive experience.

Make the certification process more streamlined and easier to comply with. The process is overwhelming for small businesses.

It does not appear easy to get WBE status with the County and County help with the application would be great.

The amount and type of personal and firm information required to be certified is FAR TOO GREAT. Stock certificates, years of personal tax returns, etc., too invasive in our lives. To assume smaller firms have certain types of documentation, for example "stockholder meeting minutes" or "stock ledgers" is silly considering the board may be a single person trying to run a business. I understand there can be a great deal of fraud and the County is trying to reduce the number of cases but requiring the amount of personal information is unnecessary and counterproductive.

Please make the process [easier]. Exceedingly difficult process without any guarantees.

It's hard to figure out HOW to become certified.

Not sure how to complete the process, seems very confusing and complicated to complete.

Not sure it worth the time [given] small number of opportunities.

Our current WBE with the County has lapsed. We do plan to obtain re-certification; however, the process is so cumbersome even with being certified with WBENC and CMS. Honestly, the paperwork associated with keeping our County certification is a roadblock for us right now as we are busy with other work. I would like to see the County's certification process be less cumbersome for firms that have WBENC and/or CMS certification. The reciprocal

process for gaining our CMS certification through our WBENC certification is very efficient and quick.

Process is too complex and arbitrary. Certified with National Minority Supplier Development Council, which is accepted more places.

The process seems difficult to me, and I could not find a firm to help me with the process.

I did not to go through the paperwork hassle and scrutiny.

Less paperwork to prove your ethnicity.

Several M/WBE respondents were particularly bothered by the certification fee that they noted was not charged by many other certifying agencies.

Why does one need to pay to be certified that they are of a certain race or group? It should not cost money to be certified as a minority.

Stop asking for payment from these small firms that do not have money to throw away when the County knows they have no intention of awarding them a contract or even considering them for one!

The cost of application and renewal [are problematic].

Both of these entities want payment to become certified with them, which is totally ridiculous when other government entities do it for free!

Many M/WBE respondents reported frustration with the excessively long time to process their certification and recertification applications.

Have not been able to get any responses from Cook County submitted paperwork two years ago.

It needs to be a quicker process. It took over a year to be turned down.

Application has been pending for over a year with no updates aside from "in final review with management".

Applied and waiting for approval since 12/28/2020.

I have been going back and forth with this department for a year. I provided all the information related to verifying my race and the other senseless information they requested. I

was hesitant to complete this survey because I believe it is a joke.

It hasn't helped because the application is taking too long to process.

It's taking five months to review my application and nobody has contacted me nor do I have information to contact the reviewer.

The recertification process last year took a very, very, long time. We had to follow-up at least 10 times and were granted extensions. I don't know why it took so long to recertify us. I believe it took more than a year to get it done.

I finally dropped my request for recertification because the process was so frustrating. I have been running my company for over 15 years, and the renewal process took nine months and was still not complete! With WBENC and State of IL, the process is much smoother.

Some respondents suggested that Cook County establish reciprocity with other certifying agencies to broaden the types of certifications they will accept. This would streamline the process and reduce the burden on MBEs and WBEs.

How about a shortened application process for IL BEP certified vendors, or just honor reciprocity for IL BEP vendors?

Accept the certifications from the State and Federal programs regarding minority, female and disadvantaged businesses without having them go through a ridiculous process asking the EXACT same thing and requiring the EXACT same documentation!

Accept IDOT disadvantaged certification.

Add additional Reciprocal Agency Certification aside from State and City only.

Allow minority- and women-owned companies in northern IL to qualify to be certified as Cook County WBEs.

Develop reciprocity with WBENC and the state M/WBE program.

Yes, allow NMSDC certified business to grandfather into the program.

One non-M/WBE contractor also suggested reciprocity with other government agencies.

To increase the number of certified MBE/WBE companies Cook County should allow IDOT DBE certification to serve as certification for Cook County projects.

Several respondents were in favor of dropping the owner net worth and firm revenue limits.

Drop the personal net worth requirement.

I think the County should accept the City of Chicago's MBE certification without the income of the owner being in question.

The rule about the owner's net worth is extremely frustrating.

Increasing the limits on MBE business gross revenue. Or maybe making the criteria based on NET revenue instead of gross. Eliminating the net worth provision.

Some respondents urged greater scrutiny of certified firms to identify "front" companies.

The MBE/DBE program would benefit from culling out sham/pass-thru companies that are hurting the overall MBE/DBE reputation.

Fully vet M/WBE firm qualifications annually. Many are not true M/WBE firms. I appreciate the ability to comment and also feel the local small business community should not be ignored (regardless of M/WBE status). Reasonable revenue thresholds need to be put in place to be certified M/WBE. If you consistently are awarded contracts valued at 10's of millions, and your annual revenues exceed 2X the average revenue for a similar company in your line of business, then you should not continue to receive preferential treatment as M/WBE.

Peer group review may be helpful as an accountability measure in discerning "front" companies and capacity within given industries.

A closer look needs to take place on the legitimacy of structure (is the business truly DBE/WBE or just formed that way for the benefits). Does the business actually serve a

commercially useful function in the solicitation or are they just a passthrough - nonvalue add?

e. Cook County M/WBE Program Outreach and Access to Information

Many M/WBE respondents were unaware of bidding opportunities and requested more outreach.

Better and more open communications of the Office of Compliance with M/WBE contractors. I personally think that the communication channels between the Office of Compliance and MBEs are virtually non-existent. That office should provide greater outreach.

Sending out better emails and opportunities to bid where there is a link to go to or a list within the email that one can see and click on rather than hunting and pecking for the information.

Make the information more accessible to vendors or companies trying to do business with Cook County.

Easier access to bids and systems.

Easier to find relevant RFPs.

Maybe Cook County vendor outreach to let other GC's see what successful Cook County projects we have done in the past.

Upcoming bids should be emailed to contractors so that we may determine before bid date if we are interested and/or able to do.

Publicly advertise contracts for legal services.

Many M/WBEs were particularly interested in additional support to facilitate relationship building between subcontractors and prime contractors.

Access to prime vendors [would be helpful].

Connections to other sub and prime contractors [would be helpful].

Building more one-on-one relationships. Get to know us and what we do.

Establish relationships with us. Have outreach events WITH actual purchaser of services - or skip the dog and pony show and just connect us with the buyer.

Networking that is not just the lower-level people collecting cards. So superficial and a waste of time. Help connecting us to find opportunities to bid. So hard to find out what's available.

One-on-one or virtual with those who can see I am in the database. Maybe they can reach out just as you did to send me the survey to fill out.

More training and networking opportunities. Possibly set up a one-on-one advisory or consulting session to help us see where we fit in serving the County.

Genuine access needed to decision makers. If there is no interest, say that.

f. Experiences with business support services

Those who had participated in business support services generally found them helpful.

All of these experiences [with supportive services programs] have been positive.

Experience relative to funding programs was good.

Found information and staff supporting and helpful.

Some of their sponsored webinars have been very good.

Good [experience with supportive services], would repeat it.

I have attended programs put on by assist agencies (FWC, IHCC, HACIA) and also government agencies such as IDOT, SBA.

[Supportive services] have been beneficial to my firm.

[My experience with supportive services has been] positive.

The courses taken were very helpful and supportive.

We had a great experience and learned a lot!

Some respondents, however, suggested supportive services programs could offer more comprehensive instruction and training to help develop concrete skills, techniques and strategies.

Average to below [experiences with supportive services].

Most workshops are a joke. They are aimed at the "lowest common denominator" and don't actually advance promising businesses.

[Supportive services are] usually only informational, nothing beyond that.

Mixed results. I've appreciated the intent of all of them but results have been mixed.

Most supportive services programs are for compliance and not with true business intent.

Participation is usually by Cook County published webinars. No one-on-one program participation.

They were too simple.

Typical experience, nothing unusual.

Typical marketing efforts.

Very limited assistance.

Including women on the panels of discussion that have been tradeswomen and are business owners in construction [would improve supportive services].

Systems and platforms for data are confusing and need to be re-engineered. Presenters at various sessions read the slides and don't add much substance.

One prime contractor agreed.

They [supportive services] are good, but very limited.

Several firms were unaware of these programs and suggested timelier outreach to encourage participation in them.

I am not aware of any of these [supportive services] programs.

Notices for these types of [supportive services] meetings consistently come out in little time to respond or attend.

I don't know anything about these [supportive services] programs. I've worked with the WBDC for some time and have never heard of a mentoring program. Quite frankly, I have never seen any support to help my business get government jobs.

I have heard of some but no clear guidance or information has been available.

Assistance with obtaining capital, bonding and insurance and other business needs was cited by some M/WBE respondents as critical to increasing their capacity to take on more business.

Additional capital to build capacity.

Being able to have access to small business bids, funding and bonding.

Better access to good financing terms along with better access to deal flow.

Financing opportunities.

Larger lines of credit from banks, payments on time, more opportunities under 100k.

Loans at a better percentage rate.

More capital [would help my business.]

Host financing seminars bringing lenders to the table.

Small businesses need more working capital.

Financing, bonding, assistance with certification as a minority-owned business, woman-owned business.

Our company would benefit from improved financing for the payment gaps, and overall, more resources for revenue growth.

Access to loans and other banking would help to grow the business.

g. Experiences with mentor-protégé programs and teaming arrangements

Mentor-protégé programs and joint ventures were often requested approaches to help minority- and woman-owned businesses.

[My business would benefit from] additional opportunities to participate with prime contractors beyond the floor goal level.

Being partnered with a mentor firm and having an introduction to CCHHS decision makers [would be helpful].

It would be great to have a mentoring program where someone helped me get governmental contracts.

Need mentors that will us let sub on their projects.

It would be great to have ongoing support and someone to speak with about how to grow the business. Something like a "Business Coach or Mentor".

Mentoring, coaching. helping us find opportunities and hands on help in winning bids.

Better exposure to joint ventures.

Some M/WBE firms who had participated in mentor protégé programs or relationships reported good outcomes from these partnerships.

The Mentor protege was most successful with the Illinois Tollway.

We have done MPs with Illinois Tollway and IDOT.

I find that a good Prime/Sub relationship is important in large contracts. We are currently a sub on a large federal contract and feel that the prime is very helpful in guiding us to success.

I have had a great experience with Mentor-Protege programs. They have been invaluable and I am looking forward to leading a project. I have let two contracts so far and hoping for a Cook County contract either as a prime or subconsultant.

I moved into a new division and this experience with this company as a mentor has been a very good thing.

We are involved in a mentor protege program with a large operator in our industry.

We have been a formal and informal mentor, and we have been informally mentored by a firm we work with regularly. We also "team prime" occasionally, which works well for us because we have a lot of experience and history with what works/what doesn't.

Several large, prime contractors agreed.

Instituting a mentor protégé program like IDOT [would improve the program].

I typically provide many of these services for developing businesses via CBDC and/or HACIA but I have not used the services. I have put together several joint ventures to pursue/complete various projects.

We participated in mentor protégé with one of our DBE subs to help them with IDOT pre-qualifications and administrative services like marketing and contracting.

A few M/WBE respondents did not find these types of efforts to be helpful.

Have tried several joint ventures with other firms, but have not been successful.

I have participated in a couple Mentor/Protege programs but have not obtained the experience that I was expecting.

I'm having a hard time finding a mentor and haven't had help with the mentor protégé program.

D. Conclusion

The Cook County M/WBE Program has many of the elements of national best program practices. Overall, minority and woman firms obtained work as prime vendors and subcontractors. Prime contractors were generally able to comply with Program requirements. The Program was supported by participants and was generally viewed as important to the growth and development of M/WBEs. However, there are some challenges to address, including developing initiatives to facilitate relationships between M/WBEs and large firms; offering more assistance with the certification process; expanding resources to assist firms with the County's contracting processes; broadening outreach and increasing communication of prospective contracting opportunities; facilitating timely payments; increasing access to insurance, bonding and capital; and removing hurdles that make it difficult for subcontractors to move into the role of prime vendors.

IV. CONTRACT DATA ANALYSIS FOR COOK COUNTY

A. Contract Data Overview

We analyzed data from Cook County’s (“County”) contracts for Fiscal Years 2015 through 2019. The Initial Contract Data File contained 1,624 contracts. Of these, 977 were Cook County Government (hereinafter, “Main Data”) contracts and 647 were Cook County Health and Hospital System (“Hospital”) contracts. Because of the large number of contracts, we developed a stratified random sample from the initial 1,624 contracts. Since this Report analyzes the Main Data and Hospital components of the data separately, we developed separate samples. The Main Data Sample File consisted of 350 contracts; the Hospital Sample File consisted of 300 contracts.¹⁷⁷

We constructed all the fields necessary for our analysis where they were missing in Cook County’s contract records (*e.g.*, industry type; zip codes; six-digit North American Industry Classification System (“NAICS”) codes of prime contractors and subcontractors; and Minority – and Woman-owned Business Enterprise (“M/WBE”) information, including payments, race, gender; etc.). Tables 4-1 and 4-2 provide data on the resulting Final Contract Data File (“FCDF”) for the Main Data contracts; Tables 4-3 and 4-4 provide data on the resulting FCDF for the Hospital contracts.

Table 4-1: Final Contract Data File – Main Data

Contract Type	Total Contracts	Share of Total Contracts
Prime Contracts	144	35.3%
Subcontracts	264	64.7%
TOTAL	408	100.0%

Source: CHA analysis of Cook County data

177. The samples were constructed by first stratifying the contract universes into its four industries components: Construction, Goods, Professional Services, and Services. With each component, we derived a random sample where distribution of contracts within that component across range of contract dollars approximated that distribution within the component universe. For example, in the Universe, the Services industry component of the Hospital data captured 28.1% of all of the Hospital contract dollars; in the Sample, the Services industry component of the Hospital data captured 30.9% of all of the Hospital contract dollars.

Table 4-2: Final Contract Data File Net Dollar Value – Main Data

Business Type	Total Contract Dollars	Share of Total Contract Dollars
Prime Contracts	\$647,352,465	84.2%
Subcontracts	\$121,316,020	15.8%
TOTAL	\$768,668,485	100.0%

Source: CHA analysis of Cook County data

Table 4-3: Final Contract Data File – Hospital

Contract Type	Total Contracts	Share of Total Contracts
Prime Contracts	223	42.5%
Subcontracts	302	57.5%
TOTAL	525	100.0%

Source: CHA analysis of Cook County data

Table 4-4: Final Contract Data File Net Dollar Value – Hospital

Business Type	Total Contract Dollars	Share of Total Contract Dollars
Prime Contracts	\$1,041,287,206	84.1%
Subcontracts	\$196,801,143	15.9%
TOTAL	\$1,238,088,349	100.0%

Source: CHA analysis of Cook County data

The following sections present our analysis of Cook County’s contracts. We present the analysis of the Main Data contracts consisting of five steps:

1. The determination of the geographic and product markets for the analysis.
2. The estimation of the utilization of M/WBEs by the County.
3. The calculation of the M/WBE unweighted and weighted availability in the County’s marketplace.
4. The examination of concentration of contract dollars among M/WBE and non-M/WBE firms.
5. The presentation of the M/WBE disparity analysis.

We repeat this process for Hospital contracts.

B. Utilization and Availability Analysis for Cook County's Main Data Contracts

1. The Geographic and Product Market for Main Data Contracts

As discussed in Chapter II, the federal courts require that a local government narrowly tailor its M/WBE program elements to its geographic market area. This element of the analysis must be empirically established. The accepted approach is to analyze those detailed industries, as defined by six-digit NAICS codes, that make up at least 75% of the prime contract and subcontract payments for the study period. The determination of Cook County's geographic and product market required three steps:

1. Develop the FCDF to determine the product market. These results are provided in Table 4-5.
2. Identify the geographic market.
3. Determine the product market constrained by the geographic parameters. Table 4-6 presents these results.

a. Final Contract Data File for Main Data Contracts

The FCDF, which establishes the County's product market, consisted of 115 NAICS codes, with a total contract dollar value of \$768,668,485. Table 4-5 presents each NAICS code with its share of the total contract dollar value. The NAICS codes are presented in the order of the code with the largest share to the code with the smallest share.

**Table 4-5: Industry Percentage Distribution of Cook County Contracts by Dollars
Main Data**

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
524114	Direct Health and Medical Insurance Carriers	53.8%	53.8%
541511	Custom Computer Programming Services	11.2%	65.1%
238210	Electrical Contractors and Other Wiring Installation Contractors	5.7%	70.8%
236220	Commercial and Institutional Building Construction	3.9%	74.7%
333318	Other Commercial and Service Industry Machinery Manufacturing	3.1%	77.8%
238290	Other Building Equipment Contractors	1.9%	79.7%

Cook County Disparity Study 2022

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
541330	Engineering Services	1.9%	81.7%
541512	Computer Systems Design Services	1.9%	83.5%
237310	Highway, Street, and Bridge Construction	1.5%	85.0%
811213	Communication Equipment Repair and Maintenance	1.3%	86.3%
522110	Commercial Banking	1.1%	87.4%
517911	Telecommunications Resellers	1.0%	88.4%
541611	Administrative Management and General Management Consulting Services	0.9%	89.3%
561440	Collection Agencies	0.9%	90.2%
237130	Power and Communication Line and Related Structures Construction	0.9%	91.1%
541211	Offices of Certified Public Accountants	0.9%	92.0%
238220	Plumbing, Heating, and Air-Conditioning Contractors	0.8%	92.9%
423830	Industrial Machinery and Equipment Merchant Wholesalers	0.6%	93.4%
238330	Flooring Contractors	0.6%	94.0%
561320	Temporary Help Services	0.5%	94.5%
424130	Industrial and Personal Service Paper Merchant Wholesalers	0.3%	94.8%
811111	General Automotive Repair	0.3%	95.1%
238910	Site Preparation Contractors	0.3%	95.3%
561720	Janitorial Services	0.2%	95.6%
811211	Consumer Electronics Repair and Maintenance	0.2%	95.8%
323111	Commercial Printing (except Screen and Books)	0.2%	96.0%
424410	General Line Grocery Merchant Wholesalers	0.2%	96.2%
238120	Structural Steel and Precast Concrete Contractors	0.2%	96.3%
237990	Other Heavy and Civil Engineering Construction	0.2%	96.5%
424120	Stationery and Office Supplies Merchant Wholesalers	0.1%	96.7%
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	0.1%	96.8%
541810	Advertising Agencies	0.1%	96.9%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
541370	Surveying and Mapping (except Geophysical) Services	0.1%	97.1%
424950	Paint, Varnish, and Supplies Merchant Wholesalers	0.1%	97.2%
541380	Testing Laboratories	0.1%	97.3%
624190	Other Individual and Family Services	0.1%	97.4%
238310	Drywall and Insulation Contractors	0.1%	97.5%
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	0.1%	97.6%
424420	Packaged Frozen Food Merchant Wholesalers	0.1%	97.7%
441110	New Car Dealers	0.1%	97.8%
518210	Data Processing, Hosting, and Related Services	0.1%	97.9%
238160	Roofing Contractors	0.1%	98.0%
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers	0.1%	98.1%
424440	Poultry and Poultry Product Merchant Wholesalers	0.1%	98.2%
423840	Industrial Supplies Merchant Wholesalers	0.1%	98.3%
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	0.1%	98.4%
423110	Automobile and Other Motor Vehicle Merchant Wholesalers	0.1%	98.5%
541310	Architectural Services	0.1%	98.5%
541519	Other Computer Related Services	0.1%	98.6%
238350	Finish Carpentry Contractors	0.1%	98.7%
423510	Metal Service Centers and Other Metal Merchant Wholesalers	0.1%	98.8%
424690	Other Chemical and Allied Products Merchant Wholesalers	0.1%	98.8%
561730	Landscaping Services	0.1%	98.9%
444190	Other Building Material Dealers	0.1%	99.0%
813319	Other Social Advocacy Organizations	0.1%	99.0%
323113	Commercial Screen Printing	0.1%	99.1%
484110	General Freight Trucking, Local	0.1%	99.1%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
562998	All Other Miscellaneous Waste Management Services	0.1%	99.2%
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	0.04%	99.2%
624110	Child and Youth Services	0.04%	99.3%
484210	Used Household and Office Goods Moving	0.04%	99.3%
424480	Fresh Fruit and Vegetable Merchant Wholesalers	0.04%	99.3%
443142	Electronics Stores	0.04%	99.4%
541110	Offices of Lawyers	0.03%	99.4%
812930	Parking Lots and Garages	0.03%	99.4%
541990	All Other Professional, Scientific, and Technical Services	0.03%	99.5%
562910	Remediation Services	0.03%	99.5%
238990	All Other Specialty Trade Contractors	0.03%	99.5%
237110	Water and Sewer Line and Related Structures Construction	0.03%	99.6%
621420	Outpatient Mental Health and Substance Abuse Centers	0.03%	99.6%
423710	Hardware Merchant Wholesalers	0.02%	99.6%
332312	Fabricated Structural Metal Manufacturing	0.02%	99.6%
541614	Process, Physical Distribution, and Logistics Consulting Services	0.02%	99.7%
511210	Software Publishers	0.02%	99.7%
423420	Office Equipment Merchant Wholesalers	0.02%	99.7%
423440	Other Commercial Equipment Merchant Wholesalers	0.02%	99.7%
812990	All Other Personal Services	0.02%	99.7%
423690	Other Electronic Parts and Equipment Merchant Wholesalers	0.02%	99.8%
541870	Advertising Material Distribution Services	0.02%	99.8%
424490	Other Grocery and Related Products Merchant Wholesalers	0.02%	99.8%
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	0.02%	99.8%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
624310	Vocational Rehabilitation Services	0.01%	99.8%
424110	Printing and Writing Paper Merchant Wholesalers	0.01%	99.8%
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	0.01%	99.8%
238140	Masonry Contractors	0.01%	99.9%
238320	Painting and Wall Covering Contractors	0.01%	99.9%
621330	Offices of Mental Health Practitioners (except Physicians)	0.01%	99.9%
811412	Appliance Repair and Maintenance	0.01%	99.9%
813311	Human Rights Organizations	0.01%	99.9%
541613	Marketing Consulting Services	0.01%	99.9%
811121	Automotive Body, Paint, and Interior Repair and Maintenance	0.01%	99.9%
561790	Other Services to Buildings and Dwellings	0.01%	99.9%
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers	0.01%	99.9%
561990	All Other Support Services	0.01%	99.9%
541214	Payroll Services	0.01%	99.9%
424210	Drugs and Druggists' Sundries Merchant Wholesalers	0.01%	99.9%
423210	Furniture Merchant Wholesalers	0.01%	99.95%
621112	Offices of Physicians, Mental Health Specialists	0.01%	99.96%
238150	Glass and Glazing Contractors	0.01%	99.97%
541430	Graphic Design Services	0.01%	99.97%
561612	Security Guards and Patrol Services	0.01%	99.98%
623220	Residential Mental Health and Substance Abuse Facilities	0.003%	99.98%
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	0.003%	99.98%
541620	Environmental Consulting Services	0.003%	99.98%
424710	Petroleum Bulk Stations and Terminals	0.003%	99.99%
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	0.003%	99.99%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
332321	Metal Window and Door Manufacturing	0.002%	99.99%
423390	Other Construction Material Merchant Wholesalers	0.002%	99.99%
812331	Linen Supply	0.002%	99.99%
541219	Other Accounting Services	0.002%	99.997%
238340	Tile and Terrazzo Contractors	0.001%	99.998%
424990	Other Miscellaneous Nondurable Goods Merchant Wholesalers	0.001%	99.999%
339950	Sign Manufacturing	0.001%	99.9997%
337212	Custom Architectural Woodwork and Millwork Manufacturing	0.0003%	99.99997%
492210	Local Messengers and Local Delivery	0.00003%	100.00000%
TOTAL		100.0%	

Source: CHA analysis of Cook County data

b. Geographic Market for Main Data Contracts

To determine the geographic market area, we applied the standard of identifying the firm locations that account for at least 75% of contract and sub-contract dollar payments in the FCDF. Firm location was determined by zip code and aggregated into counties as the geographic unit. The State of Illinois accounted for 92.2% of the FCDF. When we examined the six primary counties of the Chicago metropolitan area— Cook, DuPage, Will, Lake, Kane, and McHenry— these counties captured 91.9% of the FCDF. Therefore, we used these six counties as the geographic market.

2. Utilization of M/WBEs on Main Data Contracts

Having determined Cook County’s geographic market area, the next step was to determine the dollar value of its utilization of M/WBEs as measured by net payments to prime firms and subcontractors and disaggregated by race and gender. There were 104 NAICS codes after constraining the FCDF by the geographic market; the dollar value of the contracts in these codes is \$706,179,946. Table 4-6 presents these data. We note that the contract dollar shares in Table 4-6 are equivalent to the weight of spending in each NAICS code. These data were used to calculate weighted availability from unweighted availability, as discussed below.

Table 4-6: NAICS Code Distribution of Contract Dollars in the Constrained Product Market
Main Data

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
524114	Direct Health and Medical Insurance Carriers	\$413,898,720	58.6%
541511	Custom Computer Programming Services	\$80,057,280	11.3%
238210	Electrical Contractors and Other Wiring Installation Contractors	\$42,968,336	6.1%
236220	Commercial and Institutional Building Construction	\$30,202,236	4.3%
238290	Other Building Equipment Contractors	\$14,874,508	2.1%
541330	Engineering Services	\$14,466,717	2.0%
237310	Highway, Street, and Bridge Construction	\$11,028,491	1.6%
811213	Communication Equipment Repair and Maintenance	\$9,927,132	1.4%
541512	Computer Systems Design Services	\$9,454,787	1.3%
541611	Administrative Management and General Management Consulting Services	\$7,258,649	1.0%
237130	Power and Communication Line and Related Structures Construction	\$6,869,588	1.0%
541211	Offices of Certified Public Accountants	\$6,867,820	1.0%
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$6,357,846	0.9%
238330	Flooring Contractors	\$4,343,171	0.6%
423830	Industrial Machinery and Equipment Merchant Wholesalers	\$4,320,738	0.6%
561320	Temporary Help Services	\$3,256,696	0.5%
561440	Collection Agencies	\$3,164,986	0.4%
424130	Industrial and Personal Service Paper Merchant Wholesalers	\$2,440,089	0.3%
811111	General Automotive Repair	\$2,145,497	0.3%
238910	Site Preparation Contractors	\$1,980,442	0.3%
811211	Consumer Electronics Repair and Maintenance	\$1,646,508	0.2%
424410	General Line Grocery Merchant Wholesalers	\$1,359,821	0.2%
238120	Structural Steel and Precast Concrete Contractors	\$1,233,200	0.2%
237990	Other Heavy and Civil Engineering Construction	\$1,228,091	0.2%

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	\$1,023,793	0.1%
541810	Advertising Agencies	\$1,012,817	0.1%
561720	Janitorial Services	\$996,806	0.1%
541370	Surveying and Mapping (except Geophysical) Services	\$979,534	0.1%
424950	Paint, Varnish, and Supplies Merchant Wholesalers	\$958,872	0.1%
541380	Testing Laboratories	\$933,735	0.1%
624190	Other Individual and Family Services	\$913,010	0.1%
238310	Drywall and Insulation Contractors	\$892,550	0.1%
333318	Other Commercial and Service Industry Machinery Manufacturing	\$875,058	0.1%
424420	Packaged Frozen Food Merchant Wholesalers	\$800,857	0.1%
441110	New Car Dealers	\$767,423	0.1%
238160	Roofing Contractors	\$716,060	0.1%
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers	\$677,416	0.1%
424440	Poultry and Poultry Product Merchant Wholesalers	\$674,762	0.1%
423840	Industrial Supplies Merchant Wholesalers	\$670,510	0.1%
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	\$611,201	0.1%
541310	Architectural Services	\$600,036	0.1%
238350	Finish Carpentry Contractors	\$570,493	0.1%
423510	Metal Service Centers and Other Metal Merchant Wholesalers	\$561,767	0.1%
424120	Stationery and Office Supplies Merchant Wholesalers	\$530,490	0.1%
561730	Landscaping Services	\$487,214	0.1%
444190	Other Building Material Dealers	\$460,411	0.1%
813319	Other Social Advocacy Organizations	\$446,612	0.1%
323113	Commercial Screen Printing	\$445,621	0.1%
562998	All Other Miscellaneous Waste Management Services	\$426,935	0.1%

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
484110	General Freight Trucking, Local	\$355,510	0.1%
323111	Commercial Printing (except Screen and Books)	\$346,054	0.05%
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	\$319,184	0.05%
423110	Automobile and Other Motor Vehicle Merchant Wholesalers	\$305,696	0.04%
624110	Child and Youth Services	\$300,000	0.04%
484210	Used Household and Office Goods Moving	\$291,697	0.04%
424480	Fresh Fruit and Vegetable Merchant Wholesalers	\$289,200	0.04%
541110	Offices of Lawyers	\$262,395	0.04%
812930	Parking Lots and Garages	\$261,218	0.04%
541990	All Other Professional, Scientific, and Technical Services	\$260,459	0.04%
562910	Remediation Services	\$242,175	0.03%
238990	All Other Specialty Trade Contractors	\$238,134	0.03%
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	\$212,160	0.03%
237110	Water and Sewer Line and Related Structures Construction	\$204,000	0.03%
621420	Outpatient Mental Health and Substance Abuse Centers	\$200,000	0.03%
424690	Other Chemical and Allied Products Merchant Wholesalers	\$188,218	0.03%
541614	Process, Physical Distribution, and Logistics Consulting Services	\$165,352	0.02%
423710	Hardware Merchant Wholesalers	\$155,734	0.02%
332312	Fabricated Structural Metal Manufacturing	\$151,000	0.02%
518210	Data Processing, Hosting, and Related Services	\$148,140	0.02%
423440	Other Commercial Equipment Merchant Wholesalers	\$132,896	0.02%
541870	Advertising Material Distribution Services	\$131,707	0.02%
424490	Other Grocery and Related Products Merchant Wholesalers	\$123,503	0.02%

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	\$119,840	0.02%
624310	Vocational Rehabilitation Services	\$100,000	0.01%
424110	Printing and Writing Paper Merchant Wholesalers	\$98,201	0.01%
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	\$94,081	0.01%
238140	Masonry Contractors	\$78,870	0.01%
238320	Painting and Wall Covering Contractors	\$76,250	0.01%
621330	Offices of Mental Health Practitioners (except Physicians)	\$74,566	0.01%
811412	Appliance Repair and Maintenance	\$73,497	0.01%
813311	Human Rights Organizations	\$65,657	0.01%
541613	Marketing Consulting Services	\$65,427	0.01%
811121	Automotive Body, Paint, and Interior Repair and Maintenance	\$64,337	0.01%
561790	Other Services to Buildings and Dwellings	\$63,213	0.01%
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers	\$62,519	0.01%
561990	All Other Support Services	\$59,717	0.01%
424210	Drugs and Druggists' Sundries Merchant Wholesalers	\$53,324	0.01%
423210	Furniture Merchant Wholesalers	\$49,039	0.01%
621112	Offices of Physicians, Mental Health Specialists	\$48,826	0.01%
238150	Glass and Glazing Contractors	\$40,588	0.01%
541430	Graphic Design Services	\$40,103	0.01%
623220	Residential Mental Health and Substance Abuse Facilities	\$25,165	0.004%
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	\$24,828	0.004%
541620	Environmental Consulting Services	\$20,000	0.003%
424710	Petroleum Bulk Stations and Terminals	\$20,000	0.003%
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	\$19,519	0.003%

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
332321	Metal Window and Door Manufacturing	\$15,119	0.002%
423390	Other Construction Material Merchant Wholesalers	\$12,993	0.002%
812331	Linen Supply	\$12,790	0.002%
541219	Other Accounting Services	\$12,405	0.002%
238340	Tile and Terrazzo Contractors	\$9,600	0.001%
424990	Other Miscellaneous Nondurable Goods Merchant Wholesalers	\$7,336	0.001%
337212	Custom Architectural Woodwork and Millwork Manufacturing	\$2,158	0.0003%
492210	Local Messengers and Local Delivery	\$206	0.00003%
TOTAL		\$706,179,946	100.0%

Source: CHA analysis of Cook County data

Tables 4-7 and 4-8 present data on Cook County's M/WBE utilization, measured in contract dollars and percentage of contract dollars.

Table 4-7: Distribution of Contract Dollars by Race and Gender- Main Data (total dollars)

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
236220	\$712,392	\$0	\$0	\$0	\$712,392	\$60,116	\$772,508	\$29,429,729	\$30,202,237
237110	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$204,000	\$204,000
237130	\$2,905,595	\$0	\$0	\$0	\$2,905,595	\$3,963,993	\$6,869,588	\$0	\$6,869,588
237310	\$339,475	\$1,923,443	\$0	\$0	\$2,262,918	\$21,649	\$2,284,567	\$8,743,924	\$11,028,491
237990	\$162,832	\$1,065,259	\$0	\$0	\$1,228,091	\$0	\$1,228,091	\$0	\$1,228,091
238120	\$0	\$267,993	\$0	\$0	\$267,993	\$965,207	\$1,233,200	\$0	\$1,233,200
238140	\$10,800	\$0	\$0	\$0	\$10,800	\$68,070	\$78,870	\$0	\$78,870
238150	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$40,588	\$40,588
238160	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$716,060	\$716,060
238210	\$5,199,298	\$7,981,901	\$976,956	\$0	\$14,158,155	\$4,327,494	\$18,485,649	\$24,482,686	\$42,968,334
238220	\$1,840,431	\$1,962,215	\$0	\$0	\$3,802,646	\$2,285,428	\$6,088,074	\$269,772	\$6,357,846
238290	\$3,095,976	\$0	\$0	\$0	\$3,095,976	\$480,685	\$3,576,661	\$11,297,847	\$14,874,508
238310	\$0	\$889,750	\$0	\$0	\$889,750	\$0	\$889,750	\$2,800	\$892,550
238320	\$66,600	\$0	\$0	\$0	\$66,600	\$9,650	\$76,250	\$0	\$76,250
238330	\$0	\$0	\$3,408,492	\$0	\$3,408,492	\$934,679	\$4,343,171	\$0	\$4,343,171
238340	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$9,600	\$9,600
238350	\$484,158	\$86,335	\$0	\$0	\$570,493	\$0	\$570,493	\$0	\$570,493
238910	\$101,460	\$329,960	\$0	\$0	\$431,420	\$282,933	\$714,353	\$1,266,089	\$1,980,442
238990	\$0	\$0	\$0	\$0	\$0	\$43,565	\$43,565	\$194,569	\$238,134
323111	\$0	\$83,302	\$0	\$0	\$83,302	\$50,310	\$133,612	\$212,443	\$346,054
323113	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$445,621	\$445,621
332312	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$151,000	\$151,000

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
332321	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$15,119	\$15,119
333318	\$0	\$0	\$0	\$0	\$0	\$875,058	\$875,058	\$0	\$875,058
337212	\$0	\$0	\$2,158	\$0	\$2,158	\$0	\$2,158	\$0	\$2,158
423110	\$0	\$18,256	\$0	\$0	\$18,256	\$0	\$18,256	\$287,440	\$305,696
423120	\$0	\$298,748	\$0	\$0	\$298,748	\$20,436	\$319,184	\$0	\$319,184
423210	\$0	\$0	\$49,039	\$0	\$49,039	\$0	\$49,039	\$0	\$49,039
423320	\$24,828	\$0	\$0	\$0	\$24,828	\$0	\$24,828	\$0	\$24,828
423390	\$12,993	\$0	\$0	\$0	\$12,993	\$0	\$12,993	\$0	\$12,993
423440	\$0	\$0	\$132,896	\$0	\$132,896	\$0	\$132,896	\$0	\$132,896
423450	\$0	\$0	\$0	\$0	\$0	\$1,023,793	\$1,023,793	\$0	\$1,023,793
423510	\$0	\$0	\$0	\$0	\$0	\$561,767	\$561,767	\$0	\$561,767
423710	\$0	\$0	\$0	\$0	\$0	\$17,204	\$17,204	\$138,530	\$155,734
423720	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$119,840	\$119,840
423730	\$0	\$0	\$62,519	\$0	\$62,519	\$0	\$62,519	\$0	\$62,519
423810	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$677,416	\$677,416
423830	\$0	\$0	\$1,021,283	\$0	\$1,021,283	\$2,415	\$1,023,698	\$3,297,040	\$4,320,738
423840	\$16,541	\$639,114	\$14,855	\$0	\$670,510	\$0	\$670,510	\$0	\$670,510
423850	\$19,519	\$0	\$0	\$0	\$19,519	\$0	\$19,519	\$0	\$19,519
423990	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$212,160	\$212,160
424110	\$0	\$98,201	\$0	\$0	\$98,201	\$0	\$98,201	\$0	\$98,201
424120	\$26,362	\$0	\$0	\$0	\$26,362	\$504,128	\$530,490	\$0	\$530,489
424130	\$2,440,089	\$0	\$0	\$0	\$2,440,089	\$0	\$2,440,089	\$0	\$2,440,089
424210	\$0	\$0	\$0	\$0	\$0	\$53,324	\$53,324	\$0	\$53,324

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
424410	\$0	\$0	\$1,359,821	\$0	\$1,359,821	\$0	\$1,359,821	\$0	\$1,359,821
424420	\$43,062	\$545,449	\$212,346	\$0	\$800,857	\$0	\$800,857	\$0	\$800,857
424440	\$28,405	\$241,381	\$404,975	\$0	\$674,761	\$0	\$674,761	\$0	\$674,761
424480	\$18,858	\$270,342	\$0	\$0	\$289,200	\$0	\$289,200	\$0	\$289,200
424490	\$0	\$0	\$123,503	\$0	\$123,503	\$0	\$123,503	\$0	\$123,503
424690	\$0	\$0	\$15,580	\$0	\$15,580	\$47,500	\$63,080	\$125,138	\$188,218
424710	\$0	\$0	\$20,000	\$0	\$20,000	\$0	\$20,000	\$0	\$20,000
424720	\$0	\$0	\$78,660	\$0	\$78,660	\$15,421	\$94,081	\$0	\$94,081
424950	\$0	\$0	\$0	\$0	\$0	\$958,872	\$958,872	\$0	\$958,872
424990	\$0	\$0	\$0	\$0	\$0	\$7,336	\$7,336	\$0	\$7,336
441110	\$767,423	\$0	\$0	\$0	\$767,423	\$0	\$767,423	\$0	\$767,423
444190	\$5,198	\$0	\$0	\$0	\$5,198	\$455,213	\$460,411	\$0	\$460,411
484110	\$0	\$221,318	\$0	\$0	\$221,318	\$134,191	\$355,509	\$0	\$355,510
484210	\$291,696	\$0	\$0	\$0	\$291,696	\$0	\$291,696	\$0	\$291,696
492210	\$0	\$0	\$0	\$0	\$0	\$206	\$206	\$0	\$206
518210	\$0	\$0	\$148,140	\$0	\$148,140	\$0	\$148,140	\$0	\$148,140
524114	\$486,317	\$0	\$0	\$0	\$486,317	\$34,100,384	\$34,586,701	\$379,312,032	\$413,898,733
541110	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$262,395	\$262,395
541211	\$1,240,632	\$832,132	\$263,187	\$0	\$2,335,950	\$0	\$2,335,950	\$4,531,870	\$6,867,820
541219	\$0	\$0	\$0	\$0	\$0	\$12,405	\$12,405	\$0	\$12,405
541310	\$54,067	\$0	\$0	\$0	\$54,067	\$545,968	\$600,035	\$0	\$600,035
541330	\$3,222,177	\$811,679	\$1,229,448	\$0	\$5,263,305	\$0	\$5,263,305	\$9,203,412	\$14,466,717
541370	\$876,866	\$102,668	\$0	\$0	\$979,534	\$0	\$979,534	\$0	\$979,534

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
541380	\$562,230	\$211,611	\$159,895	\$0	\$933,735	\$0	\$933,735	\$0	\$933,735
541430	\$40,103	\$0	\$0	\$0	\$40,103	\$0	\$40,103	\$0	\$40,103
541511	\$8,090,236	\$8,588,259	\$5,455,067	\$0	\$22,133,562	\$0	\$22,133,562	\$57,923,720	\$80,057,282
541512	\$6,704,824	\$0	\$2,749,963	\$0	\$9,454,787	\$0	\$9,454,787	\$0	\$9,454,787
541611	\$1,211,485	\$0	\$0	\$0	\$1,211,485	\$2,852,417	\$4,063,902	\$3,194,747	\$7,258,648
541613	\$65,427	\$0	\$0	\$0	\$65,427	\$0	\$65,427	\$0	\$65,427
541614	\$0	\$0	\$165,352	\$0	\$165,352	\$0	\$165,352	\$0	\$165,352
541620	\$20,000	\$0	\$0	\$0	\$20,000	\$0	\$20,000	\$0	\$20,000
541810	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,012,817	\$1,012,817
541870	\$0	\$0	\$0	\$0	\$0	\$131,707	\$131,707	\$0	\$131,707
541990	\$149,550	\$0	\$10,546	\$0	\$160,096	\$18,192	\$178,288	\$82,171	\$260,459
561320	\$720,099	\$0	\$0	\$0	\$720,099	\$0	\$720,099	\$2,536,597	\$3,256,696
561440	\$0	\$3,164,986	\$0	\$0	\$3,164,986	\$0	\$3,164,986	\$0	\$3,164,986
561720	\$701,446	\$0	\$0	\$0	\$701,446	\$295,360	\$996,806	\$0	\$996,806
561730	\$0	\$391,985	\$0	\$0	\$391,985	\$95,229	\$487,214	\$0	\$487,214
561790	\$63,213	\$0	\$0	\$0	\$63,213	\$0	\$63,213	\$0	\$63,213
561990	\$0	\$11,285	\$0	\$34,948	\$46,233	\$9,653	\$55,886	\$3,831	\$59,717
562910	\$0	\$240,410	\$0	\$0	\$240,410	\$0	\$240,410	\$1,765	\$242,175
562998	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$426,935	\$426,935
621112	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$48,826	\$48,826
621330	\$74,566	\$0	\$0	\$0	\$74,566	\$0	\$74,566	\$0	\$74,566
621420	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$200,000	\$200,000
623220	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$25,165	\$25,165

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
624110	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$300,000	\$300,000
624190	\$0	\$80,000	\$0	\$0	\$80,000	\$0	\$80,000	\$833,010	\$913,010
624310	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$100,000	\$100,000
811111	\$0	\$124,205	\$0	\$0	\$124,205	\$411,453	\$535,658	\$1,609,838	\$2,145,497
811121	\$0	\$46,000	\$0	\$0	\$46,000	\$18,337	\$64,337	\$0	\$64,337
811211	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,646,508	\$1,646,508
811213	\$0	\$0	\$0	\$0	\$0	\$3,019,408	\$3,019,408	\$6,907,724	\$9,927,132
811310	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$611,200	\$611,200
811412	\$0	\$73,497	\$0	\$0	\$73,497	\$0	\$73,497	\$0	\$73,497
812331	\$0	\$12,790	\$0	\$0	\$12,790	\$0	\$12,790	\$0	\$12,790
812930	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$261,218	\$261,218
813311	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$65,657	\$65,657
813319	\$225,000	\$0	\$0	\$0	\$225,000	\$0	\$225,000	\$221,612	\$446,612
Total	\$43,122,229	\$31,614,474	\$18,064,681	\$34,948	\$92,836,331	\$59,681,156	\$152,517,487	\$553,662,461	\$706,179,946

Source: CHA analysis of Cook County data

Table 4-8: Percentage Distribution of Contract Dollars by Race and Gender – Main Data
(share of total dollars)

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
236220	2.4%	0.0%	0.0%	0.0%	2.4%	0.2%	2.6%	97.4%	100.0%
237110	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
237130	42.3%	0.0%	0.0%	0.0%	42.3%	57.7%	100.0%	0.0%	100.0%
237310	3.1%	17.4%	0.0%	0.0%	20.5%	0.2%	20.7%	79.3%	100.0%
237990	13.3%	86.7%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
238120	0.0%	21.7%	0.0%	0.0%	21.7%	78.3%	100.0%	0.0%	100.0%
238140	13.7%	0.0%	0.0%	0.0%	13.7%	86.3%	100.0%	0.0%	100.0%
238150	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238160	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238210	12.1%	18.6%	2.3%	0.0%	33.0%	10.1%	43.0%	57.0%	100.0%
238220	28.9%	30.9%	0.0%	0.0%	59.8%	35.9%	95.8%	4.2%	100.0%
238290	20.8%	0.0%	0.0%	0.0%	20.8%	3.2%	24.0%	76.0%	100.0%
238310	0.0%	99.7%	0.0%	0.0%	99.7%	0.0%	99.7%	0.3%	100.0%
238320	87.3%	0.0%	0.0%	0.0%	87.3%	12.7%	100.0%	0.0%	100.0%
238330	0.0%	0.0%	78.5%	0.0%	78.5%	21.5%	100.0%	0.0%	100.0%
238340	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238350	84.9%	15.1%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
238910	5.1%	16.7%	0.0%	0.0%	21.8%	14.3%	36.1%	63.9%	100.0%
238990	0.0%	0.0%	0.0%	0.0%	0.0%	18.3%	18.3%	81.7%	100.0%
323111	0.0%	24.1%	0.0%	0.0%	24.1%	14.5%	38.6%	61.4%	100.0%
323113	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
332312	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
332321	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
333318	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
337212	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423110	0.0%	6.0%	0.0%	0.0%	6.0%	0.0%	6.0%	94.0%	100.0%
423120	0.0%	93.6%	0.0%	0.0%	93.6%	6.4%	100.0%	0.0%	100.0%
423210	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
423320	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423390	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423440	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423450	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
423510	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
423710	0.0%	0.0%	0.0%	0.0%	0.0%	11.0%	11.0%	89.0%	100.0%
423720	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423730	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423810	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423830	0.0%	0.0%	23.6%	0.0%	23.6%	0.1%	23.7%	76.3%	100.0%
423840	2.5%	95.3%	2.2%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423850	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423990	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
424110	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424120	5.0%	0.0%	0.0%	0.0%	5.0%	95.0%	100.0%	0.0%	100.0%
424130	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424210	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
424410	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424420	5.4%	68.1%	26.5%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424440	4.2%	35.8%	60.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424480	6.5%	93.5%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424490	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424690	0.0%	0.0%	8.3%	0.0%	8.3%	25.2%	33.5%	66.5%	100.0%
424710	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
424720	0.0%	0.0%	83.6%	0.0%	83.6%	16.4%	100.0%	0.0%	100.0%
424950	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
424990	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
441110	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
444190	1.1%	0.0%	0.0%	0.0%	1.1%	98.9%	100.0%	0.0%	100.0%
484110	0.0%	62.3%	0.0%	0.0%	62.3%	37.7%	100.0%	0.0%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
484210	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
492210	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
518210	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
524114	0.1%	0.0%	0.0%	0.0%	0.1%	8.2%	8.4%	91.6%	100.0%
541110	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
541211	18.1%	12.1%	3.8%	0.0%	34.0%	0.0%	34.0%	66.0%	100.0%
541219	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
541310	9.0%	0.0%	0.0%	0.0%	9.0%	91.0%	100.0%	0.0%	100.0%
541330	22.3%	5.6%	8.5%	0.0%	36.4%	0.0%	36.4%	63.6%	100.0%
541370	89.5%	10.5%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541380	60.2%	22.7%	17.1%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541430	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541511	10.1%	10.7%	6.8%	0.0%	27.6%	0.0%	27.6%	72.4%	100.0%
541512	70.9%	0.0%	29.1%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541611	16.7%	0.0%	0.0%	0.0%	16.7%	39.3%	56.0%	44.0%	100.0%
541613	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541614	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541620	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541810	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
541870	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
541990	57.4%	0.0%	4.0%	0.0%	61.5%	7.0%	68.5%	31.5%	100.0%
561320	22.1%	0.0%	0.0%	0.0%	22.1%	0.0%	22.1%	77.9%	100.0%
561440	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561720	70.4%	0.0%	0.0%	0.0%	70.4%	29.6%	100.0%	0.0%	100.0%
561730	0.0%	80.5%	0.0%	0.0%	80.5%	19.5%	100.0%	0.0%	100.0%
561790	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561990	0.0%	18.9%	0.0%	58.5%	77.4%	16.2%	93.6%	6.4%	100.0%
562910	0.0%	99.3%	0.0%	0.0%	99.3%	0.0%	99.3%	0.7%	100.0%
562998	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
621112	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

NAICS	Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
621330	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
621420	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
623220	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624110	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624190	0.0%	8.8%	0.0%	0.0%	8.8%	0.0%	8.8%	91.2%	100.0%
624310	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
811111	0.0%	5.8%	0.0%	0.0%	5.8%	19.2%	25.0%	75.0%	100.0%
811121	0.0%	71.5%	0.0%	0.0%	71.5%	28.5%	100.0%	0.0%	100.0%
811211	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
811213	0.0%	0.0%	0.0%	0.0%	0.0%	30.4%	30.4%	69.6%	100.0%
811310	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
811412	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
812331	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
812930	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813311	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813319	50.4%	0.0%	0.0%	0.0%	50.4%	0.0%	50.4%	49.6%	100.0%
Total	6.1%	4.5%	2.6%	0.0%	13.1%	8.5%	21.6%	78.4%	100.0%

Source: CHA analysis of Cook County data

3. The Availability of M/WBEs for Main Data Contracts

a. The Methodological Framework

Estimates of the availability of M/WBEs in Cook County’s geographic and product market are a critical component of the County’s compliance with its constitutional and regulatory obligations to ensure its M/WBE program is narrowly tailored. The courts require that the availability estimates reflect the number of “ready, willing and able” firms that can perform on specific types of work involved in the recipient’s prime contracts and associated subcontracts; general population is legally irrelevant.¹⁷⁸ The availability estimates should form the basis for the agency’s triennial M/WBE goal and to set narrowly tailored contract goals.

178. 49 C.F.R. § 25.45(c).

We applied the “custom census” approach, with refinements, to estimating availability. The courts and the National Model Disparity Study Guidelines¹⁷⁹ have recognized this methodology as superior to the other methods for at least four reasons:

- First, it provides an internally consistent and rigorous “apples to apples” comparison between firms in the availability numerator and those in the denominator. Other approaches often have different definitions for the firms in the numerator (*e.g.*, certified M/WBEs or firms that respond to a survey) and the denominator (*e.g.*, registered vendors or the Census Bureau’s County Business Patterns data).
- Second, by examining a comprehensive group of firms, it “casts a broader net” beyond those known to the agency. As recognized by the courts, this comports with the remedial nature of contracting affirmative action programs by seeking to bring in businesses that have historically been excluded. Our methodology is less likely to be tainted by the effects of past and present discrimination than other methods, such as bidders’ lists, because it seeks out firms in the County’s market area that have not been able to access the agency’s opportunities.
- Third, this approach is less impacted by variables affected by discrimination. Factors such as firm age, size, qualifications, and experience are all elements of business success where discrimination would be manifested. Several courts have held that the results of discrimination – which impact factors affecting capacity – should not be the benchmark for a program designed to ameliorate the effects of discrimination. They have acknowledged that minority and woman firms may be smaller, newer, and otherwise less competitive than non-M/W/M/WBEs because of the very discrimination sought to be remedied by race-conscious contracting programs. Racial and gender differences in these “capacity” factors are the outcomes of discrimination and it is therefore inappropriate as a matter of economics and statistics to use them as “control” variables in a disparity study.¹⁸⁰
- Fourth, it has been upheld by every court that has reviewed it, including most recently in the successful defense of the Illinois State

179. J. Wainwright and C. Holt, *Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program*, National Academies of Sciences, Engineering, and Medicine, 2010, pp.57-58 (“*National Disparity Study Guidelines*”).

180. For a detailed discussion of the role of capacity in disparity studies, see the *National Disparity Study Guidelines*, Appendix B, “Understanding Capacity.”

Toll Highway's M/WBE program, for which we served as testifying experts.¹⁸¹

Using this framework, CHA utilized three databases to estimate availability:

1. The Final Contract Data File.
2. The Master M/WB/DE Directory compiled by CHA.
3. Dun & Bradstreet/Hoovers Database.

First, we eliminated any duplicate entries in the geographically constrained FCDF. Some firms received multiple contracts for work performed in the same NAICS codes. Without this elimination of duplicate listings, the availability database would be artificially large. This list of unique firms comprised the first component of the Study's availability determination.

To develop the Master Directory, we utilized the Illinois Unified Certification Program Directory, Cook County M/WBE Directory, the City of Chicago M/WBE Directory and Cook County Contract Data File to compile the Master Directory. We limited the firms we used in our analysis to those operating within the County's product market.

We next developed a custom database from Hoovers, a Dun & Bradstreet company, for minority- and woman-owned firms and non-M/WBEs. Hoovers maintains a comprehensive, extensive and regularly updated listing of all firms conducting business. The database includes a vast amount of information on each firm, including location and detailed industry codes, and is the broadest publicly available data source for firm information. We purchased the information from Hoovers for the firms in the NAICS codes located in the County's market area to form our custom Dun & Bradstreet/Hoovers Database. In the initial download, the data from Hoovers simply identified a firm as being minority-owned. However, the company does keep detailed information on ethnicity (*i.e.*, is the minority firm owner Black, Hispanic, Asian, or Native American). We obtained this additional information from Hoovers by special request.

The Hoovers database is the most comprehensive list of minority-owned and woman-owned businesses available. It is developed from the efforts of a national firm whose business is collecting business information. Hoovers builds its database from over 250 sources, including information from government sources and various associations, and its own efforts. Hoovers conducts an audit of the preliminary database prior to the public release of the data. That audit must result in a minimum of 94% accuracy. Once published, Hoovers has an established protocol to regularly refresh its data.

181. *Midwest Fence, Corp. v. U.S. Department of Transportation et al.*, 840 F.3d 932 (2016); *see also Northern Contracting, Inc. v. Illinois Department of Transportation*, 473 F.3d 715 (7th Cir. 2007), *cert. denied*, 137 S.Ct. 2292 (2017).

This protocol involves updating any third-party lists that were used and contacting a selection of firms via Hoover’s own call centers.

We merged these three databases to form an accurate estimate of firms available to work on Cook County contracts. For an extended explanation of how unweighted and weighted availability are calculated, please see Appendix D.

b. The Availability Data and Results

Tables 4-7 through 4-9 present data on:

- The unweighted availability percentages by race and gender and by NAICS codes for Cook County’s product market;
- The weights used to adjust the unweighted numbers;¹⁸² and
- The final estimates of the weighted averages of the individual six-digit level NAICS availability estimates in Cook County’s market area.

We “weighted” the availability data for two reasons. First, the weighted availability represents the share of total possible contractors for each demographic group, weighted by the distribution of contract dollars across the NAICS codes in which the County spends its dollars.

Second, weighting also reflects the importance of the availability of a demographic group in a particular NAICS code, that is, how important that NAICS code is to Cook County's contracting patterns.¹⁸³ For example, in a hypothetical NAICS Code 123456, the total available firms are 100 and 60 of these firms are M/WBEs; hence, M/WBE availability would be 60%. However, if Cook County spends only one percent of its contract dollars in this NAICS code, then this high availability would be offset by the low level of spending in that NAICS code. In contrast, if Cook County spent 25% of its contract dollars in NAICS Code 123456, then the same availability would carry a greater weight.

To calculate the weighted availability for each NAICS code, we first determined the unweighted availability for each demographic group in each NAICS code, presented in Table 4-9. In the previous example, the unweighted availability for M/WBEs in NAICS Code 123456 is 60%. We then multiplied the unweighted availability by the share of the County spending in that NAICS code, presented in Table 4-10. This share is the *weight*. Using the previous example, where the County spending in NAICS Code 123456

182. These weights are equivalent to the share of contract dollars presented in the previous section.

183. <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>.

was one percent, the component of M/WBE weighted availability for NAICS Code 123456 would be 0.006: 60% multiplied by one percent.

We performed this calculation for each NAICS code and then summed all the individual components for each demographic group to determine the weighted availability for that group. The results of this calculation are presented in Table 4-11.

Table 4-9: Unweighted M/WBE Availability for Cook County Contracts – Main Data

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
236220	8.3%	7.1%	3.6%	0.5%	19.5%	7.9%	27.4%	72.6%	100.0%
237110	3.5%	19.8%	7.9%	0.0%	31.2%	8.5%	39.7%	60.3%	100.0%
237130	12.6%	22.3%	5.8%	0.0%	40.8%	6.8%	47.6%	52.4%	100.0%
237310	9.1%	16.2%	6.2%	0.2%	31.7%	7.0%	38.6%	61.4%	100.0%
237990	7.1%	15.2%	10.6%	0.0%	32.8%	9.6%	42.4%	57.6%	100.0%
238120	9.9%	26.1%	2.8%	0.0%	38.7%	22.5%	61.3%	38.7%	100.0%
238140	4.0%	4.4%	0.2%	0.0%	8.7%	5.5%	14.1%	85.9%	100.0%
238150	4.1%	7.3%	0.0%	0.0%	11.4%	10.6%	22.0%	78.0%	100.0%
238160	2.3%	1.6%	0.2%	0.0%	4.2%	3.9%	8.0%	92.0%	100.0%
238210	3.7%	2.7%	0.8%	0.1%	7.2%	7.6%	14.8%	85.2%	100.0%
238220	2.4%	2.3%	0.6%	0.0%	5.3%	3.7%	9.0%	91.0%	100.0%
238290	7.1%	10.9%	1.9%	0.0%	19.9%	18.6%	38.5%	61.5%	100.0%
238310	11.2%	16.7%	0.8%	0.0%	28.7%	5.3%	34.0%	66.0%	100.0%
238320	3.7%	1.6%	0.3%	0.1%	5.7%	3.9%	9.5%	90.5%	100.0%
238330	10.7%	9.3%	1.6%	0.0%	21.6%	6.3%	27.8%	72.2%	100.0%
238340	4.8%	3.4%	1.4%	0.0%	9.7%	4.4%	14.1%	85.9%	100.0%
238350	17.3%	14.8%	3.4%	0.0%	35.6%	7.2%	42.8%	57.2%	100.0%
238910	10.3%	11.2%	2.1%	0.0%	23.7%	10.5%	34.2%	65.8%	100.0%
238990	2.4%	2.7%	0.5%	0.1%	5.7%	3.6%	9.3%	90.7%	100.0%
323111	0.9%	1.2%	1.2%	0.0%	3.4%	8.1%	11.5%	88.5%	100.0%
323113	1.8%	1.0%	0.8%	0.0%	3.6%	4.9%	8.5%	91.5%	100.0%
332312	2.7%	5.4%	1.2%	0.0%	9.3%	8.1%	17.4%	82.6%	100.0%
332321	1.7%	5.2%	0.0%	0.0%	6.9%	1.7%	8.6%	91.4%	100.0%
333318	0.8%	0.0%	0.0%	0.4%	1.2%	5.2%	6.4%	93.6%	100.0%

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NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
337212	4.1%	4.1%	6.1%	0.0%	14.3%	10.2%	24.5%	75.5%	100.0%
423110	0.4%	0.9%	0.0%	0.0%	1.3%	5.3%	6.6%	93.4%	100.0%
423120	0.5%	1.9%	0.8%	0.0%	3.1%	4.4%	7.5%	92.5%	100.0%
423210	4.5%	0.3%	1.2%	0.0%	6.0%	12.5%	18.5%	81.5%	100.0%
423320	1.6%	3.5%	1.6%	0.0%	6.8%	6.5%	13.4%	86.6%	100.0%
423390	6.8%	7.8%	1.9%	1.9%	18.4%	10.7%	29.1%	70.9%	100.0%
423440	0.7%	0.4%	0.7%	0.0%	1.7%	2.5%	4.2%	95.8%	100.0%
423450	4.3%	1.1%	4.3%	0.0%	9.6%	8.9%	18.4%	81.6%	100.0%
423510	1.2%	0.4%	2.2%	0.0%	3.8%	5.1%	8.9%	91.1%	100.0%
423710	1.2%	0.6%	3.3%	0.0%	5.1%	10.1%	15.2%	84.8%	100.0%
423720	2.2%	0.4%	0.4%	0.0%	2.9%	8.8%	11.7%	88.3%	100.0%
423730	0.5%	0.5%	0.5%	0.0%	1.4%	3.8%	5.3%	94.7%	100.0%
423810	0.0%	3.1%	0.4%	1.5%	5.0%	5.0%	10.0%	90.0%	100.0%
423830	0.4%	0.4%	0.7%	0.0%	1.4%	5.2%	6.6%	93.4%	100.0%
423840	1.9%	1.0%	1.7%	0.0%	4.6%	6.5%	11.0%	89.0%	100.0%
423850	3.3%	1.6%	0.7%	0.0%	5.6%	10.0%	15.5%	84.5%	100.0%
423990	1.1%	0.6%	0.3%	0.0%	2.0%	3.8%	5.9%	94.1%	100.0%
424110	6.1%	1.5%	0.0%	0.0%	7.6%	7.6%	15.2%	84.8%	100.0%
424120	4.7%	0.3%	4.2%	0.0%	9.1%	11.6%	20.8%	79.2%	100.0%
424130	8.7%	1.7%	2.3%	0.0%	12.7%	15.3%	28.0%	72.0%	100.0%
424210	4.6%	0.0%	1.4%	0.0%	6.0%	14.3%	20.3%	79.7%	100.0%
424410	0.6%	0.6%	0.8%	0.0%	2.0%	4.6%	6.6%	93.4%	100.0%
424420	4.2%	3.2%	2.1%	0.0%	9.5%	4.2%	13.7%	86.3%	100.0%
424440	2.2%	2.2%	2.2%	0.0%	6.7%	2.2%	8.9%	91.1%	100.0%
424480	3.8%	1.3%	1.9%	0.0%	6.9%	5.0%	11.9%	88.1%	100.0%
424490	2.8%	1.7%	1.2%	0.0%	5.8%	8.5%	14.2%	85.8%	100.0%
424690	1.7%	0.7%	5.2%	0.0%	7.6%	9.5%	17.1%	82.9%	100.0%
424710	7.1%	0.0%	3.6%	0.0%	10.7%	7.1%	17.9%	82.1%	100.0%
424720	1.2%	1.8%	4.1%	0.0%	7.0%	5.3%	12.3%	87.7%	100.0%
424950	0.9%	0.9%	0.9%	0.0%	2.7%	13.3%	15.9%	84.1%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
424990	0.6%	0.3%	0.6%	0.0%	1.5%	4.0%	5.5%	94.5%	100.0%
441110	0.4%	0.1%	0.0%	0.0%	0.6%	1.5%	2.1%	97.9%	100.0%
444190	1.7%	2.2%	0.5%	0.0%	4.4%	7.8%	12.1%	87.9%	100.0%
484110	1.5%	1.9%	0.2%	0.0%	3.6%	3.0%	6.6%	93.4%	100.0%
484210	5.6%	1.5%	0.0%	0.0%	7.1%	7.4%	14.5%	85.5%	100.0%
492210	3.9%	1.3%	1.3%	0.0%	6.5%	8.4%	14.8%	85.2%	100.0%
518210	4.3%	1.0%	2.3%	0.1%	7.7%	6.4%	14.0%	86.0%	100.0%
524114	3.2%	0.0%	0.0%	0.0%	3.2%	5.9%	9.1%	90.9%	100.0%
541110	0.6%	0.2%	0.1%	0.0%	1.0%	5.0%	6.0%	94.0%	100.0%
541211	2.3%	0.9%	0.5%	0.0%	3.7%	6.0%	9.6%	90.4%	100.0%
541219	4.6%	0.6%	1.0%	0.0%	6.2%	13.0%	19.2%	80.8%	100.0%
541310	3.5%	3.6%	2.6%	0.1%	9.8%	9.2%	18.9%	81.1%	100.0%
541330	4.3%	3.2%	7.2%	0.1%	14.7%	5.7%	20.4%	79.6%	100.0%
541370	4.0%	4.4%	8.0%	0.0%	16.3%	8.8%	25.1%	74.9%	100.0%
541380	1.3%	1.0%	3.3%	0.1%	5.8%	4.5%	10.3%	89.7%	100.0%
541430	2.7%	2.5%	1.1%	0.1%	6.3%	16.7%	23.0%	77.0%	100.0%
541511	2.5%	0.7%	5.2%	0.0%	8.4%	4.2%	12.7%	87.3%	100.0%
541512	4.6%	1.6%	6.8%	0.0%	13.1%	7.4%	20.5%	79.5%	100.0%
541611	5.0%	1.2%	1.5%	0.1%	7.9%	8.9%	16.8%	83.2%	100.0%
541613	2.5%	1.3%	0.9%	0.1%	4.7%	6.8%	11.5%	88.5%	100.0%
541614	11.4%	3.3%	5.4%	0.0%	20.1%	10.4%	30.4%	69.6%	100.0%
541620	4.4%	4.6%	3.7%	0.3%	13.0%	12.0%	25.0%	75.0%	100.0%
541810	3.3%	2.5%	0.7%	0.1%	6.6%	8.5%	15.1%	84.9%	100.0%
541870	12.0%	2.0%	2.0%	0.0%	16.0%	24.0%	40.0%	60.0%	100.0%
541990	1.0%	0.2%	0.3%	0.0%	1.5%	4.4%	5.8%	94.2%	100.0%
561320	6.9%	2.4%	2.9%	0.0%	12.1%	12.2%	24.4%	75.6%	100.0%
561440	4.8%	1.6%	1.1%	0.0%	7.5%	5.3%	12.8%	87.2%	100.0%
561720	6.4%	1.5%	0.4%	0.1%	8.4%	7.5%	15.8%	84.2%	100.0%
561730	3.1%	3.3%	0.2%	0.0%	6.6%	4.5%	11.2%	88.8%	100.0%
561790	2.0%	1.2%	0.0%	0.0%	3.3%	3.0%	6.4%	93.6%	100.0%

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
561990	3.0%	0.5%	0.6%	0.1%	4.1%	8.5%	12.6%	87.4%	100.0%
562910	23.2%	19.3%	2.8%	0.0%	45.3%	9.4%	54.7%	45.3%	100.0%
562998	18.2%	16.9%	1.3%	0.0%	36.4%	14.3%	50.6%	49.4%	100.0%
621112	0.6%	0.3%	0.1%	0.0%	1.0%	3.7%	4.7%	95.3%	100.0%
621330	1.5%	0.3%	0.2%	0.0%	2.0%	14.3%	16.3%	83.7%	100.0%
621420	4.8%	0.3%	0.0%	0.0%	5.1%	9.2%	14.3%	85.7%	100.0%
623220	0.0%	0.0%	0.0%	0.0%	0.0%	4.1%	4.1%	95.9%	100.0%
624110	1.1%	0.0%	0.0%	0.0%	1.1%	0.3%	1.3%	98.7%	100.0%
624190	0.2%	0.0%	0.0%	0.0%	0.3%	0.4%	0.6%	99.4%	100.0%
624310	5.5%	0.4%	1.1%	0.0%	7.0%	11.0%	18.0%	82.0%	100.0%
811111	0.2%	0.2%	0.0%	0.0%	0.5%	1.9%	2.4%	97.6%	100.0%
811121	0.3%	0.7%	0.4%	0.0%	1.3%	4.5%	5.9%	94.1%	100.0%
811211	0.5%	2.6%	1.1%	0.0%	4.2%	4.7%	8.9%	91.1%	100.0%
811213	3.4%	5.2%	0.0%	0.0%	8.6%	5.2%	13.8%	86.2%	100.0%
811310	0.3%	1.2%	0.3%	0.0%	1.8%	5.3%	7.1%	92.9%	100.0%
811412	0.4%	0.1%	0.1%	0.0%	0.6%	1.3%	1.9%	98.1%	100.0%
812331	0.0%	4.0%	2.0%	0.0%	6.0%	4.0%	10.0%	90.0%	100.0%
812930	0.0%	1.3%	0.0%	0.0%	1.3%	2.9%	4.3%	95.7%	100.0%
813311	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813319	0.1%	0.0%	0.0%	0.0%	0.1%	0.3%	0.3%	99.7%	100.0%
Total	2.7%	1.7%	1.2%	0.0%	5.6%	5.8%	11.4%	88.6%	100.0%

Source: CHA analysis of Cook County data; Hoovers; CHA Master Directory

These unweighted estimates can be used by Cook County as the starting point for setting narrowly tailored contract goals. The agency uses the B2Gnow electronic data collection and monitoring system, and the goal setting module has been designed specifically to interface with our study methodology and results.

Table 4-10: Distribution of the County Spending by NAICS Code (the Weights) – Main Data

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
236220	Commercial and Institutional Building Construction	4.3%
237110	Water and Sewer Line and Related Structures Construction	0.03%
237130	Power and Communication Line and Related Structures Construction	1.0%
237310	Highway, Street, and Bridge Construction	1.6%
237990	Other Heavy and Civil Engineering Construction	0.2%
238120	Structural Steel and Precast Concrete Contractors	0.2%
238140	Masonry Contractors	0.01%
238150	Glass and Glazing Contractors	0.01%
238160	Roofing Contractors	0.1%
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%
238220	Plumbing, Heating, and Air-Conditioning Contractors	0.9%
238290	Other Building Equipment Contractors	2.1%
238310	Drywall and Insulation Contractors	0.1%
238320	Painting and Wall Covering Contractors	0.01%
238330	Flooring Contractors	0.6%
238340	Tile and Terrazzo Contractors	0.001%
238350	Finish Carpentry Contractors	0.1%
238910	Site Preparation Contractors	0.3%
238990	All Other Specialty Trade Contractors	0.03%
323111	Commercial Printing (except Screen and Books)	0.05%
323113	Commercial Screen Printing	0.1%
332312	Fabricated Structural Metal Manufacturing	0.02%
332321	Metal Window and Door Manufacturing	0.002%
333318	Other Commercial and Service Industry Machinery Manufacturing	0.1%
337212	Custom Architectural Woodwork and Millwork Manufacturing	0.0003%
423110	Automobile and Other Motor Vehicle Merchant Wholesalers	0.04%
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	0.05%
423210	Furniture Merchant Wholesalers	0.01%

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	0.004%
423390	Other Construction Material Merchant Wholesalers	0.002%
423440	Other Commercial Equipment Merchant Wholesalers	0.02%
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	0.1%
423510	Metal Service Centers and Other Metal Merchant Wholesalers	0.1%
423710	Hardware Merchant Wholesalers	0.02%
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	0.02%
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers	0.01%
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers	0.1%
423830	Industrial Machinery and Equipment Merchant Wholesalers	0.6%
423840	Industrial Supplies Merchant Wholesalers	0.1%
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	0.003%
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	0.03%
424110	Printing and Writing Paper Merchant Wholesalers	0.01%
424120	Stationery and Office Supplies Merchant Wholesalers	0.1%
424130	Industrial and Personal Service Paper Merchant Wholesalers	0.3%
424210	Drugs and Druggists' Sundries Merchant Wholesalers	0.01%
424410	General Line Grocery Merchant Wholesalers	0.2%
424420	Packaged Frozen Food Merchant Wholesalers	0.1%
424440	Poultry and Poultry Product Merchant Wholesalers	0.1%
424480	Fresh Fruit and Vegetable Merchant Wholesalers	0.04%
424490	Other Grocery and Related Products Merchant Wholesalers	0.02%
424690	Other Chemical and Allied Products Merchant Wholesalers	0.03%
424710	Petroleum Bulk Stations and Terminals	0.003%
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	0.01%

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
424950	Paint, Varnish, and Supplies Merchant Wholesalers	0.1%
424990	Other Miscellaneous Nondurable Goods Merchant Wholesalers	0.001%
441110	New Car Dealers	0.1%
444190	Other Building Material Dealers	0.1%
484110	General Freight Trucking, Local	0.1%
484210	Used Household and Office Goods Moving	0.04%
492210	Local Messengers and Local Delivery	0.00003%
518210	Data Processing, Hosting, and Related Services	0.02%
524114	Direct Health and Medical Insurance Carriers	58.6%
541110	Offices of Lawyers	0.04%
541211	Offices of Certified Public Accountants	1.0%
541219	Other Accounting Services	0.002%
541310	Architectural Services	0.1%
541330	Engineering Services	2.0%
541370	Surveying and Mapping (except Geophysical) Services	0.1%
541380	Testing Laboratories	0.1%
541430	Graphic Design Services	0.01%
541511	Custom Computer Programming Services	11.3%
541512	Computer Systems Design Services	1.3%
541611	Administrative Management and General Management Consulting Services	1.0%
541613	Marketing Consulting Services	0.01%
541614	Process, Physical Distribution, and Logistics Consulting Services	0.02%
541620	Environmental Consulting Services	0.003%
541810	Advertising Agencies	0.1%
541870	Advertising Material Distribution Services	0.02%
541990	All Other Professional, Scientific, and Technical Services	0.04%
561320	Temporary Help Services	0.5%
561440	Collection Agencies	0.4%
561720	Janitorial Services	0.1%

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
561730	Landscaping Services	0.1%
561790	Other Services to Buildings and Dwellings	0.01%
561990	All Other Support Services	0.01%
562910	Remediation Services	0.03%
562998	All Other Miscellaneous Waste Management Services	0.1%
621112	Offices of Physicians, Mental Health Specialists	0.01%
621330	Offices of Mental Health Practitioners (except Physicians)	0.01%
621420	Outpatient Mental Health and Substance Abuse Centers	0.03%
623220	Residential Mental Health and Substance Abuse Facilities	0.004%
624110	Child and Youth Services	0.04%
624190	Other Individual and Family Services	0.1%
624310	Vocational Rehabilitation Services	0.01%
811111	General Automotive Repair	0.3%
811121	Automotive Body, Paint, and Interior Repair and Maintenance	0.01%
811211	Consumer Electronics Repair and Maintenance	0.2%
811213	Communication Equipment Repair and Maintenance	1.4%
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	0.1%
811412	Appliance Repair and Maintenance	0.01%
812331	Linen Supply	0.002%
812930	Parking Lots and Garages	0.04%
813311	Human Rights Organizations	0.01%
813319	Other Social Advocacy Organizations	0.1%
TOTAL		100.0%

Source: CHA analysis of Cook County data

Table 4-11 presents the weighted availability results for each of the racial and gender categories. The aggregated availability of M/WBEs, weighted by Cook County's spending in its geographic and industry markets, is 13.3%.

Table 4-11: Aggregated Weighted Availability for County Contracts – Main Data

Black	Hispanic	Asian	Native American	MBE	White Women	M/WBE	Non-M/WBE	Total
3.8%	1.8%	1.4%	0.04%	6.9%	6.3%	13.3%	86.7%	100.0%

Source: CHA analysis of Cook County data; Hoovers; CHA Master Directory

4. Analysis of the Concentration of Contract Dollars among Firms

In addition to examining the level of M/WBE and non-M/WBE contract dollar utilization, another important dimension to a disparity analysis is the level of contract dollars concentration among M/WBE and non-M/WBE firms. This approach is important because the success of a group in receiving contract dollars may be caused by an unusual amount of dollars concentrated among a few firms. If that is the case, then a race- or gender-based remedial program may still be supportable even though a few firms have been able to overcome discriminatory barriers. This section presents data to examine this issue.

Prior to presenting these data, it is important to emphasize two important findings: 1) the three NAICS codes that provide the most contract dollars to each M/WBE group capture a larger share of the overall County spending received by the group than the share of overall County spending captured by the top three NAICS codes for the County; and 2) the three NAICS codes that provide the most contract dollars to M/WBEs are different from the three NAICS codes that provide non-M/WBE firms their largest share of contract dollars.

With respect to the first finding, Table 4-12 presents data on the share of the County contract dollars received by the top three NAICS codes for each demographic group. These shares are derived from the data presented in Tables 4-7 and 4-8. The three NAICS codes where the County spent most of its contract dollars capture 76.0% of all County spending. For each M/WBE group, the corresponding figure for the share of spending captured by the top three codes ranges between 100.0% (Native American) and 46.4% (Black).

Table 4-12: Comparison of the Share of the County Spending Captured by the Top Three NAICS Codes for Each Demographic Group – Main Data

Demographic Group	Share of All the County Spending in the Top Three NAICS Codes for Each Group
All	76.0%
Black	46.4%
Hispanic	62.4%

Demographic Group	Share of All the County Spending in the Top Three NAICS Codes for Each Group
Asian	64.3%
Native American	100.0%
White Woman	71.0%
Non-M/WBE	84.3%

Source: CHA analysis of Cook County data

With respect to the second finding, Table 4-13 provides more detail on the data presented in Table 4-12. Table 4-13 lists the top three codes for each group and their corresponding share of the group's total spending. The code with the largest amount of County spending – NAICS code 524114 (Direct Health and Medical Insurance Carriers) – is among the top three codes for White women and non-M/WBEs. The code with the second largest amount of County spending – NAICS code 541511 (Custom Computer Programming Services) – is among the top three codes for Blacks, Hispanics, Asians, and non-M/WBEs. The code with the third largest amount of County spending – NAICS code 238210 (Electrical Contractors and Other Wiring Installation Contractors) – is among the top three codes for Blacks, Hispanics, and White women. While this indicates some overlap between the key codes for the County and the key codes for M/WBEs, the underlying data presents some important nuance.¹⁸⁴ Contract dollars received by Blacks, Hispanics, and Asians are more dispersed than for all County spending: the top three NAICS codes share of all contract dollars received is less than the corresponding share for all County spending. Examining individual M/WBE groups, for Black firms, the share of all contract dollars from Custom Computer Programming Services is similar to County spending; however, the share of all contract dollars from Electrical Contractors and Other Wiring Installation Contractors is twice the amount of County spending. For Hispanic firms, the share of all contract dollars from Custom Computer Programming Services is more than twice that of County spending and the share of all contract dollars from Electrical Contractors and Other Wiring Installation Contractors is over four times the amount of County spending. For Asian firms, the share of all contract dollars from Custom Computer Programming Services is nearly three times that of County spending. It is only among White woman firms do we see patterns of contract dollars similar to the County overall. We can conclude that while the NAICS codes that are important to the County overall are similar to the codes that are important to MBEs, the relative importance of these codes are starkly different.

184. At this point, we can set aside the discussion of non-M/WBEs. Since non-M/WBEs captures 78.4% of all County spending, we would expect that spending patterns among non-M/WBEs would mirror those of the County.

Table 4-13: The Top Three the County Spending NAICS Codes for Each Demographic Group
Main Data

NAICS	NAICS Code Label	WEIGHT	Total of Top 3 Codes
All			
524114	Direct Health and Medical Insurance Carriers	58.6%	76.0%
541511	Custom Computer Programming Services	11.3%	
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%	
Black			
541511	Custom Computer Programming Services	18.8%	46.4%
541512	Computer Systems Design Services	15.5%	
238210	Electrical Contractors and Other Wiring Installation Contractors	12.1%	
Hispanic			
541511	Custom Computer Programming Services	27.2%	62.4%
238210	Electrical Contractors and Other Wiring Installation Contractors	25.2%	
561440	Collection Agencies	10.0%	
Asian			
541511	Custom Computer Programming Services	30.2%	64.3%
238330	Flooring Contractors	18.9%	
541512	Computer Systems Design Services	15.2%	
Native American			
561990	All Other Support Services	100.0%	100.0%
White Woman			
524114	Direct Health and Medical Insurance Carriers	57.1%	71.0%
238210	Electrical Contractors and Other Wiring Installation Contractors	7.3%	
237130	Power and Communication Line and Related Structures Construction	6.6%	

NAICS	NAICS Code Label	WEIGHT	Total of Top 3 Codes
Non-M/WBE			
524114	Direct Health and Medical Insurance Carriers	68.5%	84.3%
541511	Custom Computer Programming Services	10.5%	
236220	Commercial and Institutional Building Construction	5.3%	

Source: CHA analysis of Cook County data

Tables 4-14 through 4-31 present more details on how County spending varies across groups and within groups. These results illustrate the different levels of concentration of contract dollars among M/WBEs compared to non-M/WBEs. For each demographic group, we re-state the three NAICS codes where the group receives the largest share of the County’s spending (first presented in Table 4-13). Then, we present the weight for each code derived from the County’s overall spending. We next present the share of all group contract dollars and compare that share to the corresponding share received by non-M/WBEs. Finally, we examine each of the NAICS codes individually to compare the concentration of contract dollars among the three largest firms for that group to the concentration of contract dollars among the three largest non-M/WBEs.

Tables 4-14 through 4-17 present data for Black-owned firms.

- Table 4-14 presents the three NAICS codes where Black firms received the largest share of their contract dollars. While these codes captured 46.4% of all Black contract dollars, the corresponding figure for non-M/WBEs was 14.9%. This reinforces the conclusion that there is a difference in relative importance of the leading NAICS codes.
- Table 4-15 and Table 4-16 present data on the firm concentration in NAICS codes 541511 and 541512. There are too few contracts in these codes to establish any patterns with respect to concentration with the codes.
- Table 4-17 presents data on the firm concentration in NAICS 238210. In this code, the contract dollars received by the top two Black firms were more concentrated than the contract dollars by top two non-M/WBE firms. The top two Black firms received 91.6% of all Black dollars; the top three non-M/WBE firms received just 72.3% of non-M/WBE dollars. The concentration among the top three firms were comparable.

**Table 4-14: Three NAICS Codes where Black Firms Received the Most Spending
Main Data**

NAICS Code	NAICS Code Label	Weight	Share of Total Black Dollars	Share of Total Non-M/WBE Dollars
541511	Custom Computer Programming Services	11.3%	18.8%	10.5%
541512	Computer Systems Design Services	1.3%	15.5%	0.0%
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%	12.1%	4.4%
Total 3-code Share of Total Group Dollars			46.4%	14.9%

Source: CHA analysis of Cook County data

**Table 4-15: Comparison of Black and non-M/WBE Firm Concentration – Main Data
NAICS Code 541511: Custom Computer Programming Services**

	Black	Non-M/WBE
Number of Contracts	2	1
Number of Firms	2	1
Share of #1	85.7%	100.0%
Share of #2	14.3%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

**Table 4-16: Comparison of Black and non-M/WBE Firm Concentration – Main Data
NAICS Code 541512: Computer Systems Design Services**

	Black	Non-M/WBE
Number of Contracts	2	0
Number of Firms	2	0
Share of #1	83.9%	0.0%
Share of #2	16.1%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

**Table 4-17: Comparison of Black and non-M/WBE Firm Concentration – Main Data
NAICS Code 238210: Electrical Contractors and Other Wiring Installation Contractors**

	Black	Non-M/WBE
Number of Contracts	6	16
Number of Firms	4	10
Share of #1	46.6%	44.4%
Share of #2	45.0%	27.9%
Share of #3	7.7%	20.9%
Share of Top 3	99.3%	93.2%

Source: CHA analysis of Cook County data

Tables 4-18 through 4-21 present data for Hispanic-owned firms.

- Table 4-18 presents the three NAICS codes where Hispanic firms received the largest share of their contract dollars. While these codes comprised 62.4% of all Hispanic contract dollars, the corresponding figure for non-M/WBEs was 14.9%. This reinforces the conclusion raised above concerning the difference in relative importance of the leading NAICS codes.
- Table 4-19 and Table 4-21 presents data on the firm concentration in NAICS 541511 and 561440. There are too few contracts in these codes to establish any patterns with respect to concentration with the codes.
- Table 4-20 presents data on the firm concentration in NAICS 238210. In this code, the level of concentration was greater among non-M/WBE firms compared to Hispanic firms. But it is important to recall that the code is much less important to non-M/WBE firms than to Hispanic firms – the contributes 4.4% to all non-M/WBE contract dollars compared to 25.2% to all Hispanic contract dollars (see Table 4-18).

**Table 4-18: Three NAICS Codes where Hispanic Firms Received the Most Spending
Main Data**

NAICS Code	NAICS Code Label	Weight	Share of Total Hispanic Dollars	Share of Total Non-M/WBE Dollars
541511	Custom Computer Programming Services	11.3%	27.2%	10.5%
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%	25.2%	4.4%
561440	Collection Agencies	0.4%	10.0%	0.0%
Total 3-code Share of Total Group Dollars			62.4%	14.9%

Source: CHA analysis of Cook County data

**Table 4-19: Comparison of Hispanic and Non-M/WBE Firm Concentration – Main Data
NAICS Code 541511: Custom Computer Programming Services**

	Hispanic	Non-M/WBE
Number of Contracts	2	1
Number of Firms	2	1
Share of #1	98.7%	100.0%
Share of #2	1.3%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

**Table 4-20: Comparison of Hispanic and Non-M/WBE Firm Concentration – Main Data
NAICS Code 238210: Electrical Contractors and Other Wiring Installation Contractors**

	Hispanic	Non-M/WBE
Number of Contracts	11	16
Number of Firms	7	10
Share of #1	31.9%	44.4%
Share of #2	17.9%	27.9%
Share of #3	17.8%	20.9%
Share of Top 3	67.6%	93.2%

Source: CHA analysis of Cook County data

Table 4-21: Comparison of Hispanic and Non-M/WBE Firm Concentration – Main Data
NAICS Code 561440: Collection Agencies

	Hispanic	Non-M/WBE
Number of Contracts	1	0
Number of Firms	1	0
Share of #1	100.0%	0.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

Tables 4-22 through 4-25 present data for Asian-owned firms.

- Table 4-22 presents the three NAICS codes where Asian firms received the largest share of their contract dollars. While these codes captured 64.3% of all Asian contract dollars, the corresponding figure for non-M/WBEs was 10.5%. This reinforces the conclusion that there is a difference in relative importance of the leading NAICS codes for Asian firms.
- Table 4-23 through Table 4-25 present data on the firm concentration in NAICS 541511, 238330 and 541512. There are too few contracts in these codes to establish any patterns with respect to concentration in these codes.

Table 4-22: Three NAICS Codes where Asian Firms Received the Most Spending
Main Data

NAICS Code	NAICS Code Label	Weight	Share of Total Asian Dollars	Share of Total Non-M/WBE Dollars
541511	Custom Computer Programming Services	11.3%	30.2%	10.5%
238330	Flooring Contractors	0.6%	18.9%	0.0%
541512	Computer Systems Design Services	1.3%	15.2%	0.0%
Total 3-code Share of Total Group Dollars			64.3%	10.5%

Source: CHA analysis of Cook County data

**Table 4-23: Comparison of Asian and Non-M/WBE Firm Concentration – Main Data
NAICS Code 541511: Custom Computer Programming Services**

	Asian	Non-M/WBE
Number of Contracts	1	1
Number of Firms	1	1
Share of #1	98.7%	100.0%
Share of #2	1.3%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

**Table 4-24: Comparison of Asian and Non-M/WBE Firm Concentration – Main Data
NAICS Code 238330: Flooring Contractors**

	Asian	Non-M/WBE
Number of Contracts	2	0
Number of Firms	1	0
Share of #1	100.0%	0.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

**Table 4-25: Comparison of Asian and Non-M/WBE Firm Concentration – Main Data
NAICS Code 541512: Computer Systems Design Services**

	Asian	Non-M/WBE
Number of Contracts	2	0
Number of Firms	1	0
Share of #1	100.0%	0.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

Tables 4-26 and 4-27 present data for Native American-owned firms.

- Table 4-26 indicates that one code captures all the contract dollars received by Native American firms. In contrast, this code captures just 0.001% of all contract dollars received by non-M/WBE firms. This reinforces the conclusion that there is a difference in relative importance of the leading NAICS codes.

Table 4-26: NAICS Codes where Native American Firms Received the Most Spending
Main Data

NAICS Code	NAICS Code Label	Weight	Share of Total Native American Dollars	Share of Total Non-M/WBE Dollars
561990	All Other Support Services	0.01%	100.0%	0.001%

Source: CHA analysis of Cook County data

Table 4-27: Comparison of Native American and Non-M/WBE Firm Concentration
Main Data, NAICS Code 561990: All Other Support Services

	Native American	Non-M/WBE
Number of Contracts	1	1
Number of Firms	1	1
Share of #1	100.0%	100.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

Tables 4-28 through 4-31 present data for White woman-owned firms.

- Table 4-28 presents the three NAICS codes where White woman firms received the largest share of their contract dollars. These codes comprise 71.0% of all White woman contract dollars; the corresponding figure for non-M/WBEs was 72.9%.
- Table 4-29 and Table 4-31 present data on the firm concentration in NAICS 524114 and 237130. There are too few contracts in these codes to establish any patterns with respect to concentration with the codes.
- Table 4-30 presents data on the firm concentration in NAICS 238210. In this code, contract dollars are slightly more concentrated for non-M/WBE firms compared to the level of concentration for White woman firms

when examining the top three firms but slightly less concentrated when examining the top two firms.

**Table 4-28: Three NAICS Codes where White Woman Firms Received the Most Spending
Main Data**

NAICS Code	NAICS Code Label	Weight	Share of Total White Woman Dollars	Share of Total Non-M/WBE Dollars
524114	Direct Health and Medical Insurance Carriers	58.6%	57.1%	68.5%
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%	7.3%	4.4%
237130	Power and Communication Line and Related Structures Construction	1.0%	6.6%	0.0%
Total 3-code Share of Total Group Dollars			71.0%	72.9%

Source: CHA analysis of Cook County data

**Table 4-29: Comparison of White Woman and Non-M/WBE Firm Concentration – Main Data
NAICS Code 524114: Direct Health and Medical Insurance Carriers**

	White Woman	Non-M/WBE
Number of Contracts	1	1
Number of Firms	1	1
Share of #1	100.0%	100.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

**Table 4-30: Comparison of White Woman and Non-M/WBE Firm Concentration – Main Data
NAICS Code 238210: Electrical Contractors and Other Wiring Installation Contractors**

	White Woman	Non-M/WBE
Number of Contracts	5	16
Number of Firms	4	10
Share of #1	39.3%	44.4%

	White Woman	Non-M/WBE
Share of #2	39.3%	27.9%
Share of #3	20.7%	20.9%
Share of Top 3	99.3%	93.2%

Source: CHA analysis of Cook County data

Table 4-31: Comparison of White Woman and Non-M/WBE Firm Concentration – Main Data NAICS Code 237130: Power and Communication Line and Related Structures Construction

	White Woman	Non-M/WBE
Number of Contracts	1	0
Number of Firms	1	0
Share of #1	100.0%	0.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

The data presented in Tables 4-12 through 4-31 support the inference that regardless of any statistical disparities between contract utilization and weighted availability in the Main Data File, the experiences of M/WBEs with respect to participation in the County’s procurements is significantly different than the experiences of non-M/WBEs. While there is some similarity in which NAICS codes are important to M/WBEs compared to how the County spends its funds, the relative importance of these codes is starkly different. The NAICS codes where M/WBEs receive a large proportion of their contract dollars are different from the codes where non-M/WBEs receive a large portion of their contract dollars, and non-M/WBEs receive very little of their contract dollars from those codes where M/WBEs receive large proportions of their contract dollars.

5. Disparity Analysis of M/WBEs for Main Data Contracts

As required by strict constitutional scrutiny, we next calculated disparity ratios for each demographic group, comparing the group’s total utilization compared to its total weighted availability.

A *disparity ratio* is the relationship between the utilization and weighted availability (as determined in the section above). Mathematically, this is represented by:

$$DR = U/WA$$

Where DR is the disparity ratio; U is utilization rate; and WA is the weighted availability.

The courts have held that disparity results must be analyzed to determine whether the results are “significant”. There are two distinct methods to measure a result’s significance. First, a “large” or “substantively significant” disparity is commonly defined by courts as utilization that is equal to or less than 80% of the availability measure. A substantively significant disparity supports the inference that the result may be caused by the disparate impacts of discrimination.¹⁸⁵ Second, statistically significant disparity means that an outcome is unlikely to have occurred as the result of random chance alone. The greater the statistical significance, the smaller the probability that it resulted from random chance alone.¹⁸⁶ A more in-depth discussion of statistical significance is provided in Appendix C.

Substantive and Statistical Significance

- ‡ Connotes these values are substantively significant. Courts have ruled the disparity ratio less or equal to 80 percent represent disparities that are substantively significant. (See Footnote 185 for more information.)
- * Connotes these values are statistically significant at the 0.05 level. (See Appendix C for more information.)
- ** Connotes these values are statistically significant at the 0.01 level. (See Appendix C for more information.)
- *** Connotes these values are statistically significant at the 0.001 level. (See Appendix C for more information.)

Table 4-32 presents the disparity ratios for each demographic group. The disparity ratio for Native Americans is substantively significant. The disparity ratios for MBEs, M/WBEs, and Non-M/WBEs are statistically significant: the ratios for MBEs and M/WBEs are statistically significant at the 0.001 level and the ratio for Non-M/WBEs are statistically significant at the 0.01 level.

185. See U.S. Equal Employment Opportunity Commission regulation, 29 C.F.R. §1607.4(D) (“A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact.”).

186. A chi-square test – examining if the utilization rate was different from the weighted availability - was used to determine the statistical significance of the disparity ratio.

Table 4-32: Disparity Ratios by Demographic Group – Main Data

	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE
Disparity Ratio	161.2%	256.8%	189.0%	13.5%‡	188.5%***	134.8%	163.0%***	90.4%**

Source: CHA analysis of Cook County data

‡ Indicates substantive significance

*** Statistically significant at the 0.001 level

** Statistically significant at the 0.01 level

It is standard CHA practice to explore any M/WBE disparity ratio that exceeds 100%. This is to ensure that an abnormal pattern of M/WBE concentration does not account for disparity ratios greater than 100%, thereby leading to the unwarranted conclusion that race- or gender-conscious remedies are no longer needed to redress discrimination against a particular socially disadvantaged group. It is possible that a group’s disparity ratio that is larger than 100% might be the result of the success of a few firms and not indicative of the experiences of the broad set of firms in that group. This exploration entails further examination of any NAICS codes where the NAICS codes share of overall spending is relatively high and the particular M/WBE utilization in that code is relatively high. With the County’s data, the NAICS code share threshold was 6.1%. This threshold was selected because the three NAICS codes at or above 6.1% captured 76.0% of all the County’s spending and of the remaining 101 NAICS codes, highest share of the County’s spending was just 4.3%.

Table 4-33 presents the three codes where the weight of the County’s spending was at least 6.1%. In terms of this deeper examination, while the disparity ratios for Black, Hispanic, Asian, and White woman firms exceeded 100%, there is no need to explore all three codes for these four groups where the level of utilization is low. Therefore, the remaining portion of this section will explore Black firm activity in two codes (NAICS 541511 and 238210); Hispanic firm activity in two codes (NAICS 541511 and 238210); Asian firm activity in one code (NAICS 541511); and White woman firm activity in two codes (NAICS 524114 and 238210). The results of this deeper examination are presented below.

Table 4-33: Targeted NAICS Codes for Further Exploration of M/WBE Contract Dollars

Main Data

NAICS	NAICS Code Description	Weight in Each Code	Rank	M/WBE Utilization in Each Code			
				Black	Hispanic	Asian	White Woman
524114	Direct Health and Medical Insurance Carriers	58.6%	1	0.1%	0.0%	0.0%	8.2%
541511	Custom Computer Programming Services	11.3%	2	10.1%	10.7%	6.8%	0.0%
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%	3	12.1%	18.6%	2.3%	10.1%

Source: CHA analysis of Cook County data

Table 4-34 highlights the two NAICS codes for which we explore the results of Black firm concentration.

Table 4-34: Targeted NAICS Codes for Further Exploration of Black Firm Concentration

Main Data

NAICS	NAICS Code Description	Weight	Overall Weight Rank	Black Utilization
541511	Custom Computer Programming Services	11.3%	2	10.1%
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%	3	12.1%

Source: CHA analysis of Cook County data

In Tables 4-35 and 4-36, we explore the levels of firm concentration in NAICS codes 541511 and 238210 by examining several factors:

- The NAICS code’s share of all the County spending with Black firms compared to the NAICS code’s share of the County spending received by non-M/WBEs. This examines how important spending in the NAICS code was to the overall revenue received by Black firms compared to that same metric for non-M/WBEs. In a world where race and gender did not affect outcomes, the share would be similar.
- The number of Black firms that received contracts compared to the number of non-M/WBEs that received contracts.

- The share of Black contract dollars in each NAICS code received by the first, second, and third largest Black firms compared to the corresponding non-M/WBEs.
- The aggregate share of Black contract dollars received by the top three Black firms and the corresponding figure for non-M/WBEs.
- The aggregate share of Black contract dollars received by Black firms outside of the top three firms along with the corresponding figure for the non-M/WBEs outside of the top three.

These five metrics evaluate whether fewer Black firms received contracts compared to non-M/WBEs and whether the Black contract dollars were more concentrated compared to the level of concentration among non-M/WBEs. If either was the case, then the high level of utilization by Black firms (and hence, the high disparity ratio) resulted from the success of a few Black firms and not from a distribution across the entire spectrum of Black firms. This would contrast with a wider spectrum of success among non-M/WBE firms.

Table 4-35 presents these data for Black firms and non-M/WBEs in NAICS Code 541511. Only two Black firms and one non-M/WBE firm received contracts from the County for work in this code. This limited number of firms makes it difficult to draw any conclusions about Black and non-M/WBE firm concentration.

Table 4-35: Comparing Black and Non-M/WBE Outcomes – Main Data
NAICS Code 541511: Custom Computer Programming Services
(NAICS Code Weight of All the County Spending: 11.3%)

	Black	Non-M/WBE
NAICS code share of all spending	18.8%	10.5%
Number of firms	2	1
Share of group spending in NAICS code by the largest firm	85.7%	100.0%
Share of group spending in NAICS code by the second largest firm	14.3%	0.0%
Share of group spending in NAICS code by the third largest firm	0.0%	0.0%
Share of group spending in NAICS code by the three largest firms	100.0%	100.0%
Share of group spending in NAICS code by the remaining firms	0.0%	0.0%

Source: CHA analysis of Cook County data

Table 4-36 presents these data for Black firms and non-M/WBEs in NAICS Code 238210. In this code, it is instructive to look at the level of concentration of the top two firms: the top two Black firms received 91.6% of all contract dollars

received by Black firms in this code; for non-M/WBEs, the corresponding figure is 72.3%.

**Table 4-36: Comparing Black and Non-M/WBE Outcomes – Main Data
NAICS Code 238210: Electrical Contractors and Other Wiring Installation Contractors
(NAICS Code Weight of All the County Spending: 6.1%)**

	Black	Non-M/WBE
NAICS code share of all spending	12.1%	4.4%
Number of firms	4	10
Share of group spending in NAICS code by the largest firm	46.6%	44.4%
Share of group spending in NAICS code by the second largest firm	45.0%	27.9%
Share of group spending in NAICS code by the third largest firm	7.7%	20.9%
Share of group spending in NAICS code by the three largest firms	93.2%	0.0%
Share of group spending in NAICS code by the remaining firms	6.8%	100.0%

Source: CHA analysis of Cook County data

The approach used to examine the Black disparity ratio was also used for the disparity ratios for the other M/WBE groups.

Table 4-37 presents the NAICS codes– 541511 and 238210– selected to further explore the Hispanic disparity ratio.

Table 4-37: Targeted NAICS Codes for Further Exploration – Hispanic – Main Data

NAICS	NAICS Code Description	Weight	Overall Weight Rank	Hispanic Utilization
541511	Custom Computer Programming Services	11.3%	2	10.7%
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%	3	18.6%

Source: CHA analysis of Cook County data

Table 4-38 presents these data for Hispanic firms and non-M/WBEs in NAICS Code 541511. Only two Hispanic firms and one non-M/WBE firm received contracts from the County for work in this code. This limited number of firms makes it difficult to draw any conclusions about Hispanic and non-M/WBE firm concentration.

Table 4-38: Comparing Hispanic and Non-M/WBE Outcomes – Main Data
NAICS Code 541511: Custom Computer Programming Services Construction
(NAICS Code Weight of All the County Spending: 11.3%)

	Hispanic	Non-M/WBE
NAICS code share of all spending	27.2%	10.5%
Number of firms	2	1
Share of group spending in NAICS code by the largest firm	98.7%	100.0%
Share of group spending in NAICS code by the second largest firm	1.3%	0.0%
Share of group spending in NAICS code by the third largest firm	0.0%	0.0%
Share of group spending in NAICS code by the three largest firms	100.0%	100.0%
Share of group spending in NAICS code by the remaining firms	0.0%	0.0%

Source: CHA analysis of Cook County data

Table 4-39 presents these data for Hispanic firms and non-M/WBEs in NAICS Code 238210. In this code, contract dollars are slightly more concentrated for non-M/WBE firms compared to the level of concentration for Hispanic firms.

Table 4-39: Comparing Hispanic and Non-M/WBE Outcomes – Main Data
NAICS Code 238210: Electrical Contractors and Other Wiring Installation Contractors
(NAICS Code Weight of All the County Spending: 6.1%)

	Hispanic	Non-M/WBE
NAICS code share of all spending	27.3%	17.4%
Number of firms	25.2%	4.4%
Share of group spending in NAICS code by the largest firm	7	10
Share of group spending in NAICS code by the second largest firm	31.9%	44.4%
Share of group spending in NAICS code by the third largest firm	17.9%	27.9%
Share of group spending in NAICS code by the three largest firms	17.8%	20.9%
Share of group spending in NAICS code by the remaining firms	93.2%	0.0%

Source: CHA analysis of Cook County data

Table 4-40 presents NAICS code 541511, selected to further explore the Asian disparity ratio.

Table 4-40: Targeted NAICS Codes for Further Exploration – Asian – Main Data

NAICS	NAICS Code Description	Weight	Overall Weight Rank	Asian Utilization
541511	Custom Computer Programming Services	11.3%	2	6.8%

Source: CHA analysis of Cook County data

Table 4-41 presents the results for Asian firms and non-M/WBEs in NAICS Code 541511. Only one Asian firm and one non-M/WBE firm received contracts from the County for work in this code. This limited number of firms makes it difficult to draw any conclusions about Asian and non-M/WBE firm concentration.

**Table 4-41: Comparing Asian and Non-M/WBE Outcomes – Main Data
NAICS Code 541511: Custom Computer Programming Services
(NAICS Code Weight of All the County Spending: 11.3%)**

	Asian	Non-M/WBE
NAICS code share of all spending	30.2%	10.5%
Number of firms	1	1
Share of group spending in NAICS code by the largest firm	98.7%	100.0%
Share of group spending in NAICS code by the second largest firm	1.3%	0.0%
Share of group spending in NAICS code by the third largest firm	0.0%	0.0%
Share of group spending in NAICS code by the three largest firms	100.0%	100.0%
Share of group spending in NAICS code by the remaining firms	0.0%	0.0%

Source: CHA analysis of Cook County data

Table 4-42 presents NAICS codes– 524114 and 238210– selected to further explore the White woman disparity ratio.

Table 4-42: Targeted NAICS Codes for Further Exploration - White Woman – Main Data

NAICS	NAICS Code Description	Weight	Overall Weight Rank	White Woman Utilization
524114	Direct Health and Medical Insurance Carriers	58.6%	1	8.2%
238210	Electrical Contractors and Other Wiring Installation Contractors	6.1%	3	10.1%

Source: CHA analysis of Cook County data

Table 4-43 presents these data for White woman firms and non-M/WBEs in NAICS Code 541511. Just one White woman firm and one non-M/WBE firm received contracts from the County for work in this code. This limited number of firms makes it difficult to draw any conclusions about White woman and non-M/WBE firm concentration. However, it is important to note that the very high weight (58.6%) would cause the relationship between White woman utilization and availability in this code to have an outsized impact on the calculated disparity ratio.

**Table 4-43: Comparing White Woman and Non-M/WBE Outcomes – Main Data
NAICS Code 524114: Direct Health and Medical Insurance Carriers
(NAICS Code Weight of All the County Spending: 58.6%)**

	White Woman	Non-M/WBE
NAICS code share of all spending	57.1%	68.5%
Number of firms	1	1
Share of group spending in NAICS code by the largest firm	100.0%	100.0%
Share of group spending in NAICS code by the second largest firm	0.0%	0.0%
Share of group spending in NAICS code by the third largest firm	0.0%	0.0%
Share of group spending in NAICS code by the three largest firms	100.0%	100.0%
Share of group spending in NAICS code by the remaining firms	0.0%	0.0%

Source: CHA analysis of Cook County data

Table 4-44 presents these data for White woman firms and non-M/WBEs in NAICS Code 238210. In this code, contract dollars are slightly more concentrated for non-M/WBE firms compared to the level of concentration for White woman firms when examining the top three firms but slightly less concentrated when examining the top two firms.

**Table 4-44: Comparing White Woman and Non-M/WBE Outcomes – Main Data
NAICS Code 238210: Electrical Contractors and Other Wiring Installation Contractors
(NAICS Code Weight of All the County Spending: 6.1%)**

	White Woman	Non-M/WBE
NAICS code share of all spending	7.3%	4.4%
Number of firms	4	10
Share of group spending in NAICS code by the largest firm	39.3%	44.4%
Share of group spending in NAICS code by the second largest firm	39.3%	27.9%

	White Woman	Non-M/WBE
Share of group spending in NAICS code by the third largest firm	20.7%	20.9%
Share of group spending in NAICS code by the three largest firms	93.2%	0.0%
Share of group spending in NAICS code by the remaining firms	6.8%	100.0%

Source: CHA analysis of Cook County data

In summary, the data from this analysis of firm concentration among the four M/WBE groups with disparity ratios exceeding 100.0% does not yield additional insight as to why those disparity ratio values were high. For most of the NAICS codes, there were insufficient contracts to draw useful inferences. Where there were sufficient contracts, the story was mixed: higher concentration among Black firms compared to non-M/WBE firms in one code; lower concentration among Hispanics firms compared to non-M/WBE firms in one code; a mixed result comparing White woman firms to non-M/WBE firms in one code.

6. Conclusion for Main Contracts

This section examines the County’s utilization of M/WBEs compared to non-M/WBEs for the Main Contract File; provides estimates of the availability of M/WBEs and non-M/WBEs to perform the types of good and services utilized by the County; and tests for whether there are disparities in the results of utilization compared to availability. Overall, we found that, compared to non-M/WBEs, minority- and woman-owned firms were concentrated in a different subset of industries. Further, in some industries, only a few M/WBEs received contracts in contrast to non-M/WBEs. This suggests that although the County’s M/WBE program has been quite successful in creating opportunities for minority and woman firms, these benefits have not been spread evenly across all groups or subindustries.

C. Utilization and Availability Analysis for Cook County Hospital Contracts

1. The Geographic and Product Market for Hospital Contracts

As discussed for the Main Data contracts, a defensible disparity study must determine empirically the industries that comprise the County’s product or industry market for its Hospital contracts.¹⁸⁷ We again applied the accepted approach of analyzing the detailed industries, as defined by six-digit NAICS

codes that make up at least 75% of the prime contract and subcontract payments for the study period.

The next sections of this report follow the approach used as we analyzed the Main Data contracts:

1. Developing the Final Contract Data File to determine the product market. These results are provided in Table 4-45.
2. Identifying the geographic market.
3. Determining the product market given the geographic parameters. Table 4-46 presents these results.

a. Final Contract Data File for Hospital Contracts

The FCDF, which establishes the County’s product market, consisted of 135 NAICS codes, with a total contract dollar value of \$1,238,088,349. Table 4-45 presents each NAICS code with its share of the total contract dollar value.

Table 4-45: Industry Percentage Distribution of Cook County Contracts by Dollars - Hospital

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
424210	Drugs and Druggists' Sundries Merchant Wholesalers	30.6%	30.6%
524292	Third Party Administration of Insurance and Pension Funds	17.1%	47.7%
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	11.3%	59.0%
541511	Custom Computer Programming Services	5.6%	64.7%
621330	Offices of Mental Health Practitioners (except Physicians)	3.2%	67.8%
561320	Temporary Help Services	2.7%	70.6%
813212	Voluntary Health Organizations	2.1%	72.6%
541512	Computer Systems Design Services	1.6%	74.2%
621111	Offices of Physicians (except Mental Health Specialists)	1.5%	75.7%
236220	Commercial and Institutional Building Construction	1.5%	77.3%

187. See Tips for Goal Setting in the Disadvantaged Business Enterprise Program (“D. Explain How You Determined Your Local Market Area. Remember, the local market area is not necessarily the same as the political jurisdiction in which you are geographically located. Instead, your local market area is the area in which the substantial majority of the contractors and subcontractors with which you do business are located and the area in which you spend the substantial majority of your contracting dollars.”), <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>.

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NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
238220	Plumbing, Heating, and Air-Conditioning Contractors	1.3%	78.6%
561440	Collection Agencies	1.3%	79.9%
492210	Local Messengers and Local Delivery	1.3%	81.1%
238210	Electrical Contractors and Other Wiring Installation Contractors	1.1%	82.2%
541611	Administrative Management and General Management Consulting Services	1.1%	83.3%
541519	Other Computer Related Services	1.0%	84.3%
722310	Food Service Contractors	1.0%	85.3%
238910	Site Preparation Contractors	1.0%	86.3%
485991	Special Needs Transportation	1.0%	87.3%
238120	Structural Steel and Precast Concrete Contractors	0.7%	88.0%
621610	Home Health Care Services	0.7%	88.7%
424130	Industrial and Personal Service Paper Merchant Wholesalers	0.7%	89.4%
238150	Glass and Glazing Contractors	0.7%	90.1%
238310	Drywall and Insulation Contractors	0.7%	90.7%
511210	Software Publishers	0.6%	91.3%
541310	Architectural Services	0.6%	91.9%
621511	Medical Laboratories	0.4%	92.3%
441110	New Car Dealers	0.4%	92.8%
541219	Other Accounting Services	0.4%	93.2%
238350	Finish Carpentry Contractors	0.4%	93.6%
236210	Industrial Building Construction	0.4%	94.0%
541618	Other Management Consulting Services	0.4%	94.3%
561110	Office Administrative Services	0.3%	94.7%
238290	Other Building Equipment Contractors	0.3%	95.0%
532420	Office Machinery and Equipment Rental and Leasing	0.3%	95.2%
488510	Freight Transportation Arrangement	0.3%	95.5%
621498	All Other Outpatient Care Centers	0.2%	95.7%
541330	Engineering Services	0.2%	96.0%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
492110	Couriers and Express Delivery Services	0.2%	96.2%
238110	Poured Concrete Foundation and Structure Contractors	0.2%	96.4%
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	0.2%	96.6%
237310	Highway, Street, and Bridge Construction	0.2%	96.8%
621999	All Other Miscellaneous Ambulatory Health Care Services	0.2%	96.9%
624190	Other Individual and Family Services	0.2%	97.1%
424120	Stationery and Office Supplies Merchant Wholesalers	0.2%	97.3%
493190	Other Warehousing and Storage	0.1%	97.4%
541380	Testing Laboratories	0.1%	97.5%
424480	Fresh Fruit and Vegetable Merchant Wholesalers	0.1%	97.6%
238990	All Other Specialty Trade Contractors	0.1%	97.7%
238320	Painting and Wall Covering Contractors	0.1%	97.8%
561720	Janitorial Services	0.1%	97.9%
561439	Other Business Service Centers (including Copy Shops)	0.1%	98.0%
446199	All Other Health and Personal Care Stores	0.1%	98.1%
238330	Flooring Contractors	0.1%	98.2%
812990	All Other Personal Services	0.1%	98.2%
541110	Offices of Lawyers	0.1%	98.3%
484220	Specialized Freight (except Used Goods) Trucking, Local	0.1%	98.4%
238160	Roofing Contractors	0.1%	98.5%
562910	Remediation Services	0.1%	98.5%
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	0.1%	98.6%
813319	Other Social Advocacy Organizations	0.1%	98.7%
541690	Other Scientific and Technical Consulting Services	0.1%	98.7%
611710	Educational Support Services	0.1%	98.8%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	0.1%	98.9%
423510	Metal Service Centers and Other Metal Merchant Wholesalers	0.1%	98.9%
221310	Water Supply and Irrigation Systems	0.1%	99.0%
562111	Solid Waste Collection	0.1%	99.0%
561730	Landscaping Services	0.1%	99.1%
332322	Sheet Metal Work Manufacturing	0.1%	99.1%
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing	0.05%	99.2%
621991	Blood and Organ Banks	0.04%	99.2%
813910	Business Associations	0.04%	99.3%
813211	Grantmaking Foundations	0.04%	99.3%
332312	Fabricated Structural Metal Manufacturing	0.03%	99.3%
238390	Other Building Finishing Contractors	0.03%	99.4%
811111	General Automotive Repair	0.03%	99.4%
561612	Security Guards and Patrol Services	0.03%	99.4%
444190	Other Building Material Dealers	0.03%	99.5%
333922	Conveyor and Conveying Equipment Manufacturing	0.03%	99.5%
339950	Sign Manufacturing	0.03%	99.5%
813410	Civic and Social Organizations	0.03%	99.5%
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	0.03%	99.6%
621399	Offices of All Other Miscellaneous Health Practitioners	0.03%	99.6%
561710	Exterminating and Pest Control Services	0.02%	99.6%
624229	Other Community Housing Services	0.02%	99.6%
561990	All Other Support Services	0.02%	99.7%
423690	Other Electronic Parts and Equipment Merchant Wholesalers	0.02%	99.7%
541890	Other Services Related to Advertising	0.02%	99.7%
238140	Masonry Contractors	0.02%	99.7%

NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
712110	Museums	0.02%	99.7%
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	0.02%	99.7%
423460	Ophthalmic Goods Merchant Wholesalers	0.02%	99.8%
541930	Translation and Interpretation Services	0.02%	99.8%
811211	Consumer Electronics Repair and Maintenance	0.01%	99.8%
541430	Graphic Design Services	0.01%	99.8%
561312	Executive Search Services	0.01%	99.8%
323111	Commercial Printing (except Screen and Books)	0.01%	99.8%
541810	Advertising Agencies	0.01%	99.8%
424490	Other Grocery and Related Products Merchant Wholesalers	0.01%	99.9%
454210	Vending Machine Operators	0.01%	99.9%
541370	Surveying and Mapping (except Geophysical) Services	0.01%	99.9%
339112	Surgical and Medical Instrument Manufacturing	0.01%	99.9%
562998	All Other Miscellaneous Waste Management Services	0.01%	99.9%
561520	Tour Operators	0.01%	99.9%
621340	Offices of Physical, Occupational and Speech Therapists, and Audiologists	0.01%	99.9%
423490	Other Professional Equipment and Supplies Merchant Wholesalers	0.01%	99.9%
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	0.01%	99.9%
325412	Pharmaceutical Preparation Manufacturing	0.01%	99.9%
541990	All Other Professional, Scientific, and Technical Services	0.01%	99.9%
541320	Landscape Architectural Services	0.01%	99.95%
611699	All Other Miscellaneous Schools and Instruction	0.00%	99.96%
562991	Septic Tank and Related Services	0.004%	99.96%
561611	Investigation Services	0.004%	99.97%
332618	Other Fabricated Wire Product Manufacturing	0.004%	99.97%

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NAICS	NAICS Code Description	Pct Contract Dollars	Cumulative Pct Contract Dollars
541620	Environmental Consulting Services	0.003%	99.97%
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing	0.003%	99.98%
423390	Other Construction Material Merchant Wholesalers	0.003%	99.98%
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	0.003%	99.98%
238340	Tile and Terrazzo Contractors	0.003%	99.99%
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers	0.002%	99.99%
327331	Concrete Block and Brick Manufacturing	0.002%	99.99%
561311	Employment Placement Agencies	0.002%	99.99%
541350	Building Inspection Services	0.002%	99.99%
238130	Framing Contractors	0.002%	99.99%
541614	Process, Physical Distribution, and Logistics Consulting Services	0.001%	99.996%
624310	Vocational Rehabilitation Services	0.001%	99.997%
423130	Tire and Tube Merchant Wholesalers	0.001%	99.997%
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	0.001%	99.998%
722513	Limited-Service Restaurants	0.001%	99.999%
332311	Prefabricated Metal Building and Component Manufacturing	0.0005%	99.999%
541613	Marketing Consulting Services	0.0004%	99.999%
512110	Motion Picture and Video Production	0.0004%	99.9998%
453210	Office Supplies and Stationery Stores	0.0001%	99.9999%
561499	All Other Business Support Services	0.0001%	99.999996%
722511	Full-Service Restaurants	0.000004%	100.0%
TOTAL		100.0%	

Source: CHA analysis of Cook County data

b. Geographic Market for Hospital Contracts

As with the Main Data analysis, we applied the standard of identifying the firm locations that account for at least 75% of contract and subcontract dollar payments in the FCDF. Firm location was determined by zip code and aggregated into counties as the geographic unit. For the Hospital data, the state of Illinois accounted for 85.5% of the FCDF. The six primary counties of the Chicago metropolitan area – Cook, DuPage, Will, Lake, Kane, and McHenry – captured 85.2% of the FCDF. Once again, we used these six counties as the geographic market.

2. Utilization of M/WBEs in Hospital Contracts

Having determined the County’s geographic market area for the Hospital contracts, the next step was to determine the dollar value of its utilization of M/WBEs as measured by net payments to prime firms and subcontractors and disaggregated by race and gender. There were 113 NAICS codes after constraining the FCDF by the geographic market; the dollar value of the contracts in these codes is \$1,055,331,753. Table 4-46 presents these data. Once again, we note that the contract dollar shares in Table 4-46 are equivalent to the weight of spending in each NAICS code. These data were used to calculate weighted availability from unweighted availability, as discussed in the section on Main Data.

Table 4-46: NAICS Code Distribution of Contract Dollars in the Constrained Product Market - Hospital

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
424210	Drugs and Druggists' Sundries Merchant Wholesalers	\$376,318,688	35.7%
524292	Third Party Administration of Insurance and Pension Funds	\$208,194,384	19.7%
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	\$135,687,680	12.9%
621330	Offices of Mental Health Practitioners (except Physicians)	\$39,333,788	3.7%
561320	Temporary Help Services	\$29,957,000	2.8%
541512	Computer Systems Design Services	\$19,599,624	1.9%
621111	Offices of Physicians (except Mental Health Specialists)	\$18,810,694	1.8%

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NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$16,225,218	1.5%
492210	Local Messengers and Local Delivery	\$15,610,320	1.5%
236220	Commercial and Institutional Building Construction	\$14,420,682	1.4%
238210	Electrical Contractors and Other Wiring Installation Contractors	\$13,696,615	1.3%
541519	Other Computer Related Services	\$12,648,286	1.2%
238910	Site Preparation Contractors	\$11,837,940	1.1%
485991	Special Needs Transportation	\$11,819,453	1.1%
541611	Administrative Management and General Management Consulting Services	\$11,011,381	1.0%
621610	Home Health Care Services	\$8,723,280	0.8%
424130	Industrial and Personal Service Paper Merchant Wholesalers	\$8,600,174	0.8%
238310	Drywall and Insulation Contractors	\$8,078,440	0.8%
561440	Collection Agencies	\$5,571,390	0.5%
238120	Structural Steel and Precast Concrete Contractors	\$5,469,937	0.5%
441110	New Car Dealers	\$5,360,909	0.5%
541219	Other Accounting Services	\$5,207,479	0.5%
541310	Architectural Services	\$4,945,873	0.5%
236210	Industrial Building Construction	\$4,819,456	0.5%
238350	Finish Carpentry Contractors	\$4,790,326	0.5%
561110	Office Administrative Services	\$4,090,520	0.4%
541511	Custom Computer Programming Services	\$3,864,937	0.4%
488510	Freight Transportation Arrangement	\$3,105,305	0.3%
492110	Couriers and Express Delivery Services	\$2,587,250	0.2%
238110	Poured Concrete Foundation and Structure Contractors	\$2,457,490	0.2%
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	\$2,435,889	0.2%

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
237310	Highway, Street, and Bridge Construction	\$2,132,299	0.2%
624190	Other Individual and Family Services	\$2,116,653	0.2%
722310	Food Service Contractors	\$1,970,304	0.2%
541330	Engineering Services	\$1,918,798	0.2%
541618	Other Management Consulting Services	\$1,684,090	0.2%
493190	Other Warehousing and Storage	\$1,585,338	0.2%
541380	Testing Laboratories	\$1,266,425	0.1%
424480	Fresh Fruit and Vegetable Merchant Wholesalers	\$1,256,994	0.1%
238320	Painting and Wall Covering Contractors	\$1,242,199	0.1%
424120	Stationery and Office Supplies Merchant Wholesalers	\$1,233,144	0.1%
238990	All Other Specialty Trade Contractors	\$1,232,258	0.1%
561720	Janitorial Services	\$1,192,744	0.1%
446199	All Other Health and Personal Care Stores	\$1,071,341	0.1%
812990	All Other Personal Services	\$968,151	0.1%
484220	Specialized Freight (except Used Goods) Trucking, Local	\$951,193	0.1%
541110	Offices of Lawyers	\$919,981	0.1%
238160	Roofing Contractors	\$907,611	0.1%
562910	Remediation Services	\$903,562	0.1%
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	\$863,657	0.1%
813319	Other Social Advocacy Organizations	\$749,225	0.1%
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	\$724,220	0.1%
238290	Other Building Equipment Contractors	\$723,623	0.1%
423510	Metal Service Centers and Other Metal Merchant Wholesalers	\$675,665	0.1%
221310	Water Supply and Irrigation Systems	\$674,859	0.1%
562111	Solid Waste Collection	\$669,522	0.1%
561730	Landscaping Services	\$661,507	0.1%

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NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
332322	Sheet Metal Work Manufacturing	\$650,849	0.1%
238330	Flooring Contractors	\$637,740	0.1%
621991	Blood and Organ Banks	\$532,350	0.1%
813910	Business Associations	\$531,364	0.1%
813211	Grantmaking Foundations	\$478,607	0.05%
332312	Fabricated Structural Metal Manufacturing	\$421,805	0.04%
238390	Other Building Finishing Contractors	\$408,243	0.04%
811111	General Automotive Repair	\$389,510	0.04%
561612	Security Guards and Patrol Services	\$360,418	0.03%
444190	Other Building Material Dealers	\$356,500	0.03%
339950	Sign Manufacturing	\$336,176	0.03%
561710	Exterminating and Pest Control Services	\$298,238	0.03%
624229	Other Community Housing Services	\$268,683	0.03%
621399	Offices of All Other Miscellaneous Health Practitioners	\$260,870	0.02%
561990	All Other Support Services	\$236,971	0.02%
423690	Other Electronic Parts and Equipment Merchant Wholesalers	\$235,663	0.02%
238140	Masonry Contractors	\$215,301	0.02%
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	\$211,227	0.02%
712110	Museums	\$198,900	0.02%
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	\$198,612	0.02%
811211	Consumer Electronics Repair and Maintenance	\$182,025	0.02%
813410	Civic and Social Organizations	\$180,315	0.02%
541430	Graphic Design Services	\$172,620	0.02%
323111	Commercial Printing (except Screen and Books)	\$159,151	0.02%
541810	Advertising Agencies	\$153,259	0.01%

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
424490	Other Grocery and Related Products Merchant Wholesalers	\$148,127	0.01%
454210	Vending Machine Operators	\$139,741	0.01%
541370	Surveying and Mapping (except Geophysical) Services	\$138,899	0.01%
541930	Translation and Interpretation Services	\$123,046	0.01%
562998	All Other Miscellaneous Waste Management Services	\$116,905	0.01%
561520	Tour Operators	\$115,087	0.01%
621340	Offices of Physical, Occupational and Speech Therapists, and Audiologists	\$113,199	0.01%
423490	Other Professional Equipment and Supplies Merchant Wholesalers	\$112,650	0.01%
325412	Pharmaceutical Preparation Manufacturing	\$77,564	0.01%
541990	All Other Professional, Scientific, and Technical Services	\$74,901	0.01%
541320	Landscape Architectural Services	\$63,645	0.01%
611699	All Other Miscellaneous Schools and Instruction	\$61,725	0.01%
562991	Septic Tank and Related Services	\$54,059	0.01%
238150	Glass and Glazing Contractors	\$44,565	0.004%
541620	Environmental Consulting Services	\$40,986	0.004%
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing	\$38,440	0.004%
423390	Other Construction Material Merchant Wholesalers	\$38,326	0.004%
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	\$37,174	0.004%
238340	Tile and Terrazzo Contractors	\$36,053	0.003%
327331	Concrete Block and Brick Manufacturing	\$28,580	0.003%
238130	Framing Contractors	\$18,816	0.002%
541614	Process, Physical Distribution, and Logistics Consulting Services	\$12,500	0.001%
624310	Vocational Rehabilitation Services	\$10,636	0.001%

NAICS	NAICS Code Description	Total Contract Dollars	Pct Total Contract Dollars
423130	Tire and Tube Merchant Wholesalers	\$9,769	0.001%
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	\$6,800	0.001%
339112	Surgical and Medical Instrument Manufacturing	\$5,825	0.001%
541613	Marketing Consulting Services	\$5,106	0.0005%
512110	Motion Picture and Video Production	\$4,391	0.0004%
453210	Office Supplies and Stationery Stores	\$1,588	0.0002%
561499	All Other Business Support Services	\$1,430	0.0001%
722511	Full-Service Restaurants	\$49	0.000005%
TOTAL		\$1,055,331,753	100.0%

Source: CHA analysis of Cook County data

Tables 4-47 and 4-48 present data on Cook County's M/WBE utilization, measured in contract dollars and percentage of contract dollars.

**Table 4-47: Distribution of Contract Dollars by Race and Gender – Hospital
(total dollars)**

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
221310	\$0	\$0	\$0	\$0	\$0	\$76,688	\$76,688	\$598,171	\$674,859
236210	\$4,719,834	\$0	\$0	\$0	\$4,719,834	\$0	\$4,719,834	\$99,621	\$4,819,456
236220	\$561,651	\$123,082	\$0	\$0	\$684,733	\$1,102,206	\$1,786,939	\$12,633,742	\$14,420,682
237310	\$1,418,195	\$0	\$0	\$0	\$1,418,195	\$0	\$1,418,195	\$714,104	\$2,132,299
238110	\$2,350,519	\$0	\$0	\$0	\$2,350,519	\$0	\$2,350,519	\$106,971	\$2,457,490

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
238120	\$0	\$5,003,952	\$0	\$0	\$5,003,952	\$0	\$5,003,952	\$465,985	\$5,469,937
238130	\$0	\$18,816	\$0	\$0	\$18,816	\$0	\$18,816	\$0	\$18,816
238140	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$215,301	\$215,301
238150	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$44,565	\$44,565
238160	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$907,611	\$907,611
238210	\$2,995,971	\$1,500,954	\$0	\$0	\$4,496,925	\$172,375	\$4,669,300	\$9,027,316	\$13,696,615
238220	\$196,485	\$2,508,412	\$14,580	\$0	\$2,719,477	\$641,630	\$3,361,107	\$12,864,111	\$16,225,218
238290	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$723,622	\$723,622
238310	\$0	\$6,646,110	\$0	\$0	\$6,646,110	\$518,567	\$7,164,677	\$913,763	\$8,078,439
238320	\$1,140,456	\$0	\$0	\$0	\$1,140,456	\$0	\$1,140,456	\$101,743	\$1,242,199
238330	\$0	\$18,546	\$0	\$0	\$18,546	\$0	\$18,546	\$619,194	\$637,740
238340	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$36,053	\$36,053
238350	\$0	\$0	\$0	\$0	\$0	\$3,319,697	\$3,319,697	\$1,470,629	\$4,790,326
238390	\$0	\$0	\$0	\$0	\$0	\$10,617	\$10,617	\$397,626	\$408,243
238910	\$6,707,346	\$50,740	\$0	\$0	\$6,758,086	\$2,190,300	\$8,948,386	\$2,889,555	\$11,837,940
238990	\$241,599	\$407,657	\$101,890	\$0	\$751,147	\$191,590	\$942,737	\$289,521	\$1,232,258
323111	\$17,669	\$138,183	\$0	\$0	\$155,852	\$3,299	\$159,151	\$0	\$159,151
325412	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$77,564	\$77,564
327331	\$0	\$28,580	\$0	\$0	\$28,580	\$0	\$28,580	\$0	\$28,580
332312	\$278,265	\$0	\$35,620	\$0	\$313,885	\$0	\$313,885	\$107,920	\$421,805
332322	\$0	\$0	\$0	\$0	\$0	\$650,849	\$650,849	\$0	\$650,849
339112	\$0	\$0	\$5,825	\$0	\$5,825	\$0	\$5,825	\$0	\$5,825
339950	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$336,176	\$336,176

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
423130	\$9,769	\$0	\$0	\$0	\$9,769	\$0	\$9,769	\$0	\$9,769
423390	\$38,326	\$0	\$0	\$0	\$38,326	\$0	\$38,326	\$0	\$38,326
423430	\$0	\$0	\$62,116	\$0	\$62,116	\$149,111	\$211,227	\$0	\$211,227
423450	\$173,108	\$0	\$0	\$0	\$173,108	\$13,435	\$186,543	\$135,501,139	\$135,687,682
423490	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$112,650	\$112,650
423510	\$0	\$0	\$0	\$0	\$0	\$675,665	\$675,665	\$0	\$675,665
423610	\$1,800,000	\$121,248	\$0	\$0	\$1,921,248	\$491,641	\$2,412,889	\$23,000	\$2,435,889
423690	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$235,663	\$235,663
423720	\$863,657	\$0	\$0	\$0	\$863,657	\$0	\$863,657	\$0	\$863,657
423990	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$6,800	\$6,800
424120	\$205,366	\$0	\$53,776	\$0	\$259,142	\$0	\$259,142	\$974,002	\$1,233,144
424130	\$0	\$0	\$0	\$0	\$0	\$8,600,174	\$8,600,174	\$0	\$8,600,174
424210	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$376,318,692	\$376,318,692
424480	\$0	\$0	\$0	\$0	\$0	\$1,256,994	\$1,256,994	\$0	\$1,256,994
424490	\$0	\$83,598	\$0	\$0	\$83,598	\$64,528	\$148,126	\$0	\$148,127
424720	\$0	\$301,407	\$0	\$0	\$301,407	\$412,686	\$714,093	\$10,127	\$724,220
441110	\$5,360,908	\$0	\$0	\$0	\$5,360,908	\$0	\$5,360,908	\$0	\$5,360,908
444190	\$356,500	\$0	\$0	\$0	\$356,500	\$0	\$356,500	\$0	\$356,500
446199	\$0	\$0	\$1,071,341	\$0	\$1,071,341	\$0	\$1,071,341	\$0	\$1,071,341
453210	\$1,588	\$0	\$0	\$0	\$1,588	\$0	\$1,588	\$0	\$1,588
454210	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$139,741	\$139,741
484220	\$768,212	\$182,981	\$0	\$0	\$951,193	\$0	\$951,193	\$0	\$951,193
485991	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$11,819,453	\$11,819,453

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
488510	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,105,304	\$3,105,304
492110	\$0	\$0	\$0	\$0	\$0	\$445,271	\$445,271	\$2,141,978	\$2,587,250
492210	\$0	\$0	\$15,610,320	\$0	\$15,610,320	\$0	\$15,610,320	\$0	\$15,610,320
493190	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,585,338	\$1,585,338
512110	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,391	\$4,391
524292	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$208,194,384	\$208,194,384
532412	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$38,440	\$38,440
532490	\$0	\$2,100	\$0	\$0	\$2,100	\$0	\$2,100	\$35,074	\$37,174
541110	\$38,778	\$0	\$251,265	\$0	\$290,043	\$0	\$290,043	\$629,938	\$919,981
541219	\$0	\$0	\$0	\$0	\$0	\$1,984,877	\$1,984,877	\$3,222,602	\$5,207,479
541310	308,671	5,500	0	3,465	317,636	1,118,016	1,435,652	3,510,222	4,945,874
541320	\$0	\$0	\$63,645	\$0	\$63,645	\$0	\$63,645	\$0	\$63,645
541330	\$77,078	\$1,270,782	\$43,450	\$0	\$1,391,309	\$412,313	\$1,803,622	\$115,176	\$1,918,798
541370	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$138,899	\$138,899
541380	\$362,378	\$102,000	\$0	\$0	\$464,378	\$778,562	\$1,242,940	\$23,484	\$1,266,425
541430	\$0	\$0	\$0	\$0	\$0	\$172,620	\$172,620	\$0	\$172,620
541511	\$0	\$0	\$0	\$0	\$0	\$1,860,370	\$1,860,370	\$2,004,567	\$3,864,937
541512	\$25,321	\$8,218,521	\$0	\$0	\$8,243,843	\$11,355,781	\$19,599,624	\$0	\$19,599,624
541519	\$10,147	\$0	\$0	\$0	\$10,147	\$12,638,140	\$12,648,287	\$0	\$12,648,286
541611	\$998,937	\$0	\$0	\$0	\$998,937	\$1,051,385	\$2,050,322	\$8,961,060	\$11,011,381
541613	\$0	\$5,106	\$0	\$0	\$5,106	\$0	\$5,106	\$0	\$5,106
541614	\$0	\$0	\$0	\$0	\$0	\$12,500	\$12,500	\$0	\$12,500
541618	\$315,700	\$371,552	\$0	\$0	\$687,252	\$48,215	\$735,467	\$948,623	\$1,684,090

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
541620	\$1,086	\$39,900	\$0	\$0	\$40,986	\$0	\$40,986	\$0	\$40,986
541810	\$72,000	\$0	\$0	\$0	\$72,000	\$81,259	\$153,259	\$0	\$153,259
541930	\$0	\$123,046	\$0	\$0	\$123,046	\$0	\$123,046	\$0	\$123,046
541990	\$0	\$0	\$74,901	\$0	\$74,901	\$0	\$74,901	\$0	\$74,901
561110	\$0	\$1,068,780	\$0	\$0	\$1,068,780	\$3,021,740	\$4,090,520	\$0	\$4,090,520
561320	\$3,008,069	\$0	\$0	\$0	\$3,008,069	\$2,047,077	\$5,055,146	\$24,901,854	\$29,957,001
561440	\$0	\$0	\$5,571,390	\$0	\$5,571,390	\$0	\$5,571,390	\$0	\$5,571,390
561499	\$1,430	\$0	\$0	\$0	\$1,430	\$0	\$1,430	\$0	\$1,430
561520	\$0	\$115,087	\$0	\$0	\$115,087	\$0	\$115,087	\$0	\$115,087
561612	\$360,418	\$0	\$0	\$0	\$360,418	\$0	\$360,418	\$0	\$360,418
561710	\$68,510	\$0	\$0	\$0	\$68,510	\$0	\$68,510	\$229,728	\$298,238
561720	\$119,739	\$310,382	\$181,652	\$0	\$611,772	\$517,014	\$1,128,786	\$63,958	\$1,192,744
561730	\$0	\$0	\$0	\$0	\$0	\$661,507	\$661,507	\$0	\$661,507
561990	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$236,970	\$236,970
562111	\$208,091	\$0	\$0	\$0	\$208,091	\$0	\$208,091	\$461,431	\$669,522
562910	\$0	\$810,550	\$0	\$0	\$810,550	\$34,025	\$844,575	\$58,988	\$903,562
562991	\$0	\$54,059	\$0	\$0	\$54,059	\$0	\$54,059	\$0	\$54,059
562998	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$116,905	\$116,905
611699	\$61,725	\$0	\$0	\$0	\$61,725	\$0	\$61,725	\$0	\$61,725
621111	\$0	\$0	\$18,810,694	\$0	\$18,810,694	\$0	\$18,810,694	\$0	\$18,810,694
621330	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$39,333,787	\$39,333,787
621340	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$113,199	\$113,199
621399	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$260,870	\$260,870

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
621610	\$3,848,629	\$0	\$4,874,651	\$0	\$8,723,280	\$0	\$8,723,280	\$0	\$8,723,280
621991	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$532,350	\$532,350
624190	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,116,653	\$2,116,653
624229	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$268,683	\$268,683
624310	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,636	\$10,636
712110	\$0	\$0	\$0	\$0	\$0	\$198,900	\$198,900	\$0	\$198,900
722310	\$1,970,304	\$0	\$0	\$0	\$1,970,304	\$0	\$1,970,304	\$0	\$1,970,304
722511	\$0	\$0	\$0	\$0	\$0	\$49	\$49	\$0	\$49
811111	\$0	\$0	\$389,510	\$0	\$389,510	\$0	\$389,510	\$0	\$389,510
811211	\$0	\$0	\$0	\$0	\$0	\$182,025	\$182,025	\$0	\$182,025
811310	\$0	\$43,947	\$0	\$0	\$43,947	\$0	\$43,947	\$154,665	\$198,612
812990	\$0	\$0	\$0	\$0	\$0	\$968,151	\$968,151	\$0	\$968,151
813211	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$478,607	\$478,607
813319	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$749,225	\$749,225
813410	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$180,315	\$180,315
813910	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$531,364	\$531,364
Total	\$42,062,435	\$29,675,580	\$47,216,627	\$3,465	\$118,958,107	\$60,131,848	\$179,089,955	\$876,241,798	\$1,055,331,753

Source: CHA analysis of Cook County data

**Table 4-48: Percentage Distribution of Contract Dollars by Race and Gender - Hospital
(share of total dollars)**

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
221310	0.0%	0.0%	0.0%	0.0%	0.0%	11.4%	11.4%	88.6%	100.0%
236210	97.9%	0.0%	0.0%	0.0%	97.9%	0.0%	97.9%	2.1%	100.0%
236220	3.9%	0.9%	0.0%	0.0%	4.7%	7.6%	12.4%	87.6%	100.0%
237310	66.5%	0.0%	0.0%	0.0%	66.5%	0.0%	66.5%	33.5%	100.0%
238110	95.6%	0.0%	0.0%	0.0%	95.6%	0.0%	95.6%	4.4%	100.0%
238120	0.0%	91.5%	0.0%	0.0%	91.5%	0.0%	91.5%	8.5%	100.0%
238130	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
238140	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238150	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238160	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238210	21.9%	11.0%	0.0%	0.0%	32.8%	1.3%	34.1%	65.9%	100.0%
238220	1.2%	15.5%	0.1%	0.0%	16.8%	4.0%	20.7%	79.3%	100.0%
238290	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238310	0.0%	82.3%	0.0%	0.0%	82.3%	6.4%	88.7%	11.3%	100.0%
238320	91.8%	0.0%	0.0%	0.0%	91.8%	0.0%	91.8%	8.2%	100.0%
238330	0.0%	2.9%	0.0%	0.0%	2.9%	0.0%	2.9%	97.1%	100.0%
238340	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
238350	0.0%	0.0%	0.0%	0.0%	0.0%	69.3%	69.3%	30.7%	100.0%
238390	0.0%	0.0%	0.0%	0.0%	0.0%	2.6%	2.6%	97.4%	100.0%
238910	56.7%	0.4%	0.0%	0.0%	57.1%	18.5%	75.6%	24.4%	100.0%
238990	19.6%	33.1%	8.3%	0.0%	61.0%	15.5%	76.5%	23.5%	100.0%
323111	11.1%	86.8%	0.0%	0.0%	97.9%	2.1%	100.0%	0.0%	100.0%
325412	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
327331	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
332312	66.0%	0.0%	8.4%	0.0%	74.4%	0.0%	74.4%	25.6%	100.0%
332322	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
339112	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
339950	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
423130	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423390	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423430	0.0%	0.0%	29.4%	0.0%	29.4%	70.6%	100.0%	0.0%	100.0%
423450	0.1%	0.0%	0.0%	0.0%	0.1%	0.0%	0.1%	99.9%	100.0%
423490	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423510	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
423610	73.9%	5.0%	0.0%	0.0%	78.9%	20.2%	99.1%	0.9%	100.0%
423690	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
423720	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
423990	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
424120	16.7%	0.0%	4.4%	0.0%	21.0%	0.0%	21.0%	79.0%	100.0%
424130	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
424210	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
424480	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
424490	0.0%	56.4%	0.0%	0.0%	56.4%	43.6%	100.0%	0.0%	100.0%
424720	0.0%	41.6%	0.0%	0.0%	41.6%	57.0%	98.6%	1.4%	100.0%
441110	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
444190	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
446199	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
453210	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
454210	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
484220	80.8%	19.2%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
485991	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
488510	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
492110	0.0%	0.0%	0.0%	0.0%	0.0%	17.2%	17.2%	82.8%	100.0%
492210	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
493190	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
512110	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
524292	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
532412	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
532490	0.0%	5.6%	0.0%	0.0%	5.6%	0.0%	5.6%	94.4%	100.0%
541110	4.2%	0.0%	27.3%	0.0%	31.5%	0.0%	31.5%	68.5%	100.0%
541219	0.0%	0.0%	0.0%	0.0%	0.0%	38.1%	38.1%	61.9%	100.0%
541310	6.2%	0.1%	0.0%	0.1%	6.4%	22.6%	29.0%	71.0%	100.0%
541320	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541330	4.0%	66.2%	2.3%	0.0%	72.5%	21.5%	94.0%	6.0%	100.0%
541370	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
541380	28.6%	8.1%	0.0%	0.0%	36.7%	61.5%	98.1%	1.9%	100.0%
541430	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
541511	0.0%	0.0%	0.0%	0.0%	0.0%	48.1%	48.1%	51.9%	100.0%
541512	0.1%	41.9%	0.0%	0.0%	42.1%	57.9%	100.0%	0.0%	100.0%
541519	0.1%	0.0%	0.0%	0.0%	0.1%	99.9%	100.0%	0.0%	100.0%
541611	9.1%	0.0%	0.0%	0.0%	9.1%	9.5%	18.6%	81.4%	100.0%
541613	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541614	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
541618	18.7%	22.1%	0.0%	0.0%	40.8%	2.9%	43.7%	56.3%	100.0%
541620	2.6%	97.4%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541810	47.0%	0.0%	0.0%	0.0%	47.0%	53.0%	100.0%	0.0%	100.0%
541930	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
541990	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561110	0.0%	26.1%	0.0%	0.0%	26.1%	73.9%	100.0%	0.0%	100.0%
561320	10.0%	0.0%	0.0%	0.0%	10.0%	6.8%	16.9%	83.1%	100.0%
561440	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561499	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561520	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561612	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
561710	23.0%	0.0%	0.0%	0.0%	23.0%	0.0%	23.0%	77.0%	100.0%
561720	10.0%	26.0%	15.2%	0.0%	51.3%	43.3%	94.6%	5.4%	100.0%
561730	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
561990	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
562111	31.1%	0.0%	0.0%	0.0%	31.1%	0.0%	31.1%	68.9%	100.0%
562910	0.0%	89.7%	0.0%	0.0%	89.7%	3.8%	93.5%	6.5%	100.0%
562991	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
562998	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
611699	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
621111	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
621330	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
621340	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
621399	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
621610	44.1%	0.0%	55.9%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
621991	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624190	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624229	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
624310	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
712110	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
722310	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
722511	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
811111	0.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%	0.0%	100.0%
811211	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
811310	0.0%	22.1%	0.0%	0.0%	22.1%	0.0%	22.1%	77.9%	100.0%
812990	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%	100.0%
813211	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813319	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813410	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
813910	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Total	4.0%	2.8%	4.5%	0.0%	11.3%	5.7%	17.0%	83.0%	100.0%

Source: CHA analysis of Cook County data

3. The Availability of M/WBEs for Hospital Contracts

Table 4-49 contains the unweighted availability estimates.

Table 4-49: Unweighted M/WBE Availability for Cook County Contracts – Hospital

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
221310	0.0%	4.4%	0.0%	0.0%	4.4%	2.9%	7.4%	92.6%	100.0%
236210	12.6%	13.1%	3.5%	0.0%	29.1%	13.1%	42.2%	57.8%	100.0%
236220	8.4%	7.1%	3.6%	0.5%	19.6%	7.9%	27.5%	72.5%	100.0%
237310	9.1%	15.7%	6.3%	0.2%	31.3%	6.9%	38.2%	61.8%	100.0%
238110	5.1%	7.2%	0.8%	0.0%	13.1%	6.3%	19.3%	80.7%	100.0%
238120	9.8%	25.9%	2.8%	0.0%	38.5%	21.7%	60.1%	39.9%	100.0%
238130	3.4%	3.7%	0.6%	0.0%	7.7%	3.3%	11.0%	89.0%	100.0%
238140	3.9%	4.4%	0.2%	0.0%	8.6%	5.4%	14.0%	86.0%	100.0%
238150	4.1%	7.3%	0.0%	0.0%	11.4%	10.6%	22.0%	78.0%	100.0%
238160	2.3%	1.6%	0.2%	0.0%	4.2%	3.9%	8.0%	92.0%	100.0%
238210	3.7%	2.6%	0.7%	0.1%	7.1%	7.6%	14.7%	85.3%	100.0%
238220	2.4%	2.3%	0.6%	0.0%	5.3%	3.6%	9.0%	91.0%	100.0%
238290	6.0%	11.4%	2.0%	0.0%	19.5%	18.1%	37.6%	62.4%	100.0%
238310	11.2%	16.7%	0.8%	0.0%	28.6%	5.6%	34.3%	65.7%	100.0%
238320	3.7%	1.6%	0.3%	0.1%	5.7%	3.8%	9.5%	90.5%	100.0%
238330	10.7%	9.5%	1.4%	0.0%	21.6%	6.0%	27.6%	72.4%	100.0%
238340	4.8%	3.4%	1.4%	0.0%	9.7%	4.4%	14.1%	85.9%	100.0%
238350	16.9%	14.4%	3.4%	0.0%	34.7%	7.8%	42.4%	57.6%	100.0%
238390	10.1%	7.3%	0.8%	0.0%	18.3%	7.9%	26.1%	73.9%	100.0%
238910	10.4%	11.0%	2.1%	0.0%	23.5%	10.9%	34.4%	65.6%	100.0%
238990	2.4%	2.8%	0.5%	0.1%	5.8%	3.5%	9.4%	90.6%	100.0%
323111	1.0%	1.2%	1.2%	0.0%	3.4%	8.1%	11.6%	88.4%	100.0%
325412	1.0%	0.4%	2.3%	0.0%	3.6%	3.0%	6.7%	93.3%	100.0%
327331	3.8%	19.2%	0.0%	0.0%	23.1%	3.8%	26.9%	73.1%	100.0%
332312	3.1%	5.4%	1.5%	0.0%	10.0%	8.1%	18.1%	81.9%	100.0%
332322	0.4%	2.2%	1.3%	0.0%	4.0%	6.2%	10.2%	89.8%	100.0%
339112	0.4%	0.0%	3.1%	0.0%	3.5%	4.4%	7.9%	92.1%	100.0%
339950	0.8%	0.9%	0.5%	0.0%	2.3%	6.9%	9.2%	90.8%	100.0%
423130	3.8%	0.0%	0.0%	0.0%	3.8%	3.8%	7.7%	92.3%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
423390	6.8%	7.8%	1.9%	1.9%	18.4%	10.7%	29.1%	70.9%	100.0%
423430	1.1%	0.2%	2.6%	0.0%	3.9%	7.6%	11.4%	88.6%	100.0%
423450	4.5%	1.1%	4.2%	0.0%	9.7%	8.8%	18.5%	81.5%	100.0%
423490	1.8%	0.6%	2.9%	0.0%	5.3%	9.9%	15.2%	84.8%	100.0%
423510	1.2%	0.4%	2.2%	0.0%	3.8%	5.3%	9.1%	90.9%	100.0%
423610	3.0%	2.3%	2.0%	0.1%	7.3%	10.8%	18.2%	81.8%	100.0%
423690	1.3%	0.7%	1.3%	0.0%	3.3%	7.2%	10.5%	89.5%	100.0%
423720	2.6%	0.4%	0.4%	0.0%	3.3%	8.8%	12.0%	88.0%	100.0%
423990	1.1%	0.6%	0.3%	0.0%	2.0%	3.8%	5.9%	94.1%	100.0%
424120	4.7%	0.3%	4.4%	0.0%	9.4%	11.1%	20.5%	79.5%	100.0%
424130	8.1%	1.7%	2.3%	0.0%	12.2%	15.7%	27.8%	72.2%	100.0%
424210	4.6%	0.0%	1.4%	0.0%	6.0%	14.1%	20.0%	80.0%	100.0%
424480	3.1%	0.6%	1.9%	0.0%	5.7%	5.7%	11.3%	88.7%	100.0%
424490	2.8%	1.8%	1.1%	0.0%	5.7%	8.6%	14.3%	85.7%	100.0%
424720	1.2%	2.0%	3.8%	0.0%	7.0%	5.5%	12.5%	87.5%	100.0%
441110	0.4%	0.1%	0.0%	0.0%	0.6%	1.5%	2.1%	97.9%	100.0%
444190	1.7%	2.2%	0.5%	0.0%	4.4%	7.5%	11.9%	88.1%	100.0%
446199	0.5%	0.0%	0.7%	0.0%	1.1%	8.9%	10.0%	90.0%	100.0%
453210	2.5%	0.0%	1.0%	0.0%	3.4%	12.8%	16.3%	83.7%	100.0%
454210	2.6%	1.0%	0.3%	0.0%	3.9%	5.2%	9.2%	90.8%	100.0%
484220	10.4%	31.7%	2.4%	0.0%	44.5%	14.5%	59.0%	41.0%	100.0%
485991	95.2%	0.0%	0.0%	0.0%	95.2%	0.0%	95.2%	4.8%	100.0%
488510	1.7%	0.6%	0.8%	0.1%	3.2%	7.4%	10.6%	89.4%	100.0%
492110	2.5%	2.1%	0.0%	0.0%	4.5%	5.0%	9.5%	90.5%	100.0%
492210	3.9%	1.3%	1.9%	0.0%	7.1%	7.7%	14.8%	85.2%	100.0%
493190	0.5%	0.5%	0.0%	0.0%	1.1%	9.0%	10.1%	89.9%	100.0%
512110	4.9%	0.8%	0.3%	0.0%	6.0%	6.2%	12.2%	87.8%	100.0%
524292	10.5%	5.3%	2.6%	0.0%	18.4%	13.2%	31.6%	68.4%	100.0%
532412	0.6%	5.8%	0.0%	1.9%	8.4%	11.7%	20.1%	79.9%	100.0%
532490	0.4%	0.2%	0.2%	0.0%	0.8%	1.5%	2.3%	97.7%	100.0%

Cook County Disparity Study 2022

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
541110	0.6%	0.2%	0.2%	0.0%	1.0%	5.0%	6.0%	94.0%	100.0%
541219	4.6%	0.6%	1.0%	0.0%	6.2%	13.0%	19.2%	80.8%	100.0%
541310	3.5%	3.6%	2.6%	0.1%	9.9%	9.2%	19.1%	80.9%	100.0%
541320	1.0%	1.1%	0.6%	0.0%	2.7%	4.3%	7.1%	92.9%	100.0%
541330	4.2%	3.1%	7.2%	0.1%	14.6%	5.8%	20.4%	79.6%	100.0%
541370	3.2%	4.0%	8.0%	0.0%	15.1%	8.8%	23.9%	76.1%	100.0%
541380	1.3%	1.0%	3.1%	0.1%	5.5%	4.7%	10.2%	89.8%	100.0%
541430	2.6%	2.5%	1.1%	0.1%	6.3%	16.7%	23.0%	77.0%	100.0%
541511	2.5%	0.7%	5.2%	0.0%	8.3%	4.3%	12.6%	87.4%	100.0%
541512	4.6%	1.7%	6.8%	0.0%	13.0%	7.5%	20.5%	79.5%	100.0%
541519	18.1%	6.6%	17.4%	0.0%	42.1%	10.0%	52.1%	47.9%	100.0%
541611	5.0%	1.2%	1.5%	0.1%	7.9%	8.9%	16.8%	83.2%	100.0%
541613	2.5%	1.3%	0.9%	0.1%	4.7%	6.8%	11.5%	88.5%	100.0%
541614	11.4%	3.4%	4.7%	0.0%	19.5%	10.7%	30.2%	69.8%	100.0%
541618	1.6%	0.5%	0.5%	0.0%	2.6%	3.5%	6.1%	93.9%	100.0%
541620	4.4%	4.7%	3.7%	0.3%	13.1%	12.0%	25.1%	74.9%	100.0%
541810	3.4%	2.5%	0.7%	0.1%	6.7%	8.6%	15.3%	84.7%	100.0%
541930	0.8%	10.7%	4.0%	0.0%	15.5%	18.7%	34.1%	65.9%	100.0%
541990	1.0%	0.2%	0.3%	0.0%	1.4%	4.4%	5.8%	94.2%	100.0%
561110	1.6%	0.3%	0.3%	0.0%	2.2%	2.0%	4.2%	95.8%	100.0%
561320	6.7%	2.4%	2.8%	0.0%	12.0%	12.3%	24.2%	75.8%	100.0%
561440	4.8%	1.1%	1.6%	0.0%	7.5%	5.3%	12.8%	87.2%	100.0%
561499	0.8%	0.2%	0.2%	0.0%	1.2%	2.5%	3.7%	96.3%	100.0%
561520	1.8%	0.4%	0.7%	0.0%	2.8%	7.8%	10.6%	89.4%	100.0%
561612	18.8%	3.1%	0.2%	0.0%	22.1%	6.0%	28.0%	72.0%	100.0%
561710	4.8%	1.0%	0.4%	0.0%	6.1%	3.6%	9.7%	90.3%	100.0%
561720	6.4%	1.6%	0.4%	0.1%	8.5%	7.5%	16.0%	84.0%	100.0%
561730	3.1%	3.3%	0.2%	0.0%	6.6%	4.5%	11.1%	88.9%	100.0%
561990	3.0%	0.5%	0.6%	0.0%	4.1%	8.5%	12.6%	87.4%	100.0%
562111	10.0%	13.3%	1.1%	0.0%	24.4%	21.1%	45.6%	54.4%	100.0%

NAICS	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
562910	23.1%	19.2%	2.7%	0.0%	45.1%	9.9%	54.9%	45.1%	100.0%
562991	2.2%	1.6%	0.0%	0.0%	3.8%	4.7%	8.5%	91.5%	100.0%
562998	18.2%	16.9%	1.3%	0.0%	36.4%	14.3%	50.6%	49.4%	100.0%
611699	5.0%	0.8%	0.2%	0.0%	6.0%	8.9%	14.9%	85.1%	100.0%
621111	0.2%	0.1%	0.2%	0.0%	0.5%	6.1%	6.6%	93.4%	100.0%
621330	1.4%	0.3%	0.2%	0.0%	1.9%	14.3%	16.3%	83.7%	100.0%
621340	0.4%	0.0%	0.1%	0.0%	0.5%	10.8%	11.3%	88.7%	100.0%
621399	0.7%	0.1%	0.1%	0.0%	0.9%	16.0%	16.9%	83.1%	100.0%
621610	3.7%	0.2%	2.1%	0.2%	6.2%	11.6%	17.8%	82.2%	100.0%
621991	0.9%	0.9%	1.2%	0.0%	3.1%	4.3%	7.4%	92.6%	100.0%
624190	0.2%	0.0%	0.0%	0.0%	0.2%	0.4%	0.6%	99.4%	100.0%
624229	16.7%	0.0%	0.0%	0.0%	16.7%	0.0%	16.7%	83.3%	100.0%
624310	5.5%	0.4%	1.1%	0.0%	7.0%	11.0%	18.0%	82.0%	100.0%
712110	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	0.7%	99.3%	100.0%
722310	9.5%	1.7%	3.4%	0.0%	14.7%	9.5%	24.1%	75.9%	100.0%
722511	0.3%	0.3%	0.5%	0.0%	1.1%	4.8%	5.9%	94.1%	100.0%
811111	0.2%	0.2%	0.1%	0.0%	0.5%	1.9%	2.4%	97.6%	100.0%
811211	0.5%	2.6%	1.1%	0.0%	4.2%	5.3%	9.5%	90.5%	100.0%
811310	0.3%	1.3%	0.3%	0.0%	1.9%	5.3%	7.2%	92.8%	100.0%
812990	1.1%	0.5%	0.1%	0.0%	1.7%	7.8%	9.5%	90.5%	100.0%
813211	2.6%	0.4%	0.0%	0.0%	3.0%	1.5%	4.5%	95.5%	100.0%
813319	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.3%	99.7%	100.0%
813410	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	99.9%	100.0%
813910	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.3%	99.7%	100.0%
Total	2.3%	1.3%	0.9%	0.0%	4.5%	5.6%	10.1%	89.9%	100.0%

Source: CHA analysis of Cook County data; Hoovers; CHA Master Directory

As discussed in the analyses of the Main Data Files, these unweighted estimates can be used by the County as the starting point for setting narrowly tailored contract goals.

Table 4-50 contains the weights which were calculated from the County spending.

Table 4-50: Distribution of the County Spending by NAICS Code (the Weights) – Hospital

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
221310	Water Supply and Irrigation Systems	0.1%
236210	Industrial Building Construction	0.5%
236220	Commercial and Institutional Building Construction	1.4%
237310	Highway, Street, and Bridge Construction	0.2%
238110	Poured Concrete Foundation and Structure Contractors	0.2%
238120	Structural Steel and Precast Concrete Contractors	0.5%
238130	Framing Contractors	0.002%
238140	Masonry Contractors	0.02%
238150	Glass and Glazing Contractors	0.004%
238160	Roofing Contractors	0.1%
238210	Electrical Contractors and Other Wiring Installation Contractors	1.3%
238220	Plumbing, Heating, and Air-Conditioning Contractors	1.5%
238290	Other Building Equipment Contractors	0.1%
238310	Drywall and Insulation Contractors	0.8%
238320	Painting and Wall Covering Contractors	0.1%
238330	Flooring Contractors	0.1%
238340	Tile and Terrazzo Contractors	0.003%
238350	Finish Carpentry Contractors	0.5%
238390	Other Building Finishing Contractors	0.04%
238910	Site Preparation Contractors	1.1%
238990	All Other Specialty Trade Contractors	0.1%
323111	Commercial Printing (except Screen and Books)	0.02%
325412	Pharmaceutical Preparation Manufacturing	0.01%
327331	Concrete Block and Brick Manufacturing	0.003%
332312	Fabricated Structural Metal Manufacturing	0.04%
332322	Sheet Metal Work Manufacturing	0.1%
339112	Surgical and Medical Instrument Manufacturing	0.001%
339950	Sign Manufacturing	0.03%
423130	Tire and Tube Merchant Wholesalers	0.001%

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
423390	Other Construction Material Merchant Wholesalers	0.004%
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	0.02%
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	12.9%
423490	Other Professional Equipment and Supplies Merchant Wholesalers	0.01%
423510	Metal Service Centers and Other Metal Merchant Wholesalers	0.1%
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	0.2%
423690	Other Electronic Parts and Equipment Merchant Wholesalers	0.02%
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	0.1%
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	0.001%
424120	Stationery and Office Supplies Merchant Wholesalers	0.1%
424130	Industrial and Personal Service Paper Merchant Wholesalers	0.8%
424210	Drugs and Druggists' Sundries Merchant Wholesalers	35.7%
424480	Fresh Fruit and Vegetable Merchant Wholesalers	0.1%
424490	Other Grocery and Related Products Merchant Wholesalers	0.01%
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	0.1%
441110	New Car Dealers	0.5%
444190	Other Building Material Dealers	0.03%
446199	All Other Health and Personal Care Stores	0.1%
453210	Office Supplies and Stationery Stores	0.0002%
454210	Vending Machine Operators	0.01%
484220	Specialized Freight (except Used Goods) Trucking, Local	0.1%
485991	Special Needs Transportation	1.1%
488510	Freight Transportation Arrangement	0.3%
492110	Couriers and Express Delivery Services	0.2%
492210	Local Messengers and Local Delivery	1.5%
493190	Other Warehousing and Storage	0.2%

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
512110	Motion Picture and Video Production	0.0004%
524292	Third Party Administration of Insurance and Pension Funds	19.7%
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing	0.004%
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	0.004%
541110	Offices of Lawyers	0.1%
541219	Other Accounting Services	0.5%
541310	Architectural Services	0.5%
541320	Landscape Architectural Services	0.01%
541330	Engineering Services	0.2%
541370	Surveying and Mapping (except Geophysical) Services	0.01%
541380	Testing Laboratories	0.1%
541430	Graphic Design Services	0.02%
541511	Custom Computer Programming Services	0.4%
541512	Computer Systems Design Services	1.9%
541519	Other Computer Related Services	1.2%
541611	Administrative Management and General Management Consulting Services	1.0%
541613	Marketing Consulting Services	0.0005%
541614	Process, Physical Distribution, and Logistics Consulting Services	0.001%
541618	Other Management Consulting Services	0.2%
541620	Environmental Consulting Services	0.004%
541810	Advertising Agencies	0.01%
541930	Translation and Interpretation Services	0.01%
541990	All Other Professional, Scientific, and Technical Services	0.01%
561110	Office Administrative Services	0.4%
561320	Temporary Help Services	2.8%
561440	Collection Agencies	0.5%
561499	All Other Business Support Services	0.0001%
561520	Tour Operators	0.01%

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
561612	Security Guards and Patrol Services	0.03%
561710	Exterminating and Pest Control Services	0.03%
561720	Janitorial Services	0.1%
561730	Landscaping Services	0.1%
561990	All Other Support Services	0.02%
562111	Solid Waste Collection	0.1%
562910	Remediation Services	0.1%
562991	Septic Tank and Related Services	0.01%
562998	All Other Miscellaneous Waste Management Services	0.01%
611699	All Other Miscellaneous Schools and Instruction	0.01%
621111	Offices of Physicians (except Mental Health Specialists)	1.8%
621330	Offices of Mental Health Practitioners (except Physicians)	3.7%
621340	Offices of Physical, Occupational and Speech Therapists, and Audiologists	0.01%
621399	Offices of All Other Miscellaneous Health Practitioners	0.02%
621610	Home Health Care Services	0.8%
621991	Blood and Organ Banks	0.1%
624190	Other Individual and Family Services	0.2%
624229	Other Community Housing Services	0.03%
624310	Vocational Rehabilitation Services	0.001%
712110	Museums	0.02%
722310	Food Service Contractors	0.2%
722511	Full-Service Restaurants	0.000005%
811111	General Automotive Repair	0.04%
811211	Consumer Electronics Repair and Maintenance	0.02%
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	0.02%
812990	All Other Personal Services	0.1%
813211	Grantmaking Foundations	0.05%
813319	Other Social Advocacy Organizations	0.1%

NAICS	NAICS Code Description	WEIGHT (Pct Share of Total Sector Dollars)
813410	Civic and Social Organizations	0.02%
813910	Business Associations	0.1%
TOTAL		100.0%

Source: CHA analysis of Cook County data

Table 4-51 presents the weighted availability results for each of the racial and gender categories. The aggregated availability of M/WBEs, weighted by Cook County’s spending in its geographic and industry markets, is 23.1% for Hospital contracts.

Table 4-51: Aggregated Weighted Availability for County Contracts – Hospital

Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
7.0%	2.3%	2.3%	0.01%	11.6%	11.5%	23.1%	76.9%	100.0%

Source: CHA analysis of Cook County data; Hoovers; CHA Master Directory

4. Analysis of the Concentration of Contract Dollars among Firms

This section contains the examination of the level of contract dollar concentration among M/WBE and non-M/WBE firms. Table 4-52 presents data on the share of the Hospital contract dollars received by the top three NAICS codes for each demographic group. These shares are derived from the data presented in Tables 4-48 and 4-49. The three NAICS codes where the Hospital spent most of its contract dollars capture 68.2% of all County spending. However, for each M/WBE group, the corresponding figure for the share of spending captured by the top three codes range between 100.0% (Native American) and 39.9% (Black).

Table 4-52: Comparison of the Share of the County Spending Captured by the Top Three NAICS Codes for Each Demographic Group – Hospital

Demographic Group	Share of All the County Spending in the Top Three NAICS Codes for Each Group
All	68.2%
Black	39.9%
Hispanic	67.0%

Demographic Group	Share of All the County Spending in the Top Three NAICS Codes for Each Group
Asian	84.7%
Native American	100.0%
White Woman	54.2%
Non-M/WBE	82.2%

Source: CHA analysis of Cook County data

Table 4-53 provides more detail on the data presented in Table 4-52. Table 4-53 lists the top three codes for each group and their corresponding share of the group's total spending. None of the three NAICS codes where the County spent its funds are among the leading codes for M/WBEs. This indicates that M/WBEs do not receive most of their contract dollars from the same codes that are significant in County procurement.

Table 4-53: The Top Three County Spending NAICS Codes for Each Demographic Group
Hospital

NAICS	NAICS Code Label	WEIGHT	Total of Top 3 Codes
All			
424210	Drugs and Druggists' Sundries Merchant Wholesalers	35.7%	68.2%
524292	Third Party Administration of Insurance and Pension Funds	19.7%	
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	12.9%	
Black			
238910	Site Preparation Contractors	15.9%	39.9%
441110	New Car Dealers	12.7%	
236210	Industrial Building Construction	11.2%	
Hispanic			
541512	Computer Systems Design Services	27.7%	67.0%
238310	Drywall and Insulation Contractors	22.4%	
238120	Structural Steel and Precast Concrete Contractors	16.9%	

NAICS	NAICS Code Label	WEIGHT	Total of Top 3 Codes
Asian			
621111	Offices of Physicians (except Mental Health Specialists)	39.8%	84.7%
492210	Local Messengers and Local Delivery	33.1%	
561440	Collection Agencies	11.8%	
Native American			
541310	Architectural Services	100.0%	100.0%
White Woman			
541519	Other Computer Related Services	21.0%	54.2%
541512	Computer Systems Design Services	18.9%	
424130	Industrial and Personal Service Paper Merchant Wholesalers	14.3%	
Non-M/WBE			
424210	Drugs and Druggists' Sundries Merchant Wholesalers	42.9%	82.2%
524292	Third Party Administration of Insurance and Pension Funds	23.8%	
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	15.5%	

Source: CHA analysis of Cook County data

Tables 4-54 through 4-71 present more details on how County spending varies across groups and within groups. These results illustrate the different levels of concentration of contract dollars among M/WBEs compared to non-M/WBEs. For each demographic group, we restate the three NAICS codes where the group receives the largest share of the County’s spending (first presented in Table 4-53). Then, we present the weight for each code derived from the County’s overall spending. We next present the share of all group contract dollars and compare that share to the corresponding share received by non-M/WBEs. Finally, we examine each of the NAICS codes individually to compare the concentration of contract dollars among the three largest firms for that group to the concentration of contract dollars among the three largest non-M/WBEs.

Tables 4-54 through 4-57 present data for Black-owned firms.

- Table 4-54 presents the three NAICS codes where Black firms received the largest share of their contract dollars. While these codes comprised 39.3% of all Black contract dollars, the corresponding figure for non-M/

WBEs was 0.3%. This supports the conclusion that there are differences in the relative importance of the leading NAICS codes between Black firms and non-M/WBEs.

- Tables 4-55 through Table 4-57 presents data on the firm concentration in NAICS 238910, 441110, and 236210. There are too few contracts in these codes to establish any patterns with respect to concentration with the codes.

Table 4-54: Three NAICS Codes where Black Firms Received the Most Spending – Hospital

NAICS Code	NAICS Code Label	Weight	Share of Total Black Dollars	Share of Total Non-M/WBE Dollars
238910	Site Preparation Contractors	1.1%	15.9%	0.3%
441110	New Car Dealers	0.5%	12.7%	0.0%
236210	Industrial Building Construction	0.5%	11.2%	0.01%
Total 3-code Share of Total Group Dollars			39.9%	0.3%

Source: CHA analysis of Cook County data

**Table 4-55: Comparison of Black and non-M/WBE Firm Concentration – Hospital
NAICS Code 2389100: Site Preparation Contractors**

	Black	Non-M/WBE
Number of Contracts	2	3
Number of Firms	2	3
Share of #1	86.1%	67.3%
Share of #2	13.9%	23.1%
Share of #3	0.0%	9.6%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

**Table 4-56: Comparison of Black and non-M/WBE Firm Concentration – Hospital
NAICS Code 441110: New Car Dealers**

	Black	Non-M/WBE
Number of Contracts	2	0
Number of Firms	2	0
Share of #1	100.0%	0.0%

	Black	Non-M/WBE
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

**Table 4-57: Comparison of Black and non-M/WBE Firm Concentration – Hospital
NAICS Code 236210: Industrial Building Construction**

	Black	Non-M/WBE
Number of Contracts	1	1
Number of Firms	1	1
Share of #1	100.0%	100.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

Tables 4-58 through 4-61 present data for Hispanic-owned firms.

- Table 4-58 presents the three NAICS codes where Hispanic firms received the largest share of their contract dollars. Once again, there is a larger difference between the importance of these codes to overall Hispanic contract dollars and the importance of these codes to overall non-M/WBE contract dollars: Hispanics receive 67.0% of all contract dollars from these codes; the corresponding figure for non-M/WBEs is 0.2%. This supports the conclusion that there are differences in the relative importance of the leading NAICS codes between Hispanic firms and non-M/WBEs.
- Tables 4-59 through Table 4-61 present data on the firm concentration in NAICS codes 541512, 238310, and 238120. There are too few contracts in these codes to establish any patterns with respect to concentration with the codes.

Table 4-58: Three NAICS Codes where Hispanic Firms Received the Most Spending – Hospital

NAICS Code	NAICS Code Label	Weight	Share of Total Hispanic Dollars	Share of Total Non-M/WBE Dollars
541512	Computer Systems Design Services	1.9%	27.7%	0.0%
238310	Drywall and Insulation Contractors	0.8%	22.4%	0.1%
238120	Structural Steel and Precast Concrete Contractors	0.5%	16.9%	0.1%
Total 3-code Share of Total Group Dollars			67.0%	0.2%

Source: CHA analysis of Cook County data

**Table 4-59: Comparison of Hispanic and Non-M/WBE Firm Concentration – Hospital
NAICS Code 541512: Computer Systems Design Services**

	Hispanic	Non-M/WBE
Number of Contracts	2	0
Number of Firms	2	0
Share of #1	95.0%	0.0%
Share of #2	5.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

**Table 4-60: Comparison of Hispanic and Non-M/WBE Firm Concentration – Hospital
NAICS Code 238310: Drywall and Insulation Contractors**

	Hispanic	Non-M/WBE
Number of Contracts	4	2
Number of Firms	3	2
Share of #1	95.0%	84.8%
Share of #2	4.5%	15.2%
Share of #3	0.5%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

**Table 4-61: Comparison of Hispanic and Non-M/WBE Firm Concentration – Hospital
NAICS Code 238120: Structural Steel and Precast Concrete Contractors**

	Hispanic	Non-M/WBE
Number of Contracts	1	2
Number of Firms	1	2
Share of #1	100.0%	71.4%
Share of #2	0.0%	28.6%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

Tables 4-62 through 4-65 present data for Asian-owned firms.

- Table 4-62 presents the three NAICS codes where Asian firms received the largest share of their contract dollars. While these codes capture 84.7% of all Asian contract dollars, the corresponding figure for non-M/WBEs was 0.0% as no non-M/WBE firms receive contracts in these codes. This supports the conclusion that there are differences in the relative importance of the leading NAICS codes between Asian firms and non-M/WBEs.
- Tables 4-63 through Table 4-65 present data on the firm concentration in NAICS codes 621111, 492210, and 561440. There are too few contracts in these codes to establish any patterns with respect to concentration with the codes.

Table 4-62: Three NAICS Codes where Asian Firms Received the Most Spending – Hospital

NAICS Code	NAICS Code Label	Weight	Share of Total Asian Dollars	Share of Total Non-M/WBE Dollars
621111	Offices of Physicians (except Mental Health Specialists)	1.8%	39.8%	0.0%
492210	Local Messengers and Local Delivery	1.5%	33.1%	0.0%
561440	Collection Agencies	0.5%	11.8%	0.0%
Total 3-code Share of Total Group Dollars			84.7%	0.0%

Source: CHA analysis of Cook County data

**Table 4-63: Comparison of Asian and Non-M/WBE Firm Concentration – Hospital
NAICS Code 621111: Offices of Physicians (except Mental Health Specialists)**

	Asian	Non-M/WBE
Number of Contracts	1	0
Number of Firms	1	0
Share of #1	100.0%	0.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

**Table 4-64: Comparison of Asian and Non-M/WBE Firm Concentration – Hospital
NAICS Code 492210: Local Messengers and Local Delivery**

	Asian	Non-M/WBE
Number of Contracts	2	0
Number of Firms	1	0
Share of #1	100.0%	0.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

**Table 4-65: Comparison of Asian and Non-M/WBE Firm Concentration – Hospital
NAICS Code 561440: Collection Agencies**

	Asian	Non-M/WBE
Number of Contracts	1	0
Number of Firms	1	0
Share of #1	100.0%	0.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

Tables 4-66 and 4-67 present data for Native American-owned firms.

- Table 4-66 indicates that one code captures all of the contract dollars received by Native American firms. In contrast, this code captures just 0.4% of all contract dollars received by non-M/WBE firms. This supports the conclusion that there are differences in the relative importance of the leading NAICS codes between Native American firms and non-M/WBEs.

Table 4-66: NAICS Code where Native American Firms Received Spending – Hospital

NAICS Code	NAICS Code Label	Weight	Share of Total Native American Dollars	Share of Total Non-M/WBE Dollars
541310	Architectural Services	0.5%	100.0%	0.4%

Source: CHA analysis of Cook County data

Table 4-67: Comparison of Native American and Non-M/WBE Firm Concentration – Hospital NAICS Code 541310: Architectural Services

	Native American	Non-M/WBE
Number of Contracts	1	3
Number of Firms	1	3
Share of #1	100.0%	66.5%
Share of #2	0.0%	33.2%
Share of #3	0.0%	0.3%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

Tables 4-68 through 4-71 present data for White woman-owned firms.

- Table 4-68 presents the three NAICS codes where White woman firms received the largest share of their contract dollars. While these codes capture 54.2% of all White woman contract dollars, the corresponding figure for non-M/WBEs was 0.0% as no non-M/WBE firms receive contracts in these codes. This supports the conclusion that there are differences in the relative importance of the leading NAICS codes between White woman firms and non-M/WBEs.
- Table 4-69 and Table 4-71 present data on the firm concentration in NAICS codes 54519 and 424130. There are too few contracts in these codes to establish any patterns with respect to concentration with the codes.

- Table 4-70 presents data on the firm concentration in NAICS 541512. In this code, the level of concentration among White women firms compared to non-M/WBE firms was similar.

Table 4-68: Three NAICS Codes where White Woman Firms Received the Most Spending Hospital

NAICS Code	NAICS Code Label	Weight	Share of Total White Woman Dollars	Share of Total Non-M/WBE Dollars
541519	Other Computer Related Services	1.2%	21.0%	0.0%
541512	Computer Systems Design Services	1.9%	18.9%	0.0%
424130	Industrial and Personal Service Paper Merchant Wholesalers	0.8%	14.3%	0.0%
Total 3-code Share of Total Group Dollars			54.2%	0.0%

Source: CHA analysis of Cook County data

Table 4-69: Comparison of White Woman and Non-M/WBE Firm Concentration – Hospital NAICS Code 541519: Other Computer Related Services

	White Woman	Non-M/WBE
Number of Contracts	1	1
Number of Firms	1	1
Share of #1	100.0%	100.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	100.0%

Source: CHA analysis of Cook County data

Table 4-70: Comparison of White Woman and Non-M/WBE Firm Concentration – Hospital NAICS Code 541512: Computer Systems Design Services

	White Woman	Non-M/WBE
Number of Contracts	5	16
Number of Firms	4	10
Share of #1	39.3%	44.4%

	White Woman	Non-M/WBE
Share of #2	39.3%	27.9%
Share of #3	20.7%	20.9%
Share of Top 3	99.3%	93.2%

Source: CHA analysis of Cook County data

Table 4-71: Comparison of White Woman and Non-M/WBE Firm Concentration – Hospital NAICS Code 424130: Industrial and Personal Service Paper Merchant Wholesalers

	White Woman	Non-M/WBE
Number of Contracts	1	0
Number of Firms	1	0
Share of #1	100.0%	0.0%
Share of #2	0.0%	0.0%
Share of #3	0.0%	0.0%
Share of Top 3	100.0%	0.0%

Source: CHA analysis of Cook County data

The data presented in Tables 4-52 through 4-71 support the inference that regardless of any statistical disparities between contract utilization and weighted availability in the Hospital data, the experiences of M/WBEs with respect to participation in Hospital procurements is significantly different than the experiences of non-M/WBEs. How the Hospital spends its funds, and the relative importance of these codes is starkly different between M/WBEs and non-M/WBEs. The NAICS codes where M/WBEs receive a large proportion of their contract dollars are different from the codes where non-M/WBEs receive a large portion of their contract dollars and non-M/WBEs receive very little of their contract dollars from those codes where M/WBEs receive large proportions of their contract dollars.

5. Disparity Analysis of M/WBE Utilization for Hospital Contracts

Employing the same approach on the Hospital data that we used with the Main Data File, we next calculated disparity ratios for each demographic group, comparing the group’s total utilization compared to its total weighted availability. Table 4-72 presents the disparity ratios for each demographic group. The disparity ratios for Blacks, Native Americans, White women, and M/WBEs

are substantively significant. The disparity ratios for M/WBEs and non-M/WBEs are statistically significant at the 0.05 level.

Table 4-72: Disparity Ratios by Demographic Group – Hospital

	Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE
Disparity Ratio	57.2%‡	122.6%	192.3%	2.6%‡	97.1%	49.4%‡	73.3%‡*	108.0%*

Source: CHA analysis of Cook County data

‡ Indicates substantive significance

* Statistically significant at the 0.05 level

Once again, we explored the disparity ratios that exceed 100%. We selected the NAICS code share threshold of 12.9% because the three NAICS codes at or above the threshold captured 68.2% of all the Hospital’s spending, and of the remaining 100 NAICS codes, the highest share of spending was only 3.7%. However, while the disparity ratios for Hispanic and Asian firms exceeded 100%, there was no need to explore these three codes because no Hispanic and Asian firms received any contracts in these codes. Therefore, no further analysis of Hospital contracts was performed.

6. Conclusion for Hospital Contracts

This section provides the analysis of whether the County’s M/WBE program has fully remediated any discrimination in its market area. We analyzed these data to understand patterns in firm concentration and disparity ratios. Overall, we found that, compared to non-M/WBEs, minority- and woman-owned firms were concentrated in a different subset of industries. Further, in some industries, only a few M/WBEs received contracts in contrast to non-M/WBEs. This suggests that although the County’s M/WBE program has been quite successful in creating opportunities for minority and woman firms, these benefits have not been spread evenly across all groups or subindustries. We find the data as a whole support the conclusion that minority and woman firms have not reached parity in all industries of County contracting compared to non-M/WBE firms.

This section examines the Hospital’s utilization of M/WBEs compared to non-M/WBEs for Hospital contracts; provides estimates of the availability of M/WBEs and non-M/WBEs to perform the types of good and services utilized by the Hospital; and tests for whether there are disparities in the results of utilization compared to availability. Overall, we found that while the M/WBE program has led to greater than parity in its utilization of Hispanic and Asian firms, the other groups experienced substantively large disparities. We found large

and statistically significant disparities for M/WBEs overall. This supports the conclusion that the continuation of the M/WBE program for these groups is supportable

D. Weighted Availability for Combined Main Data and Hospital Contracts

When an agency sets its overall aspirational goal, it is important to examine the weighted availability based upon all of the contracts it has let. Having determined the weighted availability for the Main Data contracts and Hospital contracts separately, we combined the two data sets and recalculated the weighted availability. Table 4-73 presents the results of that analysis. The overall M/WBE weighted availability of 19.2% can be used by Cook County to determine its overall aspirational goal.

Table 4-73: Aggregated Weighted Availability for County Contracts – Main Data & Hospital Combined

Black	Hispanic	Asian	Native American	MBE	White Woman	M/WBE	Non-M/WBE	Total
5.7%	2.1%	1.9%	0.0%	9.7%	9.5%	19.2%	80.8%	100.0%

Source: CHA analysis of Cook County data; Hoovers; CHA Master Directory

V. ANALYSIS OF DISPARITIES IN THE COOK COUNTY MARKETPLACE

A. Introduction

The late Nobel Prize Laureate Kenneth Arrow, in his seminal paper on the economic analysis of discrimination, observed:

Racial discrimination pervades every aspect of a society in which it is found. It is found above all in attitudes of both races, but also in social relations, in intermarriage, in residential location, and frequently in legal barriers. It is also found in levels of economic accomplishment; this is income, wages, prices paid, and credit extended.¹⁸⁸

This Chapter explores the data and literature relevant to how discrimination in the State of Illinois economy affects the ability of minorities and women to engage in Cook County’s fairly and fully (“the County”) contract opportunities. First, we analyze the rates at which Minority- and Woman-Owned Business Enterprises (“M/WBEs”) in the Cook County area economy form firms and their earnings from those firms. Next, we summarize the literature on barriers to equal access to commercial credit. Finally, we summarize the literature on barriers to equal access to human capital. All three types of evidence have been found by the courts to be relevant and probative of whether a government will be a passive participant in discrimination without some type of affirmative intervention.

A key element to determine the need for the County to intervene in its market through contract goals is an analysis of the extent of disparities independent of the agency’s intervention through its contracting affirmative action program.

The courts have repeatedly held that analysis of disparities in the rate of M/WBE formation in the government’s markets as compared to similar non-M/WBEs, disparities in M/WBE earnings, and barriers to access to capital markets are highly relevant to a determination of whether market outcomes are affected by race or gender ownership status.¹⁸⁹ Similar analyses supported the successful legal

188. Arrow, Kenneth J., “What Has Economics to say about racial discrimination?” *Journal of Economic Perspectives*, 12, 2, (1998), 91-100.

189. See the discussion in Chapter II of the legal standards applicable to contracting affirmative action programs.

defense of the Illinois Tollway's Disadvantaged Business Enterprise ("DBE") Program from constitutional challenge.¹⁹⁰

Similarly, the Tenth Circuit Court of Appeals also upheld the U.S. Department of Transportation's DBE program, and in doing so, stated that this type of evidence

demonstrates the existence of two kinds of discriminatory barriers to minority subcontracting enterprises, both of which show a strong link between racial disparities in the federal government's disbursements of public funds for construction contracts and the channeling of those funds due to private discrimination. The first discriminatory barriers are to the formation of qualified minority subcontracting enterprises due to private discrimination, precluding from the outset competition for public construction contracts by minority enterprises. The second discriminatory barriers are to fair competition between minority and non-minority subcontracting enterprises, again due to private discrimination, precluding existing minority firms from effectively competing for public construction contracts. The government also presents further evidence in the form of local disparity studies of minority subcontracting and studies of local subcontracting markets after the removal of affirmative action programs... The government's evidence is particularly striking in the area of the race-based denial of access to capital, without which the formation of minority subcontracting enterprises is stymied.¹⁹¹

Business discrimination studies and lending studies are relevant and probative because they show a strong link between the disbursement of public funds and the channeling of those funds due to private discrimination. In unanimously upholding the USDOT DBE Program, federal courts agree that disparities between the earnings of minority-owned firms and similarly situated non-minority-owned firms and the disparities in commercial loan denial rates between Black business owners compared to similarly situated non-minority business owners are strong evidence of the continuing effects of discrimination.¹⁹² As recognized by the Seventh Circuit Court of Appeals, "[e]vidence that private discrimination results in barriers to business formation is relevant because it demonstrates that M/WBES

190. *Midwest Fence Corp. v. Illinois Department of Transportation, Illinois State Toll Highway Authority et al*, 840 F.3d 942 (7th Cir. 2016) (upholding the Illinois Tollway's program for state funded contracts modeled after Part 26 and based on CHA's expert testimony, including about disparities in the overall Illinois construction industry); *Midwest Fence Corp. v. Illinois Department of Transportation, Illinois State Toll Highway Authority et al*, 84 F. Supp. 3d 705 (N.D. Ill. 2015) ("Colette Holt [& Associates'] updated census analysis controlled for variables such as education, age, and occupation and still found lower earnings and rates of business formation among women and minorities as compared to white men."); *Builders Association of Greater Chicago v. City of Chicago*, 298 F.Supp.2d 725 (N.D. Ill. 2003) (holding that City of Chicago's M/WBE program for local construction contracts satisfied "compelling interest" standards using this framework).

191. *Adarand Constructors, Inc. v. Slater*, 228 F.3d 1147, 1168-1169 (10th Cir. 2000), cert. granted then dismissed as improvidently granted, 532 U.S. 941 (2001).

192. *Northern Contracting, Inc. v. Illinois Department of Transportation*, 2005 U.S. Dist. LEXIS 19868, at *64 (Sept. 8, 2005).

are precluded *at the outset* from competing for public construction contracts. Evidence of barriers to fair competition is also relevant because it again demonstrates that *existing* M/WBEs are precluded from competing for public contracts.”¹⁹³

This type of court-approved analysis is especially important for an agency such as the County, which has been implementing a program for many years. The agency’s remedial market interventions through the use of race- and gender-based contract goals may ameliorate the disparate impacts of marketplace discrimination in the agency’s own contracting activities. Put another way, the program’s success in moving towards parity for minority and woman firms may be “masking” the effects of discrimination that, but for the contract goals, would mirror the disparities in M/WBE utilization in the overall economy.

To explore the question of whether firms owned by non-Whites and White women face disparate treatment in the County’s marketplace outside of the County contracts, we examined two data sets. The first data set was the U.S. Bureau of the Census’ *American Community Survey* (“ACS”), which provided data to analyze disparities using individual entrepreneurs as the basic unit of analysis.¹⁹⁴ We used the Chicago metropolitan area (as we did in the previous chapter) as the geographic unit of analysis. We found disparities in wages, business earnings and business formation rates for minorities and women in all industry sectors in the County’s marketplace.¹⁹⁵

The second data set was the U.S. Bureau’s Annual Business Survey (“ABS”). The ABS supersedes the more well-known Survey of Business Owners (“SBO”). The SBO was last conducted in 2012 and historically had been reported every five years. In contrast, the ABS was first conducted in 2017 and it is the Census Bureau’s goal to release results annually. As of the writing of this report, the most recent complete ABS contains 2017 data. With the ABS data, we explored if the share of business receipts, number of firms, and payroll for firms owned by non-Whites and White women was greater than, less than, or equal to the share of all firms owned by non-Whites and White women. Results of the analysis of the ABS data indicate that non-Whites and White women share of all employer firms is greater than their share of sales, payrolls, and employees. This supports the conclusion that barriers to business success disproportionately affect non-Whites and White women.

193. *Id.*

194. Data from 2015 - 2019 American Community Survey are the most recent for a five-year period.

195. Possible disparities in wages is important to explore because of the relationship between wages and business formation. Research by Alicia Robb and others indicate non-White firms rely on their own financing to start businesses compared to White firms who rely more heavily on financing provided by financial institutions. To the extent non-Whites face discrimination in the labor market, they would have reduced capacity to self-finance their entrepreneurial efforts and, hence, impact business formation. *See, for example*, Robb’s “Access to Capital among Young Firms, Minority-owned Firms, Woman-owned Firms, and High-tech Firms” (2013), [https://www.sba.gov/sites/default/files/files/rs403tot\(2\).pdf](https://www.sba.gov/sites/default/files/files/rs403tot(2).pdf).

B. Disparate Treatment in the Cook County Government Marketplace: Evidence from the Census Bureau's 2015 - 2019 American Community Survey

As discussed in the beginning of this Chapter, the key question is whether firms owned by non-Whites and White women face disparate treatment in the marketplace without the intervention of the County's M/WBE Program (discussed in Chapter III). In this section, we use the Census Bureau's ACS data to explore this and other aspects of this question. One element asks if demographic differences exist in the wage and salary income received by private sector workers. Beyond the issue of bias in the incomes generated in the private sector, this exploration is important for the issue of possible variations in the rate of business formation by different demographic groups. One of the determinants of business formation is the pool of financial capital at the disposal of the prospective entrepreneur. The size of this pool is related to the income level of the individual either because the income level impacts the amount of personal savings that can be used for start-up capital, or the income level affects one's ability to borrow funds. Consequently, if particular demographic groups receive lower wages and salaries then they would have access to a smaller pool of financial capital, and thus reduce the likelihood of business formation.

The *American Community Survey Public Use Microdata Sample* ("PUMS") is useful in addressing these issues. The ACS is an annual survey of one percent of the population and the PUMS provides detailed information at the individual level. In order to obtain robust results from our analysis, we used the file that combines the most recent data available for years 2015 through 2019.¹⁹⁶ With this rich data set, our analysis can establish with greater certainty any causal links between race, gender and economic outcomes.

The Census Bureau classifies Whites, Blacks, Native Americans, and Asians as racial groupings. CHA developed a fifth grouping, "Other", to capture individuals who are not a member of the above four racial categories. In addition, Hispanics are an ethnic category whose members could be of any race, *e.g.*, Hispanics could be White or Black. In order to avoid double counting – *i.e.*, an individual could be counted once as Hispanic and once as White – CHA developed non-Hispanic subset racial categories: non-Hispanic Whites; non-Hispanic Blacks; non-Hispanic Native Americans; non-Hispanic Asians; and non-Hispanic Others. When those five groups are added to the Hispanic group, the entire population is counted and there is no double-counting. When Whites are disaggregated into White men and

196. Initially, the Census Bureau contacted approximately 3.5M households. For the analysis reported in this Chapter, we examined over 224,000 observations. For more information about the ACS PUMS, see <https://www.census.gov/programs-surveys/acs/>.

White women, those groupings are non-Hispanic White men and non-Hispanic White women. For ease of exposition, the groups in this report are referred to as Black, Native American, Asian, Other, White women, and White men, while the actual content is the non-Hispanic subset of these racial groups.

Often, the general public sees clear associations between race, gender, and economic outcomes and assumes this association reflects a tight causal connection. However, economic outcomes are determined by a broad set of factors including, and extending beyond, race and gender. To provide a simple example, two people who differ by race or gender may receive different wages. This difference may simply reflect that the individuals work in different industries. If this underlying difference is not known, one might assert the wage differential is the result of race or gender difference. To better understand the impact of race or gender on wages, it is important to compare individuals of different races or genders who work in the same industry. Of course, wages are determined by a broad set of factors beyond race, gender, and industry. With the ACS PUMS, we have the ability to include a wide range of additional variables such as age, education, occupation, and state of residence in the analysis.

We employ a multiple regression statistical technique to process this data. This methodology allows us to perform two analyses: an estimation of how variations in certain characteristics (called independent variables) will impact the level of some particular outcome (called a dependent variable), and a determination of how confident we are that the estimated variation is statistically different from zero. We have provided a more detailed explanation of this technique in Appendix A.

With respect to the first result of regression analysis, we examine how variations in the race, gender, and industry of individuals impact the wages and other economic outcomes received by individuals. The technique allows us to determine the effect of changes in one variable, assuming that the other determining variables are the same. That is, we compare individuals of different races, but of the same gender and in the same industry; or we compare individuals of different genders, but of the same race and the same industry; or we compare individuals in different industries, but of the same race and gender. We determine the impact of changes in one variable (*e.g.*, race, gender or industry) on another variable (wages), “controlling for” the movement of any other independent variables.

With respect to the second result of regression analysis, we determine the statistical significance of the relationship between the dependent variable and independent variable. For example, the relationship between gender and wages might exist (*e.g.*, holding all other factors constant, women earn less than men), but we find that it is not statistically different from zero. In this case, we are not confident that there is not any relationship between the two variables. If the relationship is not statistically different from zero, then a variation in the independent variable

has no impact on the dependent variable. The regression analysis allows us to say with varying degrees of statistical confidence that a relationship is different from zero. If the estimated relationship is statistically significant at the 0.05 level, that indicates that we are 95% confident that the relationship is different from zero; if the estimated relationship is statistically significant at the 0.01 level, that indicates that we are 99% confident that the relationship is different from zero; if the estimated relationship is statistically significant at the 0.001 level, that indicates that we are 99.9% confident that the relationship is different from zero.¹⁹⁷

In the following presentation of results, each sub-section first reports data on the share of a demographic group that forms a business (business formation rates); the probabilities that a demographic group will form a business relative to White men (business formation probabilities); the differences in wages received by a demographic group relative to White men (wage differentials); and the differences in business earnings received by a demographic group relative to White men (business earnings differentials). Because the ACS contained limited observations for certain groups in particular industries, we were unable to provide reliable estimates for business outcomes for these groups. However, there were always sufficient observations in the sample of wage earners in each group in each industry to permit us to develop reliable estimates.

1. All Industries Combined in the Chicago Metro Area

One method of exploring differences in economic outcomes is to examine the rate at which different demographic groups form businesses. We developed these business formation rates using data from the U.S. Bureau of the Census' ACS for the Chicago metropolitan area. In this analysis we used the State of Illinois in order to closely align with the geographic market determined in the previous chapter. Table 5-1 presents these results. As stated above, the business formation rate represents the share of a population that forms businesses. When developing industry-specific rates, we examine the population that works in that particular industry and identify what share of that sub-population form businesses. For example, Table 5-1 indicates that 1.8% of Blacks forms businesses; this is less than the 7.6% business formation rate for White men. There were low numbers of Native American and Other firms in the ACS sample; consequently, reliable estimates of firm outcomes could not be made for these groups. In Table 5-1, this was indicated by the symbol "-----".¹⁹⁸ The table indicates that White men have higher business formation rates compared to non-Whites and White women. Table 5-2 utilizes probit regression analysis to examine the probability of forming a business after controlling for

197. Most social scientists do not endorse utilizing a confidence level of less than 95%. Appendix C explains more about statistical significance.

198. This symbol was used through the chapter when there were insufficient observations to establish reliable estimates.

important factors beyond race and gender.¹⁹⁹ This Table indicates that non-Whites and White women are less likely to form businesses compared to White men; the reduced probability ranges from 1.4% for Asian/Pacific Islanders to 5.0% for Blacks. These results were statistically significant at the 0.001 level for Blacks, Hispanics, and White women; the 0.01 level for Asian/Pacific Islanders.

With respect to the interpretation of the level of statistical significance of a result, as indicated in the latter part of the previous section, we are exploring whether the result of the regression analysis is statistically different from zero; if the finding is statistically significant, we also indicate the level of statistical confidence at which the result is accurate. Table 5-2 indicates that the probability that Blacks form businesses is 5.0% less than the probability that White men form businesses, once we control for age, education, and occupation. The statistical significance of this result is at the 0.001 level, which means we are 99.9% statistically confident the result is true. If a result is non-zero but the result is not statistically significant, then we cannot rule out zero being the true result. Note: this does not mean the result is wrong, only there is not a statistically significant level of confidence in the result.

Another way to measure equity is to examine how the wage and salary incomes and business earnings of particular demographic groups compare to White men. Multiple regression statistical techniques allowed us to examine the impact of race and gender on economic outcomes while controlling for other factors, such as education and age.²⁰⁰ Tables 5-3 and 5-4 present this data on wage and salary incomes and business earnings respectively. Table 5-3 indicates that non-Whites and White women earn less than White men. The reduction in earnings ranges from 18.5% to 39.8% and all of the results are statistically significant at the 0.001 level. Table 5-4 indicates that the coefficients for Blacks and White women are statistically significant and negative; indicating that those firms receive business earnings less than White men.

**Table 5-1: Business Formation Rates
All Industries, 2015 - 2019**

Demographic Group	Business Formation Rates
Black	1.8%
Hispanic	2.2%
Native American	-----
Asian/Pacific Islander	4.6%

199. Appendix B provides a “Further Explanation of Probit Regression Analysis.”

200. See Appendix A for more information on multiple regression statistical analysis.

Demographic Group	Business Formation Rates
Other	-----
White Women	3.8%
M/WBE	3.0%
White Male	7.6%

Source: CHA calculations from the American Community Survey

**Table 5-2: Business Formation Probabilities Relative to White Males
All Industries, 2015 - 2019**

Demographic Group	Probability of Forming a Business Relative to White Men
Black	-5.0%***
Hispanic	-3.5%***
Native American	-----
Asian/Pacific Islander	-1.4%**
Other	-----
White Women	-2.8%***

Source: CHA calculations from the American Community Survey

*** Indicates statistical significance at the 0.001 level

** Indicates statistical significance at the 0.01 level

**Table 5-3: Wage Differentials for Selected Groups Relative to White Men
All Industries, 2015 - 2019**

Demographic Group	Wages Relative to White Men (% Change)
Black	-39.8%***
Hispanic	-18.5%***
Native American	-35.9%***
Asian/Pacific Islander	-34.4%***
Other	-38.7%***
White Women	-34.5%***

Source: CHA calculations from the American Community Survey
*** Indicates statistical significance at the 0.001 level

**Table 5-4: Business Earnings Differentials for Selected Groups
Relative to White Men, All Industries**

Demographic Group	Earnings Relative to White Men (% Change)
Black	-45.9%**
Hispanic	-26.7%
Native American	----
Asian/Pacific Islander	-11.9%
Other	----
White Women	-47.3%***

Source: CHA calculations from the American Community Survey
*** Indicates statistical significance at the 0.001 level
** Indicates statistical significance at the 0.01 level

2. The Construction Industry in the Chicago Metro Area

There were low numbers of Native American and Other firms in the sample of the construction industry; consequently, reliable estimates of firm outcomes could not be made for these groups. Table 5-5 indicates that White men have higher business formation rates compared to Blacks, Hispanics, and White women. Table 5-6 indicates that Blacks, Hispanics, and White women are less likely to form businesses compared to similarly situated White men. The reduced probabilities of business formation ranged from 11.1% to 6.6%. These coefficients were statistically significant at the 0.01 level or 0.05 level. Table 5-7 indicates that Blacks, Hispanics, Asians, Others and White women earn less

than White men. Once again, these coefficients were statistically significant at the 0.01 level or 0.05 level. Table 5-8 indicates that only the Black and White Woman coefficients were statistically significant.

**Table 5-5: Business Formation Rates
Construction, 2015 - 2019**

Demographic Group	Business Formation Rates
Black	9.6%
Hispanic	5.7%
Native American	-----
Asian/Pacific Islander	19.6%
Other	-----
White Women	12.4%
M/WBE	7.7%
White Male	18.1%

Source: CHA calculations from the American Community Survey

**Table 5-6: Business Formation Probability Differentials for Selected Groups
Relative to White Men, Construction, 2015 - 2019**

Demographic Group	Probability of Forming a Business Relative to White Men
Black	-8.4%*
Hispanic	-11.1%***
Native American	-----
Asian/Pacific Islander	2.4%
Other	-----
White Women	-6.6%*

Source: CHA calculations from the American Community Survey

*** Indicates statistical significance at the 0.001 level

* Indicates statistical significance at the 0.05 level

**Table 5-7: Wage Differentials for Selected Groups Relative to White Men
Construction, 2015 - 2019**

Demographic Group	Wages Relative to White Men (% Change)
Black	-46.1%***
Hispanic	-24.2%***
Native American	16.8%
Asian/Pacific Islander	-39.9%***
Other	-36.1%*
White Women	-43.4%***

Source: CHA calculations from the American Community Survey

*** Indicates statistical significance at the 0.001 level

* Indicates statistical significance at the 0.05 level

**Table 5-8: Business Earnings Differentials for Selected Groups Relative to White Men
Construction, 2015 - 2019**

Demographic Group	Earnings Relative to White Men (% Change)
Black	-109.0%** ^a
Hispanic	-30.3%
Native American	-----
Asian/Pacific Islander	55.9%
Other	-----
White Women	-184.0%**

a. The proper way to interpret a coefficient that is less than negative 100% (e.g., the value of the coefficients for Black and White Women in Table 5-8), is the percentage amount non-M/WBEs earn that is more than the group in question. In this case, White Men receive business earnings 109% more than Blacks and 184% more than White Women in Construction.

Source: CHA calculations from the American Community Survey

** Indicates statistical significance at the 0.01 level

3. The Construction-Related Services Industry in the Chicago Metro Area

The sample of firms in the construction-related services industry contained too few numbers of Black, Hispanic, Native American, Asian, and Other firms to produce reliable estimates of these groups’ business outcomes. The coefficients for the wages for Blacks, Hispanics, Asian, and White women were statistically significant and they ranged from -35.8% to -11.5%.

**Table 5-9: Business Formation Rates
Construction-Related Services, 2015 - 2019**

Demographic Group	Business Formation Rates
Black	-----
Hispanic	-----
Native American	-----
Asian/Pacific Islander	-----
Other	-----
White Women	4.2%
M/WBE	-----
White Male	8.8%

Source: CHA calculations from the American Community Survey

**Table 5-10: Business Formation Probability Differentials for Selected Groups
Relative to White Men, Construction-related Services, 2015 - 2019**

Demographic Group	Probability of Forming a Business Relative to White Men
Black	-----
Hispanic	-----
Native American	-----
Asian/Pacific Islander	-----
Other	-----
White Women	-1.5%

Source: CHA calculations from the American Community Survey

**Table 5-11: Wage Differentials for Selected Groups Relative to White Men
Construction-Related Services, 2015 - 2019**

Demographic Group	Wages Relative to White Men (% Change)
Black	-35.8%***
Hispanic	-13.1%*
Native American	66.9%
Asian/Pacific Islander	-11.5%*
Other	-11.3%
White Women	-27.7%***

Source: CHA calculations from the American Community Survey

*** Indicates statistical significance at the 0.001 level

* Indicates statistical significance at the 0.05 level

**Table 5-12: Business Earnings Differentials for Selected Groups Relative to White Men
Construction-related Services, 2015 - 2019**

Demographic Group	Earnings Relative to White Men (% Change)
Black	-----
Hispanic	-----
Native American	-----
Asian/Pacific Islander	-----
Other	-----
White Women	-108%*

Source: CHA calculations from the American Community Survey

* Indicates statistical significance at the 0.05 level

4. The Goods Industry in the Chicago Metro Area

The sample of Black, Native American and Other firms in the goods industry contained too few numbers to produce reliable estimates these groups' business outcomes. Table 5-13 indicates that Hispanics and White women have lower business formation rates compared to White men. While Table 5-14 indicates that Hispanics and White women have a lower probability of forming businesses compared to White men and the results are statistically significant. Table 5-15 indicates that statistically significant results are found for four groups (Black; Hispanic; Asian; and White women) and all indicate lower wages

relative to White men. Table 5-16 indicates that none of the business earnings coefficients were statistically significant.

**Table 5-13: Business Formation Rates
Goods, 2015 - 2019**

Demographic Group	Business Formation Rates
Black	-----
Hispanic	1.0%
Native American	-----
Asian/Pacific Islander	5.6%
Other	-----
White Women	2.0%
M/WBE	1.8%
White Male	5.6%

Source: CHA calculations from the American Community Survey

**Table 5-14: Business Formation Probabilities Relative to White Males
Goods, 2015 - 2019**

Demographic Group	Probability of Forming a Business Relative to White Men
Black	-----
Hispanic	-2.4%*
Native American	-----
Asian/Pacific Islander	0.6%
Other	-----
White Women	-2.8%*

Source: CHA calculations from the American Community Survey

* Indicates statistical significance at the 0.05 level

**Table 5-15: Wage Differentials for Selected Groups Relative to White Men
Goods, 2015 - 2019**

Demographic Group	Wages Relative to White Men (% Change)
Black	-39.4%***
Hispanic	-20.6%***
Native American	-70.8%*
Asian/Pacific Islander	-48.3%***
Other	-32.4%
White Women	-38.5%***

Source: CHA calculations from the American Community Survey

*** Indicates statistical significance at the 0.001 level

* Indicates statistical significance at the 0.05 level

**Table 5-16: Business Earnings Differentials for Selected Groups Relative to White Men
Goods, 2015 - 2019**

Demographic Group	Earnings Relative to White Men (% Change)
Black	-----
Hispanic	5.2%
Native American	-----
Asian/Pacific Islander	0.7%
Other	-----
White Women	-38.9%

Source: CHA calculations from the American Community Survey

5. The Services Industry in the Chicago Metro Area

Table 5-17 indicates that White men have higher business formation rates compared to non-Whites and White women. Table 5-18 indicates that Blacks, Hispanics, Asian, and White women are less likely to form businesses compared to similarly situated White men and the coefficients are statistically significant. Table 5-19 indicates that non-Whites and White women earn less than White men – ranging from 16.3% to 47.2% – and these coefficients were statistically significant. Table 5-20 indicates that only White woman-owned firms had a statistically significant coefficient.

**Table 5-17: Business Formation Rates
Services, 2015 - 2019**

Demographic Group	Business Formation Rates
Black	2.2%
Hispanic	2.4%
Native American	-----
Asian/Pacific Islander	4.4%
Other	-----
White Women	4.7%
M/WBE	3.5%
White Male	9.0%

Source: CHA calculations from the American Community Survey

**Table 5-18: Business Formation Probability Differentials for Selected Groups
Relative to White Men, Services, 2015 - 2019**

Demographic Group	Probability of Forming a Business Relative to White Men
Black	-5.1%***
Hispanic	-3.3%***
Native American	-----
Asian/Pacific Islander	-1.9%**
Other	-----
White Women	-2.5%***

Source: CHA calculations from the American Community Survey

*** Indicates statistical significance at the 0.001 level

** Indicates statistical significance at the 0.01 level

**Table 5-19: Wage Differentials for Selected Groups Relative to White Men
Services, 2015 - 2019**

Demographic Group	Wages Relative to White Men (% Change)
Black	-42.1%***
Hispanic	-16.3%***
Native American	-35.1%**
Asian/Pacific Islander	-30.7%***
Other	-47.2%***
White Women	-34.8%***

Source: CHA calculations from the American Community Survey

*** Indicates statistical significance at the 0.001 level

** Indicates statistical significance at the 0.01 level

**Table 5-20: Business Earnings Differentials for Selected Groups Relative to White Men
Services, 2015 - 2019**

Demographic Group	Earnings Relative to White Men (% Change)
Black	-30.7%
Hispanic	-38.6%
Native American	-----
Asian/Pacific Islander	-26.5%
Other	-----
White Women	-40.4%***

Source: CHA calculations from the American Community Survey

** Indicates statistical significance at the 0.01 level

6. The Information Technology Industry in the Chicago Metro Area

There were low numbers of Black, Native American and Other firms sampled in the information technology industry. Therefore, reliable estimates of firm outcomes could not be made in this sector. Table 5-21 indicates that White men have higher business formation rates compared to Hispanics, Asians, and White women. Table 5-22 indicates that only of the coefficient for White women was statistically significant. Table 5-23 indicates that non-Whites and White women earn less than White men and the coefficients for Blacks, Hispanics, Asians, and White women were statistically significant. Table 5-24 indicates that none of the business coefficients were statistically significant.

**Table 5-21: Business Formation Rates
Information Technology, 2015 - 2019**

Demographic Group	Business Formation Rates
Black	-----
Hispanic	5.6%
Native American	-----
Asian/Pacific Islander	4.2%
Other	-----
White Women	2.8%
M/WBE	4.0%
White Male	6.7%

Source: CHA calculations from the American Community Survey

**Table 5-22: Business Formation Probability Differentials for Selected Groups
Relative to White Men, Information Technology, 2015 - 2019**

Demographic Group	Probability of Forming a Business Relative to White Men
Black	-----
Hispanic	0.4%
Native American	-----
Asian/Pacific Islander	-2.5%
Other	-----
White Women	-3.7%*

Source: CHA calculations from the American Community Survey

* Indicates statistical significance at the 0.05 level

**Table 5-23: Wage Differentials for Selected Groups Relative to White Men
Information Technology, 2015 - 2019**

Demographic Group	Wages Relative to White Men (% Change)
Black	-40.8%***
Hispanic	-23.4%***
Native American	-2.5%
Asian/Pacific Islander	-20.0%***
Other	-76.1%***
White Women	-21.2%***

Source: CHA calculations from the American Community Survey
*** Indicates statistical significance at the 0.001 level

**Table 5-24: Business Earnings Differentials for Selected Groups Relative to White Men
Information Technology, 2015 - 2019**

Demographic Group	Earnings Relative to White Men (% Change)
Black	-----
Hispanic	30.9%
Native American	-----
Asian/Pacific Islander	9.8%
Other	-----
White Women	74.1%

Source: CHA calculations from the American Community Survey

Overall, the data presented in the above Tables indicate that non-Whites and White women form businesses less than White men and their wage and business earnings are less than those of White men. These analyses support the conclusion that barriers to business success do affect non-Whites and White women.

C. Disparate Treatment in Cook County Government’s Marketplace: Evidence from the Census Bureau’s 2017 Annual Business Survey

We further examined whether non-Whites and White women have disparate outcomes when they are active in the Cook County area marketplace, which we determined to be the State of Illinois, as explained in Chapter IV. This question is operationalized by exploring if the share of business receipts, number of firms, and payroll for firms owned by non-Whites and White women is greater than, less than, or equal to the share of all firms owned by non-Whites and White women.

To answer this question, we examined the U.S. Bureau’s ABS. The ABS surveyed about 850,000 employer firms and collected data on a variety of variables documenting ownership characteristics including race, ethnicity, and gender. It also collected data on the firms’ business activity with variables marking the firms’ number of employees, payroll size, sales and industry.²⁰¹ For this analysis, we examined firms in the State of Illinois. The State was the geographic unit of analysis because the ABS does not present data at the sub-state level.

With these data, we grouped the firms into the following ownership categories:^{202,203}

- Hispanics
- Non-Hispanic Blacks
- Non-Hispanic Native Americans
- Non-Hispanic Asians
- Non-Hispanic White women
- Non-Hispanic White men
- Firms equally owned by non-Whites and Whites
- Firms equally owned by men and women
- Firms that were either publicly-owned or where the ownership could not be classified

For purposes of this analysis, the first four groups were aggregated to form a non-White category. Since our interest is the treatment of non-White-owned firms and

201. For more information on the Annual Business Survey see <https://www.census.gov/programs-surveys/abs/about.html>.

202. Race and gender labels reflect the categories used by the Census Bureau.

203. For expository purposes, the adjective “non-Hispanic” will not be used in this Chapter; the reader should assume that any racial group referenced does not include members of that group who identify ethnically as Hispanic.

White woman-owned firms, the last four groups were aggregated to form one category. To ensure this aggregated group is described accurately, we label this group “not non-White/non-White women”. While this label is cumbersome, it is important to be clear this group includes firms whose ownership extends beyond White men, such as firms that are not classifiable or that are publicly traded and thus have no racial ownership. In addition to the ownership demographic data, the Survey also gathers information on the sales, number of paid employees, and payroll for each reporting firm.

We analyzed the ABS data on the following sectors:

- Construction
- Professional, Scientific and Technical Services
- Goods
- Other services

The ABS data – a sample of all businesses, not the entire universe of all businesses – required some adjustments. In particular, we had to define the sectors at the two-digit North American Industry Classification System (“NAICS”) code level, and therefore our sector definitions do not exactly correspond to the definitions used to analyze the County contract data in Chapter IV, where we are able to determine sectors at the six-digit NAICS code level. At a more detailed level, the number of firms sampled in particular demographic and sector cells may be so small that the Census Bureau does not report the information, either to avoid disclosing data on businesses that can be identified or because the small sample size generates unreliable estimates of the universe. We therefore report two-digit data.

Table 5-25 presents information on which NAICS codes were used to define each sector.

Table 5-25: Two-Digit NAICS Code Definition of Sector

ABS Sector Label	Two-Digit NAICS Codes
Construction	23
Professional, Scientific, and Technical Services ^a	54
Goods	31,42, 44
Other Services	48, 52, 53, 56, 61, 62, 71, 72, 81

a. This sector includes (but is broader than just) construction-related services. It is impossible to narrow this category to construction-related services without losing the capacity to conduct race and gender specific analyses.

The balance of this Chapter reports the findings of the ABS analysis.

1. All Industries

For a baseline analysis, we examined all industries. Table 5-26 presents data on the percentage share that each group has of the total of each of the following four business outcomes:

- The number of firms with employees (employer firms)
- The sales and receipts of all employer firms
- The number of paid employees
- The annual payroll of employer firms

Panel A of Table 5-26 presents data for the four basic non-White racial groups:

- Black
- Hispanic
- Native American
- Asian

Panel B of Table 5-26 presents data for the following types of firm ownership:

- Non-White
- White women
- Not non-White/non-White women²⁰⁴

Categories in the second panel are mutually exclusive. Hence, firms that are non-White and equally owned by men and women are classified as non-White and firms that are equally owned by non-Whites and Whites and equally owned by men and women are classified as equally owned by non-Whites and Whites.

Since the central issue is the possible disparate treatment of non-White firms and White woman firms, we calculate three disparity ratios each for Black, Hispanic, Asian, Native American, non-White, and White woman firm respectively (a total of 18 ratios), presented in Table 5-27:

- Ratio of sales and receipts share for all employer firms over the share of total number of all employer firms.
- Ratio of sales and receipts share for employer firms over the share of total number of employer firms.
- Ratio of annual payroll share over the share of total number of employer firms.

For example, the disparity ratio of sales and receipts share for all firms over the share of total number of all employer firms for Black firms is 20.2% (as shown in Table 5-27). This is derived by taking the Black share of sales and receipts for all employer firms (0.3%) and dividing it by the Black share of total number of all employer firms (1.6%) that are presented in Table 5-26.²⁰⁵ If Black-owned firms earned a share of sales equal to their share of total firms, the disparity index would have been 100%. An index less than 100% indicates that a given group is being utilized less than would be expected based on its availability, and courts have adopted the Equal Employment Opportunity Commission's "80% rule" that a ratio less than 80% presents a *prima facie* case of discrimination.²⁰⁶ All of the 18 disparity ratios for non-White firms and White woman firms (presented in Table 5-27) are below this threshold.²⁰⁷

204. Again, while a cumbersome nomenclature, it is important to remain clear that this category includes firms other than those identified as owned by White men.

205. Please note that while the numbers presented in Table 5-26 are rounded to the first decimal place, the calculations resulting in the numbers presented in Table 5-27 are based on the actual (non-rounded) figures. Therefore, the Black ratio presented in Table 5-27 of 20.2% is not the same figure as that which would be derived when you divided 0.3 by 1.6 (the numbers presented in Table 5-26).

206. 29 C.F.R. §1607.4(D) ("A selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or 80%) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact.").

207. Because the data in the subsequent tables are presented for descriptive purposes, significance tests on these results are not conducted.

**Table 5-26: Demographic Distribution of Sales and Payroll Data – Aggregated Groups
All Industries, 2017**

	Number of Firms with Paid Employees (Employer Firms)	Sales & Receipts - All Firms with Paid Employees (Employer Firms) (\$1,000)	Number of Paid Employees	Annual payroll (\$1,000)
Panel A: Distribution of Non-White Firms				
Black	1.6%	0.3%	0.9%	0.5%
Hispanic	5.5%	0.8%	1.6%	1.0%
Asian	8.5%	1.7%	3.0%	2.0%
Native American	0.1%	0.0%	0.0%	0.0%
Panel B: Distribution of All Firms				
Non-White	15.8%	2.8%	5.5%	3.5%
White Women	15.6%	3.2%	6.2%	4.4%
Not Non-White/ Not White Women	68.6%	94.0%	88.3%	92.1%
All Firms	100.0%	100.0%	100.0%	100.0%

Source: CHA calculations from American Business Survey

Table 5-27: Disparity Ratios of Firm Utilization Measures
All Industries, 2017

	Ratio of Sales to Number of Employer Firms	Ratio of Employees to Number of Employer Firms	Ratio of Payroll to Number of Employer Firms
Panel A: Disparity Ratio for Non-White Firms			
Black	20.2%	53.0%	31.5%
Hispanic	13.9%	28.4%	17.6%
Asian	19.7%	35.0%	23.6%
Native American	19.8%	36.9%	21.7%
Panel B: Disparity Ratios for All Firms			
Non-White	17.7%	34.6%	22.3%
White Women	20.4%	40.0%	28.0%
Not Non-White/Not White Women	137.1%	128.7%	134.3%
All Firms	100.0%	100.0%	100.0%

Source: CHA calculations from American Business Survey

This same approach was used to examine the Construction, Professional, Scientific and Technical Services, Goods, and Other Services sectors. The following are summaries of the results of the disparity analyses.

2. Construction Industry

Of the 18 disparity ratios for non-White firms and White woman firms presented in Table 5-28, 11 fall under the 80% threshold.

**Table 5-28: Disparity Ratios – Aggregated Groups
Construction, 2017**

	Ratio of Sales to Number of Firms (All Firms)	Ratio of Sales to Number of Firms (Employer Firms)	Ratio of Payroll to Number of Employer Firms
Panel A: Disparity Ratios for Non-White Firms			
Black	69.5%	85.0%	94.3%
Hispanic	36.4%	54.8%	43.5%
Asian	44.1%	60.5%	51.3%
Native American	136.8%	213.6%	234.2%
Panel B: Disparity Ratios for All Firms			
Non-White	41.4%	59.4%	50.7%
White Women	70.7%	106.6%	98.2%
Not Non-White/Not White Women	110.0%	103.6%	105.6%
All Firms	100.0%	100.0%	100.0%

Source: CHA calculations from American Business Survey

3. Professional, Scientific and Technical Services Industry

Of the 18 disparity ratios for non-White firms and White woman firms presented in Table 5-29, all 18 fall under the 80% threshold.

**Table 5-29: Disparity Ratios – Aggregated Groups
Professional, Scientific and Technical Services, 2017**

	Ratio of Sales to Number of Firms (All Firms)	Ratio of Sales to Number of Firms (Employer Firms)	Ratio of Payroll to Number of Employer Firms
Panel A: Disparity Ratios for Non-White Firms			
Black	30.8%	55.2%	35.6%
Hispanic	31.7%	52.7%	33.3%
Asian	44.6%	51.1%	43.7%
Native American	16.1%	33.5%	13.8%
Panel B: Disparity Ratios for All Firms			
Non-White	39.9%	51.5%	40.1%
White Women	27.4%	36.8%	24.1%
Not Non-White/Not White Women	131.5%	126.7%	132.4%
All Firms	100.0%	100.0%	100.0%

Source: CHA calculations from American Business Survey

4. Goods Industry

Of the 18 disparity ratios for non-White firms and White woman firms presented in Table 5-30, all 18 fall under the 80% threshold.

**Table 5-30: Disparity Ratios – Aggregated Groups
Goods, 2017**

	Ratio of Sales to Number of Firms (All Firms)	Ratio of Sales to Number of Firms (Employer Firms)	Ratio of Payroll to Number of Employer Firms
Panel A: Disparity Ratios for Non-White Firms			
Black	21.5%	23.4%	18.4%
Hispanic	18.7%	30.7%	25.5%
Asian	12.1%	19.8%	13.3%
Native American	74.6%	46.1%	48.7%
Panel B: Disparity Ratios for All Firms			
Non-White	14.0%	22.1%	15.9%
White Women	18.1%	33.4%	30.9%
Not Non-White/Not White Women	133.1%	128.5%	130.2%
All Firms	100.00%	100.00%	100.00%

Source: CHA calculations from American Business Survey

5. Services Industry

Of the 18 disparity ratios for non-White firms and White woman firms presented in Table 5-31, 15 fall under the 80% threshold.

**Table 5-31: Disparity Ratios – Aggregated Groups
Services, 2017**

	Ratio of Sales to Number of Firms (All Firms)	Ratio of Sales to Number of Firms (Employer Firms)	Ratio of Payroll to Number of Employer Firms
Panel A: Disparity Ratios for Non-White Firms			
Black	24.0%	55.0%	33.2%
Hispanic	13.5%	25.7%	14.6%
Asian	22.1%	39.1%	23.1%
Native American	82.2%	300.1%	123.0%
Panel B: Disparity Ratios for All Firms			
Non-White	19.0%	35.7%	20.9%
White Women	22.9%	41.9%	27.6%
Not Non-White/Not White Women	143.3%	133.5%	141.5%
All Firms	100.0%	100.0%	100.0%

Source: CHA calculations from American Business Survey

6. Conclusion

Overall, the analysis of the ABS data presented in the above tables indicate that the non-White and White woman share of all employer firms is greater than their share of sales, payrolls, and employees. This supports the conclusion that barriers to business success disproportionately affect non-Whites and White women.

D. Evidence of Disparities in Access to Business Capital

Capital is the lifeblood of any business. Participants in the anecdotal data collection universally agreed to this fundamental fact. The interviews with business owners conducted as part of this Study confirmed that small firms, especially minority- and woman-owned firms, had difficulties obtaining needed working capital to perform on County contracts and subcontracts, as well as expand the capac-

ities of their firms. As demonstrated by the analyses of Census Bureau data, above, discrimination may even prevent firms from forming in the first place.

There are extensive federal agency reports and much scholarly work on the relationship between personal wealth and successful entrepreneurship. There is a general consensus that disparities in personal wealth translate into disparities in business creation and ownership.²⁰⁸ The most recent research highlights the magnitude of the COVID-19 pandemic's disproportionate impact on minority-owned firms.

1. Federal Reserve Board Small Business Credit Surveys²⁰⁹

The Development Office of the 12 Reserve Banks of the Federal Reserve System has conducted Small Business Credit Surveys ("SBCS") to develop data on small business performance and financing needs, decisions, and outcomes.

a. 2022 Small Business Credit Survey

The 2022 Small Business Credit Survey ("2022 Survey")²¹⁰ gathered insights about the COVID-19 pandemic's continuing impact on small businesses, including workforce challenges, business performance, and credit conditions. The 2022 Survey yielded 10,914 responses from a nationwide convenience sample of small business firms with 1-499 full- or part-time employees across all 50 states and the District of Columbia. The 2022 Survey was fielded during September through November of 2021 and was the second survey conducted during the global pandemic.

The 2022 Survey found that the pandemic continues to significantly impact firms, with 77% reporting negative effects. While pandemic-related financial assistance programs, including the Paycheck Protection Program ("PPP"), were widely used in 2020 and 2021, the 2022 Survey found a decline in their use in the 12 months prior to the Survey. Personal funds and cash reserves remain an important source of financial stability for small businesses, while financing approval rates continue to decline relative to pre-pandemic levels. Although two-thirds of employer firms received pandemic-related financial assistance in the prior 12 months, firms were less likely to seek financial assistance than they were earlier in the pandemic.

208. See, e.g., Evans, David S. and Jovanovic, Boyan, "An Estimated Model of Entrepreneurial Choice under Liquidity Constraints," *Journal of Political Economy*, Vol. 97, No. 4, 1989, pp. 808-827; David S. Evans and Linda S. Leighton, "Some empirical aspects of entrepreneurship," *The American Economic Review*, Vol. 79, No. 3, 1989, pp. 519-535.

209. This survey offers baseline data on the financing and credit positions of small firms before the onset of the pandemic. See [fedsmallbusiness.org](https://www.fedsmallbusiness.org).

210. <https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/2022-sbcs-employer-firms-report>.

Approval rates on loans, lines of credit and cash advance applications declined for the second consecutive year. Other key findings include:

- More than half of firms were in fair or poor financial condition at the time of the Survey, and nearly all firms faced at least one operational or financial challenge in the prior 12 months.
- Firms owned by people of color, smaller firms, and leisure and hospitality firms were most likely to be in fair or poor financial condition.

Application rates for traditional financing were lower in 2021 than in prior years, and those who applied were less likely to receive the financing they sought. Firms owned by people of color, firms with fewer employees, and leisure and hospitality firms were least likely to receive the full amount of financing sought.

b. 2021 Small Business Credit Survey

The 2021 SBCS²¹¹ reached more than 15,000 small businesses, gathering insights about the COVID-19 pandemic's impact on small businesses, as well as business performance and credit conditions. The 2021 Survey yielded 9,693 responses from a nationwide convenience sample of small employer firms with between one and 499 full- or part-time employees across all 50 states and the District of Columbia. The 2021 Survey was fielded in September and October 2020, approximately six months after the onset of the pandemic. The timing of the 2021 Survey is important to the interpretation of the results. At the time of the 2021 survey, the PPP authorized by the Coronavirus Relief and Economic Security Act had recently closed applications, and prospects for additional stimulus funding were uncertain. Additionally, many government-mandated business closures had been lifted as the number of new COVID-19 cases plateaued in advance of a significant increase in cases by the year's end.

The 2021 Survey findings highlight the magnitude of the pandemic's impact on small businesses and the challenges they anticipate as they navigate changes in the business environment. Few firms avoided the negative impacts of the pandemic. Furthermore, the findings reveal disparities in experiences and outcomes across firm and owner demographics, including race and ethnicity, industry, and firm size.

Overall, firms' financial conditions declined sharply and those owned by people of color reported greater challenges. The most important anticipated financial challenge differed by race and ethnicity of the owners.

211. <https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/2021-sbcs-employer-firms-report>.

Among the findings for employer firms relevant to discriminatory barriers were the following:

- For Black-owned firms, credit availability was the top expected challenge, while Asian-owned firms disproportionately cited weak demand.
- The share of firms in fair or poor financial conditions varied by race: 79% of Asian-owned firms, 77% of Black-owned firms, 66% of Hispanic-owned firms and 54% of White-owned firms reported this result.
- The share of firms that received all the financing sought to address the impacts of the pandemic varied by race: 40% of White-owned firms received all the funding sought, but only 31% of Asian-owned firms, 20% of Hispanic-owned firms and 13% of Black-owned firms achieved this outcome.

c. 2018 Small Business Credit Survey

The 2018 SBCS²¹² focused on minority-owned firms. The analysis was divided into two types: employer firms and non-employer firms.

i. Employer firms

Queries were submitted to businesses with fewer than 500 employees in the third and fourth quarters of 2018. Of the 7,656 firms in the unweighted sample, five percent were Asian, ten percent were Black, six percent were Hispanic, and 79% were White. Data were then weighted by number of employees, age, industry, geographic location (census division and urban or rural location), and minority status to ensure that the data is representative of the nation's small employer firm demographics.²¹³

Among the findings for employer firms relevant to discriminatory barriers were the following:

- Not controlling for other firm characteristics, fewer minority-owned firms were profitable compared to non-minority-owned firms during the past two years.²¹⁴ On average, minority-owned

212. Small Business Credit Survey, <https://www.fedsmallbusiness.org/survey/2017/report-on-minority-owned-firms>.

213. *Id.* at 22. Samples for SBCS are not selected randomly. To control for potential biases, the sample data are weighted so that the weighted distribution of firms in the SBCS matches the distribution of the small firm population in the United States by number of employees, age industry, geographic location, gender of owner, and race or ethnicity of owners.

214. *Id.* at 3.

firms and non-minority-owned firms were about as likely to be growing in terms of number of employees and revenues.²¹⁵

- Black-owned firms reported more credit availability challenges or difficulties obtaining funds for expansion—even among firms with revenues of more than \$1M. For example, 62% of Black-owned firms reported that obtaining funds for expansion was a challenge, compared to 31% of White-owned firms.²¹⁶
- Black-owned firms were more likely to report relying on personal funds of owner(s) when they experienced financial challenges to fund their business. At the same time, White- and Asian-owned firms reported higher debt levels than Black- and Hispanic-owned firms.²¹⁷
- Black-owned firms reported more attempts to access credit than White-owned firms but sought lower amounts of financing. Forty percent of Black-owned firms did not apply because they were discouraged, compared to 14% of White-owned firms.²¹⁸
- Low credit score and lack of collateral were the top reported reasons for denial of applications by Black- and Hispanic-owned firms.²¹⁹

ii. Non-employer firms²²⁰

Queries were submitted to non-employer firms in the third and fourth quarters of 2018. Of the 4,365 firms in the unweighted sample, five percent were Asian, 24% were Black, seven percent were Hispanic, and 64% were White. Data were then weighted by age, industry, geographic location (census division and urban or rural location), and minority status²²¹.

Among the findings for non-employer firms relevant to discriminatory barriers were the following:

- Black-owned firms were more likely to operate at a loss than other firms.²²²

215. *Id.* at 4.

216. *Id.* at 5.

217. *Id.* at 6.

218. *Id.* at 9.

219. *Id.* at 15.

220. *Id.* at 18.

221. *Id.* at 18.

222. *Id.*

- Black-owned firms reported greater financial challenges, such as obtaining funds for expansion, accessing credit and paying operating expenses than other businesses.²²³
- Black- and Hispanic-owned firms submitted more credit applications than White-owned firms.²²⁴

d. 2016 Small Business Credit Survey

The 2016 Small Business Credit Survey²²⁵ obtained 7,916 responses from employer firms with race/ethnicity information and 4,365 non-employer firms in the 50 states and the District of Columbia. Results were reported with four race/ethnicity categories: White, Black or African American, Hispanic, and Asian or Pacific Islander.²²⁶ It also reported results from woman-owned small employer firms, defined as firms where 51% or more of the business is owned by women, and compared their experiences with male-owned small employer firms.

2. 2021 Report on Firms Owned by People of Color

a. Overview

The *2021 Report on Firms Owned by People of Color*²²⁷ compiles results from the 2020 SBCS. The SBCS provides data on small business performance, financing needs, and decisions and borrowing outcomes.^{228,229} The Report provides results by four race/ethnicity categories: White, Black or African American, Hispanic or Latino, and Asian or Pacific Islander. For select key statistics, it also includes results for 4,531 non-employer firms, which are firms with no employees on payroll other than the owner(s) of the business.

Patterns of geographic concentration emerged among small business ownership by race and ethnicity. This was important given the progressive geographic spread of the novel coronavirus throughout 2020 and variations in state government responses to limit its spread. The Report found that 40%

223. *Id.* at 19.

224. *Id.* at 20.

225. <https://www.fedsmallbusiness.org/survey/2017/report-on-minority-owned-firms>.

226. When the respondent sample size by race for a survey proved to be too small, results were communicated in terms of minority vis-à-vis non-minority firms.

227. <https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/sbcs-report-on-firms-owned-by-people-of-color>.

228. The SBCS is an annual survey of firms with fewer than 500 employees.

229. The 2020 SBCS was fielded in September and October 2020 and yielded 9,693 responses from small employer firms in all 50 states and the District of Columbia.

of Asian-owned small employer firms are in the Pacific census division, and another 28% are in the Middle Atlantic. Early and aggressive efforts by the impacted states may have affected the revenue performance of Asian-owned firms in the aggregate given their geographic concentration. Black-owned and Hispanic-owned small employer firms are more concentrated in the South Atlantic region, which includes states with a mix of pandemic responses. For example, while Florida lifted COVID-19 restrictions relatively quickly, the South Atlantic, including North Carolina, maintained more strict guidelines.

The Report found that firms owned by people of color continue to face structural barriers in acquiring the capital, business acumen, and market access needed for growth. At the time of the 2020 SBCS – six months after the onset of the global pandemic – the U.S. economy had undergone a significant contraction of economic activity. As a result, firms owned by people of color reported more significant negative effects on business revenue, employment, and operations. These firms anticipated revenue, employment, and operational challenges to persist into 2021 and beyond. Specific findings are, as follows:

b. Performance and Challenges

Overall, firms owned by people of color were more likely than White-owned firms to report that they reduced their operations in response to the pandemic. Asian-owned firms were more likely than others to have temporarily closed and to have experienced declines in revenues and employment in the 12 months prior to the survey. In terms of sales and the supply chain, 93% of Asian-owned firms and 86% of Black-owned firms reported sales declines as a result of the pandemic. Relative to financial challenges for the prior 12 months, firms owned by people of color were more likely than White-owned firms to report financial challenges, including paying operating expenses, paying rent, making payments on debt, and credit availability. Black-owned business owners were most likely to have used personal funds in response to their firms' financial challenges. Nearly half of Black-owned firms reported concerns about personal credit scores or the loss of personal assets. By contrast, one in five White-owned firms reported no impact on the owners' personal finances. Asian-owned firms were approximately twice as likely as White-owned firms to report that their firms were in poor financial condition.

c. Emergency Funding

The Report finds that PPP loans were the most common form of emergency assistance funding that firms sought during the period. Black-owned and Hispanic-owned firms were less likely to apply for a PPP loan. Only six

in ten Black-owned firms actually applied. Firms owned by people of color were more likely than White-owned firms to report that they missed the deadline or were unaware of the program. Firms owned by people of color were less likely than White-owned firms to use a bank as a financial services provider. Regardless of the sources at which they applied for PPP loans, firms that used banks were more likely to apply for PPP loans than firms that did not have a relationship with a bank. While firms across race and ethnicity were similarly likely to apply for PPP loans at large banks, White- and Asian-owned firms more often applied at small banks than did Black- and Hispanic-owned firms. Black-owned firms were nearly half as likely as White-owned firms to receive all of the PPP funding they sought and were approximately five times as likely to receive none of the funding they sought.

d. Debt and Financing

Black-owned firms have smaller amounts of debt than other firms. About one in ten firms owned by people of color do not use financial services.

On average, Black-owned firms completed more financing applications than other applicant firms. Firms owned by people of color turned more often to large banks for financing. By contrast, White-owned firms turned more often to small banks. Black-owned applicant firms were half as likely as White-owned applicant firms to be fully approved for loans, lines of credit, and cash advances.

Firms owned by people of color were less satisfied than White-owned firms with the support from their primary financial services provider during the pandemic. Regardless of the owner's race or ethnicity, firms were less satisfied with online lenders than with banks and credit unions.

In the aggregate, 63% of all employer firms were non-applicants – they did not apply for non-emergency financing in the prior 12 months. Black-owned firms were more likely than other firms to apply for non-emergency funding in the 12 months prior to the survey. One-quarter of Black- and Hispanic-owned firms that applied for financing sought \$25,000 or less. In 2020, firms owned by people of color were more likely than White-owned firms to apply for financing to meet operating expenses. The majority of non-applicant firms owned by people of color needed funds but chose not to apply, compared to 44% of White-owned firms. Financing shortfalls were most common among Black-owned firms and least common among White-owned firms.

Firms of color, and particularly Asian-owned firms, were more likely than White-owned firms to have unmet funding needs. Just 13% of Black-owned firms received all of the non-emergency financing they sought in the 12

months prior to the survey, compared to 40% of White-owned firms. Black-owned firms with high credit scores were half as likely as their White counterparts to receive all of the non-emergency funding they sought.

e. Findings for Non-employer Firms

Non-employer firms, those that have no paid employees other than the owner, represent the overwhelming majority of small businesses across the nation. In all, 96% of Black- and 91% of Hispanic-owned firms are non-employer firms, compared to 78% of White-owned and 75% of Asian-owned firms.²³⁰

Compared to other non-employer firms, Asian-owned firms reported the most significant impact on sales as a result of the pandemic. They were most likely to report that their firm was in poor financial condition at the time of the survey.

Compared to other non-employer firms that applied for financing, Black-owned firms were less likely to receive all of the financing they sought. Black-owned non-employer firms that applied for PPP loans were less likely than other firms to apply at banks and more often turned to online lenders. Among PPP applicants, White-owned non-employer firms were twice as likely as Black-owned firms to receive all of the PPP funding they sought.

3. Small Business Administration Loans to African American Businesses (2020)

As detailed in a 2021 article published in the *San Francisco Business Times*,²³¹ the number of loans to Black businesses through the SBA's 7(a) program²³² decreased 35% in 2020.²³³ This was the largest drop in lending to any race or ethnic group tracked by the SBA. The 7(a) program is the SBA's primary program for financial assistance to small businesses. Terms and conditions, like the guaranty percentage and loan amount, vary by the type of loan. Lenders and borrowers can negotiate the interest rate, but it may not exceed the SBA maximum.²³⁴

230. The Report notes that a future report will describe findings from the 2020 SBCS for non-employers in greater detail.

231. SBA Loans to African American Businesses Decrease 35%, *San Francisco Business Times* (August 11, 2021) at: <https://www.bizjournals.com/sanfrancisco/news/2021/08/11/sba-loans-to-african-american-businesses-decrease.html>. Data were obtained through a Freedom of Information Act request.

232. Section 7(a) of the Small Business Act of 1953 (P.L. 83-163, as amended).

233. The total number of 7(a) loans declined 24%.

234. The SBA caps the maximum spread lenders can charge based on the size and maturity of the loan. Rates range from prime plus 4.5% to prime plus 6.5%, depending on how much is borrowed.

Bankers, lobbyists, and other financial professionals attributed the 2020 decline to the impact of the PPP pandemic relief effort.²³⁵ The PPP loan program provided the source of relief to underserved borrowers through a direct incentive for small businesses to keep their workers on payroll.²³⁶ Approximately 5.2M PPP loans were made in 2020, as compared with roughly 43,000 loans made through the 7(a) program.

In a published statement to the *Portland Business Journal*, the American Bankers Association, an industry trade group, noted that the 2020 decline in SBA 7(a) loans to Black-owned businesses is not a one-year anomaly; it has been declining for years at a much faster rate than 7(a) loans to other borrowers. The 2020 data²³⁷ reveal that the number of SBA loans made annually to Black businesses has declined 90% since a 2007 peak, more than any other group tracked by the SBA. In that interval, the overall number of loans decreased by 65%.

The nation's four largest banks (JP Morgan Chase, Bank of America, Citigroup, and Wells Fargo), which hold roughly 35% of national deposits, made 41% fewer SBA 7(a) loans to Blacks in 2020.²³⁸

PPP loans served as a lifeline during the pandemic for millions of businesses. However, industry experts maintained that PPP loans detracted from more conventional SBA lending efforts that year. Wells Fargo provided more than 282,000 PPP loans to small businesses nationwide in 2020, with an average loan size of \$50,000. Wells Fargo, the most active lender for Black businesses nationwide in 2020, saw its SBA loans to Blacks drop from 263 in 2019 to 162 in 2020. Bank of America, Chase, and Citigroup also reported fewer SBA loans to African American businesses in 2020.

While PPPs have been heralded for providing needed monies to distressed small and mid-size businesses, data reveals disparities in how loans were distributed.²³⁹ An analysis in 2020 by the *Portland Business Journal*, found that of all 5.2M PPP loans, businesses in neighborhoods of color received fewer loans and delayed access to the program during the early critical days of the pandemic.²⁴⁰ More recent analysis released by the Associated Press indicates that access for borrowers of color improved exponentially during the later rounds

235. The Coronavirus Act, Relief, and Economic Security Act ("CARES Act"), required the SBA to issue guidance to PPP lenders to prioritize loans to small businesses owned by socially and economically disadvantaged individuals including Black-owned businesses. See 116-136, §1, March 27, 2020, 134 Stat. 281.

236. PPP loans were used to help fund payroll costs, including benefits, and to pay for mortgage interest, rent, utilities, workers protection costs related to COVID-19, uninsured property damage costs caused by looting or vandalism during 2020 as well as certain supplier costs and operational expenses.

237. The SBA denied the original request for information; however, the publication prevailed on appeal.

238. Data obtained by the *Business Journal* does not include information from lenders who made less than ten loans in 2020.

239. While PPP loans are administered by the SBA, they are disbursed primarily through banks.

of PPP funding, following steps designed to make the program more accessible to underserved borrowers.

4. The 2016 Report on Minority-Owned Businesses²⁴¹

The Report on Minority-Owned Businesses provided results for White-, Black- or African American-, Hispanic-, and Asian- or Pacific Islander-owned firms.

a. Demographics²⁴²

The Report found that Black-, Asian-, and Hispanic-owned firms tended to be younger and smaller in terms of revenue size, and they were concentrated in different industries. Black-owned firms were concentrated in the healthcare and education industry sectors (24%). Asian-owned firms were concentrated in professional services and real estate (28%). Hispanic-owned firms were concentrated in non-manufacturing goods production and associated services industry, including building trades and construction (27%). White-owned firms were more evenly distributed across several industries but operated most commonly in the professional services industry and real estate industries (19%), and non-manufacturing goods production and associated services industry (18%).²⁴³

b. Profitability Performance Index²⁴⁴

After controlling for other firm characteristics, the Report found that fewer minority-owned firms were profitable compared to non-minority-owned firms during the prior two years. This gap proved most pronounced between White-owned (57%) and Black-owned firms (42%). On average, however, minority-owned firms and non-minority-owned firms were nearly as likely to be growing in terms of number of employees and revenues.

240. Many industry experts have observed that businesses that already had strong relationships with lenders were the most successful in accessing PPP loans. The nation's long history of systemic racism in banking fostered disparities in PPP loan distribution. See Alicia Plerhoples, *Correcting Past Mistakes: PPP Loans and Black-Owned Small Businesses*, at <https://www.acslaw.org/expertforum/correcting-past-mistakes-ppp-loans-and-black-owned-small-businesses/>.

241. <https://www.fedsmallbusiness.org/survey/2017/report-on-minority-owned-firms>.

242. 2016 SBCS, at 2.

243. *Id.* Forty-two percent of Black-owned firms, 21% of Asian-owned firms, and 24% of Hispanic-owned firms were smaller than \$100K in revenue size compared with 17% of White-owned firms.

244. *Id.* at 3-4.

c. Financial and Debt Challenges/Demands²⁴⁵

The number one reason for financing was to expand the business or pursue a new opportunity. Eighty-five percent of applicants sought a loan or line of credit. Black-owned firms reported more attempts to access credit than White-owned firms but sought lower amounts of financing.

Black-, Hispanic-, and Asian-owned firms applied to large banks for financing more than they applied to any other sources of funds. Having an existing relationship with a lender was deemed more important to White-owned firms when choosing where to apply compared to Black-, Hispanic- and Asian-owned firms.

The Report also found that small Black-owned firms reported more credit availability challenges or difficulties for expansion than White-owned firms, even among firms with revenues in excess of \$1M. Black-owned firm application rates for new funding were ten percentage points higher than White-owned firms; however, their approval rates were 19 percentage points lower. A similar but less pronounced gap existed between Hispanic- and Asian-owned firms compared with White-owned firms. Of those approved for financing, only 40% of minority-owned firms received the entire amount sought compared to 68% of non-minority-owned firms, even among firms with comparably good credit scores.

Relative to financing approval, the Report found stark differences in loan approvals between minority-owned and White-owned firms. When controlling for other firm characteristics, approval rates from 2015 to 2016 increased for minority-owned firms and stayed roughly the same for non-minority-owned firms. Hispanic- and Black-owned firms reported the highest approval rates at online lenders.²⁴⁶

Low credit score and lack of collateral were the top reported reasons for denial of Black- and Hispanic-owned firms' applications. Satisfaction levels were lowest at online lenders for both minority- and non-minority-owned firms. A lack of transparency was cited as one of the top reasons for dissatisfaction for minority applicants and borrowers.

Forty percent of non-applicant Black-owned firms reported not applying for financing because they were discouraged (expected not to be approved), compared with 14% of White-owned firms. The use of personal funds was the most common action taken in response to financial challenges, with

245. *Id.* at 8-9; 11-12; 13; 15.

246. The share of minority-owned firms receiving at least some financing was lower across all financing products, compared with non-minority firms.

86% of Black-owned firms, 77% of Asian-owned firms, 76% of White-owned firms, and 74% of Hispanic-owned firms using this as its source.

A greater share of Black-owned firms (36%) and of Hispanic-owned firms (33%) reported existing debt in the past 12 months of less than \$100,000, compared with 21% of White-owned firms and 14% of Asian-owned firms. Black-owned firms applied for credit at a higher rate and tended to submit more applications, compared with White-owned firms. Black-, Hispanic-, and Asian-owned firms applied for higher-cost products and were more likely to apply to online lenders compared to White-owned firms.

d. Business Location Impact²⁴⁷

Controlling for other firm characteristics, minority-owned firms located in low-income minority zip codes reported better credit outcomes at large banks, compared with minority-owned firms in other zip codes. By contrast, at small banks, minority-owned firms located in low- and moderate-income minority zip codes experienced lower approval rates than minority-owned firms located in other zip codes.

e. Non-employer Firms²⁴⁸

Non-employer firms reported seeking financing at lower rates and experienced lower approval rates than employer firms, with Black-owned non-employer firms and Hispanic-owned non-employer firms experiencing the most difficulty. White-owned non-employer firms experienced the highest approval rates for new financing, while Black-owned non-employer firms experienced the lowest approval rates for new financing.

5. The 2016 Report on Woman-Owned Businesses²⁴⁹

The Report on Woman-Owned Businesses provides results from woman-owned small employer firms where 51% or more of the business is owned by women. These data compared the experience of these firms compared with male-owned small employer firms.

247. *Id.* at 17.

248. *Id.* at 21.

249. <https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-WomenOwnedFirms-2016.pdf>.

a. Firm Characteristics: Woman-Owned Firms Start Small and Remain Small and Concentrate in Less Capital-Intensive Industries²⁵⁰

The Report found that 20% of small employer firms were woman-owned, compared to 65% male-owned and 15% equally owned. Woman-owned firms generally had smaller revenues and fewer employees than male-owned small employer firms. These firms tended to be younger than male-owned firms.

Woman-owned firms were concentrated in less capital-intensive industries. Two out of five woman-owned firms operated in the healthcare and education or professional services and real estate industries. Male-owned firms were concentrated in professional services, real estate, and non-manufacturing goods production and associated services.²⁵¹

b. Profitability Challenges and Credit Risk Disparities²⁵²

Woman-owned firms were less likely to be profitable than male-owned firms. These firms were more likely to report being medium or high credit risk compared to male-owned firms. Notably, gender differences by credit risk were driven by woman-owned startups. Among firms older than five years, credit risk was indistinguishable by the owner's gender.

c. Financial Challenges During the Prior Twelve Months²⁵³

Woman-owned firms were more likely to report experiencing financial challenges in the prior twelve months: 64% compared to 58% of male-owned firms. They most frequently used personal funds to fill gaps and make up deficiencies. Similar to male-owned firms, woman-owned firms frequently funded operations through retained earnings. Ninety percent of woman-owned firms relied upon the owner's personal credit score to obtain financing.

d. Debt Differences²⁵⁴

Sixty-eight percent of woman-owned firms had outstanding debt, similar to that of male-owned firms. However, woman-owned firms tended to have

250. 2016 SBCS, at 1-5.

251. Non-manufacturing goods production and associated services refers to firms engaged in Agriculture, Forestry, Fishing, and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction; Wholesale Trade; Transportation and Warehousing (NAICS codes: 11, 21, 22, 23, 42, 48-49).

252. *Id.* at 6-7.

253. *Id.* at 8.

254. *Id.* at 10.

smaller amounts of debt, even when controlled for the revenue size of the firm.

e. Demands for Financing²⁵⁵

Forty-three percent of woman-owned firms applied for financing. Woman-owned applicants tended to seek smaller amounts of financing even when their revenue size was comparable.

Overall, woman-owned firms were less likely to receive all financing applied for compared to male-owned firms. Woman-owned firms received a higher approval rate for U.S. Small Business Administration loans compared to male-owned firms. Low-credit, woman-owned firms were less likely to be approved for business loans than their male counterparts with similar credit (68% compared to 78%).

f. Firms That Did Not Apply for Financing²⁵⁶

Woman-owned firms reported being discouraged from applying for financing for fear of being turned down at a greater rate: 22% compared to 15% for male-owned firms. Woman-owned firms cited low credits scores more frequently than male-owned firms as their chief obstacle in securing credit. By contrast, male-owned businesses were more likely to cite performance issues.

g. Lender Satisfaction²⁵⁷

Woman-owned firms were most consistently dissatisfied by lenders' lack of transparency and by long waits for credit decisions. However, they were notably more satisfied with their borrowing experiences at small banks rather than large ones.

6. 2010 Minority Business Development Agency Report²⁵⁸

The 2010 Minority Business Development Agency Report, "Disparities in Capital Access Between Minority and non-Minority Owned Businesses: The Troubling Reality of Capital Limitations Faced by MBEs", summarizes results from the Kauffman Firm Survey, data from the U.S. Small Business Administration's

255. *Id.* at 16.

256. *Id.* at 14.

257. *Id.* at 26.

258. Robert W. Fairlie and Alicia Robb, Disparities in Capital Access Between Minority and non-Minority Businesses: The Troubling Reality of Capital Limitations Faced by MBEs, Minority Business Development Agency, U.S. Department of Commerce, 2010 ("MBDA Report" (<https://archive.mbda.gov/sites/mbda.gov/files/migrated/files-attachments/DisparitiesinCapitalAccessReport.pdf>)).

Certified Development Company/504 Guaranteed Loan Program and additional extensive research on the effects of discrimination on opportunities for minority-owned firms. The report found that:

low levels of wealth and liquidity constraints create a substantial barrier to entry for minority entrepreneurs because the owner's wealth can be invested directly in the business, used as collateral to obtain business loans or used to acquire other businesses.²⁵⁹

It also found, "the largest single factor explaining racial disparities in business creation rates are differences in asset levels."²⁶⁰

Some additional key findings of the Report include:

- Denial of Loan Applications. Forty-two percent of loan applications from minority firms were denied compared to 16% of loan applications from non-minority-owned firms.²⁶¹
- Receiving Loans. Forty-one percent of all minority-owned firms received loans compared to 52% of all non-minority-owned firms. MBEs are less likely to receive loans than non-minority-owned firms regardless of firm size.²⁶²
- Size of Loans. The size of the loans received by minority-owned firms averaged \$149,000. For non-minority-owned firms, loan size averaged \$310,000.
- Cost of Loans. Interest rates for loans received by minority-owned firms averaged 7.8%. On average, non-minority-owned firms paid 6.4% in interest.²⁶³
- Equity Investment. The equity investments received by minority-owned firms were 43% of the equity investments received by non-minority-owned firms even when controlling for detailed business and owner characteristics. The differences are large and statistically significant. The average amount of new equity investments in minority-owned firms receiving equity is 43% of the average of new equity investments in non-minority-owned firms. The differences were even larger for loans received by high sales firms.²⁶⁴

259. *Id.* at 17.

260. *Id.* at 22.

261. *Id.* at 5.

262. *Id.*

263. *Id.*

264. *Id.*

7. Federal Reserve Board Surveys of Small Business Finances

The Federal Reserve Board and the U.S. Small Business Administration have conducted surveys of discrimination in the small business credit market for years 1993, 1998 and 2003.²⁶⁵ These Surveys of Small Business Finances are based on a large representative sample of firms with fewer than 500 employees. The main finding from these Surveys is that MBEs experience higher loan denial probabilities and pay higher interest rates than White-owned businesses, even after controlling for differences in credit worthiness and other factors. Blacks, Hispanics and Asians were more likely to be denied credit than Whites, even after controlling for firm characteristics like credit history, credit score and wealth. Blacks and Hispanics were also more likely to pay higher interest rates on the loans they did receive.²⁶⁶

8. Other Reports

- Dr. Timothy Bates found venture capital funds focusing on investing in minority firms provide returns that are comparable to mainstream venture capital firms.²⁶⁷
- According to the analysis of the data from the Kauffman Firm Survey, minority-owned firms' investments into their own firms were about 18% lower in the first year of operations compared to those of non-minority-owned firms.
- This disparity grew in the subsequent three years of operations, where minorities' investments into their own firms were about 36% lower compared to those of non-minority-owned firms.²⁶⁸
- Another study by Fairlie and Robb found minority entrepreneurs face challenges (including lower family wealth and difficulty penetrating financial markets and networks) directly related to race that limit their ability to secure financing for their businesses.²⁶⁹

265. <https://www.federalreserve.gov/pubs/oss/oss3/nssbftoc.htm>. These Surveys have been discontinued. They are referenced to provide some historical context.

266. See Blanchflower, D.G., Levine, P. and Zimmerman, D., "Discrimination In The Small Business Credit Market," *Review of Economics and Statistics*, (2003); Cavalluzzo, K. S. and Cavalluzzo, L. C., "Market structure and discrimination, the case of small businesses," *Journal of Money, Credit, and Banking*, (1998).

267. See Bates, T., "Venture Capital Investment in Minority Business," *Journal of Money Credit and Banking* 40, 2-3 (2008).

268. Fairlie, R.W. and Robb, A, *Race and Entrepreneurial Success: Black-, Asian- and White-Owned Businesses in the United States*, (Cambridge: MIT Press, 2008).

269. *Id.*

E. Evidence of Disparities in Access to Human Capital

There is a strong intergenerational correlation with business ownership. The probability of self-employment is significantly higher among the children of the self-employed. A generational lack of self-employment capital disadvantages minorities, whose earlier generations were denied business ownership through either *de jure* segregation or *de facto* exclusion.

There is evidence that current racial patterns of self-employment are in part determined by racial patterns of self-employment in the previous generation.²⁷⁰ Black men have been found to face a “triple disadvantage” in that they are less likely than White men to: 1. Have self-employed fathers; 2. Become self-employed if their fathers were not self-employed; and 3. To follow their fathers into self-employment.²⁷¹

Intergenerational links are also critical to the success of the businesses that do form.²⁷² Working in a family business leads to more successful firms by new owners. One study found that only 12.6% of Black business owners had prior work experiences in a family business as compared to 23.3% of White business owners.²⁷³ This creates a cycle of low rates of minority ownership and worse outcomes being passed from one generation to the next, with the corresponding perpetuation of advantages to White-owned firms.

Similarly, unequal access to business networks reinforces exclusionary patterns. The composition and size of business networks are associated with self-employment rates.²⁷⁴ The U.S. Department of Commerce has reported that the ability to form strategic alliances with other firms is important for success.²⁷⁵ Minorities and women in our interviews reported that they felt excluded from the networks that help to create success in their industries.

F. Conclusion

The economy-wide data, taken as a whole, paint a picture of systemic and endemic inequalities in the ability of firms owned by minorities and women to

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270. Fairlie, R.W., “The Absence of the African-American Owned Business, An Analysis of the Dynamics of Self-Employment,” *Journal of Labor Economics*, Vol. 17, 1999, pp 80-108.
271. Hout, M. and Rosen, H. S., “Self-employment, Family Background, and Race,” *Journal of Human Resources*, Vol. 35, No. 4, 2000, pp. 670-692.
272. Fairlie, R.W. and Robb, A., “Why Are Black-Owned Businesses Less Successful than White-Owned Businesses? The Role of Families, Inheritances, and Business Human Capital,” *Journal of Labor Economics*, Vol. 24, No. 2, 2007, pp. 289-323.
273. *Id.*
274. Allen, W. D., “Social Networks and Self-Employment,” *Journal of Behavioral and Experimental Economics (formerly The Journal of Socio-Economics)*, Vol. 29, No. 5, 2000, pp. 487-501.
275. “Increasing MBE Competitiveness through Strategic Alliances” (Minority Business Development Agency, 2008).

have full and fair access to Cook County contracts and associated subcontracts. This evidence supports the conclusion that absent the use of narrowly tailored contract goals, these inequities create disparate impacts on M/WBEs.

VI. QUALITATIVE EVIDENCE OF RACE AND GENDER BARRIERS IN THE COOK COUNTY MARKET

In addition to quantitative data, a disparity study should further explore anecdotal evidence of experiences with discrimination in contracting opportunities. This evidence is relevant to the question of whether despite the successful operations of the County's Minority- Woman-owned Business Enterprise ("M/WBE") Program, M/WBEs continue to face discriminatory barriers to their full and fair participation in County opportunities. Anecdotal evidence also sheds light on the likely efficacy of using only race- and gender-neutral remedies, designed to benefit all small contractors, to combat discrimination and achieve the objectives of the Minority- and Woman-owned Business Enterprise Program. As discussed in the Legal Chapter, this type of anecdotal data has been held by the courts to be relevant and probative of whether an agency continues to have a need to use narrowly tailored M/WBE contract goals to remedy the effects of past and current discrimination and to create a level playing field for contract opportunities for all firms.

The Supreme Court has held that anecdotal evidence can be persuasive because it "brought the cold [statistics] convincingly to life."²⁷⁶ Evidence about discriminatory practices engaged in by prime contractors, agency personnel, and other actors relevant to business opportunities has been found relevant regarding barriers both to minority firms' business formation and to their success on governmental projects.²⁷⁷ The courts have held that while anecdotal evidence is insufficient standing alone, "[p]ersonal accounts of actual discrimination or the effects of discriminatory practices may, however, vividly complement empirical evidence. Moreover, anecdotal evidence of a [government's] institutional practices that exacerbate discriminatory market conditions are [sic] often particularly probative."²⁷⁸ "[W]e do not set out a categorical rule that every case must rise or fall entirely on the sufficiency of the numbers. To the contrary, anecdotal evidence might make the pivotal difference in some cases; indeed, in an exceptional case, we do not rule out the possibility that evidence not reinforced by statistical evidence, as such, will be enough."²⁷⁹

276. *International Brotherhood of Teamsters v. United States*, 431 U.S. 324, 399 (1977).

277. *Adarand Constructors, Inc. v. Slater*, 228 F.3d 1147, 1168-1172 (10th Cir. 2000), cert. granted, 532 U.S. 941, then dismissed as improvidently granted, 534 U.S. 103 (2001).

278. *Concrete Works of Colorado, Inc. v. City and County of Denver*, 36 F.3d 1513, 1120, 1530 (10th Cir. 1994).

279. *Engineering Contractors Association of South Florida, Inc. v. Metropolitan Dade County*, 122 F.3d 895, 926 (11th Cir. 1997).

There is no requirement that anecdotal testimony be “verified” or corroborated, as befits the role of evidence in legislative decision-making, as opposed to judicial proceedings. In finding the State of North Carolina’s Historically Underutilized Business program to be constitutional, the Fourth Circuit Court of Appeals opined that “[p]laintiff offers no rationale as to why a fact finder could not rely on the State’s ‘unverified’ anecdotal data. Indeed, a fact finder could very well conclude that anecdotal evidence need not—indeed cannot—be verified because it is nothing more than a witness’ narrative of an incident told from the witness’ perspective and including the witness’ perception.”²⁸⁰ Likewise, the Tenth Circuit held that “Denver was not required to present corroborating evidence and [plaintiff] was free to present its own witnesses to either refute the incidents described by Denver’s witnesses or to relate their own perceptions on discrimination in the Denver construction industry.”²⁸¹

To explore this type of anecdotal evidence of possible discrimination against minorities and women in the County’s geographic and industry markets and the effectiveness of its current race-conscious and race-neutral measures, we conducted six small group and individual business owner and stakeholder interviews, totaling 93 participants. We also received written comments. We met with a broad cross section of business owners from the County’s geographic and industry markets. Firms ranged in size from large, long established prime contracting and consulting firms to new market entrants. We sought to explore their experiences in seeking and performing public sector prime contracts and subcontracts with Cook County, other government agencies, and in the private sector. We also elicited recommendations for improvements to the County’s M/WBE Program.

Many minority and woman owners reported that while some progress has been made in integrating their firms into public and private sector contracting opportunities through race- and gender-conscious contracting programs like the County’s, significant barriers on the basis of race and/or gender remain.

In addition to the group interviews, we conducted an electronic survey of firms in the County’s market area about their experiences in obtaining work, marketplace conditions and the County’s M/WBE Program. Four hundred forty-seven recipients responded to the survey. The results were similar to those of the interviews. Among minority- and woman-owned firms, 44.8% reported that they still experience barriers to equal contracting opportunities; 31.4% said their competency was questioned because of their race or gender; and 23.5% indicated that they had experienced job-related sexual or racial harassment or stereotyping.

280. *H.B. Rowe Co., Inc. v. Tippett*, 615 F.3d 233, 249 (4th Cir. 2010).

281. *Concrete Works of Colorado, Inc. v. City and County of Denver*, 321 F.3d 950, 989 (10th Cir. 2003), *cert. denied*, 540 U.S. 1027 (2003).

A. Business Owner Interviews

The following are summaries of the issues discussed. Quotations are indented and may have been shortened for readability. The statements are representative of the views expressed by numerous participants.

We have also appended a summary of the anecdotal results of the numerous disparity studies we have conducted in Illinois. These studies are directly relevant and probative of the barriers to success that minority and woman entrepreneurs continue to face in the construction, construction-related services and goods and services industries in the Chicago area.²⁸²

1. Discriminatory Attitudes and Negative Perceptions of Competence

Many minority or woman owners frequently suffered from negative biases, stereotypes and questions about their competency and capabilities. There is often a stigma to being an M/WBE.

Perceptions of competency that simply because I am a minority owned firm and it's like, well, how is it that you get this training? Or, sometimes not even asking what are your credentials? And that puts you in this space. There's just a presumption that you don't have the competency that's required in order to do the work that you hope to get by bidding on the contract. At least that's how I felt me personally. Not so much as dealing with the County *per se*, but in general, having taught at the university level and done a lot of work in these areas, always having to have to prove that I'm competent in order to get the work that's a constant thing.

On a \$34M job that I was on, the general contractor did not believe in the MBE or WBE program and said that it was all a sham and that all they were working on was trying to, that the organization was trying to, force unqualified people to participate on these jobs. So, on a lot of jobs that I work on, there's always the stigma that just because we are an MBE.

There is a stigma.

We definitely could scale up. We've done almost as big jobs as you can in the city of Chicago, so that's not it, the bonding's not

282. Appendix E: Qualitative Evidence from Illinois Disparity Studies.

it. The financing's not it, so I'm left with the fact that you're still stigmatized for being in that community.

Whether it's a woman or a minority, we are constantly proving that we are not funded by a White man, that there isn't a White man in front of us.

They asked me if I have any political clout to get me into the positions that I am in, because they don't think that I'm a degreed professional. So early on in my career, I always wanted to wear my diplomas on my shirt because they always think that I'm the secretary or that I am someone else.

One owner had withdrawn from the Program because of the stigma.

Majority contractors feel pressure to meet those goals and that outreach is only tied to meeting those goals, and there is a devaluation of the firms in an open marketplace. So, that's the reason that we are no longer certified, because the attitude that went along with the minority certifications, as a whole, was one toward feeling like they're wasting money. And I've often said, surely you can find some value in the black and brown and female communities, without it just being because you've got to meet a goal. So, I've found a better attitude just in the open marketplace than being hired as someone who helps meet goals.

Minority- and woman-owned firms were often viewed a risky, and therefore agencies seek price reductions.

Minority vendors, especially in the professional service space, we often have to justify our price point. I just did a contract with state government and literally we had to reduce our price significantly to get the bid. And it's unfortunate because I know since I come from a large corporation and, I used to run a \$200M portfolio. So, I know what the market is bearing and, sometimes we have to take a significant cut simply. And I believe simply because we're a minority firm and who knows, maybe the perception is we're taking a chance on you guys and we're going to minimize our output or, our outlay or a risk financial risk. And so, we're constantly proving ourselves, right? So, I could sit back and say many minority companies can show their portfolio of clients and projects and work that they've completed in the past, but we, every single day, we're still proving ourselves in the professional space.

Perseverance is critical to overcome these biases and negative stereotypes.

It was told to me directly, "you're not a leader. I don't see how you can lead this project [as a Black man]".... We wish that it would change in the industry. I believe it's so ingrained in the industry that it won't change. It just hides and reformats itself as something else. But I think as MBEs and WBEs, you just have to press past the ignorance. Because that's what it is. It's just ignorance.

And as a minority female out in the construction arena, you have to develop tough skin. It's almost a requirement. I'm not going to say almost. It is a requirement to stay focused and know what it is that you're there to do when you're given the opportunity to.... I definitely let them know when they approach me that way, how careful they need to be with the next words that come out of their mouth. You have to be strong.

2. Hostile Work Environments

Some minority entrepreneurs had endured blatant harassment.

I have been called the spook by the door. I have been verbally harassed, not physically, but verbally. Gestures have been made, nooses, a number of things.... It was pretty much swept under the rug. And I was not happy about that. And it was looked at like the individuals that made the nooses and hung them was like they came up with some of the excuses that was in the article. Oh, I'm using this as a tie off. And it was oh, just regular job site play. First of all, you don't play on a job site because there are safety issues.

Women, especially in the construction industry, still encountered outright sexism.

[The owner of a non-M/WBE] makes a comment like, "Oh, and do you know my wife is a woman." Well, what the hell do I care? It's none of my business, but it was an awful experience. I still haven't gotten over it, as you can tell. I think we're not going in the right direction, we've been doing this for 40 years, and we're not much better off than we were 40 years ago.

I've gotten sexually harassed, I've gotten groped.

I've been solicited to sit on laps.

The people that are ahead of these projects, the people who procure these projects are the ones that we're having issues from.... When you do complain about these things again, it's like, oh yeah, we heard about that. Or we know we have these issues.

B. Anecdotal Survey of Cook County Area Firms

To supplement the in-person interviews, we also conducted an anecdotal, electronic survey of firms on our Master M/WBE Directory; prime firms on the contract data file; and firms identified through our outreach efforts. We further solicited written comments. The survey was comprised of up to 45 closed- and open-ended questions and replicated the topics discussed in the business owner interviews. Questions focused on doing business in the County's market area, specifically barriers and negative perceptions, access to networks, information and experiences in obtaining work, and capacity development, as well as the County's M/WBE program.

The survey was emailed to 9,237 firm representatives and owners, six times from May 11, 2021, to June 14, 2021. The response period closed on July 12, 2021.

Seven hundred nineteen gross responses were received. After accounting for incomplete and non-relevant responses, usable responses equaled 447 for a net response rate of 4.8%. Three hundred sixty-six minority- and woman-owned firms and 81 publicly held and non-M/WBEs completed the survey. This represents a 4.0% net response rate among minority- and woman-owned firms and a 0.9% net response rate for publicly held and non-M/WBEs.²⁸³

1. Respondents' Profiles

Table 6-1 and Chart 6-1: The race and gender distribution of minority and woman survey respondents is listed below. Construction accounted for 20.5%, architecture, engineering and surveying firms accounted for 13.9%, services firms accounted for 55.7% and commodities firms accounted for 9.8% of the responses.

283. Percentage results have been rounded to one decimal place to increase readability.

Table 6-1: Distribution of Industry and Race and Gender of Survey Respondents

Firm Ownership	Construction, Supplier of Construction Materials or Trucking	Construction related professional services (engineering, architecture, surveying, inspection)	Services (accounting, IT, financial, marketing, legal services and hospital services)	Commodities (office & maintenance supplies, hospital equipment and supplies)	Total
African American	21	21	109	10	161
Hispanic	20	10	21	3	54
Asian Pacific/ Subcontinent Asian American	3	3	11	6	23
Native American/ Alaska Native	0	0	2	0	2
Non-Minority Women	31	17	61	17	126
M/WBE Total	75	51	204	36	366
Publicly Held, Non-M/WBE Total	26	16	27	12	81
Respondents Total	101	67	231	48	447

Chart 6-1: Respondent Type of Work

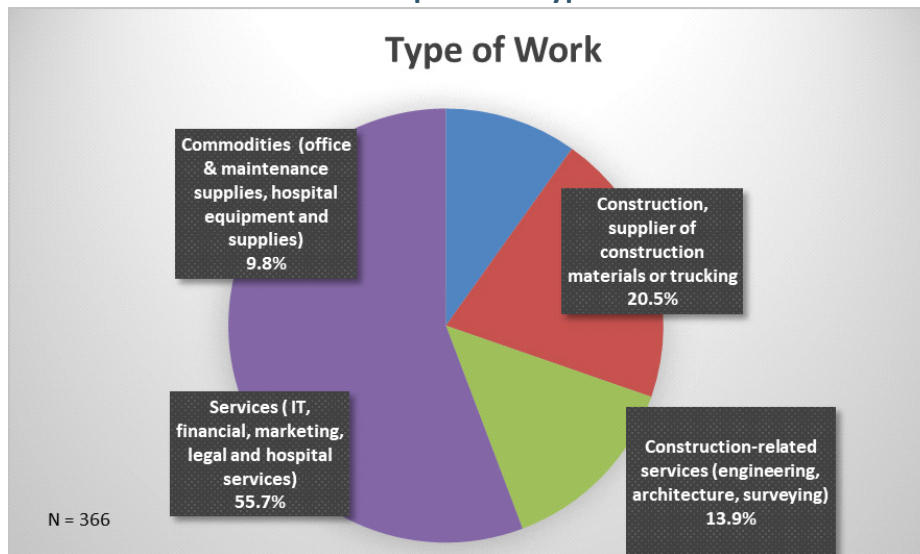


Chart 6-2: Among M/WBEs, 20.2% of the firms had worked only on Cook County projects, 6.3% had worked only on Cook County Health & Hospital System (“CCHHS”) projects, 16.3% had worked on both Cook County and CCHHS projects and 57.4% had not worked on either Cook County or CCHHS projects.

Chart 6-2: Respondent Contractor Status with the Cook County and CCHHS

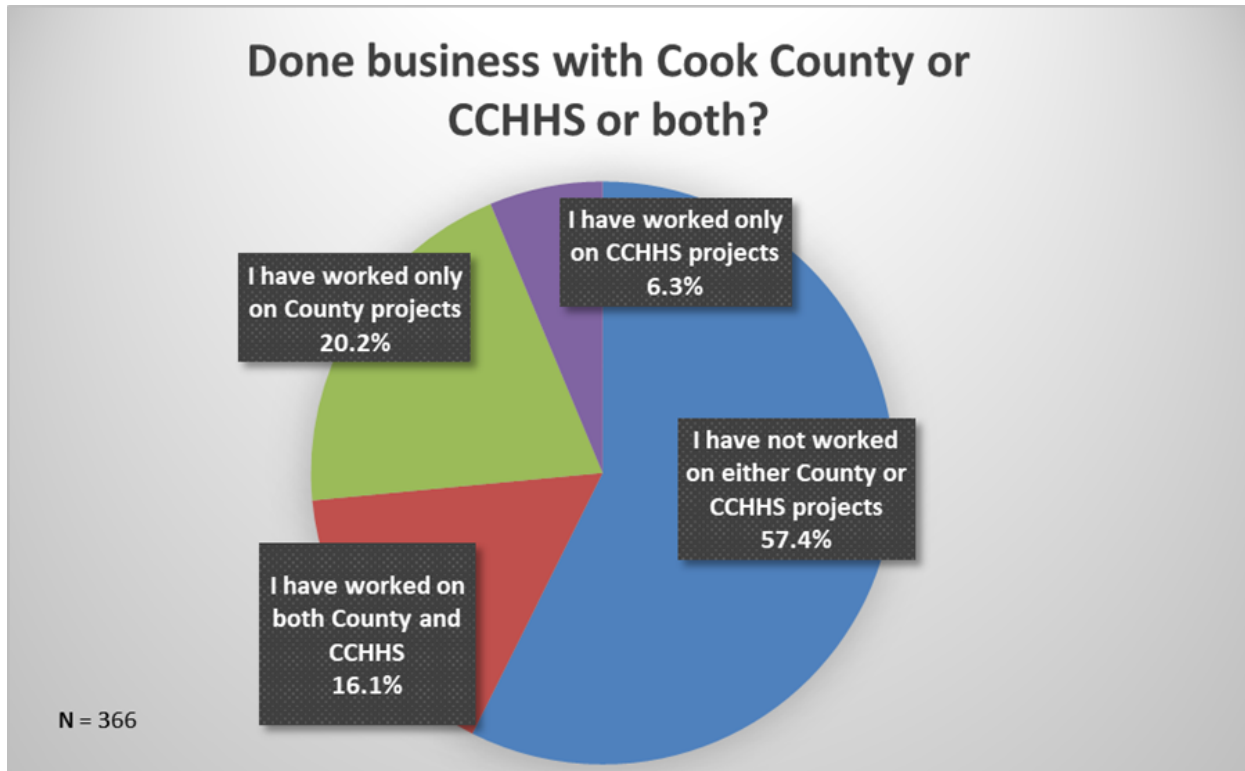


Chart 6-3: Among M/WBEs, 9.8% of the firms had worked on Cook County & CCHHS projects only as a prime contractor or consultant; 21.9% had worked only as a subcontractor; 7.7% had worked as both a prime contractor or consultant and as a subcontractor or subconsultant; and 60.7% had not done business with the County. Seventy-four percent of the minority- and woman-owned firms were certified with the Cook County or the City of Chicago as an MBE, WBE or DBE. Almost 80% (79.0%) were certified with other government agencies, such as Central Management Services, the Illinois Department of Transportation or the Chicago Transit Authority.

Chart 6-3: Respondent Contractor Status with Cook County and CCHHS

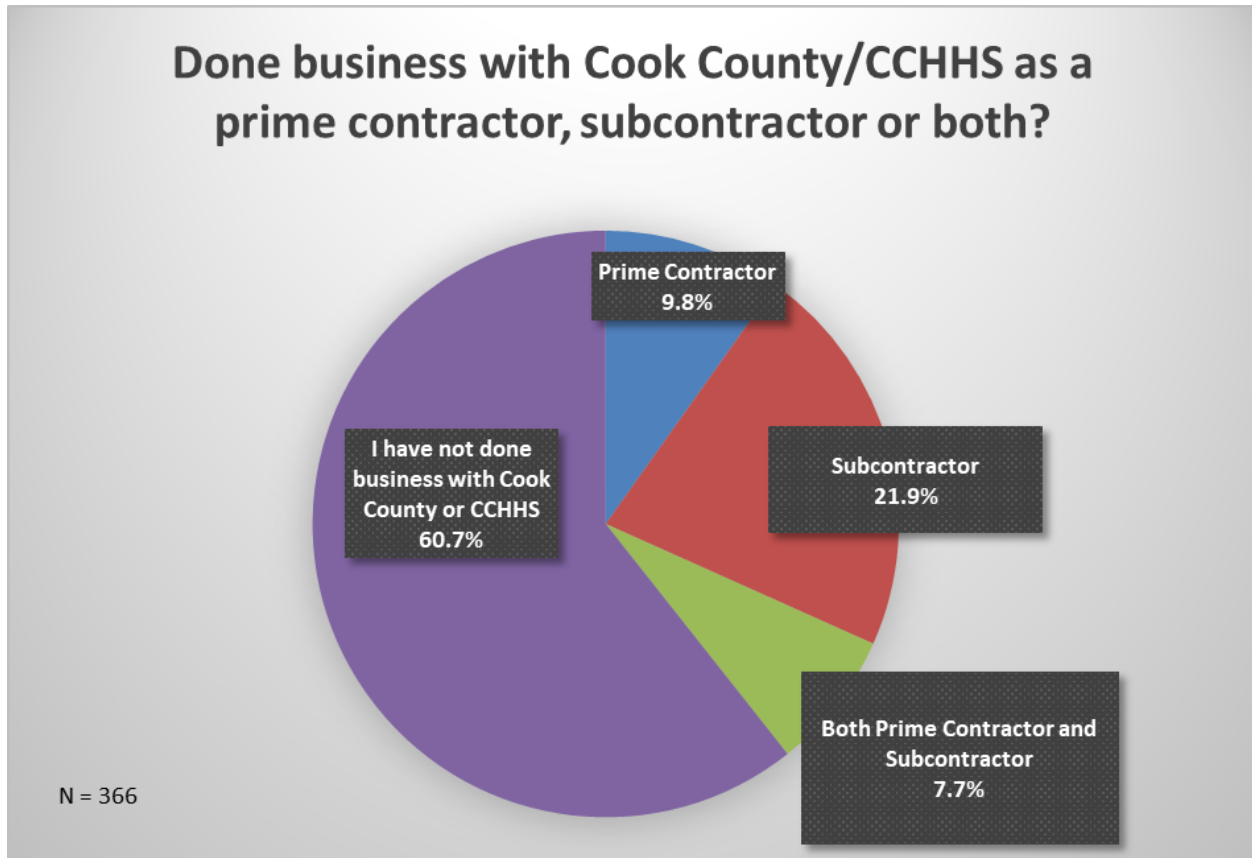
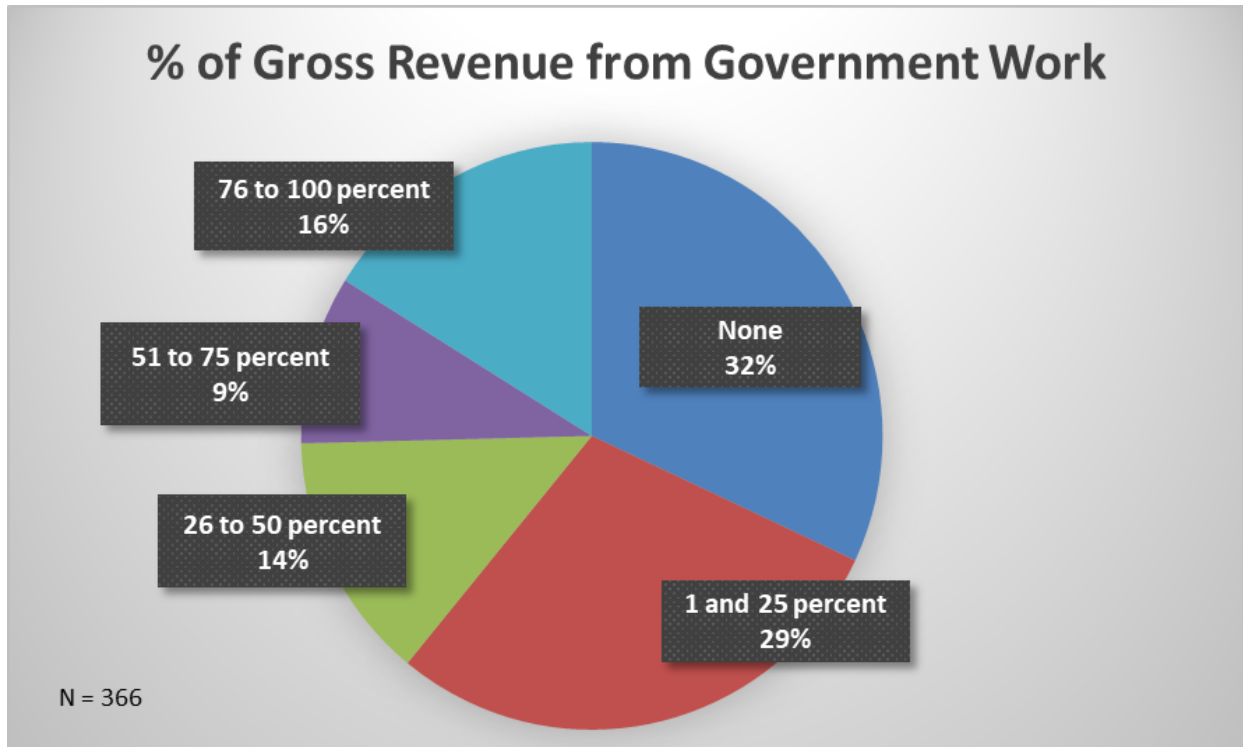


Chart 6.4: Sixty-eight percent of the respondents reported that some of their revenue was derived from government work. Twenty-nine percent of the firms reported that up to 25% was from government contracts; 14% reported between 25% and 50%; nine percent reported between 51% and 75%; and 16% reported between 76% and 100%. Government work did not contribute to the gross revenue of 32% of the firms.

Chart 6-4: Respondent Contractor Revenue from Government Work



2. Discriminatory Barriers and Perceptions

Chart 6-5: Almost 45% (44.8%) of the respondents reported that they experienced barriers to contracting opportunities based on their race and/or gender.

Chart 6-5: Barriers to Contracting Opportunities Based on Race and Gender

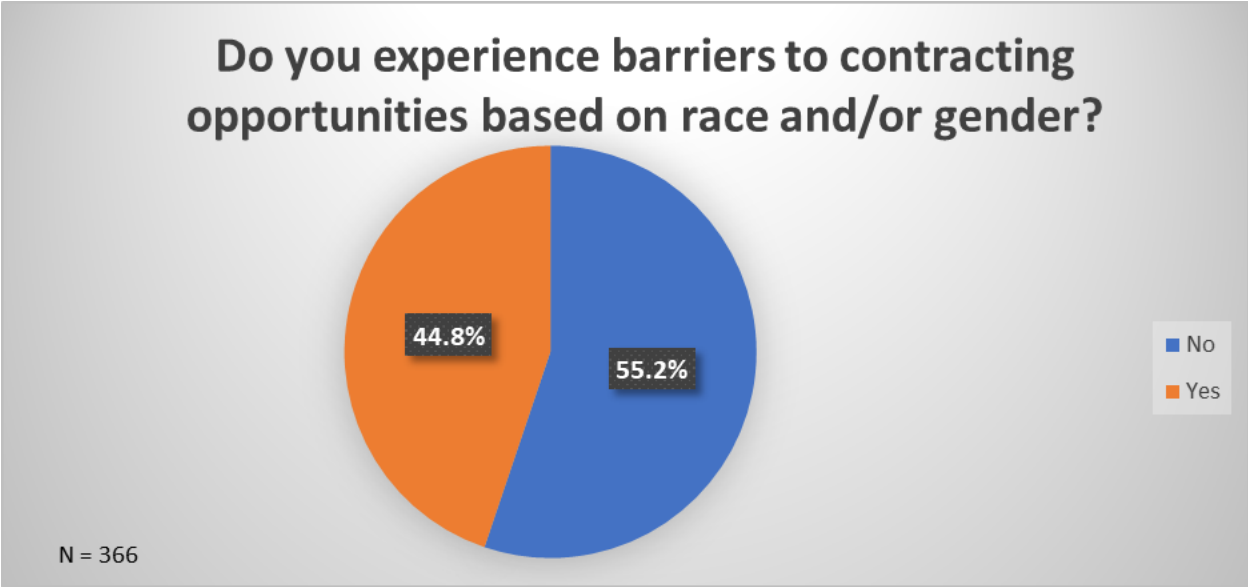


Chart 6-6: Almost one third (31.4%) answered “Yes” to the question, “Is your competency questioned based on your race and/or gender?”.

Chart 6-6: Negative Perception of Competency Based on Race or Gender

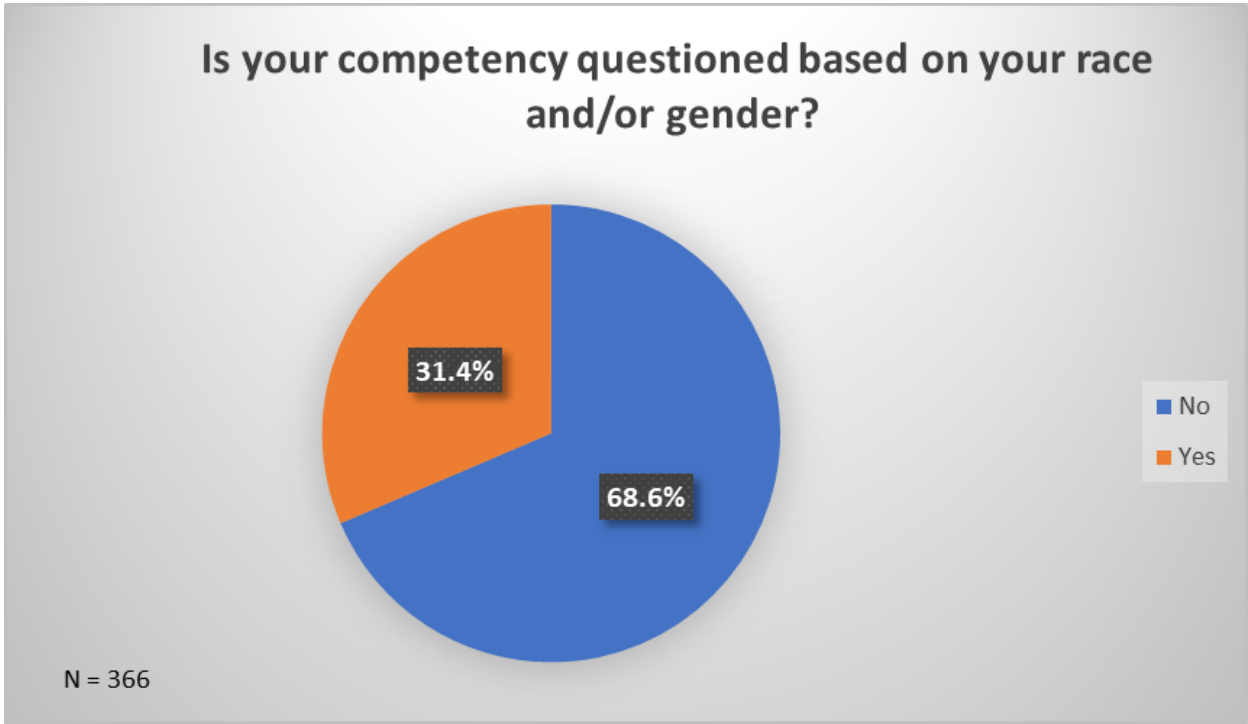


Chart 6-7: Almost one quarter (23.5%) indicated that they had experience job-related sexual or racial harassment or stereotyping.

Chart 6-7: Industry-Related Sexual or Racial Harassment or Stereotyping

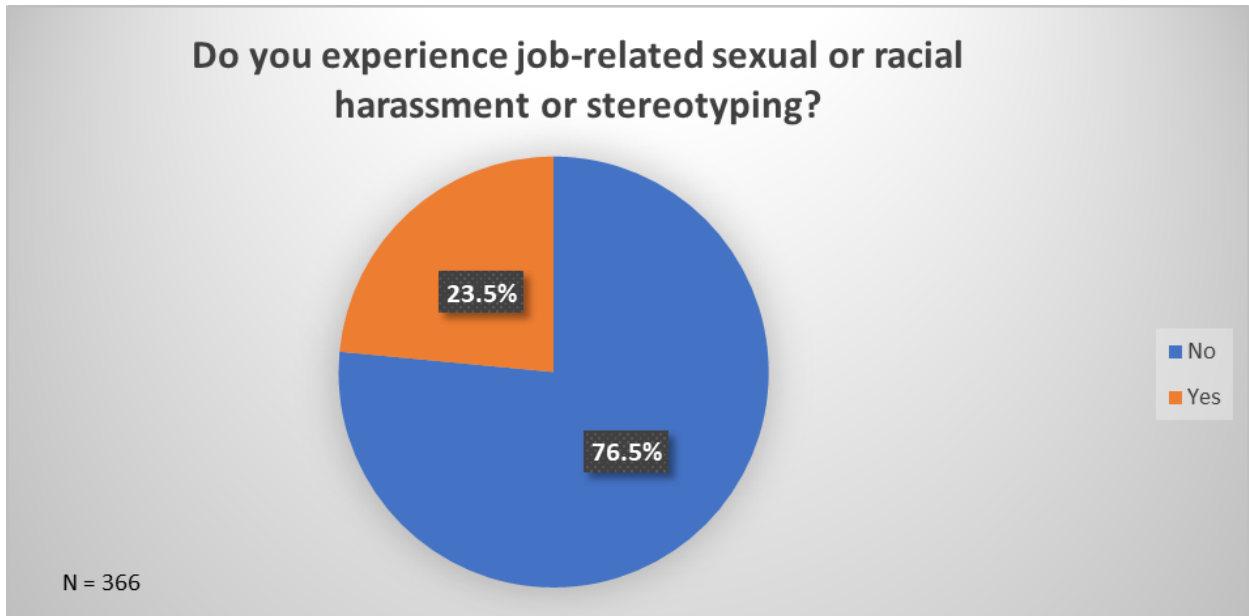
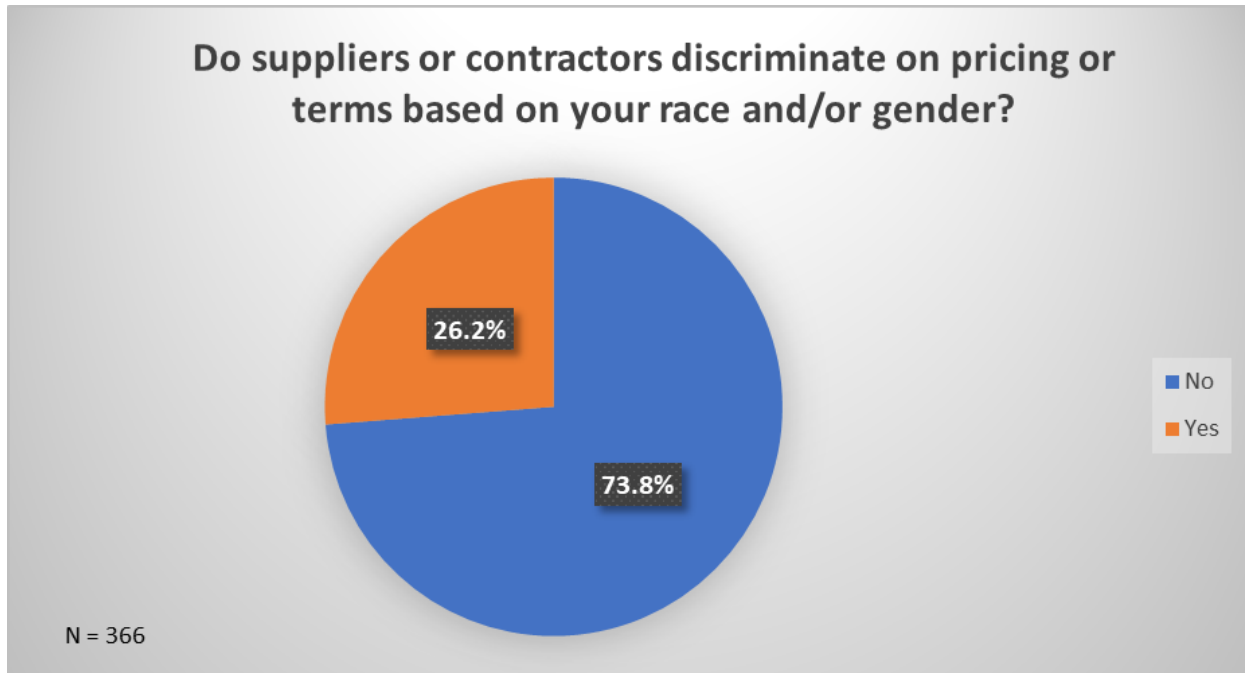


Chart 6-8: Discrimination from suppliers or subcontractors because of their race and/or gender was experienced by 26.2% of the respondents.

Chart 6-8: Supplier Pricing and Terms Discrimination Based on Race and Gender



3. Access to Formal/Informal Business and Professional Networks

Chart 6-9: Over one quarter (27.6%) of M/WBE respondents reported that they did not have equal access to the same information as non-certified firms in their industry.

Chart 6-9: Access to the Same Information as non-Certified Firms

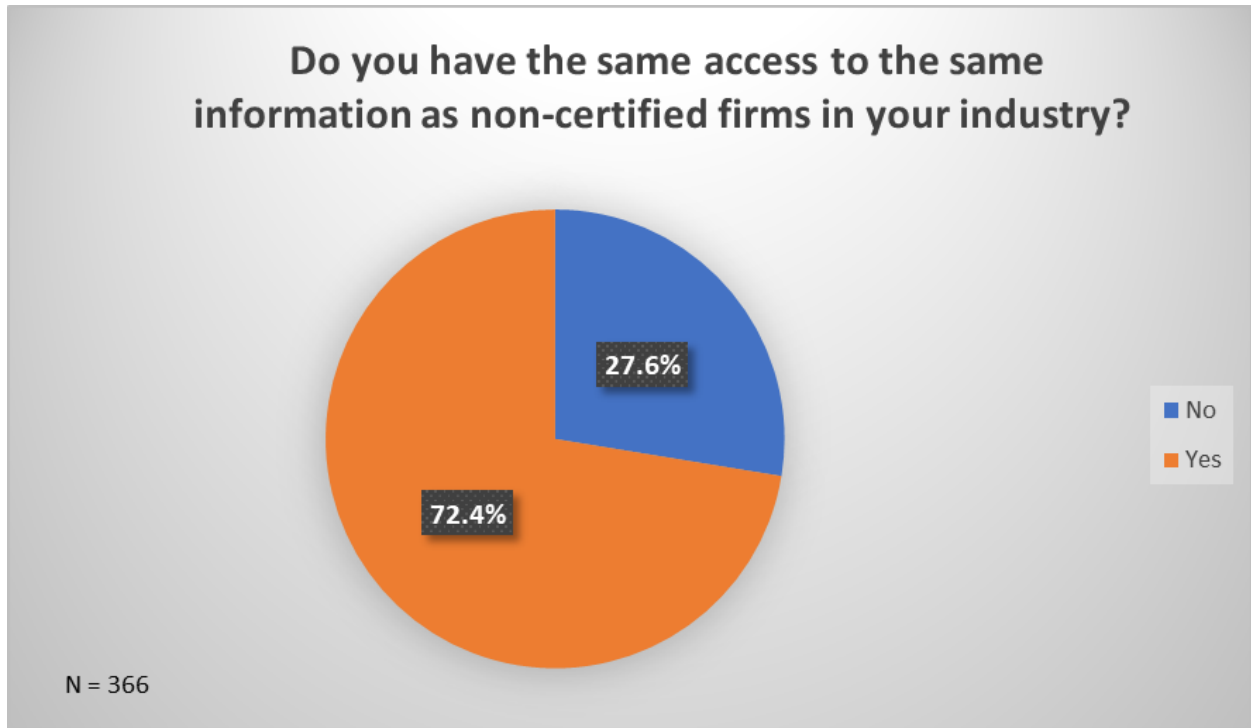
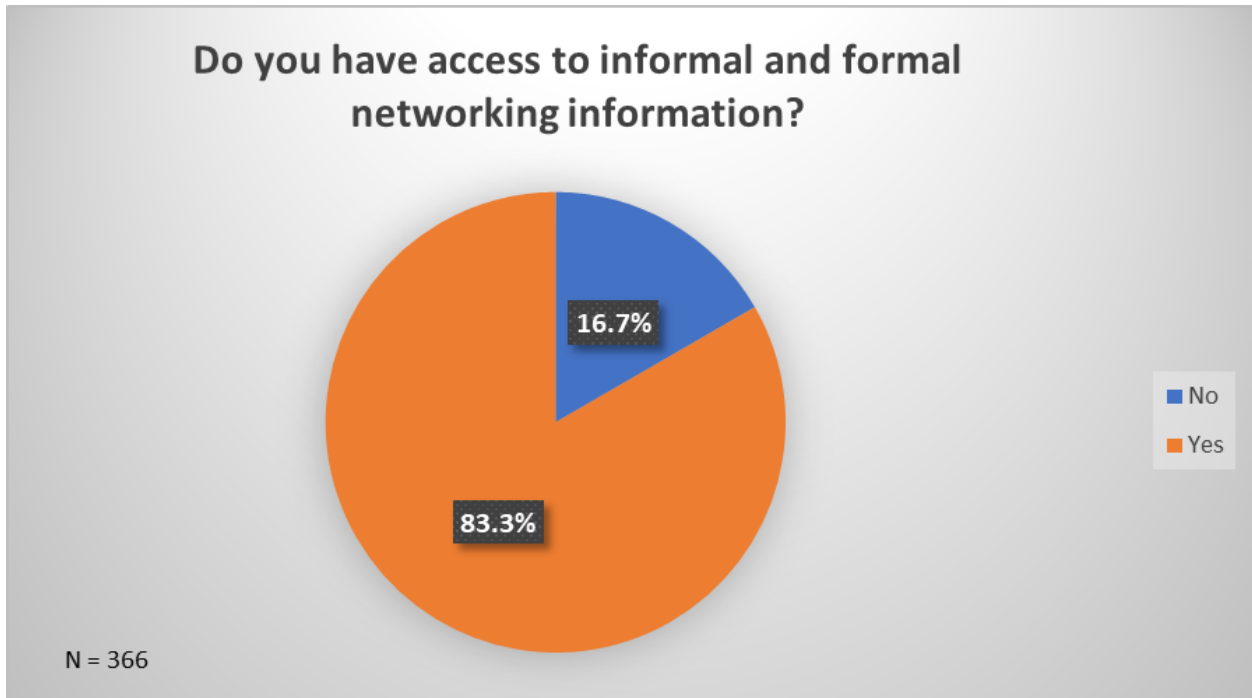


Chart 6-10: Almost 17% (16.7%) of M/WBE respondents indicated that they do not have access to informal and formal networking information.

Chart 6-10: Access to Informal and Formal Networking Information



4. Access to Financial Supports

Chart 6-11: Among M/WBEs, 6.0% reported challenges in their efforts to obtain bonding. In comparison, only 2.5% of non-M/WBEs reported difficulty with obtaining bonding.

Chart 6-11: Barriers to Obtaining Bonding

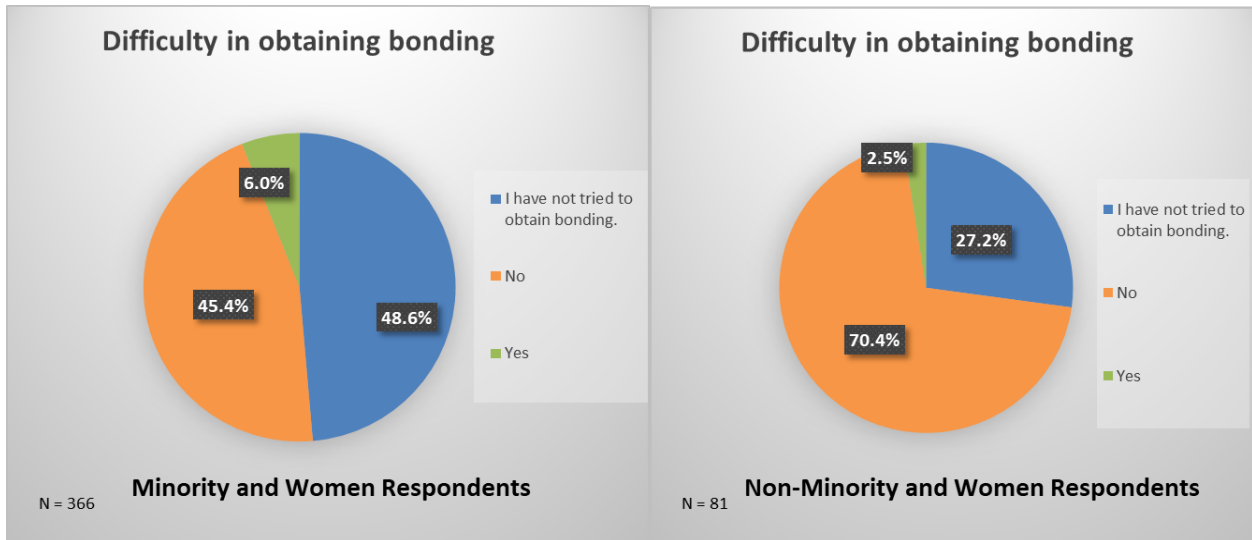


Chart 6-12: Over a quarter (28.7%) of M/WBEs reported experiencing barriers in their efforts to obtain financing and loans. In comparison, only 6.2% of non-minority firms reported such difficulties.

Chart 6-12: Barriers to Obtaining Financing and Loans

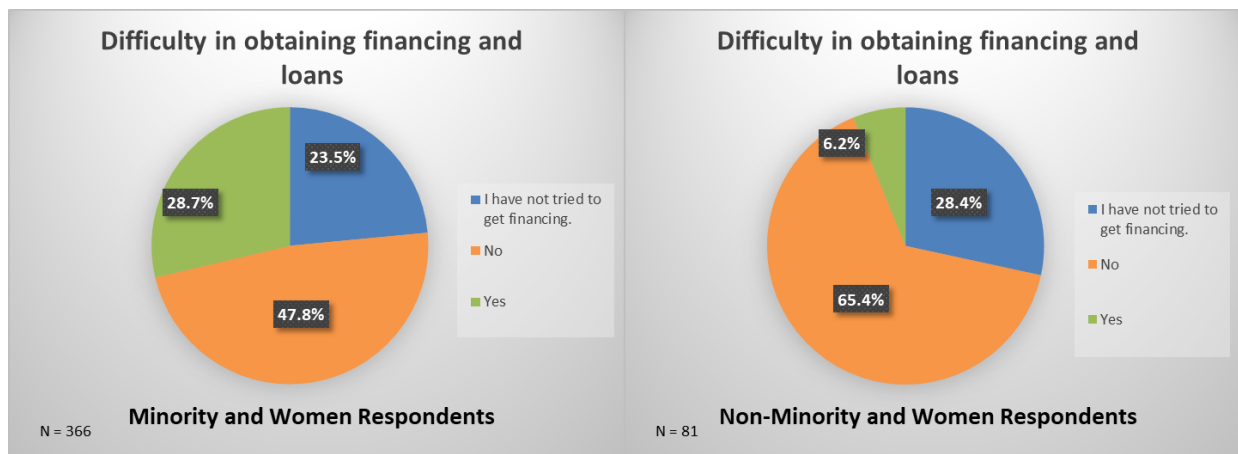
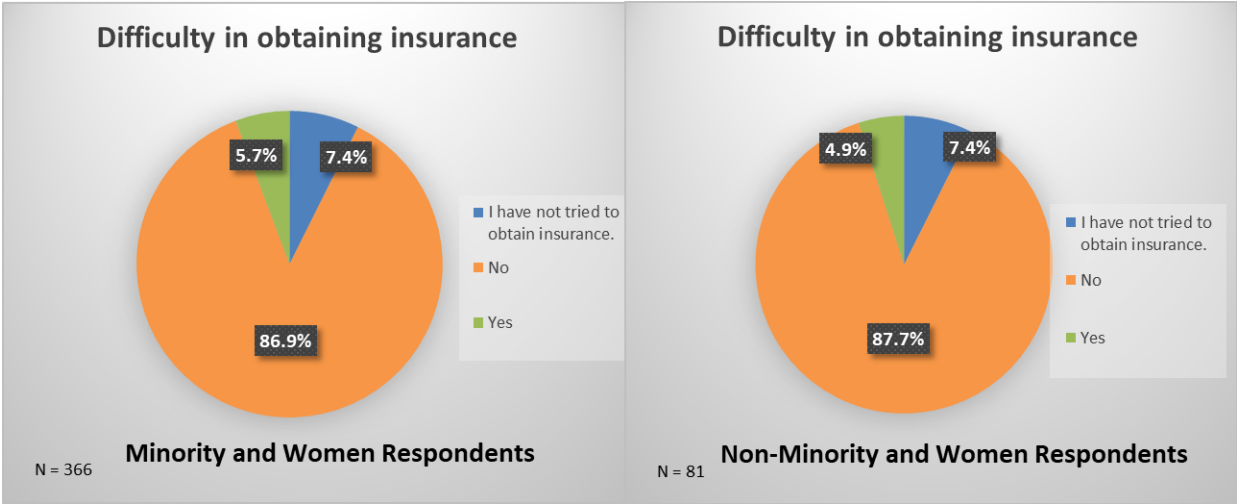


Chart 6-13: Among M/WBEs, 5.7% reported experiencing barriers to obtaining insurance. Among non-minority firms, 4.9% reported such difficulties.

Chart 6-13: Barriers to Obtaining Insurance



5. Obtaining Work on an Equal Basis

Chart 6-14: Over 50% (54.1%) of M/WBEs reported that they are not solicited for County or government projects with M/WBE goals.

Chart 6-14: Solicitation for Cook County/CCHHS or Government Construction Projects with M/WBE Goals

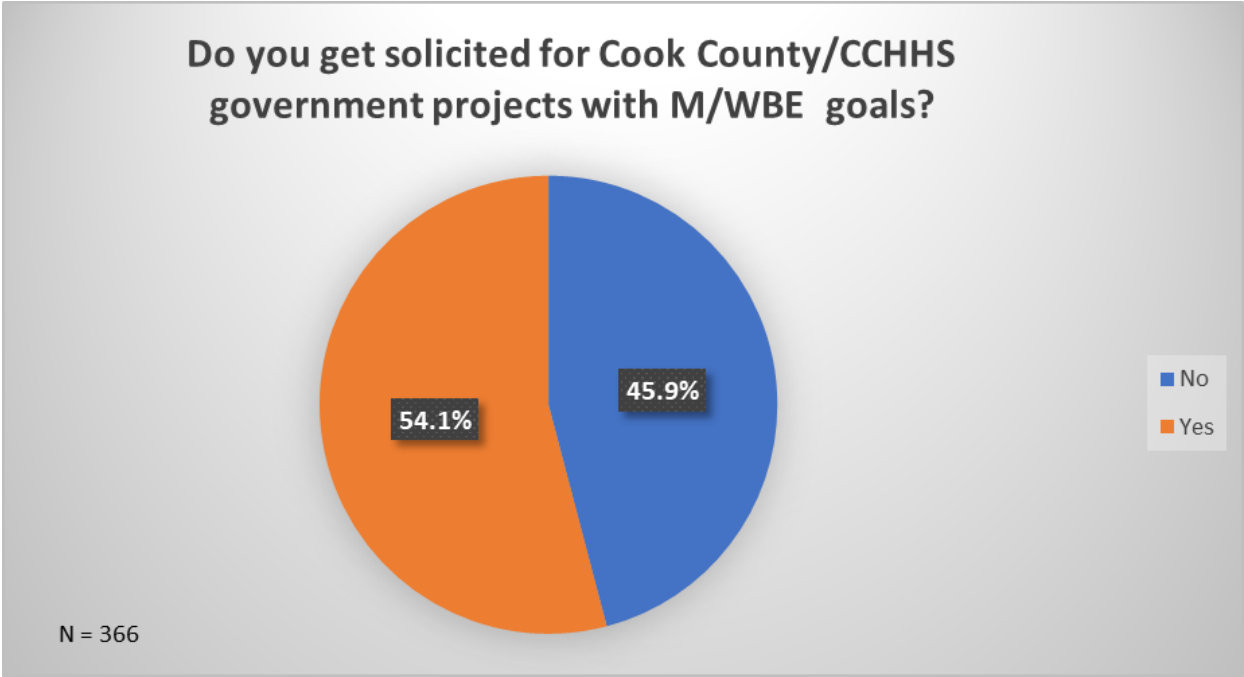


Chart 6-15: Less than 45% (44.5%) reported that they are not solicited for private projects or projects without goals.

Chart 6-15: Solicitation for Private Projects or Projects Without Goals



6. Capacity for Growth

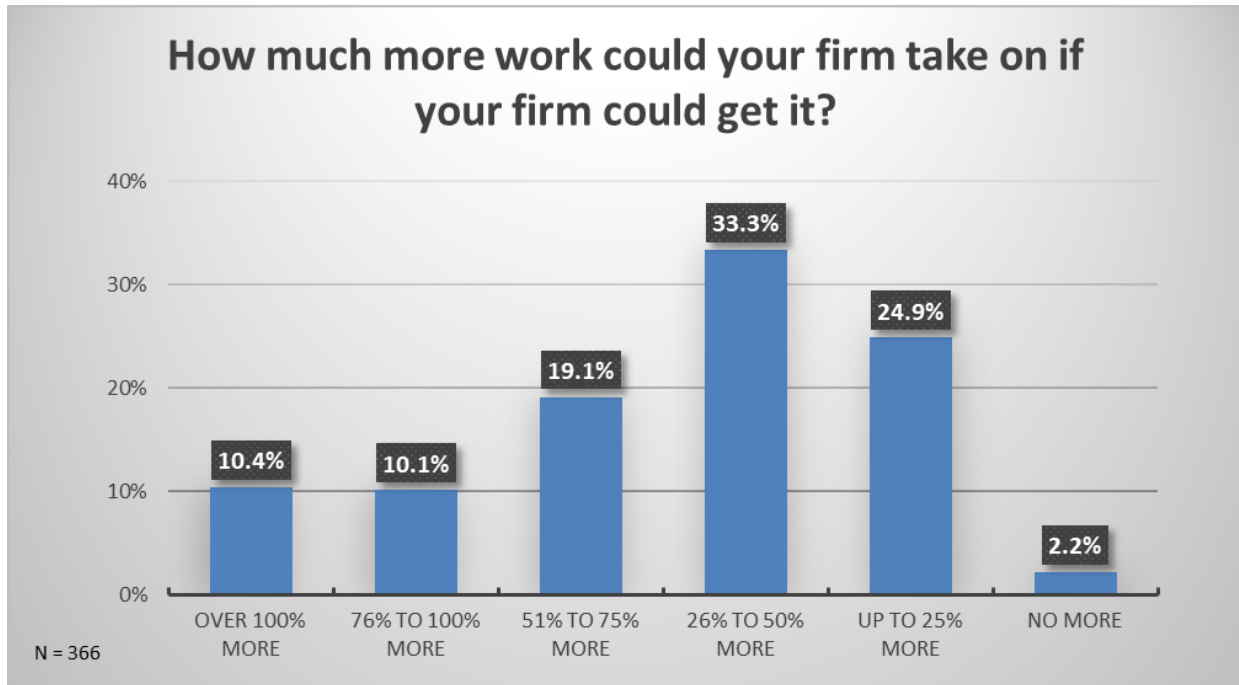
Chart 6-16: A majority of M/WBEs (57.1%) reported that their firm's contract size was either well or slightly below the amount they are qualified to perform.

Chart 6-16: Firm Contract Size vs. Contract Amounts Qualified to Perform



Chart 6-17: More than three quarters (77.3%) of minority and female respondents reported that they could take on up to 75% more work if it were offered. Over ten percent (10.1%) could take on up to 76% to 100% more work, and 10.4% reported they could more than double their amount of work.

Chart 6-17: Capacity for More Work



7. Prompt Payment

Chart 6-18: Of the contractors who reported doing work for the County, only 52.0% said that the County paid them promptly. Prime contractors were reported to pay a little more quickly, with 56.1% of M/WBE respondents reporting that prime contractors paid promptly within 30 days.

Chart 6-18: Prompt Payment within 30 Days

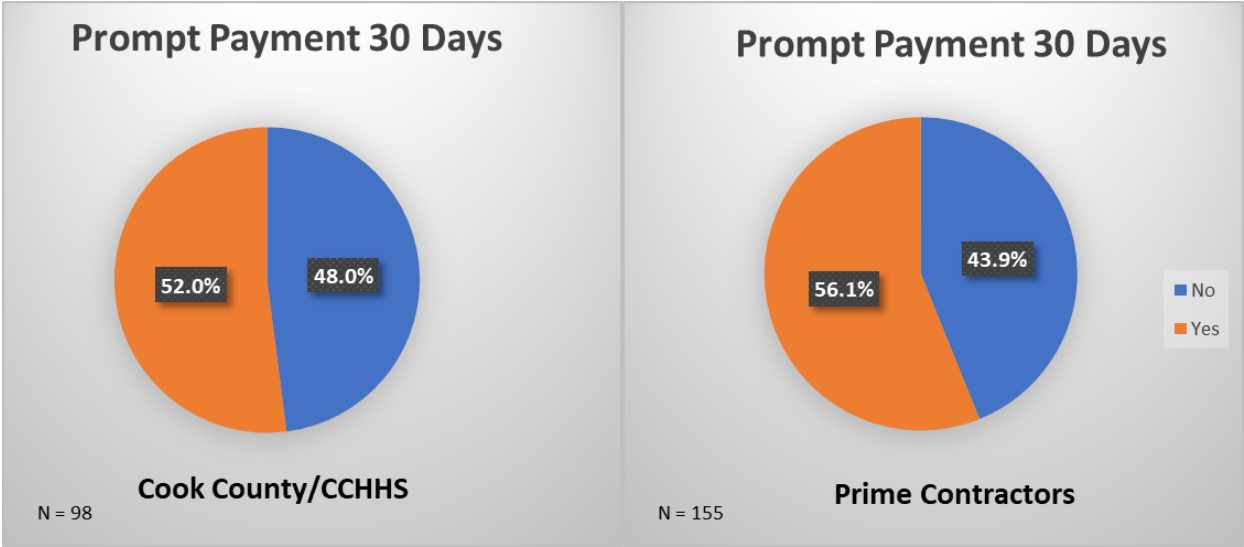
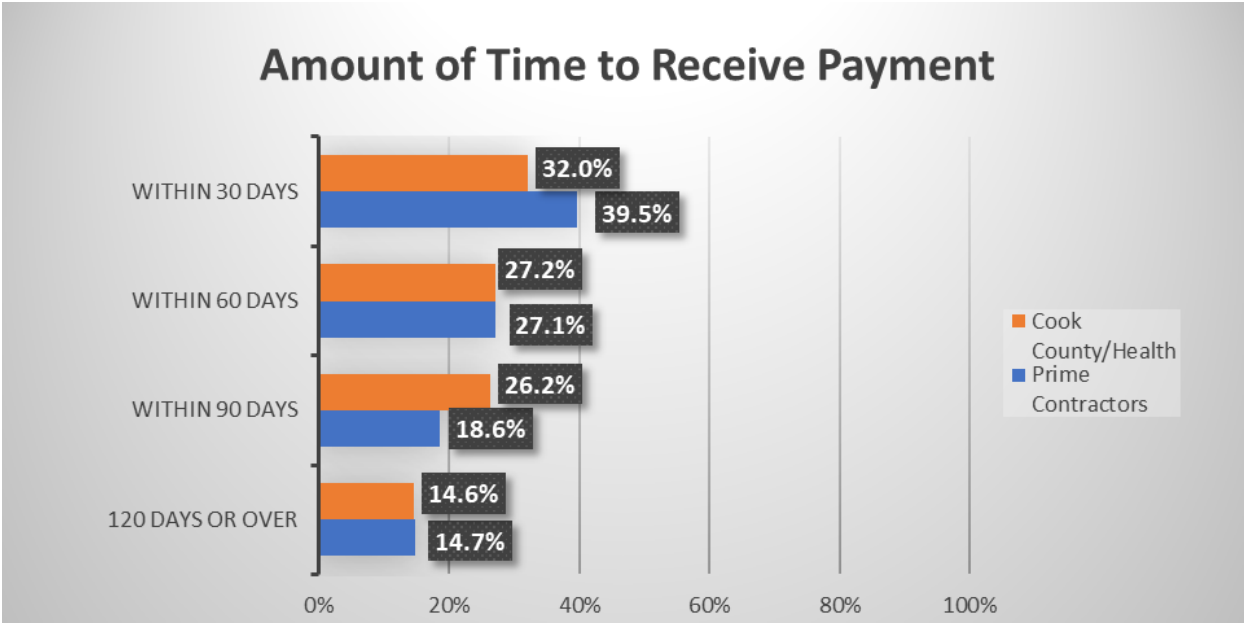


Chart 6-19: Of contractors performing work for the County, 59.2% reported receiving payment within 60 days; 26.2% were paid within 90 days; and 16.6% were paid in 120 days or later. Prime vendors were reported to pay on a slightly quicker schedule. A little over 66% (66.6%) said prime vendors paid within 60 days; 18.6% reported they were paid within 90 days; and 14.7% reported they were paid within 120 days or later.

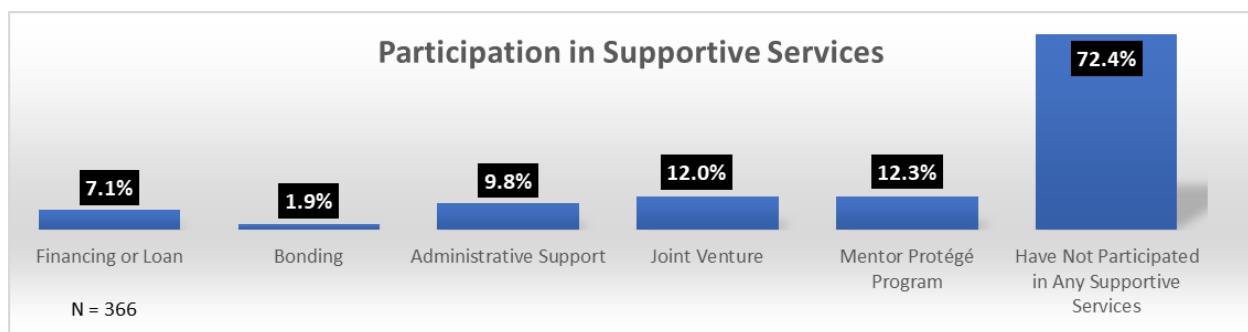
Chart 6-19: Amount of Time to Receive Payment



8. Capacity Development and Participation Incentives

Chart 6-20: Less than 30% (27.6%) of M/WBE respondents reported they had participated in any of the programs. Over seven percent (7.1%) had participated in financing or loan programs and less than two percent (1.9%) had accessed bonding support programs. Slightly under 10% (9.8%) had received support services such as assistance with marketing, estimating, information technology. Just over 10% (12.0%) had joint ventured with another firm and 12.3% had participated in a mentor-protégé program.

Chart 6-20: Participation in Supportive Services



C. Written Survey Responses

The survey also included open-ended response questions. These responses were consistent with information provided in the business owner interviews and closed-ended questions. Responses to these questions have been categorized and are presented below.

1. Systemic racial exclusion

Many minorities reported that fair opportunities to compete for contracts were not available because of systemic racial barriers.

Race and/or gender discrimination is historically deep rooted and, unfortunately, very much alive in our country.

[I am a Black male and] perceived as threat to management or stakeholders in various ways, resulting in giving me dead-end opportunities, not getting contract, or not getting extension.

Despite winning over 20 awards and managing over 80 billion of Clients infrastructure assets on capital programs throughout the US... still our race, not our industry skilled expertise and

award-winning reputation, limits our opportunity, due to agencies feeling more "comfortable", with large partners primes which are normally not owned by persons of Color. Those primes often only partner with firms they feel "comfortable," with as well and are not open to providing new opportunities to new partners.

Can't be discriminated [against] when you're not even being considered.

Being a black woman owned business, I tend to only get conversions from those customers and clients that look like me.

Little interest in hiring Latino-owned law firms.

Again, as a minority business owner, how do you receive business if you are asked to provide past experience even if you are qualified, but have never been granted a contract or business?

[As a Hispanic-owned company, my experience is] bids [are] drawn up to favor other companies.

Multiple occasions in which we've [as a Black-owned firm] provided Architects with the lowest Fee Proposals on work squarely within our lane of core-competency but are told "We were just more comfortable going with the other engineering firm".

What I do not like is after it is determined that I am qualified, I still do not get the business. I was awarded a contract with [government agency]. Even after being awarded, [agency] decided that they did not want to allow us to work the contract. I had to contact their EEOC department to get them to honor the process, which they did only after I got EEOC involved.

This is not directed to all, there are some fair and reasonable companies. The companies that discriminate the most are the construction management companies. They call it pre-qualification.

Again, I believe we are given bare minimum percentage of work based on our race.

Unfortunately, it is business as usual in Chicago, I have to fight to death for opportunities my non-diverse competitors take for granted. I doubt I will see this change in my lifetime.

Every day is a struggle with firms giving preferential treatment to non-MBE firms.

In my opinion, White people feel forced to partner with a minority contractor to attain larger projects. As such, some avoid it all together.

I am not given the same opportunities as my non-diverse competition by the General Contractors and Developers. When they finally start offering opportunities the MBE WBE firms, all MEP work has been awarded and I am told to go beg my competitor that was awarded the work.

[Our company] is owned and has operated, for the past more than 40 years, by Asian Americans (India) citizens. We pay Cook County taxes. Yet we are unfairly discriminated [against].

2. Negative perceptions of competency and professionalism

A large number of minority respondents reported their credentials and competency are routinely questioned.

I always have to prove myself to be twice as good.

Clients often stereotype the capacity, capabilities and qualities of our firm simply based on our MBE status. More often than not, the clients are wrong. But who's going to tell this to the client?

The perception/assumption that work performed by an MBE will be of substandard quality or the company will require significant "handholding" to execute the contract.

As a black female I am often condescended to and disregarded as a professional with a proven track record of excellence.

I am challenged in my approach to projects. My ethnicity is always a factor.

We have been overlooked by being small, unqualified and inexperienced in a subtle way covert way. These are all the buzz words for you are black and we don't want to work with you.

[As a Black male], despite having over 19 years in the industry and having an undergraduate degree in architecture and a master's degree in structural engineering many professional service and government clients doubt my expertise and capacity.

If we are a legitimate business registered with the state and can perform the tasks at hand, that the certification should not be a barrier itself.

Being a black woman owned business, despite having multiple degrees, over a decade of experience being credentialed we're taken through more "qualification" processes and still hear nothing in return or get any updates.

Perception of incapable to handle work, have to prove it beforehand with implementation plans, copies of inventory, etc.

As an MBE, there is a stereotype that we are not a competent firm which is why primes don't want to allow us the margin to operate our businesses because they think they have to do our work. I pride my company on the self-performed work we do.

Minority and Women business in the Electrical industry are seen as only second or third tier partners if at all. There is a stigma MBE WBE can't perform the same quality and size projects as our non-diverse completion.

Being Black means they think we are less capable in doing the contract/project.

I am a small business owner that happens to be Latina and at the times the assumption is that I don't have the skills.

My company does not have an "obvious" African American name or moniker. When communications are made and discussions are had, the companies that require materials are made aware that we are AA and assume limited capacity and functionality.

Native Americans are not Educated enough to be in Business and my other partner is not Educated enough.

People assume MBE means low quality or inability to perform.

Opinion that Black Firms cannot provide quality Design AE services.

I believe that my competency has been questioned because I am a black female. The greatest issues have been with white males that must report information to me.

I had a PM at UIC in a meeting say Minority companies don't have the tools, equipment, or financial ability to successfully perform his work at UIC.

I was asked if I obtained my position of being the head project manager because of who I knew. They assumed that [as a Hispanic woman] I did not have any degrees.

Our company is Native American 51% owned and that we don't have the education to operate a business.

There are times when you are asked to prove your experience when there is already public and private information available to prove competency. In those instances, I am likely to walk away.

These things happen subtly, but have shown up in the following ways: joint check agreements that are required (this implies we are not capable of handling large sums of money).

Upon winning a bid I was called into a meeting and questioned concerning my ability to do the work.

We were asked to provide a dummy estimate for a project although we had built 12 similar facilities for a competitor.

Discriminatory questioning of my competence, scrutiny of my work product and questioning of my billing hours. By the way, the discrimination is just as prevalent among black decision-makers as it is with non-blacks. Many black decision-makers seem to go out of their way to hold other blacks and minorities to a higher standard to prove their objectivity to those they're accountable to.

The discrimination occurs in the way they assign accounts. They are happy to give you the table scraps to prove yourself, but never the larger contracts.

We experience stereotyping from both vendors and customers. Typically, it's just that people are always surprised and express their surprise or disbelief that we [Blacks] actually own and operate our business.

It appears minorities are expected to be in certain industries.

[As an Asian-owned company, we are] not seen as a leader or visionary.

3. Hostile work environments

Several minority business owners related instances of overt racism, demeaning comments and harassment.

Some primes are resentful of giving out part of their work to minorities and show it.

I have been told [as a Black woman] through a trade union that they would do "everything they [could] to make me fail, and if I told they would call me a liar". I have been told to "watch my tone" as a GC by an architect, and when I asked him to clarify, there was no reasoning. My family business has been terminated for convenience on two award-winning projects. The list is exhaustive.

Microaggressions, specifically of speech and experience. Assumptions all Black people are monolithic.

"Jokingly" referred to in any number of slang terms for Mexican.

Person stated, "black people act like abused children".

The stereotypical angry Black man assessment has been applied when I've been outspoken and not in align with what everyone is stating.

I was told by an RE in the past couple of years that just because I was a [woman-owned] DBE, that doesn't mean he couldn't get me kicked off of a job (paraphrasing but something like that.)

I have reached out to numerous procurement departments... seeking to set meetings with department heads to understand their pain points, and how we can address them. The moment many of them realize I am a Black man, I never hear back from them. Even after numerous follow-up phone calls and emails.

Business leaders think we send work offshore just because we are of a certain race doing software development. Meanwhile, all our employees are on shore.

4. Gender bias and barriers

Woman respondents reported experiencing sexist attitudes about their competency, skill and professionalism.

People always prejudge me based on my sex as well assuming that I am not knowledgeable when I know all the drawings and specs and more knowledgeable than everyone on the project.

I can be the lowest bidder and they'll still give it to the next contractor. I am never taken seriously even though I bid on projects within my capabilities.

Women are generally perceived as less experienced/junior to their peers.

As a woman, having to prove that you are just as qualified as a male.

I'm in a 97 percent male dominated industry. The ole boy network exists.

There is specific prejudice against women in power in general and in business. Speaking or acting assertively will often be interpreted differently than if a man was speaking or acting that way.

My male colleagues will often get return phone calls or answers even when I am the appropriate one to receive this information. Sexism is very institutionalized and many men I interact with don't even appear to know that they are sexist with their verbal language, body language and/or voice tone.

The first instinct of a male owned company is that we are only there to fulfill the WBE requirement - and that we are "lesser" - so we have this to overcome. Once we are successful with getting a job and something goes wrong in the process, we are then the spokesperson for all women-owned companies, and therefore all women owned companies are incapable. Where, if this happens to a white-guy owned company, it's just another Tuesday.

On highly technical projects larger firms expect our firm to take bigger losses and just do as we are told. We are not assumed to have our own interests or the backbone to stand up for our own business. We should be grateful for the work and not cause trouble when they are shafting us on payment.

As a woman business owner, I am often treated as if I am inconsequential, I am often overlooked or interrupted when speaking.

There's a lot of sexism in my field and it seems that people I try to work with generally prefer men. I only get work I create myself or due to scoring that promotes use of a WBE.

As a woman owner in the Aquatics industry, I am always discounted as a decision maker by most pool owners and operators.

There is still a culture out there that is not supportive of women contractors. If I wasn't WBE/DBE certified, I doubt I would get a chance to even bid on most projects.

I started my company from scratch.... I had 10 years of experience as a contractor for my now competitor PLUS 6 years of design experience before that. I am a registered professional engineer, and I am involved with my trade organizations... and yet 3 board positions came up, and they gave all three of those positions to their golf buddies. They claim they thought "I didn't want it". If you look on the board, it is all white guys, and many not even owners. It is the old practice of having us women do the work... while the men going in the drawing room for bourbon and cigars.

In construction, my WBE is not considered like a male owned company.

There exist a boy's club within the engineering community that they only work with firms they know.

I work in IT and have many examples of being dismissed because I am a woman.

I have people talk down to me, implying that I don't know how to measure. They frequently second guess my recommendations, assuming I don't know what I'm talking about.

I work in a male dominated field. For 25 years. My competency is questioned incessantly.

Nearly every construction project we work on, we have to prove our knowledge due to our gender.

Saying I'm a woman and I can't do a man job.

Men in high power position always display more respect for men than women.

Because I am married and have children I am accused of 'phoning it in' or whatever which is maddening because I've been busting my hump to earn a living since I was 16.

I have been questioned whether my husband or brothers are part of the business. Often assumed that there must be a man who is actually running the company.

Individuals assuming that I am not the owner of my firm.

It's still a "boys club".

There have been a number of occasions where people have talked down to me and questioned my competence.

Every single time I am asked "what I do for a living" and should I tell them, the very next question is "what does your husband do?" or "is it a family business?" It is clear it is in the back of their mind that as women, we could not possibly be able to accomplish what we have accomplished.

As a woman, having to prove you are just as qualified as a male.

On one occasion, when we had a pre-construction meeting the questions about experience from the City of Chicago representative were only directed to me, including to ask me if I have with me a copy of my Professional Surveying License. The questions and request for proof was only asked to me and not to any of the other +/-10 people in the meeting.

Stereotyped as a passive easily manipulated Asian female. Man-splained often.

Outright sexual harassment remains a challenge for some women.

During past 30 years experienced innuendo and suggestions for "gifts" when marketing my company's services.

I have been groped at City Hall by a City Employee, sexually harassed by a City Employee when I was a consultant and stereotyped on various construction projects.

Yes, as a woman you are asked for lunches and dinners that are not focused on work.

[I have experienced sexual harassment or stereotyping] just being a woman in the construction field.

I have experiences [sexual harassment] on job sites where the majority of staff are men. Cat calling and inappropriate comments and touching. Event labor is mostly male dominated sector which poses some of the issues especially for younger females in authority roles.

I have in the past experienced some things that would be considered sexual harassment. Since I am in a creative field, working with talent, and have acted as talent, have experienced inappropriate comments by men.

New male employees use endearing names that are not professional to address me (the boss).

Our HR dept deals with sexual harassment complaints from female staff on the jobsites.

Someone has said, "you're too beautiful to do this type of work."

We are woman owned electrical contractor. We have had women working in the construction field that have experienced sexual harassment out in the field.

5. Access to networks

Many minority and woman business owners felt excluded from formal and informal networks.

I don't feel I would have even had an opportunity to bid and know about bids without my WBE. Seems as if there are already set relationships in Illinois.

[We have] submitted proposals, in response to RFPs issued by Cook County CCHHS, and we never received any acknowledgment or notification of review of our proposals. It is a sham and only the companies who have political connections seem to receive work related to revenue cycle management and billing.

I am not invited to the outreach meetings on private projects, for one example.

I have found it very difficult to penetrate the long, legacy relationships established by Prime contractors, and others, in the materials supply chain. They simply do not interact/ interface with honest intentions to do business.

Good access to formal info. However, I am often excluded from informal networking events (dinners, golf, private cigar bars, fishing) with my peers.

My access to networking is limited by my personal network of friends and the fundraising events I can afford.

Our team runs regular searches on our own to learn of different networking opportunities.

I have a vast network and most emerging firms do not have this network. Yet, still with my vast network, the same players are awarded public contracts.

Networking opportunities are limited. Overhead staff to gain information is too expensive.

We can't obtain revenue due to our [limited] opportunity to network with business and to obtain loans.

All the large majority prime firms have access to information that MBE firms do not.

Legacy partnerships that well-established electric contractors have with manufacturers, suppliers, and customers. We have a major challenge in getting opportunities due to these relationships and are constantly undermined.

Non-minority firms choose non-minority firms to work with.

Social connections based on race.

My company is experienced, award winning and completely competent of doing any contract we apply for, but firms with connections seem to beat out everyone else. Race and/or gender discrimination, is extremely difficult to prove.

When RFPs or RFQs are released, it appears that incumbents will know about the RFP before other firms and therefore is able to submit bid registrations with manufacturers first and lock out MBE firms from equal pricing from the manufacturers.

I believe that by the time we have information on the contracts the non-certified firms already are aware.

I see that primes get access to bids well before they hit the market. This is an unfair advantage as they already know how to bid the job and usually have a way of negotiating the job well before.

Larger companies have access to expensive RFP portals and are often contacted directly by private organizations to bid.

Most of the firms we work/compete with are larger.... They have the money to pay lobbyists and get meetings MBE firms can't.

Other companies know about contracts because the buyers contact them for contracts that are not known.

Large non-certified firms ... have C-Suite access that we do not have. Primarily because they have deep pockets and large potential clients want access to those deep pockets and relationships.

There appears to be an "old boys" network which often leaves women out.

Many of the operating engineers or facility managers are white males and only work with primes they have relationships with - usually white prime contractors.

Most African American people don't have the inside information for successful bidding.

Although I've taken a multitude of classes on how to obtain contracting opportunities, when the classes are over and I start submitting information, I'm not chosen.

Some M/WBE firms reported that being small and/or new put them more at a disadvantage.

The suppliers and contractors see our company as a risk because we are not a large company.

Automatically thinking we are too small to handle large orders.

Barriers are due to small size of company vs national companies.

The industry is geared toward companies with extensive experience in the industry, new firms have to work twice as hard to compete due to the lack of inside knowledge of the system.

Bigger companies are able to low bid the RFP or Bid, and once they win the Bid complete Change Orders to get the higher rates in year two or three. Unfair practices like this continue in

government contracts. Leaving no opportunity to be compatible in rates.

Regardless of experience, they say you do not have the scale or the size accounts or the named accounts (big accounts) that enable you to win the business.

The county hospital group is quite unapproachable and disinterested in bringing in new consultants and women. It seems oriented top give best awards go to the large firms - even when their fee proposals are much higher, with equally good expertise.... On the county side things are much better, great PMs, yet there is a white man in charge who is retaliating to fellow [professionals] from the position he is in.

The RFP process is biased against small/WBE/MBE firms. They should be hiring for potential, not always just experience. Insurance requirements and payment delays from public sector agencies are the two biggest barriers and they disproportionately affect M/WBEs.

Stereotyping - purchasers automatically assume since I'm a small firm, I will not be able to deliver on products and services.

Women's firms are smaller because they were not given enough opportunities for a long time. So, it is now the discrimination of the smaller firms, vs larger firms, and women are thrown in there.

6. Access to contract opportunities

Some minority and woman respondents felt that prime bidders often use them only to meet affirmative action goals.

I am only selected to be part of a team if there is a goal. Otherwise, it is assumed that I cannot do the job.

I have reached out to Primes, but most give me the cold shoulder. When a prime does put me on a bid (we didn't win it) they've told me, that they are only putting me on for the M/WBE credit.

Thus far it has seemed more like something larger companies do to just meet a quota. We haven't found firms that are actually willing to help move the revenue meter.

When winning a prime contract, the prime reminds you that you won this project on the basis of the client needing their "back up" expertise.

We typically are not engaged unless there is an MBE requirement. We do not get negotiated work.

In general, if there are no DBE goals on projects, we are not invited to bid.

We are competent and are utilized as [a] sub mostly to meet a diversity goal and based on our award-winning work.

If we are asked to provide sub-contracting services it is simply to meet minority requirements and the pay is lower than the contractor is getting.

We are "used" to just check a box for the big boys who don't want us in the circle of friends - so they waste our time dangling a carrot in front of us, when they are most often projects already "let".

One M/WBE respondent noted that privately funded projects are not always accessible.

Projects that are privately funded don't always reach MWDBE firms.

7. Financial barriers to opportunities

Some M/WBEs reported discriminatory obstacles when trying to obtain financing, bonding and insurance that have reduced their ability to compete on an equal basis. Small and new firms face particularly large challenges.

They say we are a risk because of the past history of both Mexicans and Native American business.

Funding is also a major discriminatory factor for a Black firm that's within 2 years of business.

Rejection from both traditional banks and even non-profit organization ostensibly set up to help small firms like ours has been the norm. We've finally gotten our first official Line of Credit thru a program at [bank] set up exclusively to help Black and Brown Business owners.

Loans require a personal guarantee. Many minorities ruin their personal credit to start or save their businesses given they lack

wealthy friends and family. So, they may not have the credit history to personally guarantee a loan even though the credit history of their business is excellent.

I have a decent line of credit now, but it required having the exact same amount of money in the bank. I'm not sure that's because I'm a woman - or if it's because most banks are not great with small business.

Funding and financing are limited and/or restricted for minority owned businesses.

It took a year of constant hard work to get the wage and fringe Bonds IBEW 134 required. I was so stressed and wanted to give up numerous times, but I needed to become a Union Contractor in order to grow.

We had trouble securing a 600k bond for a project. They gave us 400k but didn't tell us why we couldn't get the 600k.

We work in engineering and construction. We can't bond the larger jobs because my personal net worth is too low.

Banks view public work receivables as insufficient collateral. And our small firm does not have large revenue to generate capital for growth or for a rainy day. It is a vicious circle - while the work goes to the big firms and connected firms.

Credit has ranged from fair to excellent and often verbal commitments are retracted with an in-person meeting.

[I have experienced] extreme interest rates.

Predatory lending rates. Financial institutions seek high revenues in exchange for high interest rate loan. No assistance from SBA for small business.

Prior to COVID-19, for years it was difficult for a traditional bank to give me a line of Credit or my executive leaders corporate cards. Despite my firm's revenue being over millions of dollars, [having] contracts, employee count and good credit, they were not "comfortable".

Insurance barriers [limit my firm's growth].

Cannot find viable affordable insurance.

It has been difficult to obtain the higher limits of Professional Liability that we've requested. The stated answer is due to our size.

8. Barriers to equal contract terms.

Some minority and woman respondents reported they are charged higher pricing by suppliers than non-M/WBE firms.

Yes, as an MBE we get higher pricing and usually don't get credit which makes competing very difficult.

Pricing they give their non-diverse partners, this causes a higher material cost for us making us less competitive.

Yes, I have been informed that my competitors were colluding on price to ensure they were within a certain range and lower than me. We also are discriminated against by limiting the number of direct distributor agreements we have.

Many reported pressure to reduce pricing or the inability to receive fair compensation relative to their White male counterparts based on their M/WBE status.

As a minority business they expect our pricing to be cheaper.

Assumption is that my fees will be lower because of my skills and ethnicity.

Clients expect to pay lower fees for a Latino law firm.

Being a black woman owned business, we have prospects who won't follow our processes or try to get us to work for free or less than our prices.

Not getting paid, the way other races are being paid.

The entire conversation is, "here's X%" rather than what we are capable of. We are also underpaid and undervalued but not in a position to push back.

I was once told I never could receive the amount of payment that I wanted to charge. Later found that a person at the meeting was paid this amount.

We are approached and given a scope/fee simply based on W/MBE requirements (here, do this for 12%) without regard to our experience and capabilities.

Either they assume I will be more expensive simply because of my race or they will only allot the lowest margin work for subcontractors.

Sometimes, payment terms and conditions are "gerrymandered" to apply only to larger "general" contractors.

More work asked upfront for less \$.

Always rate is below other professionals.

Having to advocate for higher quote and explain/defend pricing upfront.

I always hear that they need to mark up their fees because they need to put more time into managing minority firms.

I have received offers below pay grade because I'm a minority owned business.

I often find they are willing to pay white women-owned businesses more for the same work.

I should be cheaper because I am female.

Larger companies and white companies get a better financial rate or per hour rate for the same services thru the years.

One company complained about paying me \$116 an hour but one of my PT drivers gets \$135 an hour when he works for the same company.

There is an expectation that pricing of M/WBE firm should be low-cost, instead of appreciating a model for quality and value.

They expect us to take more risk for less money. They expect us to do work for less as they feel they'll need to compensate for us.

They seem to think I should charge less.


"Your prices are too high" when I actually price based on my white competitors/primes.

We have experience on numerous times where it was said that our numbers were too high and that would be the reason for not getting the project, yet when I talk to other estimators their numbers were higher or overhead and profit margins were 10% higher than ours.

D. Conclusion

Consistent with other evidence reported in this Study, the business owner and stakeholder interviews and the survey results strongly suggest that minorities and women continue to suffer widespread discriminatory barriers to full and fair access to contracts and associated subcontracts in Cook County's market area. A large number of M/WBEs reported negative perceptions and assumptions about their competency that reduced their ability to conduct business. Minorities and women still face challenges related to stereotyping, hostile environments, racism and sexism. M/WBEs had reduced opportunities to obtain contracts, less access to formal and informal networks, and much greater difficulties in securing financial support relative to non-M/WBEs in their industries. A large number indicated that they were working well below their capacity.

Anecdotal evidence may "vividly complement" statistical evidence of discrimination. While not definitive proof that the County needs to continue to implement race- and gender-conscious remedies for these impediments, the results of the qualitative data are the types of evidence that, especially when considered in conjunction with other evidence assembled, are relevant and probative of the County's evidentiary basis to consider the use of race- and gender-conscious measures.



VII. RECOMMENDATIONS FOR THE COOK COUNTY'S AND COOK COUNTY HEALTH AND HOSPITAL SYSTEM'S MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM

The quantitative and qualitative data in this study provide a thorough examination of the evidence of the experiences of minority- and woman-owned business enterprises (“M/WBEs”) in Cook County’s and Cook County Health and Hospital System’s (hereinafter the “County” unless otherwise specified) geographic and industry markets. As required by strict constitutional scrutiny, we analyzed evidence of the County’s utilization of M/WBEs as a percentage of all firms as measured by dollars spent, as well as M/WBEs’ experiences in obtaining contracts in the public and private sectors. We gathered statistical and anecdotal data to provide the County with the evidence necessary to determine whether there is a strong basis in evidence for the continued use of race- and gender-conscious goals for its M/WBE Program (“Program”), and if so, how to narrowly tailor its Program.

The County has implemented an aggressive and successful program for many years. Utilization of M/WBEs has exceeded availability for most groups. This is the outcome of setting goals, conducting outreach, and enforcing requirements. The results have been exemplary.

However, evidence beyond the County’s achievements strongly suggests these results reflect the success of the Program countering the discrimination in its contracting markets. Outside of County and other local government contracts, M/WBEs face large disparities in opportunities for public sector and private sector work in the County’s area markets, as well as discrimination in the access to business capital. Our Disparity Studies for other Chicago area governments and the State of Illinois support the conclusion that the current effects of past discrimina-

tion and ongoing bias would be barriers to County work in the absence of affirmative action remedies. Chicago area business owners reported instances of bias and discrimination, and that they receive little work without the use of contract goals.

We found that although M/WBEs as a whole received ample dollars on County jobs, opportunities were somewhat concentrated amongst a small group of firms and were mostly in subcontracting. These results provide the County with the evidence necessary to support the continuing need for race- and gender-conscious remedies and to narrowly tailor those remedies. The recommendations that follow are based upon these findings.

We recognize that many of our recommendations, both race- and gender-neutral and race- and gender-conscious will require more staff and technical resources to be devoted to the Program.

A. Augment Race- and Gender-Neutral Measures

The courts require that governments use race- and gender-neutral approaches to the maximum feasible extent to address identified discrimination. This is a critical element of narrowly tailoring the Program, so that the burden on non-M/WBEs is no more than necessary to achieve the County's remedial purposes. Increased participation by M/WBEs through race-neutral measures will also reduce the need to set M/WBE contract goals. We therefore suggest the following enhancements of the County's current efforts, based on the business owner interviews and survey responses, input of Contract Compliance and Procurement staff, and national best practices for contracting affirmative action programs.

1. Pay Promptly and Ensure Prime Vendors Promptly Pay Subcontractors

Slow payment by the County was a major criticism of the County's contracting and procurement activities. Beyond monthly pay applications, slow change order processing and contract closeout delays were additional problems. This is a serious problem for all firms, but especially for M/WBEs and other small businesses with limited cash flow and financing options. It further discourages M/WBEs from bidding as prime contractors because they fear cash crunches and the added burdens of being responsible for paying subcontractors.

Slow payments from prime vendors to subcontractors and suppliers were also reported. The County does utilize the payment module in the B2Gnow electronic system; however, questions were raised about how closely the submissions of prime vendors were monitored. More staff resources should be devoted to ensuring that the information is received in a timely manner and is then reviewed by the County.

2. Develop Virtual Training Tools for County Staff and Vendors

The County should create targeted training videos for all aspects of the Program. These should include certification criteria and processes, contract goal setting, good faith efforts (“GFEs”) and other bid submission documents, compliance monitoring, substitution requests and working with the Contract Compliance Department. Videos should be directed to specific audiences such as prime vendors, subcontractors, and particular County and Hospital departments.

Refresher training for County user departments should be mandated once any amendments to the County’s authorizing Ordinance have been adopted. A review of the Program pursuant to this Report is an opportune moment to affirm the Program’s objectives, components and processes and get additional feedback on how its operations may be improved.

3. Focus on Supporting Opportunities for M/WBEs to Perform as Prime Contractors

While certified firms no longer experience disparities in access to County sub-contracts, contracts for prime work are either out of reach for most M/WBEs (especially Black contractors), or too risky to take on, especially in industry codes of large County spending.²⁸⁴ We recommend the County place special emphasis in reducing barriers to prime awards, so that M/WBE dollars are not concentrated in less lucrative subsectors, through the following measures:

a. Increase Contract “Unbundling”

County projects are often very large and complex. Not surprisingly, contract size is a disincentive to small firms to seek contracts. Smaller contracts are an important race-neutral component to a defensible program. Unbundling projects, providing longer lead times and simplifying requirements would assist smaller businesses to take on more County work. In conjunction with reduced insurance and bonding requirements where possible, unbundled contracts would permit smaller firms and M/WBEs to bid as prime contractors, as well as enhance their subcontracting opportunities. Unbundling must be conducted within the constraints of the need to ensure efficiency and limit costs to taxpayers.

b. Provide Mobilization Payments and “Quick Pay” Schedules

Having the cash or access to working capital to begin a larger County job is a major barrier for M/WBEs and all small firms. Increasing the use of

284. NAICS code 237110, Water and Sewer Line and Related Structures Construction and NAICS code 237310 Highway, Street, and Bridge Construction, together account for almost two thirds of City construction spending.

upfront mobilization payments and more frequent payment schedules (often called “quick pay”) will reduce structural barriers to the participation of a broader group of contractors.

4. Ensure Full and Complete Contract Data Collection

All departments must enter their contract data in the B2Gnow system. Collecting scattered contract data for this Report significantly slowed the process. Several user staff mentioned that they don’t have access to the system.

Payments to the non-certified subcontractors must be entered into the system and fully tracked. While reporting to the County President, the Board and the public understandably focuses on the participation by certified firms, full contract monitoring requires that all payments be tracked. This is necessary to develop narrowly tailored estimates of M/WBE availability and to develop the overall group of firms of which M/WBE will comprise some fraction. Leaving out the payments to non-M/WBE subcontractors will provide a distorted picture of the firms in each industry code that are in fact doing work for the County. It will also increase the costs and time to conduct the court-mandated regular reviews of the Program.

5. Adopt a Race- and Gender-Neutral Target Market Program

Strict constructional scrutiny requires the County to use M/WBE contracts goals only when necessary to ensure equal opportunities. It also requires that goals not act as functional quotas or setasides. We therefore suggest that contracts with few or no subcontracting opportunities or involving subindustries in which M/WBE utilization on County contracts has been significantly above availability be evaluated for inclusion in a small business target market program. Small, local firms owned by economically disadvantaged individuals would be eligible to submit bids on SBE target market solicitations. At least three bids or proposals must be received to consider awarding a contract using this procurement method. If an insufficient number of competitive bids are received, then the County would readvertise the opportunity in the open market. This will require a process for firms that are not already certified as MBEs or WBEs or Disadvantaged Business Enterprises (“DBEs”) under the US Department of Transportation’s program²⁸⁵ to become certified to participate.

6. Increase Program Resources

While the Office of Contract Compliance has done an exemplary job with the resources it has, more staff and funding would support enhancements to cur-

285. 49 C.F.R. Part 26.

rent activities to ensure national best practices to support the growth and development of M/WBEs are employed.

1. Management level staff are needed. Deputies should be appointed to manage the certification process for Program eligibility; compliance with pre- and post-award Program requirements; vendor outreach and support; and day-to-day administration.
2. Hire a dedicated communications person for the Program to conduct and coordinate outreach events and vendor fairs, work with assist agencies, maintain the website, promote training opportunities and ensure M/WBEs receive appropriate bid notices.
3. Procure additional B2Gnow modules for contract goal setting; utilization plan capture; and contract closeout. These tasks are now performed manually, leading to significant delays and reconciliation problems.
4. Expand and promote the Office's role as ombudsman for M/WBEs, with staff dedicated to this role. Many firms did not know to whom to turn for help with specific issues.

B. Continue to Implement Narrowly Tailored Race- and Gender-Conscious Measures

The County's M/WBE Program has been very successful in opening up opportunities for minority and woman firms on its contracts. As reported in Chapter IV, utilization has been significantly higher than availability for all groups except Native Americans. When we examined whether firms were concentrated within an industry or between industries on the basis of race or gender, however, a picture emerged of somewhat unequal outcomes for M/WBEs compared to non-M/WBEs.

Further, as documented in Chapter V, when examining outcomes in the wider economy, it is clear that M/WBEs do not yet enjoy full and fair access to opportunities to compete. Data from the Census Bureau's *Survey of Business Owners* indicate very large disparities between M/WBE firms and non-M/WBE firms when examining the sales of all firms, the sales of employer firms (firms that employ at least one worker), or the payroll of employer firms. Similarly, data from the Census Bureau's *American Community Survey* ("ACS") indicate that Blacks, Hispanics and White women were underutilized relative to White men. Controlling for other factors relevant to business outcomes, wages and business earnings were lower for these groups compared to White men. Data from the ACS further indicate that non-Whites and White women are less likely to form businesses compared to similarly situated White men. The results of numerous small business credit surveys reveal that M/WBEs, especially Black-owned firms, suffer significant barriers to

business financing. There are also race-based barriers to the development of the human capital necessary for entrepreneurial success.

Our interviews with individual business owners and stakeholders and the results of our survey further buttress the conclusion that race and sex discrimination remain persistent barriers to equal contracting opportunities. Many minority and female owners reported that they still encounter barriers based on their race and/or gender and that without affirmative intervention to increase opportunities through contract goals, they will continue to be denied full and fair chances to compete.

In our judgment, the County's utilization of M/WBEs is primarily the result of the operations of its Program, not the cessation of discrimination in the overall economy. Without the use of goals, the County may become a "passive participant" in the market failure of discrimination.

We therefore recommend that the County use narrowly tailored race- and gender-based measures. These should include using the unweighted availability estimates to set narrowly tailored M/WBE contract goals.

1. Reaffirm the Current MBE and WBE Program Goals

The City should continue to set annual, overall targets for utilization of MBEs and WBEs on its construction contracts. The current goals of 30 percent for MBE participation and 10 percent for WBE participation have been achieved and there is no reason to expect that these levels cannot be maintained going forward.

2. Use the Detailed Study Availability Data to Set M/WBE Contract Goals

As discussed in Chapter II, the County's constitutional and regulatory responsibility is to ensure that its program implementation is narrowly tailored to its geographic and procurement marketplace. Using study data will provide transparency and defensibility, as well as reduce requests for goal reductions or full waivers.

This methodology involves four steps:

1. Weight the estimated dollar value of the scopes of the contract by six-digit North American Industry Classification System ("NAICS") codes, as determined during the process of creating the solicitation.
2. Determine the unweighted availability of M/WBEs in those scopes, as estimated in the disparity study.
3. Calculate a weighted goal based upon the scopes and the availability of at least three available firms in each scope.

4. Adjust the resulting percentage based on current market conditions and progress towards the annual goals.

Written procedures spelling out the steps should be drafted.

We further urge the County to bid some contracts without goals that it determines have significant opportunities for M/WBE participation, or that involve scopes of work with high utilization, in light of the high participation of M/WBEs during the study period. These control contracts can illuminate whether certified firms are used or even solicited in the absence of goals. The development of some “unremediated markets” data, as held by the courts, including the Seventh Circuit Court of Appeals, will be probative of whether the Program remains needed to level the playing field for minorities and women. The legal standard is that an agency must use race-neutral methods to the “maximum feasible extent” and the outcomes of “no goals” contracts will illuminate how effective race-neutral measures are in achieving non-discriminatory outcomes.

The B2Bnow electronic data collection and monitoring system contains a contract goal setting module developed to utilize the study data as the starting point. We have worked extensively with this system’s vendor to develop a simple, defensible methodology to use the study data. The unweighted availability estimates should be weighted by the expected scopes of the particular contract, including the prime vendor’s anticipated self-performance. The results will be the first step in setting the contract goal. The County should then review the result considering other factors, such as the entry of new firms into the Program, other current Chicago area projects that may impact availability, progress towards meeting the annual goals, any unique aspects to the scopes, or other relevant factors. Any adjustment to the calculated goal should be fully documented. Written policies explaining the contract goal setting steps should be disseminated so that all contracting actors understand the methodology. By employing the B2Bnow system as the starting point for goal setting, and fully documenting any adjustments, bidders will gain confidence that the goals are based on demonstrable evidence that the targets are reasonable and achievable.

For contracts with few scopes, such as demolition work, the County should consider setting a combined goal for MBEs and WBEs, especially if there is the possibility that the awardee might be a certified firm, so that smaller contractors can reap the benefits of serving as the prime contractor without the burden of trying to further subdivide the work.

3. Review Program Eligibility Standards and Processes

The current limits on the annual gross receipts of a certified firm and on the personal net worth of its owner were reported as major impediments to the

growth and development of M/WBEs, especially as prime contractors. We recognize the courts have held that strict constitutional scrutiny requires some limits on who can be considered a socially and economically disadvantaged individual. The current approach, which originates from the national standard under the U.S. DOT DBE program, in our view is too restrictive for a market as complex, expensive and large as Cook County's. We suggest some additional refinements to the current approach.²⁸⁶

a. Revise the Business Size Standard for Program Eligibility

The current Program adopts the U.S. Small Business Administration's size standards for program eligibility. It also has reciprocity with the City of Chicago's M/WBE certification program. The County averages the firm's gross receipts or number of employees^{287,288} over a five-year period. The City recently updated its size and personal net worth tests and the time over which gross receipts are average for construction firms and we recommend the County do the same for minority and woman firms in that industry. While the construction size limits vary by six-digit NAICS code, these national numbers do not fully reflect the costs of doing business in the Chicago marketplace. Firms somewhat above these thresholds are still not able to fully compete with long established non-M/WBEs, who in many cases, have had decades to make critical business and financial connections, build client networks, gain expertise, acquire market share and build their businesses from public contracts. We therefore suggest that the threshold be raised to 150% of the applicable SBA NAICS code size standard for all industries. While still relatively small by comparison to major companies, this will permit minority and woman businesses to better compete for larger subcontracts and prime contracts, as well as to make inroads into the market for privately financed projects. We further recommend that the period over which gross receipts or number of employees will be averaged be lengthened to seven years from the current five-year period. This will more accurately reflect the market strength of the certified firm.

b. Revise the Personal Net Worth Standard for Program Eligibility

The personal net worth limit likewise functions as a ceiling on the growth and success of certified firms. While also required by the courts, the current test does not reflect the actual cash flow needs of firms. Interviewees

286. We made similar recommendations to the City of Chicago in our 2021 Disparity Study for its construction contracts program. Mayor Lori Lightfoot supported these changes, and they were included in the revised City ordinance, adopted in 2021.

287. "Gross receipts" is defined in 13 C.F.R. §121.104 as "all revenue in whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances."

288. Some NAICS codes, primarily in manufacturing, use the number of employees as the measure of the firm's size.

reported that the need for liquidity, especially given the slow pay by the County and other government agencies upon which M/WBEs are disproportionately reliant, means that illiquid assets are of diminished value for purposes of managing the cash flow, surety bonding requirements, and the growth needs of firms in the Chicago area market. We therefore suggest that the County count only assets that are fully liquid, that is, cash on hand and in brokerage accounts of marketable securities. The classes of assets not subject to the calculation would include equity interests in other businesses other than publicly traded stocks and funds; equity interests in real estate; the market value of goods such as art, furnishings, jewelry, vehicles, and other non-monetary assets; and the full value of all retirement accounts.

c. Revise the Employee Location Requirement for Program Eligibility

Since the inception of the ordinance, not only must the applicant firm be located in the six-County Chicago region, but also the majority of its full-time work force must live in the region. The County and the City of Chicago's Programs may be unique in the nation by imposing this extra requirement. In our view, this is an unnecessary limitation on the pool of available firms (which was not applied in determining the availability estimates in Chapter VI, since there are no datasets to link up firms with the homes or work locations of their employers). The legal standard is whether the firm operates in the agency's market, not whether the firm's employees reside there. The residence or location of a firm's employees has no relationship to whether the firm faces discriminatory barriers on the basis of the race or gender of its owner and this limitation should be dropped.

d. Address Certification and Recertification Delays

Several certified firms reported that the processing time for initial applications and even recertification applications was very long. We suggest that the County review this process for timeliness, and work towards eliminating any roadblocks. While Program integrity is of paramount value, legitimate firms can be discouraged by reports of long wait times. Prime contractors who might otherwise use new subcontractors, may demur because of concerns that a firm will not be certified or remain certified by the time of bid or proposal submission.

Another revision that will reduce the impact of delays on recertification would be to eliminate the expiration of certification status, as is the case in the DBE program, so that eligibility must be affirmatively removed. Annual "No Change" affidavits and other materials requested by the County would still be required, but the firm would remain certified until its recertification application has been denied. This shifts the risk of County delays away from

the applicant, and any prime bidder seeking to commit to use that recertification applicant, onto the County.

4. Update Program Administration Policies and Procedures

While the current Program has produced admirable results, there are some possible revisions that can strengthen the County's efforts.

- Numerous prime contractors reported that it is difficult to meet contract goals. Many will not bid a project unless they are certain they will meet the goals. To address this possible diminution of competition and provide the flexibility that is required by strict constitutional scrutiny, we recommend that the County provide targeted training on how to submit acceptable GFEs.
- To assist firms that have grown beyond the size or personal net worth limits of the Program but who still face discriminatory barriers because they remain owned by socially disadvantaged individuals, we suggest that a prime bidder's utilization of such firms be counted towards evidence of its GFEs to meet a contract goal. While these dollars would not be credited towards meeting the goal, the use of non-certified M/WBEs would demonstrate non-discrimination.
- Clean up and modernize Program documents, including the form for documenting a bidder's GFEs to meet contract goals.
- Permit a short window (perhaps close of business the next day) after the time of bid or proposal submission to submit Letters of Intent from certified firms proposed to meet contract goals. In the last moments of completing a bid, prime vendors and potential M/WBE subcontractors may not be able to exchange these documents before bid deadline. This process militates against using new firms who may not be familiar with the process or who may not have worked with the bidder. While the County rightfully is concerned about bid shopping, a short period will not be sufficient time to shop subcontractors' bids.
- Standardize counting of regular dealers and suppliers to all contracts, regardless of industry. This will reduce confusion and complexity and harmonize with the DBE regulations and the practices of other local programs.

5. Ensure Contract Monitoring

Many M/WBEs reported that while the County conducts outreach, they often felt that little attention was paid to contract compliance during performance. This appears to be a resource issue. More staff to conduct actual field audits,

and/or insisting that project managers from the user departments conduct commercially useful function and prompt payment reviews, would alleviate concerns about the actual operations of the Program after contracts have been awarded. In addition, major departments should appoint a liaison to Contract Compliance, and be given access to B2Gnow to assist with Program monitoring.

6. Implement a Technical Assistance, Capital Access and Guaranteed Surety Bonding Program for M/WBEs

While there are many training opportunities available through local assist agencies, M/WBE and non-M/WBE interview participants suggested that the County develop a robust technical assistance, capital access and bonding support program for construction firms.

A program might include:

- Consultative and technical assistance, including one-on-one coaching.
- Contractor assessments.
- Referrals to qualified partner resources, including surety brokers, insurance brokers, lenders, certified public accountants and construction attorneys.
- Educational opportunities for contractors (bonding, QuickBooks® and other systems training, estimating, marketing, etc.).
- Surety partner commitments.
- Pre-claims resolution.

Business owners and stakeholder group representatives reported that the Illinois Tollway has implemented a program along these lines and that M/WBEs found it to be helpful. Perhaps the County can partner with the Tollway to increase the availability of these services and the pool of firms that can participate. Relationships with other government agencies should also be explored.

C. Develop Performance Measures for Program Success

The County should develop quantitative performance measures for M/WBEs and the overall success of the Program to evaluate its effectiveness in reducing the systemic barriers identified in this Report. Possible benchmarks might be:

- Decreasing the number of bids or proposals where the bidder was unable to meet the goals and submitted good faith efforts to do so, as measured by the industry and the dollar amount of the awards and the goal shortfall.
- Decreasing the number of bids or proposals rejected as non-responsive for failure to make GFEs to meet the goal, as measured by dollar amount and the industry code.
- Decreasing the number, and dollar amount of M/WBE substitutions during contract performance.
- Increased bidding by certified firms as prime vendors.
- Increased prime contract awards to certified firms.
- Increased M/WBE bonding limits, size of jobs, profitability, complexity of work, etc.
- Increased variety in the industries in which minority- and woman-owned firms are awarded prime contracts and subcontracts.

D. Continue to Conduct Regular Program Reviews

The County adopted a sunset date for the current Program, which expires on Dec. 31, 2022, and we suggest this approach be continued. Data should be reviewed approximately every five to six years, to evaluate whether race- and gender-based barriers have been reduced such that affirmative efforts are no longer needed. If such measures are necessary, the County must ensure that they remain narrowly tailored.

APPENDIX A:

FURTHER EXPLANATION OF THE MULTIPLE REGRESSION ANALYSIS

As explained in the report, multiple regression statistical techniques seek to explore the relationship between a set of independent variables and a dependent variable. The following equation is a way to visualize this relationship:

$$DV = f(D, I, O)$$

where DV is the dependent variable; D is a set of demographic variables; I is a set of industry & occupation variables; and O is a set of other independent variables.

The estimation process takes this equation and transforms it into:

$$DV = C + (\beta_1 * D) + (\beta_2 * I) + (\beta_3 * O) + \mu$$

where C is the constant term; β_1 , β_2 and β_3 are coefficients, and μ is the random error term.

The statistical technique seeks to estimate the values of the constant term and the coefficients.

In order to complete the estimation, the set of independent variables must be operationalized. For demographic variables, the estimation used race, gender and age. For industry and occupation variables, the relevant industry and occupation were utilized. For the other variables, age and education were used.

A coefficient was estimated for each independent variable. The broad idea is that a person's wage or earnings is dependent upon the person's race, gender, age, industry, occupation, and education. Since this report examined Cook County, the analysis was limited to data from the counties of Cook, DuPage, Kane, Kendall, Lake and Will. The coefficient for the new variable showed the impact of being a member of that race or gender in the metropolitan area.

APPENDIX B:

FURTHER EXPLANATION OF THE PROBIT REGRESSION ANALYSIS

Probit regression is a special type of regression analysis. Probit regression analysis is used to explore the determinants of business formation because the question of business formation is a “yes’ or “no” question: the individual does or does not form a business. Hence, the dependent variable (business formation) is a dichotomous one with a value of “one” or “zero”. This differs from the question of the impact of race and gender of wages, for instance, because wage is a continuous variable and can have any non- negative value. Since business formation is a “yes/no” issue, the fundamental issue is: how do the dependent variables (race, gender, etc.) impact the probability that a particular group forms a business? Does the race or gender of a person raise or lower the probability he or she will form a business and by what degree does this probability change? The standard regression model does not examine probabilities; it examines if the level of a variable (*e.g.*, the wage) rises or fall because of race or gender and the magnitude of this change.

The basic probit regression model looks identical to the basic standard regression model:

$$DV = f(D, I, O)$$

where DV is the dependent variable; D is a set of demographic variables; I is a set of industry and occupation variables; and O is a set of other independent variables.

The estimation process takes this equation and transforms it into:

$$DV = C + (\beta_1 * D) + (\beta_2 * I) + (\beta_3 * O) + \mu$$

where C is the constant term; β_1 , β_2 , and β_3 are coefficients, and μ is the random error term.

As discussed above, the dependent variable in the standard regression model is continuous and can take on many values while in the probit model, the dependent variable is dichotomous and can take on only two values: zero or one. The two models also differ in the interpretation of the independent variables’ coefficients, in the standard model, the interpretation is fairly straight-

forward: the unit change in the independent variable impacts the dependent variable by the amount of the coefficient.²⁸⁹ However, in the probit model, because the model is examining changes in probabilities, the initial coefficients cannot be interpreted this way. One additional computation step of the initial coefficient must be undertaken in order to yield a result that indicates how the change in the independent variable affects the probability of an event (*e.g.*, business formation) occurring. For instance, with the question of the impact of gender on business formation, if the independent variable was WOMAN (with a value of 0 if the individual was male and 1 if the individual was female) and the additional computation chance of the coefficient of WOMAN yielded a value of -0.12, we would interpret this to mean that women have a 12 percent lower probability of forming a business compared to men.

289. The exact interpretation depends upon the functional form of the model.

APPENDIX C:

SIGNIFICANCE LEVELS

Many tables in this Report contain asterisks indicating that a number has statistical significance at 0.001, 0.01, or 0.05 levels (sometimes, this is presented as 99.9 percent; 99 percent and 95 percent, respectively) and the body of the report repeats these descriptions. While the use of the term seems important, it is not self-evident what the term means. This Appendix provides a general explanation of significance levels.

This Report seeks to address the question of whether or not non-Whites and White women received disparate treatment in the economy relative to White males. From a statistical viewpoint, this primary question has two sub-questions:

- What is the relationship between the independent variable and the dependent variable?
- What is the probability that the relationship between the independent variable and the dependent variable is equal to zero?

For example, an important question facing Cook County as it explores whether each racial and ethnic group and White women continue to experience discrimination in its markets is do non-Whites and White women receive lower wages than White men? As discussed in Appendix A, one way to uncover the relationship between the dependent variable (e.g., wages) and the independent variable (e.g., non-Whites) is through multiple regression analysis. An example helps to explain this concept.

Let us say, for example, that this analysis determines that non-Whites receive wages that are 35 percent less than White men after controlling for other factors, such as education and industry, which might account for the differences in wages. However, this finding is only an estimate of the relationship between the independent variable (e.g., non-Whites) and the dependent variable (e.g., wages) – the first sub-question. It is still important to determine how accurate the estimation is. In other words, what is the probability that the estimated relationship is equal to zero – the second sub-question.

To resolve the second sub-question, statistical hypothesis tests are utilized. Hypothesis testing assumes that there is no relationship between belonging to a particular demographic group and the level of economic utilization relative to White men (e.g., non-Whites earn identical wages compared to White men

or non-Whites earn 0 percent less than White men). This sometimes is called the null hypothesis. We then calculate a confidence interval to find the probability that the observed relationship (e.g., -35 percent) is between 0 and minus that confidence interval.²⁹⁰ The confidence interval will vary depending upon the level of confidence (statistical significance) we wish to have in our conclusion. When a number is statistically significant at the 0.001 level, this indicates that we can be 99.9 percent certain that the number in question (in this example, -35 percent) lies outside of the confidence interval. When a number is statistically significant at the 0.01 level, this indicates that we can be 99.0 percent certain that the number in question lies outside of the confidence interval. When a number is statistically significant at the 0.05 level, this indicates that we can be 95.0 percent certain that the number in question lies outside of the confidence interval.

290. Because 0 can only be greater than -35 percent, we only speak of “minus the confidence level”. This is a one-tailed hypothesis test. If, in another example, the observed relationship could be above or below the hypothesized value, then we would say “plus or minus the confidence level” and this would be a two-tailed test.

APPENDIX D:

UNWEIGHTED AND WEIGHTED AVAILABILITY

Central to the analysis, under strict constitutional scrutiny, of an agency's contracting activity is understanding what firms could have received contracts. Availability has two components: unweighted availability and weighted availability. Below we define these two terms; why we make the distinction; and how to convert unweighted availability into weighted availability.

Defining Unweighted and Weighted Availability

Unweighted availability measures a group's share of all firms that could receive a contract or subcontract. If 100 firms could receive a contract and 15 of these firms are minority-owned, then MBE unweighted availability is 15 percent (15/100). *Weighted availability* converts the unweighted availability through the use of a weighting factor: the share of total agency spending in a particular NAICS code. If total agency spending is \$1,000,000 and NAICS Code AAAAAA captures \$100,000 of the total spending, then the weighting factor for NAICS code AAAAAA is 10 percent ($\$100,000/\$1,000,000$).

Why Weight the Unweighted Availability

It is important to understand *why* weighted availability should be calculated. A disparity study examines the overall contracting activity of an agency by looking at the firms that *received* contracts and the firms that *could have received* contracts. A proper analysis does not allow activity in a NAICS code that is not important an agency's overall spending behavior to have a disproportionate impact on the analysis. In other words, the availability of a certain group in a specific NAICS code in which the agency spends few of its dollars should have less importance to the analysis than the availability of a certain group in another NAICS code where the agency spends a large share of its dollars.

To account for these differences, the availability in each NAICS code is weighted by the agency's spending in the code. The calculation of the weighted availability compares the firms that received contracts (utilization) and the firms that could receive contracts (availability). Utilization is a group's share of total spending by an agency; this metric is measure in dollars, *i.e.*,

MBEs received 8 percent of all dollars spent by the agency. Since utilization is measured in dollars, availability must be measured in dollars to permit an “apples-to-apples” comparison.

How to Calculate the Weighted Availability

Three steps are involved in converting unweighted availability into weighted availability:

- Determine the unweighted availability
- Determine the weights for each NAICS code
- Apply the weights to the unweighted availability to calculate weighted availability

The following is a hypothetical calculation.

Table A contains data on unweighted availability measured by the number of firms:

Table A

NAICS	Black	Hispanic	Asian	Native American	White Women	Non-M/W/DBE	Total
AAAAAA	10	20	20	5	15	400	470
BBBBBB	20	15	15	4	16	410	480
CCCCCC	10	10	18	3	17	420	478
TOTAL	40	45	53	12	48	1230	1428

Unweighted availability measured as the share of firms requires us to divide the number of firms in each group by the total number of firms (the last column in Table A). For example, the Black share of total firms in NAICS code AAAAAA is 2.1 percent (10/470). Table B presents the unweighted availability measure as a group’s share of all firms.

Table B

NAICS	Black	Hispanic	Asian	Native American	White Women	Non-M/W/DBE	Total
AAAAAA	2.1%	4.3%	4.3%	1.1%	3.2%	85.1%	100.0%

NAICS	Black	Hispanic	Asian	Native American	White Women	Non-M/W/DBE	Total
BBBBBB	4.2%	3.1%	3.1%	0.8%	3.3%	85.4%	100.0%
CCCCCC	2.1%	2.1%	3.8%	0.6%	3.6%	87.9%	100.0%
TOTAL	2.8%	3.2%	3.7%	0.8%	3.4%	86.1%	100.0%

Table C presents data on the agency's spending in each NAICS code:

Table C

NAICS	Total Dollars	Share
AAAAAA	\$1,000.00	22.2%
BBBBBB	\$1,500.00	33.3%
CCCCCC	\$2,000.00	44.4%
TOTAL	\$4,500.00	100.0%

Each NAICS code's share of total agency spending (the last column in Table C) is the weight from each NAICS code that will be used in calculating the weighted availability. To calculate the overall weighted availability for each group, we first derive the every NAICS code component of a group's overall weighted availability. This is done by multiplying the NAICS code weight by the particular group's unweighted availability in that NAICS code. For instance, to determine NAICS code AAAAAA's component of the overall Black weighted availability, we would multiply 22.2 percent (the NAICS code weight) by 2.1 percent (the Black unweighted availability in NAICS code AAAAAA). The resulting number is 0.005 and this number is found in Table D under the cell which presents NAICS code AAAAAA's share of the Black weighted availability. The procedure is repeated for each group in each NAICS code. The calculation is completed by adding up each NAICS component for a particular group to calculate that group's overall weighted availability. Table D presents this information:

Table D

NAICS	Black	Hispanic	Asian	Native American	White Women	Non-M/W/DBE
AAAAAA	0.005	0.009	0.009	0.002	0.007	0.189
BBBBBB	0.014	0.010	0.010	0.003	0.011	0.285
CCCCCC	0.009	0.009	0.017	0.003	0.016	0.391
TOTAL	0.028	0.029	0.037	0.008	0.034	0.864

To determine the overall *weighted availability*, the last row of Table D is converted into a percentage (*e.g.*, for the Black weighted availability: $0.028 * 100 = 2.8$ percent). Table E presents these results.

Table E

Black	Hispanic	Asian	Native American	White Women	Non-MWBE	Total
2.8%	2.9%	3.7%	0.8%	3.4%	86.4%	100.0%

APPENDIX E:

QUALITATIVE EVIDENCE FROM ILLINOIS DISPARITY STUDIES

In addition to the anecdotal data collected for this study and provided in the Qualitative chapter of this report, Colette Holt & Associates has conducted several studies in Illinois over the last several years that shed light on the experiences of minority- and woman-owned firms in the Chicago area and overall Illinois marketplace. We interviewed minority and woman owners and non-M/WBE representatives about barriers to the full and fair participation of all firms in the agency's market area. The total number of participants for these interviews was 819 individuals.

This summary of anecdotal reports provides an overview of the following disparity studies:²⁹¹ Illinois State Toll Highway Authority ("Tollway"); State of Illinois Department of Central Management ("CMS"); Regional Transportation Authority ("RTA"); Chicago Transit Authority ("CTA"); Cook County ("Cook County"); Northeast Illinois Regional Commuter Railroad Corporation doing business as Metra ("Metra"); Metropolitan Water Reclamation District of Greater Chicago ("MWRD"); the City of Chicago Construction Contracts ("City of Chicago"); and Pace Suburban Bus ("Pace"). These studies were conducted between 2015 and 2021.

1. Discriminatory Attitudes and Negative Perceptions of Competency and Professionalism

Many minority and woman owners reported being stigmatized by their race and/or gender. Subtle and overt stereotyping and race and gender discrimina-

291. Copies of these studies can be accessed at the following links: Illinois Tollway <http://www.mwbelaw.com/wp-content/uploads/2021/04/2015-Illinois-State-Toll-Highway-Authority-Disparity-Study.pdf>; CMS <http://www.mwbelaw.com/wp-content/uploads/2021/04/2015-State-of-Illinois-Department-of-Central-Management-Services-Disparity-Study.pdf>; RTA <http://www.mwbelaw.com/wp-content/uploads/2019/10/2016-RTA-Availability-Study.pdf>; CTA <http://www.mwbelaw.com/wp-content/uploads/2019/12/Chicago-Transit-Authority-Disparity-Study-2019.pdf>; Cook County <http://www.mwbelaw.com/wp-content/uploads/2019/10/2015-Cook-County-Illinois-Disparity-Study.pdf>; Metra <http://www.mwbelaw.com/wp-content/uploads/2019/10/2016-Metra-Availability-Study.pdf>; MWRD <http://www.mwbelaw.com/wp-content/uploads/2019/10/2015-The-Metropolitan-Water-District-of-Greater-Chicago-Disparity-Study.pdf>; City of Chicago <http://www.mwbelaw.com/wp-content/uploads/2021/11/City-of-Chicago-Disparity-Study-for-Construction-Contracts-2021.pdf> and Pace <http://www.mwbelaw.com/wp-content/uploads/2021/04/2015-Pace-Chicago-Suburban-Bus-Disparity-Study.pdf>.

tion were commonplace. Respondents reported that White men often evince negative attitudes concerning their competency, skill, and professionalism.

Biases about the capabilities of minority and women business owners impact all aspects of their attempts to obtain contracts and to ensure they are treated equally in performing contract work. The often-prevailing viewpoint is that M/WBEs and small firms in general are less qualified and less capable.

They try to put a stigma on us.... It's like a stigma that they have to use us because there's participation requirements and they make us sound like we're not good at what we do. And there are some really good MBE, WBEs out there. (Cook County, page 129)

Just this past year, a colleague of mine had a GC say, "do we want quality, or do we want diversification". The reality is, this is what is thought out there. (MWRD, page 173)

There's still the perception that if you're a minority or a woman, you can't perform.... That there's something wrong with you, you know, there's something lacking.... They stick with the good old boys. (Tollway, page 111)

There is a stigma [to being an MBE]. Quite frankly, when we go after projects, I have to remind the client we have more people in Chicago than [large engineering firm], and yet you're looking at them as though they're [name], and we are bigger than [name] in Chicago. But that's not what you're seeing. There's a ton of firms that are significantly smaller than us, who they expect us to sub to. And we have more experience, more people. And to be honest with you, I often say, "I don't have a Black engineering degree." There was no minority engineering or business degree, there wasn't any of that, right? I got the same one as everybody else. And yet somehow my experience is different. Somehow my engineering experience is less there even though I have all the same qualifications, I've worked on all the same projects. My team has worked on all the same stuff, quite frankly, our staff work for the vast majority of these larger engineering firms that we're competing against now. And they were the smartest people in the world when they worked for [name], and I of a sudden they worked for [name] firm, and they clearly are stupid. (MWRD, page 173)

The construction community is a bunch of good old boys, that are multi-generational. (MWRD, page 176)

I contacted a man in the beginning one time and asked him about doing kind of a joint deal.... And he informed me he would rather not bid a job than have to work with DBE[s]. (CMS, page 125)

[What] we learned a long time ago was the MBE or the WBE or the DBE [certifications], they can help you or hurt you. We changed our marketing materials years ago and put that in the back end because what are we first and foremost? We are an engineering solution provider for the clients, and if this project happens to have goals, we can help you fulfill that as well, it's a win-win.... There is always this preconceived notion that [because] you are an M[BE] you can't be that competent. (RTA, page 119)

I have not been an MBE because I didn't want the stigma associated with some of the MBEs.... I do send some of my Caucasian project managers to some units. I will say and even though my company is 75% minority and women out of my 40 to 50 employees, I have to do that because there is a stigma associated.... You have to perform at a 50% higher rate, even though we don't get the good jobs, because they go to the large companies. Whether their construction or consulting, or services and goods, it's hard to compete in that environment. (MWRD, page 173)

They just give me all of these types of titles, but a lot of times, I don't really pay attention until you actually say something to me because I'm pretty much a straightforward woman. I have learned they're going to assume a lot of things about you, but you can't really get caught up with that. Because sometimes, it's a mindset. (City of Chicago, page 107)

Small, minority, women, disadvantaged businesses are perceived to not always have all the qualifications, regardless of how long they've been in business. Sometimes, even in just the way primes deal with you, they assume a certain amount of incompetence, even though they've been working with you for a while. (CMS, page 123)

The other message that I got [at an outreach meeting for Illinois Tollway projects] was that this was a sacrifice on the part of the primes, that they needed to be thanked for coming on board in that way. I found it very offensive. (RTA, page 121)

[General contractors] do not rely on our expertise. They think we're just fronts or that we don't know our businesses and they don't trust us or that we know what we're doing. In the beginning, I know people don't believe at all that I knew what I was doing. (MWRD, page 132)

They think that because you're a minority or a woman business that you don't have your act together. (Pace, page 118)

[State personnel] look down on us as some kind of beggars for percentages. (CMS, page 124)

[Large prime contractors] try one to two M's or W's, that may not be all that great, and they lump us all together as "second rate". When they may try 7-8 substandard White guy companies, and they don't think anything of it. They just keep looking for someone else. (MWRD, pages 173-174)

When we are 60, 70 people still people ask, what capacity [do you have]? We could do as good as any bigger firm in the city, but they will still ask the same question. Even the state departments will ask the same question. (CMS, page 125)

My other big burr in my saddle is always about capacity. We're just like they are. I mean if we get a big job, we can hire people just like they can. Because you want to know why? The engineers all want to go to whoever's got the big fancy job. They're technical people. They want the juicy projects.... It's not difficult to build capacity. If you can continue to win big recognizable projects. (Tollway, page 112)

Many women reported unfair treatment or sexual harassment in the business world.

Let's just be honest. I'm a woman who's in construction so that just equals bullseye.... Other contractors who come in behind you and they call you [trade] chicks. Or they tell you, what has the world come to because you're [trade] chicks.... Men come out and they complain that a woman is running the crew.... Even the men I hire, I'm giving you a paycheck, struggle with taking orders from a woman.... Someone comes to the job and they go to one of the guys [I employ] and they say, are you the lead here? (CMS, page 125)

I have on several occasions been offered jobs in exchange for sex. I've had guys order several drinks my way to try to get me drunk at a networking event. They pull me to the side because

we've talked on other occasions about a specific job, and they'll say this job is coming up and they'll name one of my competitors. He's doing this and he's doing that and blah, blah, blah. A few drinks in, they want, okay, "what are you going to do" sort of thing. It's happened quite a bit. (CTA, page 59)

I was propositioned at a hotel room by my boss, the owner of the company. He was like, "Hey you're coming in, right?" When I said no, he was like, "Really? What exactly are you trying to say here?" And then he showed up half naked at my hotel room and was banging down my door to get in and come and have sex. (City of Chicago, page 110)

At least yearly, one of the first questions asked to me is "What does your husband do?". Although benign, it implies that I certainly cannot be running a construction company. So right off the bat, they think I am unqualified. That is the assumption they are going in with. (MWRD, page 174)

There's an issue with disrespect.... I've had truck drivers call me sweetie. And I said, "I appreciate that you feel that way about me, but it's not very professional. And I would appreciate you don't do it again." And so, I've learned the confidence over the years to just not put up with it and to also train my staff not to put up with it. (City of Chicago, page 107)

They call you sweetheart. Sweetheart, honey, just inappropriate comments. (Pace, page 119)

There is an old boys' network that is misogynistic. Let's just be honest with it.... You're a woman, you can't possibly do that. That's a ridiculous notion anymore, at least in my perspective. But I can tell you of all of the W[BE]s that I know, they have that problem working in a male-dominated situation where unless, and I hate to say it in these terms, unless you're related or have some inside track, you're not going to get selected unless they absolutely have to use you for something.... There's a lot more women entering the [engineering] field. But that's going to take a while and overcoming that prejudice [won't be easy]. (Cook County, page 131)

I've gone to a lot of women's networking events. I was a member of the [Federation of Women Contractors], a couple other networking things that are women-driven, and that's the only place that I filled that gap, because women might have the same feelings as me, but I've always felt like I don't fit in.... I've

always worked well with men, but I find that the project management staff, all men, would be sitting there talking about sports stats. Their water cooler talk was not super interesting to me, so I didn't fit in there. (City of Chicago, page 112)

In negotiations, people think that women aren't savvy businesspeople and that I'll just do this for nothing. (CMS, page 125)

You're mansplained away. You're just invisible. They say they want to work with you, but like you said, I think [name], that there's hostility. There's lack of trust. (City of Chicago, page 109)

It's a common occurrence for people [both general contractors and agency personnel] to assume that I'm an administrative person rather than the president.... They'll even go to the point of quizzing me about rudimentary questions about [trade]. (Pace, page 119)

My biggest problem is I can't walk in a room, or any women, I'm somebody's wife. I mean my husband has never worked for me in my whole life. He's a carpenter.... I've sat on executive boards and I've never been addressed as an [specialty trade] contractor on an executive board without oh, she's so-and-so's wife or other [specialty trade] contractor's wives, where they've sat back and said, do you know my wife? They don't want nothing to do with me. (Tollway, page 111)

Half of the buildings that I've worked for, they think that the pumper truck driver is my husband because they can't wrap their heads around that a woman owns the company or knows the technical aspects of the job and would hold the license. The other half thinks that I'm married to my field manager because those are the guys, they see the most often, it's the pumper truck driver and the field manager, so they automatically assume that they're the real owner and they're propping me up. I'm not related to any of them. (City of Chicago, page 108)

This is very cultural and definitely our line of work is hostile towards us from one way or another. I haven't had any sexual harassment so far, but I can tell you from my clients, and even my painters, I get that look. You know, that you're a lady, what are you doing in the painting business? It has been hard. But I think, like I said, it's cultural because it's not only this work that we do, but in general. Whenever we go, we get some sort of

mistreatment. They don't trust us completely. They don't think that we know what we're doing. (City of Chicago, page 109)

I always feel that I have to do more than everyone else, maybe because I'm a woman. We have that thing that we always have to walk the extra mile, that 100 mile smarter than everyone else. (CTA, page 57)

2. Access to Business and Professional Networks

Minority and woman respondents reported difficulty in accessing networks and fostering relationships necessary for professional success. These barriers extended to agency staff. Respondents were unable to gain access to and communicate with key agency decisionmakers.

The support system that small White businesses have in the United States is far greater than the support system that a Puerto Rican business has, or an African-American business has.... And not just networks as in who you know. Networks to money, the ease of cash flow.... The networks and gaining access to those is really the fundamental difference that I see [between M/WBEs and small White male-owned firms] (Cook County, page 132)

There's certainly a lot of stuff that they do that we could do as a prime, but we don't get invited. (MWRD, page 175)

[Construction] is still a relationship business. It's establishing relationship with your client and with who you're going to do business with. What I struggle with is that I can't have the same relationship with my client, who are primarily men, as men can have with them.... They're going to give projects to people that they like, people that they know, people that they have a solid relationship with. And that's a struggle that I have as a woman is that I can't establish the same relationship. It's not a good scene for me to be out in a bar until two in the morning with my male clients. (Tollway, page 110)

[The CTA should hire DBEs to] do staff augmentation that allows us to get to know some of the people without having to work through a prime that doesn't really want you to get to know who they know. (CTA, page 64)

It's eliminating you from a meeting. It's not inviting you to outings, when you could be making relationships with people. It's leaving you out of things. I cannot tell you how many times

I've been told, "[name], it wasn't intentional." That's the exact point. It needs to be intentional. ... It might be a strip club, or it might be a casino. It's generally not going to get your nails done. We're all clear on that. But the whole point is, we just don't get invited to these things because number one, they decide that we wouldn't want to go. I golf. I golfed in college. I golfed in high school. Nobody, despite working 22 years in my industry knows that I golf, despite how many times I've told them that I golf. When I go and golf, they're blown away because they're like, "Holy shit, that's right down the middle of fairway." The whole point is people make assumptions about us women. You wouldn't want to go. You wouldn't feel comfortable. Or they make assumptions about the people that are on these outings. They wouldn't feel comfortable with you there. Because the reality is in a lot of these outings, these men are doing things that they shouldn't be doing. (City of Chicago, page 111)

It always goes back to relationships.... We're all in the trust business. (MWRD, page 134)

If I was going to counsel anyone on starting a business, the first thing I would tell them is to join their trade association for their particular ethnicity or female, male, whatever. I mean, you really need to have that behind you. (City of Chicago, page 112)

3. Obtaining Work on an Equal Basis

Respondents reported that institutional and discriminatory barriers continue to exist in the Chicago area marketplace. They were in almost unanimous agreement that M/W/DBE contract goals remain necessary to level the playing field and equalize opportunities. Race- and gender-neutral approaches alone are viewed as inadequate and unlikely to ensure equal opportunity.

I remember when the Tollway had no goals, and it was absolutely abysmal. There was never a minority or a female that worked on a Tollway job, ever. And we would tell them, DOT has goals. They find women and minorities to do work. It's the same type of work that the Tollway and the DOT does. And it wasn't until the Tollway started to have some goals that we started, we all started to get work on Tollway projects. (Tollway, page 113)

There's been jobs where as soon as the goal's met, then they just call up whoever they normally call... we do get more work when there is a goal involved. (Tollway, page 114)

The program has been critical for our growth [as an MBE]. I think, without the program, there's not a doubt in my head that we would be who we are today. I think the program gets you in the door. The program gives you opportunities earlier on in your career. The program opens doors for you. (City of Chicago, page 114)

If you asked me what the detriment is to minorities is we've only been doing this for some people have been doing it for two years, five years, 10 years. Just the knowledge itself takes five to 10 years to get. Capital, the access to capital takes another five or 10 years. So, that's why these companies are multi-generational. It is a situation that we want to boost up our DBE firms. We've got to start giving them projects for them, that they can get experience on, that they can start showing the bonding companies, that they have the ability to do a project. (MWRD, page 176)

The minute there's not a goal, those primes walk away, and they go back to the old boys' network. (Pace, page 121)

As a WBE, the only time that we have negotiating power before the subcontract is awarded, when our general is sending us a subcontract, is when they know that they have to use us because they wrote our name in their letter of intent paperwork that they submitted to their group. And so that gives us, if we know that, which we always try to find out, were we the one that they named, then that gives you a little bit of negotiating room with them, even on items that are outside of their own subcontract where they're trying to get you to do something that the client requires of them. (City of Chicago, pages 114-115)

It may not be intentional, but there is still a prevalent feeling I feel in the industry, particularly engineering, that we've got to use them because we got to, if we don't use them, we're not going to get the job. (CMS, page 123)

I don't think that [a totally race- and gender-neutral program would] be good enough.... Everybody's got somebody that knows somebody that has a cousin that owns a small business

that will do work. So, if you don't force it, it won't happen. (RTA, page 120)

Most of the [G]eneral C[ontractor]s out there that are non-minorities would rather this program go away. (City of Chicago, page 115)

If there isn't a program somewhere, there is no incentive for anybody to use me. And the fact that there are minority- and women- and veteran-owned options, that is the only reason I'm even going to get the experience to be able to become the prime.... In the engineering world, the larger firms are just getting larger, so it's very hard to just even have entry. (MWRD, page 134)

If there's no goal and unless you have a very specific specialty, nobody's going to call you. I mean, this is consistent for me in many states. (CTA, page 62)

In the past two years, Metra has eliminated the DBE goals on [certain entire categories of] purchases. So, we used to be subcontractor on those contracts and once they eliminated those goals there was no prime that wanted to partner with us.... The [DBE contract] goal was reduced to zero. And so, we were really disappointed and inquired why that happened and were never able to get a response. (Metra, page 124)

Where there have been goals and I've been on teams and they took away goals for whatever reason, I was denied the opportunity. Flat out. Taken off the team. (Cook County, page 133)

I lost my certification, and I was not able to do any business. I got no opportunities. (CTA, page 62)

Prime contracts were especially difficult to obtain on an equal basis.

Perception is a huge issue. There's a constant perception that if you have the certification, how could you be prime? Why should you be prime? Why are you prime, you're disadvantaged? (CTA, page 59)

If you have an MBE, WBE status it somehow implies non-prime. (Cook County, page 131)

The assumption [was] that all of these White male guys in gray suits were the primes, and the DBEs weren't at the event and were some kind of outsiders. (RTA, page 121)

The general contractors are the only ones that get to the size of graduation and they generally go out of business once they graduate. Our subcontractors don't ever get to that size because of the fact that they don't have private work to grow off of. They only have this MBE, WBE work. (Cook County, page 133)

The [DBE program] forces the primes to throw a broad net and bring in capable partners to participate. And that's how ultimately you get the exposure and with the exposure you get the credibility so that as a minority or small business you can prime yourself. (Metra, page 124)

We have graduated from the DBE program before and we reentered it. And the year that we graduated, the following year our revenues dropped by about 30 to 40%.... As a DBE firm or MBE firm, it is our responsibility to look down the road and to prepare ourselves for graduation... If we had more prime relationships with the clients, we probably would have been more sustainable. (Tollway, page 114)

Don't ever start to compete against your primes, it's a different ball game. And it's interesting because [name] and [name] will fight tooth and nail on a project in the morning, and then partner with each other on the afternoon on a different project like nothing ever happened. But you got a minority firm competing against you in the morning, they will be shunned for years and will never want to do any work with you again. I've learned that personally. I have one client come to one of my teammates, I mean, one of my employees and say, "Oh, I heard you're going after this big project as a prime and we're going on the other side." He expected them to say, good luck. He said, "You just remember you work for me over here." So, I told him, "You tell the client, he remembers that he works for me over here. And he works for me over here," since we're going to play that game. But that's what's literally been told. So, once you decide that you're going to come out on your own and actually be a big boy, the prejudice, it gets significantly worse because as long as you're a small minority firm that we can keep in a box, and we can keep you where we want you to be, and you do what we say do, and you don't ask us to see the client, and we'll just give you the work, and you just be happy taking this 20%, you're fine. When you start to compete, they bring out the big guns. He'll fight the client, because the client still thinks you're little and the clients think they too big, so you literally in this

limbo area of how do I reposition the firm to get work? (MWRD, page 175)

Because you don't have that one person who has 15 years or some sort of CTA experience, they move on to somebody else, which some of the work that we do doesn't necessarily require.... We do it for all the other agencies in the city and the state or whatever, but then we're kind of bounced out of there because we don't have that CTA experience.... When they come out with smaller RFQs that seemingly would be a perfect entre for smaller businesses, there may be 500, half million-dollar contracts, million-dollar contracts, which many of the companies in here are more than capable of doing, it still goes to the largest large firm in the area. It's almost like, "We want you to come after these contracts," but then at the end of the day, do they really? (CTA, page 64)

There's the expectation that minority firms are never supposed to grow beyond a certain level that you're put in that box, you stay there comfortably and everything is good. The minute you start to spread your wings, there are issues and biases you have to be confronted with. I mean, too often, when we decided to go after a much bigger project than say, one of our goals this year, is that we want to go after a \$10 million feed project. And as we've started to assemble teams, everybody's whispering, oh, what does he think he's doing? Where does he think he's going to go with this? But the expectation is that you're not supposed to strive to do anything bigger than what has been offered to you in an MBE or DBE program. So yeah, the stigma is still very prevalent. How dare you want to grow your firm big? What are you doing? (MWRD, pages 175-176)

Many respondents indicated that M/WBEs who could access public contracts and subcontracts through M/WBE programs found it difficult to obtain private sector opportunities.

We do not get [private sector opportunities] and we've been in business quite some time. We have really good relationships with all these contractors, but we've actually even sat down with a few of them and talked about doing private work. They were in shock like, "I didn't realize you'd want to do private work." Why wouldn't I want to? (CTA, page 62)

We've got to talk about that private sector project goals and make certain that these contractors adhere to the guidelines. Otherwise, we're going to see \$65, \$80B fly through this

community and we're still on food stamps. (City of Chicago, page 116)

The program is still much needed. As we all know it takes a long time to bid these jobs. Man hours which converged to dollars. And I've had two contractors while I've walked in, I've made phone calls prior to COVID try to stop by and talk about the upcoming bid. And to my surprise, both were exactly the same. They said, "[Name], we're all set on the MBE for this job." and I say, "well, I'm still a contractor. I still put a lot of time and money into this bid. I have some serious questions and I need to bid this job and I want it to be successful." "But we're all set. We're good." (City of Chicago, page 114)

It's been a very difficult task tapping into the Chicago market. Almost makes you want to just shut down and leave. I understand why a lot of businesses do at this point. (MWRD, page 176)

