

# **Cook County Disparity Study 2022**

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# Disparity Study Legal Standards

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- In 1989, US Supreme Court held race- and gender-conscious programs are subject to “strict scrutiny,” the highest level of judicial review
- M/WBE programs must meet two tests
  - County must prove it has a “compelling interest” based on “strong” statistical and anecdotal evidence of current discrimination or the effects of past discrimination in using race or gender in decision-making
  - Any remedies must be “narrowly tailored” to the evidence relied upon and regularly reviewed

# Disparity Study Legal Standards

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- USDA “socially and economically disadvantaged” farmers program under American Rescue Plan struck down by three trial courts and class status granted
- Priority for grants to small restaurants owned by “socially and economically disadvantaged” persons, women and veterans struck down
- Oregon’s COVID relief fund for Blacks and Colorado’s fund for MBEs challenged and enjoined

# Disparity Study Objectives

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- Meet federal constitutional legal requirements
- Provide new data for goal setting
- Solicit contractors' input
  - Experiences in the Cook County's marketplace
  - Experiences with Cook County's program
  - Suggestions for improvements
- Develop program recommendations

# Disparity Study Data and Methods

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## ■ Quantitative Data Sources

- County and CCHHS contract and vendor records for FY 2015-2019, \$50,000 and above
- Contract information from prime vendors
- M/W/DBE Directories
- Hoovers/Dun & Bradstreet
- U.S. Census Bureau
- Scholarly research

## ■ Qualitative Data Sources

- Business owner and stakeholder interviews
- Electronic survey
- County and CCHHS staff
- Chicago area disparity studies

# Disparity Study Elements

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- Legal Review and Analysis
- M/WBE Program Review
- Utilization, Availability and Disparity Analysis of County and CCHHS Prime Contracts and Subcontracts
- Economy-Wide Disparity Analysis
- Anecdotal Evidence
- Recommendations

# Disparity Study Findings

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## ■ Anecdotal Evidence

- Interviewed 93 individuals and collected 447 electronic survey responses
- Biased perceptions and negative assumptions about M/WBEs' qualifications and capabilities remain barriers
- Racial harassment and conflict still occur
- Sexist attitudes and behaviors, hostile work environments and outright harassment of women still occur

# Disparity Study Findings

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- Industry networks remain difficult to penetrate
- M/WBEs get little work outside goals programs
- Prime contracts are especially difficult to obtain
- Discriminatory obstacles in obtaining financing, bonding and insurance continue to prevent M/WBEs from competing on an equal basis
- Program remains necessary to level the playing field



# Disparity Study Findings

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- Economy-Wide Disparity Analysis
  - American Community Survey
    - Minorities and women earn less from their construction businesses than similar White males
  - Annual Business Survey
    - Disparities in sales receipts compared to similar non-M/WBEs
    - Results are statistically significant for most groups
  - Government and scholarly research and literature
    - Credit discrimination barriers remain high
    - Human capital constraints continue to impede success

# Disparity Study Findings

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- Final County Contract Data File
  - 144 prime contracts, totaling \$647,352,465
  - 264 subcontracts, totaling \$121,316,020
- Geographic Market for County Contracts
  - Cook, DuPage, Will, Lake, Kane, and McHenry captured 91.9% of the Final Contract Data File
- Product Market for County Contracts
  - 115 six-digit NAICS codes in the Final Contract Data File

# Disparity Study Findings

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- Utilization on County Contracts
  - M/WBEs: 21.6% (\$152,517,487)
    - Blacks: 6.1% (\$43,122,229)
    - Hispanics: 4.5% (\$31,614,474)
    - Asians: 2.6% (\$18,064,681)
    - Native Americans: 0.0% (\$34,948)
    - White women: 8.5% (\$59,681,156)
  - Non-M/WBEs: 78.4% (\$553,662,461)

# Disparity Study Findings

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- Unweighted availability means the headcount of firms in the agency's geographic and industry markets
  - Sources
    - Public agency and private entity certification lists
    - Agency contract and vendor records
    - Hoovers/Dun & Bradstreet
- “Weighted” availability means unweighted availability adjusted by the agency's spending patterns as established by its industry market (115 NAICS codes for County Contracts)

Further explanation is provided in Appendix D

# Disparity Study Findings

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- Weighted Availability for County Contracts
  - M/WBEs: 13.3%
    - Blacks: 3.8%
    - Hispanics: 1.8%
    - Asians: 1.4 %
    - Native Americans: 0.04%
    - White women: 6.3%
  - Non-M/WBEs: 86.7%

# Disparity Study Findings

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- “Disparity ratio” means the relationship between utilization and weighted availability
  - $DR \text{ (disparity ratio)} = U \text{ (utilization rate)} \div WA \text{ (weighted availability)}$
- Disparities may be substantively significant
  - Less than 80% supports the inference of disparate impact
- Disparities may be statistically significant
  - Outcome is unlikely to have resulted from random chance
  - Greater the significance, the smaller the probability it resulted from random chance alone

Further explanation is provided in Appendix C

# Disparity Study Findings

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## ■ Disparity Ratios for County Contracts

- M/WBEs: 163.0%<sup>\*\*\*</sup>
  - Blacks: 161.2%
  - Hispanics: 256.8%
  - Asians: 189.0%
  - Native Americans: 13.5%<sup>‡</sup>
  - White women: 134.8%
- Non-M/WBEs: 90.4%<sup>\*\*</sup>

<sup>\*\*\*</sup> Statistically significant at the 0.001 level

<sup>\*\*</sup> Statistically significant at the 0.01 level

<sup>‡</sup> Indicates substantive significance

# Disparity Study Findings

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- Program has been effective in increasing opportunities for M/WBEs
- M/WBE utilization on County contracts is substantially above utilization, except for Native Americans



# Disparity Study Findings

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- Final CCHHS Contract Data File
  - 223 prime contracts, totaling \$1,041,287,206
  - 302 subcontracts, totaling \$196,801,143
- Geographic Market for CCHHS Contracts
  - Cook, DuPage, Will, Lake, Kane, and McHenry captured 85.2% of the Final Contract Data File
- Product Market for CCHHS Contracts
  - 135 six-digit NAICS codes in the Final Contract Data File

# Disparity Study Findings

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- Utilization on CCHHS Contacts
  - M/WBEs: 17.0% (\$179,089,955)
    - Blacks: 4.0% (\$42,062,435)
    - Hispanics: 2.8% (\$29,675,580)
    - Asians: 4.5% (\$47,216,627)
    - Native Americans: 0.0% (\$3,465)
    - White women: 5.7% (\$60,131,848)
  - Non-M/WBEs: 83.0% (\$876,241,798)

# Disparity Study Findings

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- Weighted availability for CCHHS contracts
  - M/WBEs: 23.1%
    - Blacks: 7.0%
    - Hispanics: 2.3%
    - Asians: 2.3%
    - Native Americans: 0.01%
    - White women: 11.5%
  - Non-M/WBEs: 76.9%

# Disparity Study Findings

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- Disparity ratios for CCHHS contracts
  - M/WBEs: 73.3% ‡
    - Blacks: 57.2% ‡
    - Hispanics: 122.6%
    - Asians: 192.3%
    - Native Americans: 2.6% ‡
    - White women: 49.4% ‡
  - Non-M/WBEs: 108.0%\*

‡ Indicates substantive significance

\* Statistically significant at the 0.05 level

# Disparity Study Findings

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- Weighted availability all contracts combined
  - M/WBEs: 19.2%
    - Blacks: 5.7%
    - Hispanics: 2.1%
    - Asians: 1.9%
    - Native Americans: 0.0%
    - White women: 9.5%
  - Non-M/WBEs: 80.8%
- The overall M/WBE weighted availability of 19.2% can be used by Cook County to determine its overall aspirational goal.

# Disparity Study Findings

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- For both County and CCHHS, contract dollars received by M/WBEs in comparison to non-M/WBEs are:
  - In a different subset of codes
  - More concentrated across a smaller number of M/WBEs in some industries
- There were large and statistically significant disparities for M/WBEs overall on CCHHS contracts
- Although the M/WBE program has been quite successful, these benefits have not been spread evenly across all groups or subindustries

# Disparity Study Findings

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- Program administration feedback
  - Program generally works well and was widely supported
  - Accessing information about upcoming opportunities or feedback about bids is challenging
  - More networking with prime firms would foster relationships.
  - A size based target market program would allow like-size firms to compete against one another
  - Slow payments by the County hampers M/WBEs from working on agency projects and large prime firms working with small firms and M/WBEs

# Disparity Study Findings

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- More oversight is required to assure compliance by primes with program requirements
- Construction managers were seen as a problem
- Support to navigate the certification process would make it less daunting
- Increasing net worth requirement and firm revenue limits were supported
- Additional support with bonding, loan and insurance was requested



# Disparity Study Findings

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- A mentor-protégé program or one-to-one coaching were additional initiatives that would help M/WBEs
- Although most bidders were able to meet contract goals, some large vendors especially in health care struggled
- Non-M/WBEs thought more training for M/WBEs and small firms would make them more successful on County projects

# Disparity Study Recommendations

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- Augment race- and gender-neutral measures
  - Pay promptly and ensure prime vendors promptly pay
  - Develop virtual training tools for County staff and vendors
  - Focus on supporting opportunities for M/WBEs to perform as prime contractors
    - Increase contract “unbundling”
    - Provide mobilization payments and “quick pay” schedules
  - Ensure full and complete contract data collection
  - Adopt a race- and gender-neutral Target Market Program
  - Increase program resources

# Disparity Study Recommendations

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- Continue to implement narrowly tailored race- and gender- conscious measures
  - Reaffirm the current MBE and WBE Program goals
  - Use the detailed study availability data to set MBE and WBE contract goals
  - Review program eligibility standards and processes
    - Revise the business size standard
    - Revise the personal net work standard
    - Revise the employee location requirement
    - Address certification and recertification delays

# Disparity Study Recommendations

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- Update program administration policies and procedures
- Ensure contract compliance monitoring
- Implement a Technical Assistance, Capital Access and Guaranteed Surety Bonding Program for M/WBEs
- Develop performance measures for program success
- Continue to conduct regular program reviews



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