

DENVER 2018 DISPARITY STUDY

February 28, 2019

As required by § 28-83, D.R.M.C., of the Denver city ordinance, the Division of Small Business Opportunity (DSBO) in the Office of Economic Development (OED) is required to conduct a disparity study approximately every 5 years to evaluate the utilization of minority and women-owned contractors in city procurement of construction, professional design, and goods and services. The results of the study are used to collect evidence of the city's current contracting practices and assess the need for, and continuation of, the DSBO Minority and Women Business Enterprise (MWBE) program.

OED engaged BBC Research & Consulting (BBC) to conduct a 2018 Disparity Study that examined:

- 1) The city's procurement of construction, professional design, goods and services from 2012-2016
- 2) DSBO's goal-setting process for contracting with small, minority and woman-owned businesses from 2012-2016
- 3) Legal precedents and analysis of federal law, state law, Denver city ordinance and case law, including *Adarand Constructors, Inc. v. Slater*, 228 F.3d 1147 (10th Cir. 2000); *Concrete Works of Colorado, Inc. v. City and County of Denver*, 321 F.3d 950 (2003), and any recent updates
- 4) Quantitative and qualitative analysis of the availability, utilization and disparity of minority and women-owned businesses
- 5) General market-conditions for the seven-county metro Denver business community

The findings of the study demonstrate that a disparity still exists in the use of MWBE firms in city procurement practices--and affirms the need to continue DSBO's use of programmatic measures that are race and gender conscious.

"Information from the disparity study will help the city to continue to encourage the participation of minority and women owned businesses in its contracting and procurement. In addition, it will help the city implement the MWBE and federal DBE programs effectively and in a legally-defensible manner."

– BBC Research and Consulting, 2018 Disparity Study, City and County of Denver

Next Steps:

Business Equity Leadership Team

At the direction of Mayor Michael B. Hancock, the executive leadership of the largest city agencies and capital programs have convened to form the Business Equity Leadership Team (BELT). Public Works, Denver International Airport, Parks & Recreation, Arts & Venues, General Services, the Elevate Denver Bond project, Department of Finance, and the Mayor's Office of the National Western Center compose BELT's membership.

BELT is developing a Master Utilization Plan that will align recommendations from the community and the disparity study to ensure that small, minority and woman-owned businesses are engaged and afforded more opportunities for equitable participation in city contracts. Over the next two years, these agencies and programs will be accountable in implementing BELT's strategies and tactics and will provide quarterly updates to the Mayor and community. BELT will be releasing the Master Utilization plan in the Spring of 2019.

2019 DSBO Priorities

In response to the results of the 2018 Disparity Study and in cooperation with the Mayor's Office, Denver City Council, supporting agencies and community partners, DSBO has identified the following priorities for 2019:



- 1) **DSBO Ordinance Extension** – the DSBO ordinance will be extended for eight months, through December 1, 2019, to finalize changes to the ordinance, implement rules, regulations, policies and programs.
- 2) **Restructure Goal Setting Procedures** – DSBO will set project-specific goals based on scopes of work, market data/considerations and the availability of certified firms.
- 3) **Develop and Implement a Mentor Protégé Program** – In coordination with other agencies and programs, DSBO will develop a Mentor Protégé program that will allow small, minority and woman-owned businesses to build capacity and working relationships.
- 4) **Selection Criteria and RFP Language** – Re-evaluate and revise the selection criteria and RFP language to adhere to the city’s values supporting business equity.
- 5) **Revising Goods and Services Ordinance** – Revise the city’s ordinance to foster greater participation of small, minority and women owned businesses in General Services contracts for goods and services.
- 6) **Unbundling Procurements** – Create a pipeline of opportunities for small, minority and woman-owned businesses to prime on city contracts.
- 7) **Contract Compliance** – Formalize internal processes that will support the integrity of the DSBO program and ensure that small, minority and woman-owned businesses can perform successfully on contracts.
- 8) **Education and Outreach to Small Business Community** – Develop community-friendly tools to help small, minority and woman-owned businesses learn about city contracting processes and bid opportunities.
- 9) **DSBO Staffing** – Identify staff and other resources needed to ensure that DSBO’s 2019 priorities are met.
- 10) **Construction Empowerment Initiative (CEI) Recommendations** – Review, prioritize, and implement CEI’s recommendations that are in alignment with the city’s mission to create an equitable path to prosperity for all business and residents.

DSBO will continue to keep the community apprised and solicit feedback from stakeholders as it implements these priorities.

The City and County of Denver values the important role that minority, woman and small business enterprises play in the local economy. Their success is essential to job creation and economic growth. The Office of Economic Development’s Division of Small Business Opportunity is committed to advancing the policies, processes, training, compliance, certification and community engagement necessary to propel small businesses forward.

Our team is honored to lead this work and will continue to advance a vibrant economy that works for everyone. If you have any questions about the 2018 Disparity Study, please contact us at dsbo@denvergov.org.

Best,

A handwritten signature in blue ink, appearing to read "Eric Hiraga".

Eric Hiraga
Executive Director, Denver Office of Economic Development

CHAPTER ES.

Executive Summary

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

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

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

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

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

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

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

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

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

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

A. Analyses in the Disparity Study

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

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

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

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

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

B. Availability Analysis Results

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

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

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

Note:

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

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

Source:

BBC Research & Consulting availability analysis.

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

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

Figure ES-2.
Availability estimates by contract goal status

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

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

Source:
 BBC Research & Consulting availability analysis.

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

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

Figure ES-3.
Availability estimates by contract role

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

Source:
 BBC Research & Consulting availability analysis.

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

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

Figure ES-4.
Availability estimates by relevant industry

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

Source:
 BBC Research & Consulting availability analysis.

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

C. Utilization Analysis Results

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

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

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

Note:

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

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

Source:

BBC Research & Consulting utilization analysis.

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

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

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

Figure ES-6.
Utilization results by contract goal status

Note:

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

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

Source:

BBC Research & Consulting utilization analysis.

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

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

Figure ES-7.
Utilization results by contract role

Note:

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

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

Source:

BBC Research & Consulting utilization analysis.

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

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

Figure ES-8.
Utilization results by
relevant industry

Note:

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

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

Source:

BBC Research & Consulting utilization analysis.

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

D. Disparity Analysis Results

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

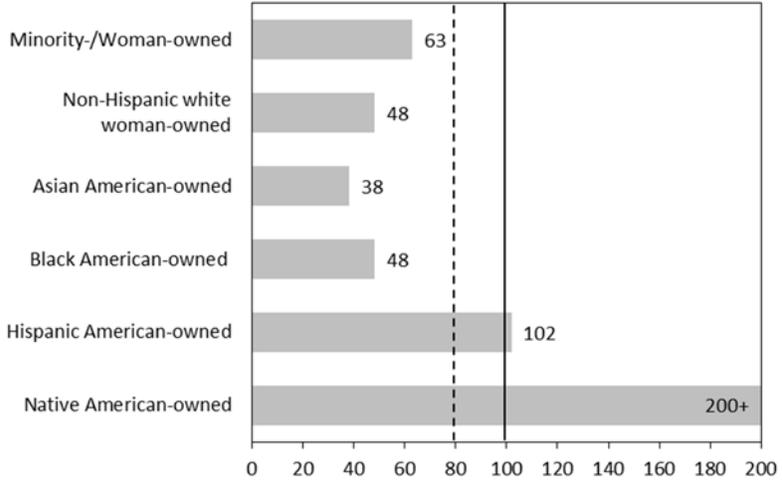
Overall. Figure ES-9 presents disparity indices for all relevant prime contracts and subcontracts that the City awarded during the study period. The line down the center of the graph shows a disparity index level of 100, which indicates parity between participation and availability. For reference, there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

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

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

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

Source:
 BBC Research & Consulting disparity analysis.



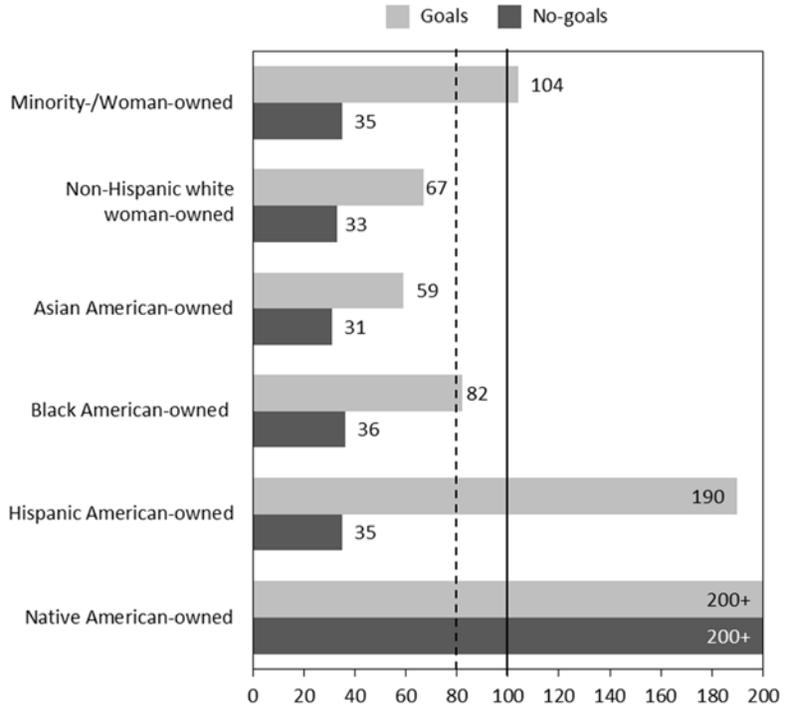
Contract goals. During the study period, the City used MWBE and DBE contract goals to award many locally-funded and federally-funded contracts, respectively, to encourage the participation of minority- and woman-owned businesses. It is useful to examine disparity analysis results separately for goals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

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

Figure ES-10.
Disparity indices by
contract goal status

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

Source:
 BBC Research & Consulting disparity analysis.



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

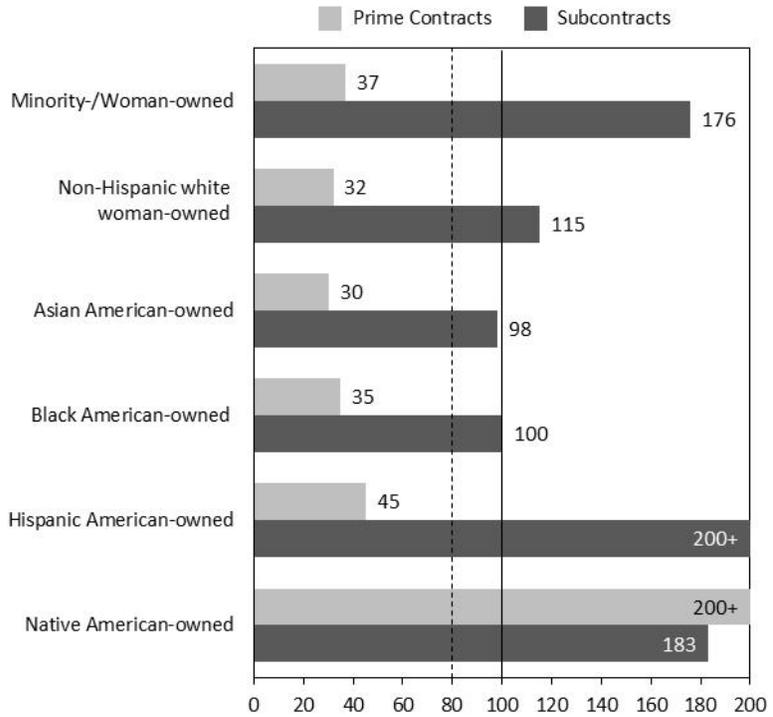
Contract role. Subcontracts tend to be much smaller in size than prime contracts. As a result, subcontracts are often more accessible than prime contracts to minority- and woman-owned businesses. In addition, the City used MWBE and DBE contract goals when awarding many contracts during the study period,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

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

Figure ES-11.
Disparity indices by
contract role

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

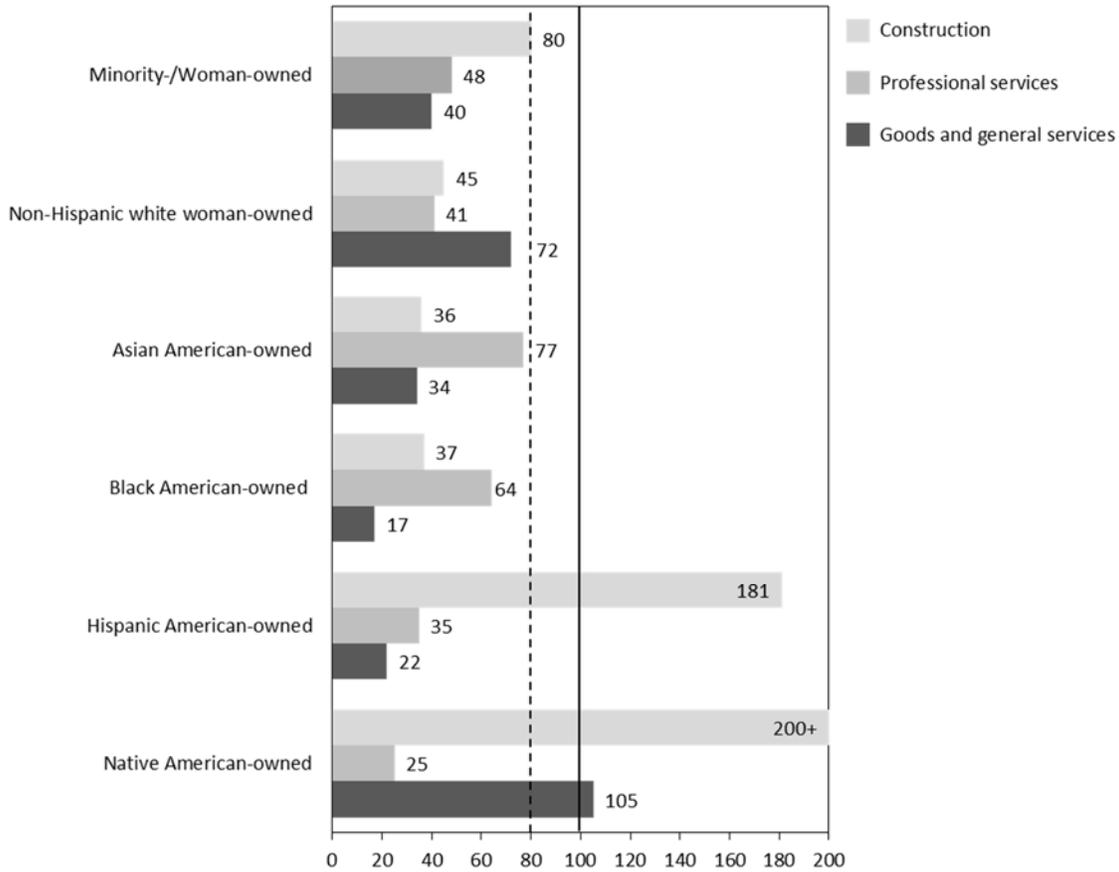
Source:
 BBC Research & Consulting disparity
 analysis.



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

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

Figure ES-12.
Disparity indices by relevant industry



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

E. Program Implementation

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

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

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

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

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

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

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

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

³ 49 CFR Section 26.45.

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

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

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

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

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

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

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

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

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

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