



## 2023 BROWARD COUNTY PUBLIC SCHOOLS DISPARITY STUDY Final Summary Report

### Prepared for:

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**Final Summary Report**  
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## SUMMARY REPORT — Executive Summary

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Broward County Public Schools (“District”) has long shown a commitment to contract equity, having enacted one of the earliest supplier diversity programs in the country in 1988.

The District periodically conducts studies that examine whether programs that assist minority- and woman-owned businesses in District contracts continue to be needed. Its 2015 disparity study found substantial underutilization of businesses owned by people of color and women in District contracting from 2008 through 2013. In response, the District formed a Disparity Study Workgroup with local stakeholders to consider policies to help level the playing field for minority- and woman-owned businesses competing for its construction, architecture and engineering, professional services, goods and other services contracts.

Keen Independent Research (Keen Independent) performed the 2023 Disparity Study to provide information for the District to assess whether there continues to be a need for its current policies to assist minority- and woman-owned firms in its contracts. Keen Independent examined the success of existing policies and any need for expansion or enhancement.

Figure 1 on pages 3–5 of this report summarizes:

- Recommendations from the 2015 report and Workgroup (first two columns of Figure 1);
- District response to those recommendations (columns 3 and 4 of Figure 1); and
- Next steps for District consideration based on results from the 2023 Disparity Study (right-hand column of Figure 1).

The balance of this Executive Summary discusses key results from the 2023 Disparity Study.

### Utilization, Availability and Disparity Analyses

In the 2023 Disparity Study, Keen Independent compared the utilization and availability of minority-owned businesses (MBEs) and woman-owned businesses (WBEs) in District contracts and subcontracts from FY2018 through FY2022.

- About 36 percent of District contract dollars went to MBE/WBEs.
- Keen Independent identified South Florida as the relevant geographic market area for the study (the region from which the District procures a large share of its contracts). This area consists of Broward, Miami-Dade and Palm Beach counties.
- Keen Independent analyzed the availability of MBE/WBEs and other firms in South Florida to perform District contracts and subcontracts. The study team conducted a large survey of South Florida companies to identify MBE/WBEs and other firms available for District contracts. MBE/WBEs comprised about 63 percent of firms indicating qualifications and interest in District contracts.

However, MBE/WBE availability was not uniform across District contracts. Through a contract-by-contract analysis of MBE/WBEs and other firms available to perform specific types and sizes of District contracts and subcontracts, Keen Independent determined that 57 percent of District contract dollars would go to MBE/WBEs if there were a level playing field.

- Overall, the share of District contract dollars going to MBE/WBEs (36%) was less than what would have been expected based on the availability analysis (57%).

## SUMMARY REPORT — Executive Summary

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### Conclusions

The District has taken many steps to promote equity in its procurement. BCPS operates a Supplier Diversity Outreach Program (SDOP) to promote participation of small and diverse businesses on District contracts. This program includes several race- and gender-neutral as well as race- and gender-conscious elements, including SBE, MBE and WBE subcontract participation goals.

- While race- and gender-conscious SDOP contract goals appear to have been effective in eliminating disparities for Hispanic American- and white woman-owned businesses, disparities persist for other minority-owned businesses in District contracts.
- Absent application of race- and gender-conscious contract goals, there were substantial disparities for minority- and white woman-owned firms in most of the industries examined. The results suggest that, but-for the application of SDOP contract goals, there is considerable evidence that there would be substantial disparities for MBEs and some evidence that there would be substantial disparities for WBEs.

Keen Independent performed disparity analyses for the following types of District contracts: construction, architecture and engineering, professional services, goods, and other services, and results vary somewhat by industry. The District should review all of the results in the disparity study, including industry-specific disparity analyses, to evaluate the need for continued or additional efforts to level the playing field for minority- and woman-owned businesses and other disadvantaged businesses.

### Recommendations

In the final pages of the Summary Report, Keen Independent recommends three groups of actions for District consideration: refining and reauthorizing the Supplier Diversity Outreach Program, continuing to operate SDOP elements, and enhancing program elements and operations.

#### Refine and reauthorize the Supplier Diversity Outreach Program

1. Reauthorize the Supplier Diversity Outreach Program;
2. Update aspirational MBE/WBE goals;
3. Refine existing Affirmative Procurement Initiatives;
4. Modify evaluation preferences;
5. Revise program compliance through self-performance;

#### Continue operating SDOP elements

6. Continue targeted MBE/WBE outreach efforts;
7. Continue tracking and reporting MBE/WBE participation;
8. Other APIs.

#### Enhance program elements and operations

9. Small and local price preference for goods and other services;
10. Review, enhance and simplify internal procedures;
11. Fully staff the Economic Development & Diversity Compliance Department.

## SUMMARY REPORT — Executive Summary

### 1. Summary of past recommendations, District response and future considerations

2015 Disparity Study recommendation	2015 Disparity Study Workgroup ranking	In policy	In practice	Disparity Study 2023 recommendation
Aspirational goals	Tier 1	Policy 3330	District sets annual aspirational MBE/WBE goals by industry, role	Refine and continue
Race/gender neutral and conscious subcontract goals	Tier 1	Policy 3330	District sets contract-specific neutral (SBE) and conscious (MBE/WBE) contract goals	Refine and continue
Vendor rotation	Tier 1	Policy 3330	Rotation through prequalified vendors	Continue vendor rotation
Unbundle large procurements		Policy 3330	Regular unbundling observed in bid case study	Continue unbundling where possible
Revise bonding requirements	Tier 2	Policy 3330	District considers bond waivers for small contracts	Participate in regional partnerships to remove barriers relating to access to capital
Clarify the pre-qualification standards		Policy 7003.1	Policy 7003.1 created to clarify pre-qualification standards	Make business-friendly resources for Policy 7003.1
Apply penalties against fraudulent M/WBEs	Tier 1	Policy 3330	Grounds for contract cancellation, disqualification from future work	Inform regional partners and certification agencies
Expand solicitation notification criteria		Policy 3330	Outreach, notifications expanded during study period	Continue growing network of interested businesses, notification of opportunities
Provide adequate lead time for advertising solicitations	Tier 2	Policy 7003	Three weeks for formal construction-related bids	Continue
Provide debriefing sessions for unsuccessful bidders	Tier 1	Policy 3330	Unsuccessful bidders can request debriefing sessions	Review internal procedures, staffing to ensure adequate response to requests
Implement formal dispute resolution standards		SDOP SOP and Guidelines	Economic Development & Diversity Compliance (EDDC) to resolve disputes in given time period	Continue
Develop an expedited payment program	Tier 1	Policy 3330, SDOP SOP and Guidelines	Policy language references state prompt payment laws	Internal review of expedited prime and subcontractor payment, invoicing, reporting
Direct Owner Purchasing Program to include construction contracts under \$200,000	Tier 1	Policy 3330	District purchases goods for construction contracts	Continue operation

## SUMMARY REPORT — Executive Summary

### 1. Summary of past recommendations, District response and future considerations (continued)

2015 Disparity Study recommendation	2015 Disparity Study Workgroup ranking	In policy	In practice	Disparity Study 2023 recommendation
Use direct contracting to award smaller contracts		Policy 3330	District may contract directly for other contractual services	Continue
Establish low-cost and no-cost post-award supportive services	Tier 1	SDOP SOP and Guidelines	EDDC is available to provide technical assistance	Continue
Develop contract opportunities forecast	Tier 1	SDOP SOP and Guidelines	District shares new upcoming opportunities, active contracts with expiration dates	Increase marketing of existing and upcoming opportunities
Pay mobilization to subcontractors		No		Mobilization opportunities available through the state and county, consider developing active partnerships with regional entities
Give five-day notice of invoice disputes	Tier 1	No		Require five-day notice from primes in SDOP SOP and Guidelines, create informational pamphlet for new subcontractors
Notify subcontractors regarding requested substitution		SDOP SOP and Guidelines	District communicates with subcontractors to verify subcontractor substitution request	Continue
Fully staff the SDOP office		Partial	Increased staff since 2015	Budget for 2+ additional staff for program compliance, certification, technical assistance
Establish an M/WBE ombudsperson position	Tier 2	Yes	Ombudsperson duties shared by EDDC Director, Executive Director	Continue
Develop department-wide staff training and program enhancements implementation	Tier 1	N/A	District created procurement resources for staff, businesses	Include minimum training requirements
Conduct routine post-award contract compliance maintenance		SDOP SOP and Guidelines	District conducts regular post-award contract compliance	Continue and enhance across all commodities
Website recommendations	Tier 1	N/A	District substantially overhauled EDDC website, procurement website	Continue and consider open data portal

## SUMMARY REPORT — Executive Summary

### 1. Summary of past recommendations, District response and future considerations (continued)

2015 Disparity Study Workgroup recommendation	2015 Disparity Study Workgroup ranking	In policy	In practice	Disparity Study 2023 recommendation
SBE Prime Contract Program	Tier 1	Policy 3330	Evaluation preferences	Refine and continue
HUBZone Program	Tier 2	No		Consider evaluating need for HUBZone Program
S/MBE/WBE Mentor/Protégé program	Tier 1	Policy 3330	District operates the SMART Roofing Mentor-Protégé Program	Continue MPP, explore expansions to other types of work such as Information Technology
SBE Low Cost Wrap-up Insurance	Tier 3	No		Evaluate potential wrap-up insurance policy
S/M/WBE Price Evaluation Preferences	Tier 1	No	District applies overall S/M/WBE evaluation preferences	Consider price evaluation preference
MBE/WBE Best Value Evaluation Preferences	Tier 1	Policy 3330	Evaluation preferences for certified S/M/WBEs	Refine and continue
MBE/WBE Joint Venture Incentives	Tier 2	No		Evaluate existing Joint Venture policies in Federal ACDBE program
Establish Office of Contractor Dispute Resolution	Tier 2	SDOP SOP and Guidelines	Dispute resolution handled through the EDDC	Continue and evaluate need for contractor dispute committee to address vendor/contractor disputes
Commercial non-discrimination policy	Tier 1	SDOP SOP and Guidelines	ITB General Conditions include nondiscrimination clause	Continue and require in subcontract agreements
Goal setting committee	Tier 1	Policy 3330	Committee appointed, chaired by District Superintendent	Continue and expand
Penalties and sanctions for non-compliance	Tier 1	SDOP SOP and Guidelines	Grounds for contract cancelation, disqualification from future work	Continue
SDOP prior approval of M/WBE subcontractor substitutions	Tier 1	SDOP SOP and Guidelines	EDDC must approve S/M/WBE subcontractor substitutions	Continue
Evaluation preference for new SBE prime bidders	Tier 1	SDOP SOP and Guidelines	Preferences for new certified SBE firms	Refine and continue
SBE reserve for contracts up to \$50,000	Tier 1	Policy 3330	District may reserve small contracts for SBE/ESBE competition	Continue
Voluntary SBE/MBE/WBE distributorship development program	Tier 1	Policy 3330	Program to encourage SBE/MBE/WBE participation on goods contracts	Continue and enhance with local bidder pricing preference



## SUMMARY REPORT — Introduction

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### Background

As part of efforts to ensure equity in its contracting activities, Broward County Public Schools (BCPS or “District”) commissioned a disparity study to determine if there is a level playing field for minority- and woman-owned business enterprises when competing for District contracts.

This research examines whether there are any barriers to minority- and woman-owned businesses and other firms seeking work with the District or with District prime contractors. The study identifies how the District can develop and implement new program elements to address observed disparities in District contracts and subcontracts.

### 2023 Disparity Study

Keen Independent Research LLC (Keen Independent) conducted a disparity study for the District to analyze whether there were differences between the utilization of minority- and woman-owned firms in District contracts and subcontracts and what would be expected given the relative availability of MBE/WBEs to perform that work. The study also examined conditions in the local marketplace for minority- and woman-owned businesses.

Government programs that provide preferences or requirements regarding use of minority- or woman-owned businesses can be challenged in court. The disparity study is based on relevant case law, including legal decisions in the Eleventh Circuit Court of Appeals.

The 2023 Disparity Study helps the District identify the types of assistance minority- and woman-owned businesses might need to fully participate in the local economy and in its contracts and subcontracts.

**Research methods.** The study included:

- A survey of firms in South Florida available to perform public sector work related to construction, architecture and engineering, professional services, goods and other services (referred to as “study industries”);
- Identification of prime contractors, consultants, subcontractors and other vendors on past District contracts;
- Disparity analyses that compare participation of minority- and woman-owned firms on District contracts with what would be expected from the availability analysis;
- Interviews with business owners and representatives; and
- Other research about the local marketplace.

Appendix A provides definitions of terms used in this study.

**Study team.** Keen Independent Research is a national economic consulting firm. David Keen, Principal, has led more than 150 disparity studies for similar agencies and has served as an expert witness successfully defending contract equity programs in court. The study team also included The Mosaic Group, a consulting firm based in South Florida, the survey firm Customer Research International (CRI) and the law firm Holland & Knight.

**Public input.** The 2023 Disparity Study started in January 2023 with submission of a draft report in October 2023. BCPS provided opportunities for public input from the outset. Keen Independent reached out to thousands of businesses, trade association representatives and others in South Florida through surveys, in-depth interviews and other research. Hundreds of businesses, trade association representatives and other interested individuals provided input through these methods. BCPS held a public meeting about the study on October 11, 2023, that provided additional input. .



## SUMMARY REPORT — Legal framework

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Across the country, state and local governments have enacted minority- and woman-owned business enterprise programs to:

- a. Ensure that they are not engaged in discrimination in their contracting;
- b. Remedy specific identified past discrimination or its present effects in their marketplace;
- c. Remove and address barriers to participation in contracting by minority- and woman-owned business enterprises; and
- d. Take affirmative steps to dismantle a system in which they were passive participants in private marketplace discrimination.

As described in the following pages, different standards of legal review apply when defending minority-owned business, woman-owned business and small business enterprise (MBE, WBE and SBE) programs in court. The different standards of legal review are:

- Strict scrutiny (for MBE programs);
- Intermediate scrutiny (for WBE programs); and
- Rational basis test (for small business enterprise and local business programs).

Disparity studies, based on the court decisions and legal framework summarized in the following pages, are an accepted and recognized method to analyze information regarding participation of minority- and woman-owned businesses in government contracting and the marketplace. Disparity studies examine the types of evidence approved by the U.S. Supreme Court and lower courts that have reviewed public programs involving minority- and woman-owned businesses.

## SUMMARY REPORT — Legal framework

### Strict Scrutiny Standard of Review for MBE Programs

In 1989, the U.S. Supreme Court in *City of Richmond v. J.A. Croson Company* established “strict scrutiny” as the standard of legal review for race-conscious programs adopted by state and local governments.<sup>1</sup> Applying this standard, the U.S. Supreme Court held that the City’s minority business enterprise program violated the Equal Protection Clause of the Fourteenth Amendment.

Strict scrutiny requires that:

- A governmental entity has a “compelling governmental interest” in remedying past identified discrimination or its present effects; and
- The program adopted be “narrowly tailored” to achieve the goal of remedying the identified discrimination.<sup>2</sup>

The strict scrutiny standard has since been followed by lower courts reviewing minority business programs. It is the most difficult legal standard to meet that the U.S. Supreme Court could establish short of prohibiting such programs altogether.

Appendix L provides a detailed discussion of the strict scrutiny standard, other legal standards and court decisions pertaining to minority- and woman-owned business programs and related programs.

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<sup>1</sup> 488 U.S. 469 (1989).

<sup>2</sup> *Adarand I*, 515 U.S. 200, 227 (1995); *Midwest Fence v. Illinois DOT*, 840 F.3d 932, 935, 948-954 (7<sup>th</sup> Cir. 2016); *AGC, SDC v. Caltrans*, 713 F.3d 1187, 1195-1200 (9<sup>th</sup> Cir. 2013); *H. B. Rowe Co., Inc. v. NCDOT*, 615 F.3d 233, 241-242 (4<sup>th</sup> Cir. 2010); *Northern Contracting*, 473 F.3d at 721; *Western States Paving*, 407 F.3d at 991 (9<sup>th</sup> Cir. 2005); *Sherbrooke Turf*, 345 F.3d at 969; *Adarand VII*, 228 F.3d at 1176; *Associated Gen.*

2. U.S. Supreme Court in 1989 that ruled in *City of Richmond v. J.A. Croson Co.*



*Contractors of Ohio, Inc. v. Drabik* (“Drabik II”), 214 F.3d 730 (6<sup>th</sup> Cir. 2000); *W.H. Scott Constr. Co. v. City of Jackson, Mississippi*, 199 F.3d 206 (5<sup>th</sup> Cir. 1999); *Eng’g Contractors Ass’n of South Florida, Inc. v. Metro. Dade County*, 122 F.3d 895 (11<sup>th</sup> Cir. 1997); *Contractors Ass’n of E. Pa. v. City of Philadelphia* (“CAEP II”), 91 F.3d 586 (3<sup>d</sup> Cir. 1996); *Contractors Ass’n of E. Pa. v. City of Philadelphia* (“CAEP I”), 6 F.3d 990 (3<sup>d</sup> Cir. 1993).

## SUMMARY REPORT — Legal framework

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**Compelling governmental interest.** The first test of the strict scrutiny analysis requires a governmental entity to have a “compelling governmental interest” in remedying past identified discrimination in order to implement a race- and ethnicity-based program.<sup>3</sup> State and local governments cannot rely on national statistics of discrimination in an industry to draw conclusions about the prevailing market conditions in their own regions.<sup>4</sup> Rather, state and local governments must measure discrimination in their state or local market. However, that is not necessarily confined by the jurisdiction’s boundaries.<sup>5</sup>

The U.S. Supreme Court held that “[w]here 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.”<sup>6</sup>

The courts have noted that “there is no ‘precise mathematical formula to assess the quantum of evidence that rises to the *Croson* ‘strong basis in evidence’ benchmark.”<sup>7</sup> It has been held that a local or state government need not conclusively prove the existence of past or present racial discrimination to establish a strong basis in evidence for concluding that remedial action is necessary.<sup>8</sup> Instead, the Supreme Court held that a government may rely on “a significant statistical disparity” between the availability of qualified, willing, and able minority subcontractors and the utilization of such subcontractors by the governmental entity or its prime contractors.<sup>9</sup>

The Court further found “if the City could show that it had essentially become a ‘passive participant’ in a system of racial exclusion practiced by elements of the local construction industry, we think it clear that the City could take affirmative steps to dismantle such a system. It is beyond dispute that any public entity, state or federal, 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.”<sup>10</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; see, e.g., *Concrete Works, Inc. v. City and County of Denver* (“*Concrete Works I*”), 36 F.3d 1513, 1520 (10th Cir. 1994).

<sup>5</sup> See, e.g., *Concrete Works I*, 36 F.3d at 1520.

<sup>6</sup> *Id.*

<sup>7</sup> *H.B. Rowe*, 615 F.3d at 241, quoting *Rothe Dev. Corp. v. Dep’t of Def.*, 545 F.3d 1023, 1049 (Fed. Cir. 2008) (quoting *W.H. Scott Constr. Co. v. City of Jackson*, 199 F.3d 206, 218 n. 11 (5th Cir. 1999)); *W.H. Scott Constr. Co. v. City of Jackson, Mississippi*, 199 F.3d 206, 217-218 (5th Cir. 1999); see, *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 91 F.3d

586, 596-598, 603 (3d Cir. 1996); *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 6 F.3d 996, 1002-1007 (3d Cir. 1993).

<sup>8</sup> *H.B. Rowe Co.*, 615 F.3d at 241; see, e.g., *Midwest Fence*, 840 F.3d 932, 952-954 (7th Cir. 2016); *Concrete Works*, 321 F.3d at 958, *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 91 F.3d 586, 596-598, 603 (3d Cir. 1996); *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 6 F.3d 996, 1002-1007 (3d Cir. 1993).

<sup>9</sup> *Croson*, 488 U.S. 509, see, e.g., *Midwest Fence*, 840 F.3d 932, 952-954 (7th Cir. 2016); *H.B. Rowe*, 615 F.3d at 241; *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 91 F.3d 586, 596-598, 603 (3d Cir. 1996); *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 6 F.3d 996, 1002-1007 (3d Cir. 1993).

<sup>10</sup> 488 U.S. at 492.

## SUMMARY REPORT — Legal framework

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**Narrow tailoring.** The second test of the strict scrutiny analysis requires that a race- or ethnicity-based program or legislation implemented to remedy past identified discrimination in the relevant market be “narrowly tailored” to reach that objective.

The narrow tailoring requirement has several components and the courts analyze several criteria or factors in determining whether a program or legislation satisfies this requirement including:

- The necessity for the relief and the efficacy of alternative race-, ethnicity- and gender-neutral remedies;
- The flexibility and duration of the relief, including the availability of waiver provisions;
- The relationship of numerical goals to the relevant labor market;
- The impact of a race-, ethnicity- or gender-conscious remedy on the rights of third parties;<sup>11</sup> and
- Application of any race- or ethnicity-conscious program to only those minority groups who have actually suffered discrimination.<sup>12</sup>

A government agency must satisfy both requirements of the strict scrutiny standard. A race-conscious program that fails to meet either one is unconstitutional.

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<sup>11</sup> See, e.g., *Midwest Fence*, 840 F.3d 932, 942, 953-954 (7th Cir. 2016); *AGC, SDC v. Caltrans*, 713 F.3d at 1198-1199; *H. B. Rowe*, 615 F.3d 233, 252-255; *Rothe*, 545 F.3d at 1036; *Western States Paving*, 407 F.3d at 993-995; *Sherbrooke Turf*, 345 F.3d at 971; *Adarand VII*, 228 F.3d at 1181; *W.H. Scott Constr. Co. v. City of Jackson, Mississippi*, 199 F.3d 206 (5th Cir. 1999); *Eng’g Contractors Ass’n*, 122 F.3d at 927 (internal quotations and citations omitted); *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 91 F.3d 586, 605-610 (3d Cir. 1996); *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 6 F.3d 990, 1008-1009 (3d Cir. 1993); see also, *Geyer Signal, Inc.*, 2014 WL 1309092.

<sup>12</sup> See, e.g., *Midwest Fence*, 840 F.3d 932, 942, 953-954 (7th Cir. 2016); *AGC, SDC v. Caltrans*, 713 F.3d at 1198-1199; *Western States Paving*, 407 F.3d at 998; *Sherbrooke Turf*, 345 F.3d at 971; *Adarand VII*, 228 F.3d at 1181; see, also, *Geyer Signal, Inc.*, 2014 WL 1309092; see generally, *H.B. Rowe Co. v. NCDOT*, 615 F.3d 233, 243-245, 252-254; *Kornhass Construction, Inc. v. State of Oklahoma, Department of Central Services*, 140 F.Supp.2d at 1247-1248.

## SUMMARY REPORT — Legal framework

### Intermediate Scrutiny Standard of Review

Some courts apply a different standard of legal review — “intermediate scrutiny” — to gender-conscious programs.<sup>13</sup> This standard of legal review is more easily met than strict scrutiny. However, this legal standard can vary among courts, as explained below.

The federal court system is composed of district courts, each within one of thirteen circuits that hear appeals of decisions from courts in their jurisdiction. Broward County Public Schools in Florida is within the Eleventh Circuit Court of Appeals. Intermediate scrutiny, as interpreted by federal circuit courts of appeal, requires a direct, substantial relationship

between the objective of the gender preference and the means chosen to accomplish the objective.<sup>14</sup>

Certain Federal Courts of Appeal, including the Eleventh Circuit Court of Appeals, apply intermediate scrutiny to gender-conscious programs.<sup>15</sup> The Eleventh Circuit and Florida courts have applied “intermediate scrutiny” to classifications based on gender.<sup>16</sup> Restrictions subject to intermediate scrutiny are permissible so long as they are narrowly tailored to serve a significant governmental interest.<sup>17</sup>

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<sup>13</sup> See, e.g., *Adams v. St. Johns Cnty.*, 57 F.4th 791 801 (11th Cir.2022) (en banc); *AGC, SDC v. Caltrans*, 713 F.3d at 1195 (9th Cir. 2013); *H. B. Rowe*, 615 F.3d 233, 242 (4<sup>th</sup> Cir. 2010); *Western States Paving*, 407 F.3d at 990 n. 6; *Coral Constr. Co.*, 941 F.2d at 931-932 (9th Cir. 1991); *Equal. Found. v. City of Cincinnati*, 128 F.3d 289 (6th Cir. 1997); *Eng’g Contractors Ass’n*, 122 F.3d at 905, 908, 910 (11th Cir. 1997); *Ensley Branch N.A.A.C.P. v. Seibels*, 31 F.3d 1548 (11th Cir. 1994); *Cunningham v. Beavers*, 858 F.2d 269, 273 (5th Cir. 1988), *cert. denied*, 489 U.S. 1067 (1989) (citing *Craig v. Boren*, 429 U.S. 190 (1976), and *Lalli v. Lalli*, 439 U.S. 259(1978)); see also *U.S. v. Virginia*, 518 U.S. 515, 532 and n. 6 (1996) (“exceedingly persuasive justification.”); *Doe v. Ladapo*, 2023 WL 3833848 (N.D. Fla. 2023) (It is well established that drawing lines based on sex triggers intermediate scrutiny); *Geyer Signal, Inc.*, 2014 WL 1309092; see, *Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).

<sup>14</sup> See generally, *Adams v. St. Johns Cnty.*, 57 F.4th 791 801 (11th Cir.2022) (en banc); *AGC, SDC v. Caltrans*, 713 F.3d at 1195; *H. B. Rowe, Inc. v. NCDOT*, 615 F.3d 233, 242 (4<sup>th</sup> Cir. 2010); *Western States Paving*, 407 F.3d at 990 n. 6; *Coral Constr. Co.*, 941 F.2d at 931-932 (9th Cir. 1991); *Equal. Found. v. City of Cincinnati*, 128 F.3d 289 (6th Cir. 1997); *Eng’g Contractors Ass’n*, 122 F.3d at 905, 908, 910; *Ensley Branch N.A.A.C.P. v. Seibels*, 31 F.3d 1548 (11th Cir. 1994); *Contractors Ass’n of E. Pa. v. City of Philadelphia*, 6 F.3d at 1009-1011 (3d Cir. 1993); see, also, *U.S. v. Virginia*, 518 U.S. 515, 532 and n. 6 (1996) (“exceedingly persuasive justification.”)

<sup>15</sup> See, e.g., *Adams v. St. Johns Cnty.*, 57 F.4th 791 801 (11th Cir.2022) (en banc); *AGC, SDC v. Caltrans*, 713 F.3d at 1195 (9th Cir. 2013); *H. B. Rowe*, 615 F.3d 233, 242 (4<sup>th</sup> Cir.

2010); *Western States Paving*, 407 F.3d at 990 n. 6; *Coral Constr. Co.*, 941 F.2d at 931-932 (9th Cir. 1991); *Equal. Found. v. City of Cincinnati*, 128 F.3d 289 (6th Cir. 1997); *Eng’g Contractors Ass’n*, 122 F.3d at 905, 908, 910 (11th Cir. 1997); *Ensley Branch N.A.A.C.P. v. Seibels*, 31 F.3d 1548 (11th Cir. 1994); *Cunningham v. Beavers*, 858 F.2d 269, 273 (5th Cir. 1988), *cert. denied*, 489 U.S. 1067 (1989) (citing *Craig v. Boren*, 429 U.S. 190 (1976), and *Lalli v. Lalli*, 439 U.S. 259(1978)); see also *U.S. v. Virginia*, 518 U.S. 515, 532 and n. 6 (1996) (“exceedingly persuasive justification.”); *Doe v. Ladapo*, 2023 WL 3833848 (N.D. Fla. 2023) (It is well established that drawing lines based on sex triggers intermediate scrutiny); *Geyer Signal, Inc.*, 2014 WL 1309092; see, *Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).

<sup>16</sup> *Adams v. St. Johns Cnty.*, 57 F.4th 791 801 (11th Cir.2022) (en banc); *Eng’g Contractors Ass’n*, 122 F.3d at 905, 908, 910 (11th Cir. 1997); *Ensley Branch N.A.A.C.P. v. Seibels*, 31 F.3d 1548 (11th Cir. 1994); *Cunningham v. Beavers*, 858 F.2d 269, 273 (5th Cir. 1988), *cert. denied*, 489 U.S. 1067 (1989) (citing *Craig v. Boren*, 429 U.S. 190 (1976), and *Lalli v. Lalli*, 439 U.S. 259(1978)); see, *Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).

<sup>17</sup> *Adams v. St. Johns Cnty.*, 57 F.4th 791 801 (11th Cir.2022) (en banc); *Eng’g Contractors Ass’n*, 122 F.3d at 905, 908, 910 (11th Cir. 1997); *Ensley Branch N.A.A.C.P. v. Seibels*, 31 F.3d 1548 (11th Cir. 1994); see, e.g. *Doe v. Ladapo*, 2023 WL 3833848 (N.D. Fla. 2023); see, *Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).

## SUMMARY REPORT — Legal framework

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The courts have interpreted this intermediate scrutiny standard to require that gender-based classifications be:

1. Supported by both “sufficient probative” evidence or “exceedingly persuasive justification” in support of the stated rationale for the program; and
2. Substantially related to the achievement of that underlying objective.<sup>18</sup>

In sum, the types of analyses relevant to supporting a WBE program are similar to those for an MBE program. Keen Independent’s utilization, availability, disparity and marketplace analyses for white woman-owned firms in this disparity study parallel those for minority-owned firms.

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<sup>18</sup> *Id.*; *Adams v. St. Johns Cnty.*, 57 F.4<sup>th</sup> 791 801 (11<sup>th</sup> Cir.2022) (en banc); *Eng’g Contractors Ass’n*, 122 F.3d at 905, 908, 910; *Ensley Branch N.A.A.C.P. v. Seibels*, 31 F.3d 1548 (11<sup>th</sup> Cir. 1994); *See generally*, *AGC, SDC v. Caltrans*, 713 F.3d at 1195; *H. B. Rowe, Inc. v. NCDOT*, 615 F.3d 233, 242 (4<sup>th</sup> Cir. 2010); *Western States Paving*, 407 F.3d at 990 n. 6; *Coral Constr. Co.*, 941 F.2d at 931-932 (9<sup>th</sup> Cir. 1991); *Equal. Found. V. City of Cincinnati*, 128 F.3d 289 (6<sup>th</sup> Cir. 1997); *Contractors Ass’n of E. Pa. v. City of Philadelphia*,

6 F.3d at 1009-1011 (3d Cir. 1993); *see, also*, *U.S. v. Virginia*, 518 U.S. 515, 532 and n. 6 (1996) (“exceedingly persuasive justification.”); (Under intermediate level of scrutiny applied in equal protection challenges to statutes based on gender, government must demonstrate statute is substantially related to an important governmental objective); *see, Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).



## SUMMARY REPORT — Legal framework

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### Rational Basis Standard of Review for SBE Programs

Where a challenge to the constitutionality of a statute or a regulation does not involve a fundamental right or a suspect class, the appropriate level of scrutiny to apply is the rational basis standard.<sup>19</sup> When applying rational basis review under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, a court is required to inquire “whether the challenged classification has a legitimate purpose and whether it was reasonable [for the legislature] to believe that use of the challenged classification would promote that purpose.”<sup>20</sup>

The Eleventh Circuit Court of Appeals and Florida courts have found that under a rational-basis review, the court presumes state legislation to be constitutionally valid.<sup>21</sup> A classification imposed by statute or law, according to the Eleventh Circuit, must merely be reasonable in the light

of its purpose and must bear a rational relationship to the objectives of the legislation so that all similarly situated people will be treated similarly.<sup>22</sup> If evaluation of challenged legislation reveals any conceivable state purpose that can be considered as served by the legislation, then it must be upheld.

Under a rational basis review standard, a legislative classification will be upheld “if there is a rational relationship between the disparity of treatment and some legitimate governmental purpose.”<sup>23</sup> Because all legislation classifies its objects, differential treatment is justified by “any reasonably conceivable state of facts.”<sup>24</sup> The Eleventh Circuit holds that legislation need not pursue its permissible goal by using the least restrictive means of classification; consequently, the Equal Protection Clause is not violated merely because the classifications made...are imperfect.<sup>25</sup>

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<sup>19</sup> See, e.g., *Heller v. Doe*, 509 U.S. 312, 320 (1993); *Cunningham v. Beavers* 858 F.2d 269, 273 (5<sup>th</sup> Cir. 1988); see also *Lundeen v. Canadian Pac. R. Co.*, 532 F.3d 682, 689 (8<sup>th</sup> Cir. 2008) (stating that federal courts review legislation regulating economic and business affairs under a ‘highly deferential rational basis standard of review.’).

<sup>20</sup> See, e.g., *Heller v. Doe*, 509 U.S. 312, 320 (1993); *Jones v. Governor of Fla.*, 950 F.3d 795, 809 (11<sup>th</sup> Cir. 2020) (quoting *F.C.C. v. Beach Commc’ns, Inc.*, 508 U.S. 307, 313, (1993)); *Cunningham v. Beavers* 858 F.2d 269, 273 (5<sup>th</sup> Cir. 1988); *Oakes v. Collier County*, 515 F.Supp.3d 1202 (M.D. Fla. 2021); see, *Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).

<sup>21</sup> *Eng’g Contractors Ass’n*, 122 F.3d at 905, 908, 910; *Ensley Branch N.A.A.C.P. v. Seibels*, 31 F.3d 1548 (11<sup>th</sup> Cir. 1994). Under rational basis review, a law must be rationally related to a legitimate governmental interest and it ‘must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification’ between persons.” *Jones v. Governor of Fla.*, 950 F.3d 795, 809 (11<sup>th</sup> Cir. 2020) (quoting *F.C.C. v. Beach Commc’ns, Inc.*, 508 U.S. 307, 313, (1993)); *Oakes v. Collier County*, 515 F.Supp.3d 1202 (M.D. Fla. 2021); see,

*Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).

<sup>22</sup> *Id.*; see, *U.S. Railroad Retirement Board v. Fritz*, 449 U.S. 166, *reh’g denied*, 450 U.S. 960 (1981); *Jones v. Governor of Fla.*, 950 F.3d 795, 809 (11<sup>th</sup> Cir. 2020) (quoting *F.C.C. v. Beach Commc’ns, Inc.*, 508 U.S. 307, 313, (1993)); *Oakes v. Collier County*, 515 F.Supp.3d 1202 (M.D. Fla. 2021); see, *Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).

<sup>23</sup> *Heller v. Doe*, 509 U.S. 312, 320 (1993).

<sup>24</sup> *Id.* *Jones v. Governor of Fla.*, 950 F.3d 795, 809 (11<sup>th</sup> Cir. 2020) (quoting *F.C.C. v. Beach Commc’ns, Inc.*, 508 U.S. 307, 313, (1993)); *Oakes v. Collier County*, 515 F.Supp.3d 1202 (M.D. Fla. 2021); see, *Sasso v. Ram Property Management*, 431 So.2d 204 (Fla. 1<sup>st</sup> DCA 1983); *Pinillos v. Cedars of Lebanon Hospital Corp.*, 403 So.2d 365 (Fla. 1981).

<sup>25</sup> See, e.g., *Jones v. Governor of Fla.*, 950 F.3d 795, 809 (11<sup>th</sup> Cir. 2020) (quoting *F.C.C. v. Beach Commc’ns, Inc.*, 508 U.S. 307, 313, (1993)); *Oakes v. Collier County*, 515 F.Supp.3d 1202 (M.D. Fla. 2021); *Johnson v. Rodriguez*, 110 F.3d 299, 306 (5<sup>th</sup> Cir. 1997), *cert. denied*, 522 U.S. 995 (1997) (quotation omitted).



## SUMMARY REPORT — District procurement policies

### Procurement Policies

Figure 3 summarizes District contracting guidelines for each study industry. These guidelines vary based on the industry related to a procurement.

The table shows:

- Bidding thresholds;
- Bidding requirements;
- Basis for awarding contracts;
- Rules for advertisement of contracts; and
- Information about bonding and use of emergency contracts.

These figures provide information for contracts in goods, services, construction and professional services as compiled from Florida state statutes, state regulations, District regulations and purchasing guidelines.

Appendix M gives more detail on District procurement procedures.

### 3. Summary of BCPS procurement practices

	Goods, services and other professional services	Construction and architecture & engineering
<b>Bidding thresholds</b>		
Formal bids	Above \$50,000	\$300,000+ (or electrical \$75,000+)
Informal bids	\$5,000 – \$50,000	Below \$300,000 (or electrical below \$75,000)
Small purchases	Below \$5,000	N/A
<b>Bidding</b>		
Formal bids	Competitive solicitations from 3 or more sources	Public advertising once a week for 3 weeks; 3 invitations to bid
Informal bids	3 written quotations; contact 2 certified M/WBEs	Public advertising (one posting)
Means of public advertising	N/A	Local newspaper with general circulation through the District
<b>Basis for award</b>		
Formal bids	Lowest responsive, responsible bidder	Most qualified bidder (contingent on price negotiations)
Informal bids	Lowest responsive, responsible bidder	Most qualified bidder (contingent on price negotiations)
<b>Other</b>		
Emergency provision where requirements are waived	Yes	N/A
Bonding requirements	N/A	Required for projects \$100,000+; equal to contract price.

## SUMMARY REPORT — District procurement policies

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**Bidding thresholds and advertising requirements for goods and contractual services.** The District's bidding thresholds for goods and contractual services (non-construction-related professional services and other services) are as follows:

- **Formal bids.** Procurements over \$50,000 require competitive solicitations from three or more businesses.<sup>26</sup>
- **Informal bids.** For procurements valued between \$5,000 and \$50,000, the District is required to solicit a minimum of three businesses for written quotations. The District also requires two certified M/WBE vendors to be contacted for written quotations when such firms are available in the marketplace.<sup>27</sup>
- **Small purchases.** Purchases valued below \$5,000 can be made with procurement cards and do not require quotations or solicitations.<sup>28</sup>

**Bid selection.** Goods, services and other professional services contracts above \$5,000 are awarded to the lowest responsive, responsible bidder. The District uses "Best Value Contracting" for awarding construction and construction-related professional services projects. Best Value Contracting is a solicitation method that allows the District to take into account factors other than price.<sup>29</sup>

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<sup>26</sup> Florida Administrative Code 6A-1.012(7).

<sup>27</sup> Ibid.

<sup>28</sup> BCPS Policy 3320.

<sup>29</sup> BCPS Policy 3330 Revised 4.21.2020.

<sup>30</sup> Ibid.

**Bidding thresholds and advertising requirements for construction and architecture & engineering.** The District's bidding thresholds for construction and construction-related professional services (or A&E) contracts are as follows:

- **Formal bids.** The District must deliver invitations to bid to at least three prospective bidders or distribute the invitation to area plan rooms. The bid must be advertised in a local newspaper with general circulation once a week for three consecutive weeks, with the final advertisement appearing at least seven days prior to the bid opening date.
- **Informal bids.** Construction and A&E procurements below \$300,000 (or electrical procurements below \$75,000) must be advertised in a local newspaper with general circulation through the district at least one week prior to bid opening.<sup>30</sup>

**Bonding requirements.** Bonding is required on construction projects estimated at \$100,000 or more, though bonding requirements may be waived by the District for projects estimated below \$200,000 at the District's discretion.<sup>31</sup> Bonds must be payment and performance bonds<sup>32</sup> and must be in the amount of the contract price.<sup>33</sup> In place of bonding, contractors may instead provide cash, a money order, a certified check, a cashier's check or an irrevocable letter of credit.<sup>34</sup>

<sup>31</sup> Florida Statute 255.05.

<sup>32</sup> Ibid.

<sup>33</sup> SREF 2014.

<sup>34</sup> Florida Statute 255.05.

## SUMMARY REPORT — District procurement policies

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### Business Assistance Programs

The District operates a contract equity program as a part of the Supplier Diversity Outreach Program (SDOP). This program was established to remedy effects of marketplace discrimination that adversely impact the participation of Emerging, Small, Minority and Woman Business Enterprises (E/S/M/WBEs) in District contracting, as observed in the District's 2015 disparity study.<sup>35</sup>

The SDOP implements administrative reforms and non-industry-specific remedies, as well as industry-specific remedial affirmative procurement initiatives (APIs), which include both race-neutral and race-conscious program elements. The following describes key aspects of the SDOP and how the District currently operates the program. Figures 3 and 4 on the following pages summarize SDOP programs.

**Aspirational goals.** Each fiscal year, the District may establish non-mandatory annual aspirational goals for overall M/WBE prime and subcontract participation.<sup>36</sup> These goals are based on a combination of the District's 2015 Disparity Study findings and availability data collected from the District's Central Bidder Registration system.

Aspirational goals are not applied to individual contracts. Rather, they serve as a benchmark to measure the effectiveness of SDOP remedies and the need for more rigorous remedies. Goals are established individually for each industry.<sup>37</sup>

**Program application.** Administrative reforms and non-industry-specific remedies apply to all District contracts, while industry-specific remedial APIs are applied on a contract-by-contract basis. API application is based on factors including the type of work to be performed on the contract, potential types of work that may be performed by subcontractors on that contract, and the availability of S/M/WBEs to perform that work.<sup>38</sup>

**Evaluation preferences.** Some procurements have evaluation preferences as part of their evaluation criteria. Evaluation preferences can be race-neutral (E/SBE preference) or race-conscious (M/WBE preference). These evaluation preferences may reserve a certain percentage of total evaluation points to be awarded to certified firms (E/S/M/WBEs).<sup>39</sup>

**Certification.** The SDOP certifies E/S/M/WBEs<sup>40</sup> for participation in the program. Certifications must be renewed every two years. The SDOP also accepts certifications from local government entities and other organizations with similar certification standards.<sup>41</sup>

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<sup>35</sup> BCPS Policy 3330 Revised 4.21.2020.

<sup>36</sup> BCPS Policy 3330 E.2.a.

<sup>37</sup> BCPS Standard Operating Procedures for the Supplier Diversity Outreach Program (SDOP).

<sup>38</sup> BCPS Policy 3330 Revised 4.21.2020.

<sup>39</sup> BCPS Policy 3330 Revised 4.21.2020.

<sup>40</sup> Firms may apply for and receive individual certifications (ESBE/SBE/MBE/WBE) or a combination of certifications.

<sup>41</sup> BCPS Standard Operating Procedures for the Supplier Diversity Outreach Program (SDOP).

## SUMMARY REPORT — District procurement policies

### 4. Summary of SDOP industry-specific purchasing goals and preferences

	Program application					Program element	
	Construction	Professional services	Goods	Other services	Threshold	Goals	Preferences
<b>Race-neutral program elements</b>							
SBE and ESBE Prime Contract Preferences	■	■	■		\$ 500,000 +		■
SBE and ESBE Sheltered Market	■	■	■		< 50,000		
SBE Subcontracting Program	■	■				■	
ESBE Subcontracting Program	■					■	
<b>Race-conscious program elements</b>							
M/WBE Annual Aspirational Goals	■	■	■	■		*	
M/WBE Subcontracting Program	■	■				■	
M/WBE Segmented Subcontracting Goals	■					■	
M/WBE Evaluation Preference	■	■		■			■

Note: \* indicates that aspirational goals are non-binding.

## SUMMARY REPORT — District procurement policies

### 5. Summary of other SDOP industry-specific remedies

	Industries	Description
<b>Race-neutral program elements</b>		
Direct Owner Purchasing Program	Construction	Projects of \$200,000 or less: Office of Facilities and Construction will purchase large dollar items
SBE Mentor-Protégé Program	Construction	SDOP and Small Business Advisory Committee program that pairs SBE protégé firms with more established, successful mentor firms to help SBE protégé firms to grow their business
SBE Vendor Rotation	Professional services, goods, other services	Contracts <\$50,000 reserved for a rotation of pre-qualified certified SBE firms
Evaluation Panel Diversity	Professional services	EDDC-appointed representative to evaluation panel to ensure that scoring is fair/guard against inherent bias
Direct Contracting for Other Contractual Services	Other services	Split other contractual services that would usually be bundled in larger construction/architectural and engineering design contracts into separate contract
<b>Race-conscious program elements</b>		
M/WBE Mentor-Protégé Program	Construction, goods	SDOP and Small Business Advisory Committee program that pairs M/WBE protégé firms with more established, successful mentor firms to help M/WBE protégé firms to grow their business
Minority Inclusion Language in RFPs	Construction	Include language in RFP about encouraging M/WBE subcontracting participation as an element of the selection criteria
M/WBE Vendor Rotation	Professional services, goods, other services	Contracts < \$50,000 reserved for a rotation of pre-qualified certified M/WBE firms
Voluntary M/WBE Distributorship Development	Goods	Incentives for manufacturers to establish non-discriminatory dealerships or distributorships with M/WBE suppliers where low M/WBE availability exists

## SUMMARY REPORT — District contracts examined

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Keen Independent examined District vendor payments for construction, architecture & engineering (A&E), professional services, goods and other services contracts.

### Contract and Subcontract Data

The District provided payment data for contracts awarded from July 1, 2017, through June 30, 2022. These data included subcontract data managed by the District in operation of its Affirmative Procurement Initiatives program. In total, Keen Independent examined 3,342 prime contracts (\$1.8 billion) and 737 subcontracts (\$264 million). Appendix B describes methods used to analyze these data.

The final Keen Independent database of District contracts totaled about \$2.1 billion. These contract dollars do not include types of work typically procured from businesses located outside South Florida.

### Types of Work in District Contracts

Based on information in the contract and subcontract records, Keen Independent coded the primary type of work involved in each prime contract and subcontract using NAICS codes (North American Industry Classification System codes). NAICS codes are a standardized federal system for classifying firms into a subindustry according to the detailed type of work they perform.

Figures 5 and 6 on the following two pages show dollars of prime contracts and subcontracts for District purchases according to the primary type of work performed. There were 34 different types of work that accounted for about 92 percent of the total contract dollars. The largest category of spending was educational and institutional building construction. The availability analysis discussed later in this report focused on these subindustries.

## SUMMARY REPORT — District contracts examined

Figure 6 includes a summary of District dollars going to construction, A&E and professional services contracts by type of work performed.

**Construction.** Six types of work accounted for more than 90 percent of the work performed on District construction contracts and subcontracts.

- About two thirds (67.7%) of the dollars for construction contracts and subcontracts went to institutional and educational building construction (\$878 million).
- About \$130 million went to plumbing, HVAC and mechanical contracts and subcontracts (10% of the construction total).
- Another \$114 million went to roofing and about \$88 million went to electrical work (about 9% and 7%, respectively).

**Architecture & engineering.** A&E contracts included work for architecture and engineering as well as building inspection services. These purchases accounted for about 97 percent of the \$72 million in District A&E contract dollars.

**Professional services.** Other professional services include non-construction related professional services, such as occupational and speech therapy (about 67% of other professional services dollars), IT work (18%), advertising (8%), accounting (5%) and environmental consulting (2%). These types of work made up about 98 percent of the \$97 million in District other professional services contract dollars combined.

6. Spending by type of work on District construction, A&E and professional services prime contracts and subcontracts, FY2018–FY2022

Type of work	Dollars (\$1,000s)	Share of industry
<b>Construction</b>		
Institutional and educational building construction	\$ 877,675	67.7 %
Plumbing, HVAC and mechanical	129,934	10.0
Roofing	113,861	8.8
Electrical work	87,997	6.8
Site prep	8,814	0.7
Drywall and insulation	2,487	0.2
<b>Subtotal</b>	<b>\$ 1,220,768</b>	<b>94.2 %</b>
Other construction	\$ 47,110	3.6 %
Other non-construction	27,706	2.1
<b>Total</b>	<b>\$ 1,295,584</b>	<b>100.0 %</b>
<b>Architecture &amp; engineering</b>		
Architecture & engineering	\$ 65,126	90.7 %
Building inspection services	4,691	6.5
<b>Subtotal</b>	<b>69,817</b>	<b>97.2 %</b>
Other purchases	\$ 2,024	2.8 %
<b>Total</b>	<b>71,841</b>	<b>100.0 %</b>
<b>Professional services</b>		
Occupational and speech therapy	\$ 64,560	66.5 %
IT work	17,113	17.6
Advertising agencies	7,339	7.6
Accounting	4,398	4.5
Environmental consulting	2,135	2.2
<b>Subtotal</b>	<b>\$ 95,544</b>	<b>98.4 %</b>
Other professional services	1,596	1.6
<b>Total</b>	<b>\$ 97,141</b>	<b>100.0 %</b>

Source: Keen Independent analysis of District contract data.



## SUMMARY REPORT — District contracts examined

**Goods.** There were 11 types of work that accounted for about 90 percent of the \$550 million in District goods purchases.

- Food products (37%) and construction materials (23%) together made up about 60 percent of goods dollars.
- Petroleum products (6%), furniture (6%), office equipment (5%) and disposable utensils and sanitary products (4%) combined amounted to about 21 percent of District goods purchases.
- Medical equipment (3%), auto parts (3%), sporting supplies (2%) and radio equipment (1%) combined accounted for about 10 percent of District goods purchases.

**Other services.** There were 11 types of work that accounted for about 86 percent of the \$103 million in District other services contracts.

- One quarter of other services contract dollars (25%) were for security systems services and locksmith services.
- About another quarter of other services contract dollars were for printing and related services (17%) and landscaping services (12%).
- Janitorial services (7%), commercial and industrial machinery repair (6%), waste collection (5%), extermination (5%) and bus transportation (4%) combined made up another quarter of other services contract dollars.

7. Spending by type of work on District goods and other services contracts, FY2018–FY2022

Type of work	Dollars (\$1,000s)	Share of industry
<b>Goods</b>		
Food products	\$ 202,162	36.8 %
Construction materials	126,597	23.0
Petroleum and petroleum products	35,226	6.4
Furniture	30,249	5.5
Office equipment and supplies	26,983	4.9
Disposable utensils and sanitary products	21,736	4.0
Medical and dental equipment and supplies	18,334	3.3
Auto parts and supplies	17,605	3.2
Sporting and recreational supplies	9,888	1.8
Radios and other electronics	6,639	1.2
<b>Subtotal</b>	<b>\$ 495,419</b>	<b>90.1 %</b>
Other goods	\$ 54,270	9.9 %
<b>Total</b>	<b>\$ 549,689</b>	<b>100.0 %</b>
<b>Other services</b>		
Security systems services and locksmiths	\$ 25,839	25.1 %
Printing and related services	17,128	16.6
Landscaping services	12,147	11.8
Janitorial services	6,923	6.7
Commercial and industrial machinery repair	5,907	5.7
Waste collection	5,071	4.9
Extermination and pest control	4,636	4.5
Bus transportation	3,847	3.7
Electronic equipment repair	2,352	2.3
Remediation services	2,423	2.4
Construction equipment rental	1,909	1.9
<b>Subtotal</b>	<b>\$ 88,181</b>	<b>85.7 %</b>
Other services	\$ 14,702	14.3 %
<b>Total</b>	<b>\$ 102,883</b>	<b>100.0 %</b>

Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — District contracts examined

### Geographic Market Area

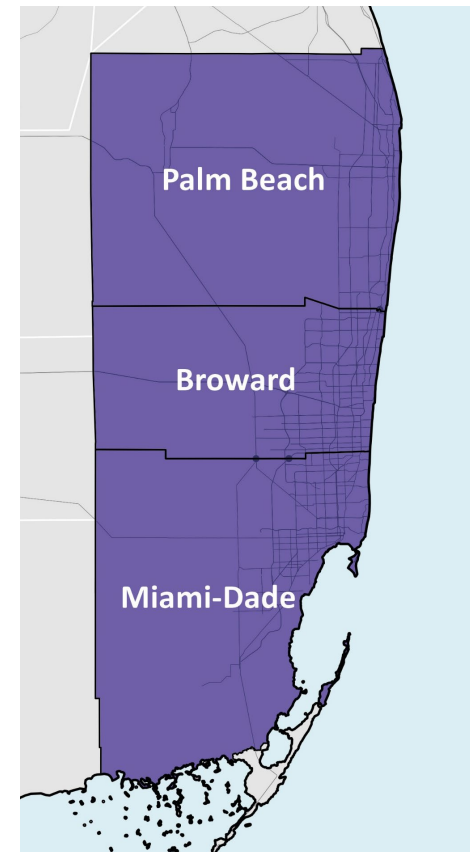
Firms in South Florida performed most of the dollars of contracts and subcontracts for the District, after excluding the types of purchases typically made from national markets and other purchases that are not eligible for the District's Affirmative Procurement Initiative Program, such as field trips and instruction materials. (See Appendix B for details.)

The “geographic market area” for District contracts consists of the Miami-Fort Lauderdale-West Palm Beach, FL Metropolitan Statistical Area (MSA), which includes the following counties:

- Broward County,
- Miami-Dade County; and
- Palm Beach County.

Firms within this three-county area accounted for 92 percent of District contract dollars (see Figure 8). Therefore, the availability analysis focused on firms in this area.

8. Geographic market area for District contracts



Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — Information about marketplace conditions

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Keen Independent examined U.S. Census Bureau data, results from the availability survey conducted for this study and other data sources on conditions for minority- and woman-owned firms in the local marketplace.

As summarized in the following eleven pages, the combined information indicates that people of color and women face barriers entering study industries as employees and as business owners. Once formed, there is evidence of greater barriers for minority- and woman-owned firms in the marketplace, including when competing for work.

This section begins with historical background on conditions affecting people of color and women in South Florida. This review cites past and present instances of discrimination against African Americans, Asian Americans, Hispanic Americans, Native Americans and women.

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<sup>42</sup> Taylor, B.W. (2002). History of Race and Gender at the University of Florida Levin College of Law 1909-2001. *Florida Law Review* 54(3), 495-520.

<sup>43</sup> United States Census Bureau. (2022). "FLORIDA: 2022 Census." Retrieved August 3, 2023, from <https://www.census.gov/library/stories/state-by-state/florida-population-change-between-census-decade.html>.

### Analysis of Historical Conditions

Florida has a long and complex history of discrimination against people of color and women.<sup>42</sup> Discrimination against individuals based on race and gender was integrated into Florida's culture, economy, labor markets, housing markets, state legislation and education systems, according to Keen Independent's review of the literature.

The following discussion is meant to provide historical context for the present study. It is not meant to be a comprehensive understanding of South Florida's history of race and gender relations. The nuances of interracial and gender relations cannot be fully captured in a summarized document.

**Current characteristics of the South Florida population.** Of the 6 million residents in South Florida, about 71 percent are people of color.<sup>43</sup> Florida has a diverse population of African Americans, Native Americans and Native Alaskans, people whose origins are from Latin America and Asia, and other groups, including many recent immigrants.<sup>44</sup>

<sup>44</sup> Migration Policy Institute (2021). "State Immigration Data Profiles: Florida." Retrieved August 14, 2023, from, <https://www.migrationpolicy.org/data/state-profiles/state/demographics/FL>.

## SUMMARY REPORT — Information about marketplace conditions

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**Examples of historic racial discrimination in Florida.** The following provides just a few examples of racial discrimination in Florida from the review of relevant literature.

**African Americans.** Institutionalized racial discrimination against African Americans is a legacy of slavery and South Florida is one of the earliest sites for the trade of enslaved Africans in the United States.<sup>45</sup> Florida was one of the many states to secede during the Civil War to protect the institution of slavery and, after the Civil War, the state pursued means to maintain institutionalized racism through the implementation of Jim Crow laws.<sup>46</sup> In addition to institutionalized disenfranchisement, African Americans faced threats of physical harm, threats to family and community and other control tactics to suppress voter registration and exercising their voting rights.<sup>47,48</sup>

Under the “separate but equal” doctrine created by the Supreme Court’s *Plessy v. Ferguson* decision, basic civil and social necessities such as education, housing, medical care and employment opportunities available to African Americans remained inferior to those available to the white population.<sup>49</sup> Restrictive Jim Crow laws extended through

1965 before the passage of the Civil Rights Act, but segregation in schools, businesses, employment and prisons continued well into 1970.<sup>50</sup> Modern institutionalized disenfranchisement of African Americans in Florida includes gerrymandering and other efforts to dilute African American political participation, representation and power.<sup>51</sup>

Barriers to full participation in civic life sustain other social and economic inequalities. African Americans continue to experience barriers to participation and inequalities in several aspects of life in South Florida. African Americans in South Florida:

- Lack of access to education, which increases instances of poverty and hinders the growth of generational wealth;<sup>52</sup>
- Are more likely to face housing discrimination than similarly situated white counterparts;<sup>53</sup>
- Face stricter leasing agreements and are more likely to be evicted than other races, especially women;<sup>54</sup> and
- Experience unfair hiring and firing biases.<sup>55</sup>

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<sup>45</sup> Stone, E. W. (2013). America's first slave revolt: Indians and African slaves in Española, 1500–1534. *Ethnohistory*, 60(2), 195-217.

<sup>46</sup> Wood, E.L. (2016). Florida: An Outlier In Denying Voting Rights. *Brennan Center for Justice*. Retrieved August 31, 2023, from [https://www.brennancenter.org/sites/default/files/publications/Florida\\_Voting\\_Rights\\_Outlier.pdf](https://www.brennancenter.org/sites/default/files/publications/Florida_Voting_Rights_Outlier.pdf).

<sup>47</sup> *Ibid.*

<sup>48</sup> Gonzalez-Tennant, E. (2018). The Rosewood Massacre: An Archaeology and History of Intersectional Violence. University Press of Florida: Gainesville, FL. Retrieved August 14, 2023, from <https://academic.oup.com/florida-scholarship-online/book/14779>.

<sup>49</sup> Clark, J.C. (1994). Civil Rights Leader Harry T. Moore and the Ku Klux Klan in Florida. *Florida Historical Quarterly* 73(2) 166-183.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> Lehmann, P.S. and Meldrum, R.C. (2019). School Suspension in Florida: The Interactive Effects of Race, Ethnicity, Gender, and Academic Achievement. *Justice Quarterly* 38(3).

<sup>53</sup> Park, S. (2023). *Why Fair Housing Is Key To Systemic Equality*. ACLU Florida. Retrieved August 31, 2023, from <https://www.aclufi.org/en/news/why-fair-housing-key-systemic-equality>.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

## SUMMARY REPORT — Information about marketplace conditions

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**Asian Americans.** Non-Hispanic whites in the 19th and 20th Centuries were struck with fear of the “Yellow Peril” — a non-existent but perceived threat that Asian immigrants providing cheap labor would make white labor obsolete. As a result, many states (Florida included) enacted Alien Land Laws restricting Asian Americans’ rights to own and occupy land or operate a business.<sup>56</sup> Florida was one of the last states to repeal its Alien Land Law in 2018.<sup>57</sup>

Federal immigration laws limited the number of Asian Americans who could immigrate to the United States until the Immigration and Nationality Act was enacted in 1965. The Asian American population increased twofold after the signing of the Act, which was followed by a pattern of increased resentment towards Asian Americans.<sup>58</sup>

Asian Americans continue to endure many other forms of discrimination. Asian Americans are often stereotyped as the “model minority,” a technically proficient, hardworking and highly educated monolith.<sup>59</sup> This seemingly positive stereotype, as well as other

microaggressions, has deleterious effects on mental health and race relations and it minimizes the effects of discrimination that Asian Americans continue to face relating to housing, education and employment.<sup>60,61,62,63</sup>

Following the COVID-19 pandemic, violent hate crimes targeting Asian Americans increased in Florida.<sup>64,65</sup> A 2020 survey of Florida residents indicated that, relative to other groups, Asian Americans in the state reported increased frequency of experiencing racial discrimination.<sup>66</sup> This survey also revealed that compared to pre-pandemic life, Asian Americans in Florida:

- Anticipated more frequent instances of racial discrimination;
- Felt a greater need to be hypervigilant for personal safety; and
- Were more likely to feel nervous about being in public spaces for fear of experiencing racial discrimination.

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<sup>56</sup> Knight, S. (2021). “‘Asian American’: A Name that Belies a Diverse Community.” Florida Policy Institute. Retrieved August 11, 2023 from, <https://www.floridapolicy.org/posts/asian-american-a-name-that-belies-a-diverse-community>.

<sup>57</sup> Martinez, R. and Timmann, C. (2018). Amendment 11: Property Rights; Removal of Obsolete Provision; Criminal Statutes. *Florida Bar Journal* 92(8).

<sup>58</sup> Guskin, J. and Wilson, D.L. *The Politics of Immigration*. New York, NY: NYU Press.

<sup>59</sup> Cheng, C. (1997). Are Asian American Employees a Model Minority or Just a Minority? *The Journal of Applied Behavioral Science* 33(3).

<sup>60</sup> Tran, A. G., & Lee, R. M. (2014). You speak English well! Asian Americans’ reactions to an exceptionalizing stereotype. *Journal of Counseling Psychology*, 61(3), 484.

<sup>61</sup> Alt, N. P., Chaney, K. E., & Shih, M. J. (2019). “But that was meant to be a compliment!”: Evaluative costs of confronting positive racial stereotypes. *Group Processes & Intergroup Relations*, 22(5), 655-672.

<sup>62</sup> Kochhar, R. and Cilluffo, A. (2018). *Income Inequality in the U.S. Is Rising Most Rapidly Among Asians*. Pew Research Center. Retrieved September 1, 2023, from <https://www.pewresearch.org/social-trends/2018/07/12/income-inequality-in-the-u-s-is-rising-most-rapidly-among-asians/>.

<sup>63</sup> Chou, R.S. (2007). *Malady of the “Model Minority”: White Racism’s Assault on the Asian American Psyche*. Texas Office of Graduate Studies.

<sup>64</sup> Le, T.K. (2020). Anti-Asian Xenophobia and Asian American COVID-19 Disparities. *AJPH* 110(9).

<sup>65</sup> Xu, J., Sun, G., Cao, W., Fan, W., Pan, Z., Yao, Z., & Li, H. (2021). Stigma, discrimination, and hate crimes in Chinese-speaking world amid Covid-19 pandemic. *Asian journal of criminology*, 16(1), 51-74.

<sup>66</sup> Kim, M., Liu, S., Lee, Y., Shrader, C. H., & Kanamori, M. (2022). COVID-19 related racial discrimination in small Asian communities: A cross sectional study. *Journal of immigrant and minority health*, 1-10.

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**Hispanic Americans.** Anti-Latino biases and discriminatory practices have created barriers to equal access to housing, employment, and education for Hispanic Americans in Florida. As one example, there have been several campaigns in Florida’s history to make English the official language of the state, which would create a barrier for non-English speakers to fully participate in civic life.<sup>67</sup>

Hispanic American citizens also experience discrimination and prejudice in various facets of daily and economic life.

- Hispanic Americans are more likely to live in substandard housing conditions.<sup>68</sup>
- Hispanic Americans experience increased surveillance from authorities and are more likely to face discrimination when applying for housing, jobs or accessing healthcare.<sup>69</sup>
- Outside of areas with large Hispanic American populations in Florida, Hispanic Americans are viewed as ‘outsiders’ and are subject to disparate treatment in shopkeeping, owning businesses and interracial relations.<sup>70</sup>

- Non-Cuban Hispanic Americans in Florida have a higher unemployment rate and find difficulty entering the Florida workforce due to immigration laws, language barriers and racial and ethnic discrimination.<sup>71</sup>

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<sup>67</sup> Baron, D. (2014). Language legislation and language abuse: American language policy through the 1990s. *Language Ideologies: Critical Perspectives on the Official English Movement, Volume II: History, Theory, and Policy*.

<sup>68</sup> Warren, N. (2022). *Gingles* unraveled: Hispanic Voting Cohesion in South Florida. *North Carolina Civil Rights Law Review* 2(1).

<sup>69</sup> Capielo-Rosario, C. *et al.* Acculturation Profiles of Central Florida Puerto Ricans: Examining the Influence of Skin Color, Perceived Ethnic-Racial Discrimination, and Neighborhood Ethnic-Racial Composition. *Journal of Cross-Cultural Psychology* 50(4).

<sup>70</sup> I Capielo-Rosario, C. *et al.* Acculturation Profiles of Central Florida Puerto Ricans: Examining the Influence of Skin Color, Perceived Ethnic-Racial Discrimination, and Neighborhood Ethnic-Racial Composition. *Journal of Cross-Cultural Psychology* 50(4).

<sup>71</sup> Zamarripa, R. (2020). *Closing Latino Labor Market Gap Requires Targeted Policies to End Discrimination*. Center for American Progress. Retrieved September 5, 2023, from <https://www.americanprogress.org/article/closing-latino-labor-market-gap-requires-targeted-policies-end-discrimination/>.

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**Native Americans.** At the time of European settlement, the various tribes across Florida had an estimated combined population of three million.<sup>72</sup> The Indigenous population in Florida was nearly depleted due to genocide, wars and forced migration through the 19th Century.<sup>73,74</sup> According to 2022 Census data, the Indigenous population in Florida is only about 110,000, about 0.5 percent of the state population; about 25,000 Indigenous people reside in South Florida.<sup>75</sup>

The large loss in population has resulted in centuries of efforts to rebuild the population and establish intergenerational economic wealth. However, there were substantial barriers for Native Americans that substantially slowed growth and development. For example, Indigenous lands were sold and occupied without consent during 19th and 20th Centuries.<sup>76</sup> The State of Florida did not officially recognize certain tribes as legitimate governing bodies the 1950s and 1960s.<sup>77</sup>

**Examples of historic discrimination against women.** Keen Independent’s review of the literature also identified evidence of discrimination against women in the state. For example, Florida state law has frequently favored men regarding employment, divorce, voting rights and other rights.<sup>78</sup> In the 1900s, Florida laws prevented women from owning land and property, from starting or operating a business and from holding gainful employment.<sup>79</sup>

Women were encouraged to maintain a homemaker’s lifestyle and avoid working. It wasn’t until 1970 that women were granted the right to own and control property in their own name.<sup>80</sup> Protection of equal rights for women was not codified into Florida law in 1998 along with equal protection for all races.<sup>81</sup>

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<sup>72</sup> National Park Service. (n.d.). *Native Americans*. National Park Service. Retrieved September 5, 2023, from <https://www.nps.gov/casa/learn/historyculture/native-americans.htm>.

<sup>73</sup> Hinton, A. L., Woolford, A., & Benvenuto, J. (Eds.). (2014). *Colonial genocide in indigenous North America*. Duke University Press.

<sup>74</sup> Frank, A.K. (2014). Creating a Seminole Enemy: Ethnic and Racial Diversity in the Conquest of Florida. *FIU Law. Rev.* 9(2).

<sup>75</sup> United States Census Bureau. (2021). “FLORIDA: 2020 Census.”

<sup>76</sup> Seminole Tribe of Florida. (n.d.). *A Changing Florida*. Seminole Tribe. Retrieved September 1, 2023, from <https://www.semtribe.com/stof/history/a-changing-florida>.

<sup>77</sup> Seminole Tribe of Florida. (n.d.). *Seminole Today*. Seminole Tribe. Retrieved September 1, 2023, from <https://www.semtribe.com/stof/history/seminoles-today>.

<sup>78</sup> Terne, W.E. (1990). Report of the Florida Supreme Court Gender Bias Study Commission. *Florida Law Review* 42(5).

<sup>79</sup> Hess, C. *et al.* (2015). “The Status of Women in the States: 2015.” Washington, DC: Status of Women Data. Retrieved August 11, 2023, from <http://statusofwomendata.org/wp-content/uploads/2015/02/Status-of-Women-in-the-States-2015-Full-National-Report.pdf>.

<sup>80</sup> Clark, L.A. (2010). The Rights of a Florida Wife: Slavery, U.S. Expansion, and Married Women’s Property Law. *Journal of Women’s History* 22(4), 39-63.

<sup>81</sup> Florida Constitution, Article I, §2 (1998).



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Cities in Florida allowed women to begin voting in municipal elections in 1915.<sup>82</sup> The 19th Amendment which extended voting rights to women, was ratified in 1920.<sup>83</sup> Although women were technically allowed to vote after the ratification in 1920, many women of color were disenfranchised through intimidation or overt voting bans.<sup>84</sup>

Women of all races and ethnicities in Florida continue to experience unequal outcomes in the workplace and access to basic needs that produce substantial barriers to full participation in the marketplace.

- The gender pay gap is not expected to close until 2038.<sup>85</sup> However, this expected date applies to white women, as the gender pay gap is greater for women of color;<sup>86</sup>
- Women receive less state-sponsored financial assistance for childcare and employment benefits compared to men;<sup>87</sup> and
- Women face unequal access to healthcare, unfair scheduling practices for low-wage jobs, inaccessible paid and family leave, childcare, and gender-based violence.<sup>88</sup>

**Summary of effects of historic discrimination in Florida.** Based on the review of the literature, there is evidence that historical prejudice, discrimination and violence against people of color and women in South Florida have shaped the current conditions of the South Florida marketplace. People of color and women continue to experience inequalities relating to wealth generation, access to housing and access to other forms of capital.

The broad assessment above provides context for Keen Independent's analysis of marketplace conditions for potential entrepreneurs and for businesses owned by people of color and by women. In the following pages, the study team discusses inequalities relating to entry and advancement into the study industries.

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<sup>82</sup> Johnson, K.R. (1970). The Woman Suffrage Movement in Florida. *The Florida Historical Quarterly* 48(3), 299-312.

<sup>83</sup> Johnson, K.R. (1970). The Woman Suffrage Movement in Florida. *The Florida Historical Quarterly* 48(3), 299-312.

<sup>84</sup> Jones, M.S. (2020). *Vanguard: How Black Women Broke Barriers, Won the Vote, and Insisted on Equality for All*. New York, NY: Hachette Book Group.

<sup>85</sup> *Ibid*.

<sup>86</sup> DePietro, A. (2023). "Florida County Map Shows where the Income Gap is Biggest." *Forbes*. Retrieved August 10, 2023, from

<https://www.forbes.com/sites/andrewdepietro/2023/01/31/florida-county-map-shows-where-the-income-gap-is-biggest/?sh=12d170111773>.

<sup>87</sup> Section from Status of Women in the States. (2015). "The Status of Women in Florida, 2015: Highlights." Washington, DC: Status of Women in the States. Retrieved August 11, 2023, from <https://statusofwomendata.org/wp-content/uploads/2015/08/Florida-Fact-Sheet.pdf>.

<sup>88</sup> Boesch, D. and Sabini, C. (2021). "Fast Facts: Economic Security for Women and Families in Florida." *American Progress*. Retrieved August 15, 2023, from <https://www.americanprogress.org/article/fast-facts-economic-security-women-families-florida-2/>.

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### Entry and Advancement as Employees in Study Industries

Employment and advancement are preconditions to business ownership in study industries. Barriers for people of color and women entering and advancing within the local construction industry, for example, could depress the number of businesses owned by minorities and women.

People of color were about 73 percent of the workforce in South Florida between 2017 and 2021. Women accounted for about 47 percent of all workers. Analysis of the local workforce in the study industries indicates that there could be barriers to employment for some minority groups and for women in certain industries.

- Among construction workers, African Americans, Asian Americans and women were underrepresented compared to representation among workers in other industries. These differences were statistically significant.

In the marketplace, representation of people of color in construction trades, such as plumbers, welders and first-line supervisors was low when compared to representation in the construction industry as a whole. There was also low representation for women in construction trades. For example, three categories of construction trades had no women workers in the Census Bureau sample data for the local area (brickmasons, plasterers and stucco masons, and welders).

Relatively few African Americans, Hispanic Americans and Native Americans working in the construction industry were managers.

- After controlling for educational attainment, African Americans and women constituted a smaller portion of the local professional services workforce when compared to representation among workers in all other industries. These differences were statistically significant.
- In the goods industry, African Americans and women represented a smaller portion of workers than would be expected based on representation among workers in all other industries. These differences were statistically significant.
- In the other services industry, Asian Americans and women represented a smaller portion of workers than would be expected based on representation among workers in all other industries. These differences were statistically significant.

Any barriers to entry or advancement in the study industries might affect the relative number of businesses owned by people of color and women in these industries in the local marketplace.

Appendix E provides detailed results regarding entry and advancement of workers of color and women in South Florida.

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### Business Ownership

Keen Independent examined whether there were differences in business ownership rates for workers in the South Florida construction, professional services, goods and other services industries related to race, ethnicity and gender.

- African Americans and women working in the South Florida construction industry were less likely than non-Hispanic whites and men, respectively, to own a business.

After statistically controlling for factors including age, number of children in the household and education, a statistically significant difference in the business ownership rate persisted for both groups. These disparities were substantial.

- In the South Florida professional services industry, African Americans, Asian Americans, Hispanic Americans, Native Americans and women were less likely than non-Hispanic whites and men, respectively, to own a business.

After controlling for personal characteristics, statistically significant disparities persisted for African Americans, Asian Americans, Native Americans and women. These disparities were substantial for African Americans, Asian Americans and Native Americans (the disparity index was 80 for white women).

- African Americans, Hispanic Americans and women working in the South Florida goods industry were less likely than white and men, respectively, to own a business.

After controlling for personal characteristics, these disparities persisted for all groups. These differences were statistically significant. Each of these disparities was substantial.

- In the South Florida other services industry, African Americans and Hispanic Americans were less likely than non-Hispanic whites to own a business.

After controlling for personal characteristics, statistically significant differences persisted in the business ownership rate for African Americans working in this industry. This difference was statistically significant. This disparity was substantial.

These disparities suggest that there are fewer white woman-owned construction and professional services in the local marketplace and fewer construction, professional services goods and other services firms owned by people of color (particularly for African Americans) than there would be if there were a level playing field for all groups to form and sustain businesses. These findings are consistent with results from the District's 2015 Disparity Study.

Appendix F provides detailed results regarding business ownership of workers of color and women in South Florida.

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### Analysis of Access to Capital

Business start-up and long-term business success depend on access to capital. Discrimination at any link in that chain may produce cascading effects that result in racial and gender disparities in business formation and success.

The information presented here indicates that people of color and women continued to face disadvantages in accessing capital that is necessary to start, operate and expand businesses as of 2022.

**National results.** Capital is required to start companies, so barriers to accessing capital can affect the number of people of color and women who are able to start businesses. In addition, minority and female entrepreneurs start their businesses with less capital (based on national data). Several studies have demonstrated that lower start-up capital adversely affects prospects for those businesses. Key results include:

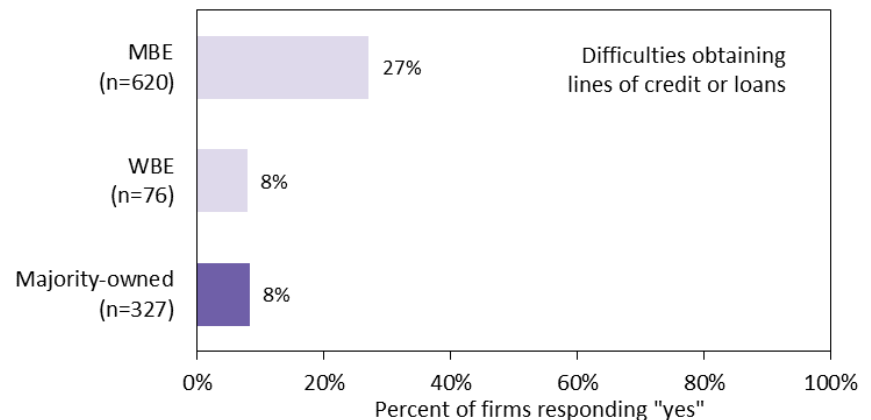
- Nationally, minority- and woman-owned employer businesses (except Asian American-owned businesses) were more likely to use personal credit cards as a source of start-up capital, which is a more expensive form of debt than business loans from financial institutions.
- Personal and family savings of the owner was the main source of capital for startups among many U.S. businesses, but African American and Hispanic American households had considerably lower amounts of wealth than non-Hispanic white households.
- Among firms across the country, female- and minority-owned companies were less likely than non-Hispanic white male-owned companies to secure business loans from a bank or financial institution as a source of start-up capital.

- Nationally, minority- and woman-owned firms were more likely to not apply for additional financing because firm owners believed that they would not be approved by a lender. These firms were also more likely to indicate that access to financial capital negatively impacted firm profitability.

Appendix G discusses this information in more detail.

**Quantitative information about access to capital for businesses available for District work.** Availability survey results indicate that MBEs and were much more likely than majority-owned firms to report difficulties obtaining lines of credit or loans (see Figure 9).

9. Responses to availability survey question concerning loans



Source: Keen Independent Research from 2023 availability survey.

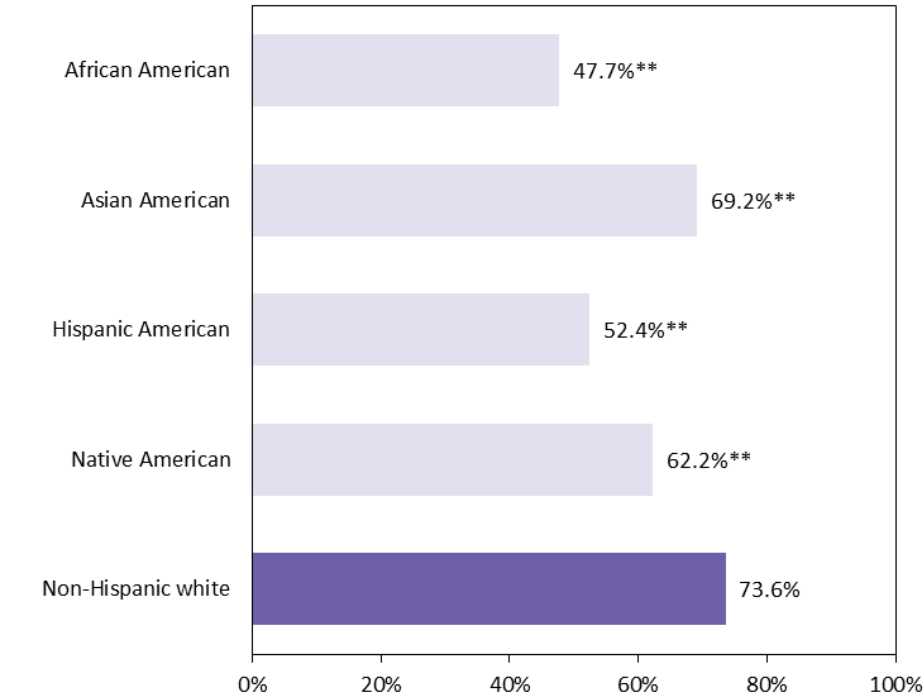
**Bonding.** Among firms indicating in the availability survey that they had tried to obtain a bond, MBEs were more likely to report difficulties obtaining bonding (20%) than other firms (6%).

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**Quantitative information about homeownership and mortgage lending.** Wealth created through homeownership can be an important source of funds to start or expand a business. Any discrimination against people of color in the home purchase and home mortgage markets can negatively affect the formation of firms by minorities in the local area and the success and growth of those companies.

- Home equity is an important source of funds for business start-up and growth. Fewer people of color in South Florida owned homes compared with non-Hispanic whites. People of color who owned homes tended to have lower home values than non-Hispanic white homeowners.
- High-income households headed by people of color applying for conventional home mortgages in South Florida were more likely to have their applications denied than high-income non-Hispanic whites. This may indicate discrimination in mortgage lending and may affect access to capital to start and expand businesses.
- Some minority groups were also more likely to have subprime loans than non-Hispanic whites. This may be evidence of predatory lending practices affecting people of color in South Florida.

10. Percentage of South Florida households that are homeowners, 2017–2021



Note: \*\* Denotes that the difference in proportions between the minority group and non-Hispanic whites for the given Census/ACS year is statistically significant at the 95% confidence level.

Source: Keen Independent Research from 2017–2021 ACS Public Use Microdata sample. The 2017–2021 ACS raw data extracts were obtained through the IPUMS program of the MN Population Center: <http://usa.ipums.org/usa/>.

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### Business Success

Keen Independent explored many different types of business outcomes in the South Florida marketplace for minority- and woman-owned firms compared with majority-owned companies. In summary, many different data sources and measures suggested disparities in marketplace outcomes for minority- and woman-owned businesses. These sources provided evidence of greater barriers for people of color and women to start and operate businesses in South Florida construction, professional services, goods and other services industries. There were some data that did not show differences in outcomes for MBEs and WBEs compared to majority-owned firms.

**Business closure, expansion and contraction.** The study team used the most recent SBA study of minority business dynamics to examine business closures, expansions and contractions for privately held businesses between 2002 and 2006. The SBA study reported results for each state including Florida. Compared with majority-owned firms in Florida, that study found that:

- African American- firms were more likely to close and less likely to expand; and
- Hispanic American-owned companies were also more likely to close.

Data for the COVID-19 pandemic also indicate that MBEs and WBEs were more likely to close than other firms during the early stages of the pandemic.

**Business revenue and earnings.** The study team used data from several different sources to analyze business receipts and earnings for businesses owned by people of color and women.

- In general, analysis of U.S. Census Bureau data from the 2017 Annual Business Survey showed lower average receipts for businesses owned by people of color and women in Florida than businesses owned by non-Hispanic whites or men. National data indicated that these general patterns persist across the study industries.
- Data from 2017–2021 American Community Survey for South Florida indicated that:
  - Businesses owned by people of color had lower earnings than non-Hispanic white business owners in all study industries combined (statistically significant difference); and
  - Women business owners had lower earnings than men in all study industries combined (this difference was also statistically significant).
- Regression analyses using U.S. Census Bureau data for business owner earnings indicated statistically significant disparities in earnings for businesses owned by African Americans and white women in the construction industry and in the professional services industry (along with other people of color who are not Hispanic Americans in the professional services industry). White women also had lower earnings in the goods industry (statistically significant disparity).
- Data from availability surveys showed that, across the study industries in South Florida, MBEs and WBEs had lower revenue compared with majority-owned firms. These findings are consistent with results from the District’s 2015 Disparity Study.

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**Bid capacity.** From Keen Independent’s availability survey, MBE and WBE firms had lower bid capacity than majority-owned firms in the South Florida study industries. After accounting for the types of work they perform and length of time in business, this difference persisted for MBE firms.

**Difficulties with prequalification, insurance and project size.**

Answers to availability survey questions concerning marketplace barriers indicated that relatively more MBEs and WBEs than majority-owned firms face difficulties related to:

- Being prequalified;
- Insurance requirements; and
- Large project size.

For additional information about the types of difficulties companies experience in the local marketplace, see the qualitative information from in-depth interviews in Appendix J.

**Payment and approvals.** Minority- and woman-owned companies were no more likely than majority-owned firms to report difficulties in receiving payment.

**Difficulties learning about bid opportunities.** Survey results also indicate greater barriers for MBEs and WBEs in learning about opportunities for work. In the study industries, relatively more MBEs and WBEs than majority-owned firms reported difficulties learning about:

- Bid opportunities with public sector agencies; and
- Subcontract opportunities from prime contractors.

MBEs were more likely than other firms to report difficulties learning about bid opportunities in the private sector.

**Bid restrictions.** In the study industries, relatively more MBEs and WBEs than majority-owned businesses reported difficulties with brand name specifications and obtaining supply or distributorship relationships. MBEs and WBEs were also more likely than majority-owned firms to report competitive disadvantages due to pricing from suppliers.



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### Qualitative Information about Marketplace Conditions

The Keen Independent study team collected qualitative information from business owners and managers, representatives from trade organizations and other groups. The study team conducted in-depth interviews and facilitated business advisory group meetings with business owners, trade organization representatives and others and incorporated the results into this Appendix.

For anonymity, Keen Independent analyzed and coded comments without identifying any of the participants.

Keen Independent provided opportunities for public comments via mail and the designated study telephone hotline, website and email address.<sup>89</sup> Keen Independent also reviewed relevant qualitative information from other local studies.

The following seven pages summarize some of these results. The 51-page Appendix J provides a much richer analysis of the input received. Note that the comments in Appendix J and the following pages identify individuals by number, not by name.

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<sup>89</sup> The study phone hotline number was 210-920-0994; email address was [sahadisparitystudy2022@keenindependent.com](mailto:sahadisparitystudy2022@keenindependent.com); and the website was [www.keenindependent.com/sahadisparitystudy2022](http://www.keenindependent.com/sahadisparitystudy2022).

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**Working with the District.** Many South Florida businesses and representatives expressed interest in working with the District and some shared their experiences working with the District. Some businesses described positive experiences working with the District and others shared negative experiences.

*We have a very strong relationship with [the District] .... I mean for the last 25 years.*

*TO-2. Hispanic male representative of a business assistance organization*

**Issues with communication.** Several businesses indicated that they were not aware of the District's efforts to encourage businesses to compete for bid opportunities or that these efforts were not effective.

*The challenges [to participating with the District] are that we're unable to really participate as we'd like to. They'll send an email blast to everyone, and some of them say when you try to reply, and you don't hear anything, or you call a number, and you get bounced around so ... communication is a problem.*

*TO-1. White male representative of a trade association*

*[I would like an] easier way to find out about bids and get a better response.*

*AS-197. African American male owner of an other services firm*

**Barriers to bidding.** Some interviewees discussed whether there were barriers to bidding on District work.

Extensive paperwork and forms were a barrier for some. For example:

*The process with paperwork and too much information needed is too much. A person is needed to help with all the paperwork.*

*AS-178. Hispanic American male representative of a construction-related firm*

*The amount of work involved [to] bid on projects is sometimes overwhelming and that hinders our ability to bid on certain projects.*

*AS-234. Hispanic American male representative of a professional services firm*

**Access to information about bid opportunities.** Some businesses claimed that the District's online procurement portal requires a paid subscription for full access to the platform.

*Finding the job post, county posting jobs and require annual fees to have access. [I] have to search numerous sites for work. [There's] too much red tape requirements for smaller companies compared to bigger companies. [It's] too difficult to get in.*

*AS-280. White male owner of a construction-related firm*

*I can see [the bidding process] being a hindrance because a lot of people don't have access to Demand Star or won't subscribe to it because you've got to pay a fee ... if you want to sign up for all agencies .... If you're a small business, you're trying to grow. You're not going to spend money on finding out about something that you already are going to have a hard time winning.*

*I-8. African American male owner of a professional services firm*

## SUMMARY REPORT — Information about marketplace conditions

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**Business assistance programs and certifications.** Some businesses shared their experiences becoming certified and participating in contract equity programs.

**Certification.** Some businesses reported positive experiences getting certified, while far more participants noted negative experiences and outcomes from the certification process.

*People don't want to register [to get certified], because ... it's so much paperwork for a little company.*

*I-2. White female representative of a construction-related firm*

*[The certification process] is very time-consuming and they asked for a lot of information, taxes, all these documents ... I know when I talk to people about doing it, they're like, 'oh no, it's too much work, got to get all these documents together and I know I'm not going to win anyway' and so for them it's very discouraging.*

*I-8. African American male owner of a professional services firm*

**Contract goals or other preference programs.** Some business owners and representatives supported the need for contract goals programs to level the playing field. With well-monitored compliance, contract goals and other preference programs were perceived as being helpful.

*[We would like the District] to put out more work for certified business enterprises.*

*AS-183. Hispanic American male representative of a professional services firm*

*In any solicitation when you know that minorities are not in that space mandate, not suggest, but mandate that there is diverse participation. I'm not talking about the prime's wife who then becomes the minority vendor, but true owned and operated firms.*

*I-12. African American male owner of a professional services firm*

## SUMMARY REPORT — Information about marketplace conditions

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**Access to capital.** Access to capital is critical to business success and is a challenge for many businesses.

*I think it all boils down to money ... it's not knowledge. We roofers are roofers. We all have [to] know the same thing. We all do the same work. I think it's what kind of equipment you have.*

*I-2. White female representative of a construction-related firm*

**Bonding.** Some interviewees explained other connections between access to capital and the size of contracts a firm can bid on and perform.

*That's what [a] level playing field really looks like ... that bonding companies will bond folks and entities even if the years of experience are not there. There are times when I've seen where the bond [was] so high for projects [that] it had strategically knocked some firms out of ... consideration.*

*I-12. African American male owner of a professional services firm*

**Personal finances as a source of capital.** Some business owners explained the connection between business lending and personal finances.

*I'm not able to [purchase my supply] due to bad credit and [COVID]. I pay for everything myself with my credit cards so [the District] should help and be more understanding.*

*AS-295. Hispanic American male owner of a goods firm*

*We experience price increase and not just overhead ... insurance [too] ... Some folks don't realize what we're experiencing in terms of our expenses and most in the service field would ... rather go with the handyman.*

*I-3. African American male owner of a construction-related firm*

**Barriers to capital for people of color and women.** Some interviewees reported that there are barriers related to access to business capital for people of color, women and small business owners in the marketplace.

*The most natural barrier that all [minority-owned] businesses face is accessing capital. They don't have relationships with any of the banks or any of the other capital providers, including community development financial institutions (CDFIs), because they just don't even understand that structurally these things exist. They have to create a credit history. They have to understand how to function within that whole world.*

*TO-7. Hispanic American female representative of a business assistance organization*

*A lot of needs aren't being met, from the households to the businesses ... where you're putting your business [determines] why it is that your business is not getting the strategic attention that it needs. Because of what happened some decades ago, there was some redlining. The redlines basically cut into the communities and if you redline a community, you redline the business.*

*PM-8. Public meeting participant*

## SUMMARY REPORT — Information about marketplace conditions

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**Whether there is a level playing field in the marketplace.** Many businesses in the marketplace discussed experiencing or witnessing inequality in the marketplace based on race, ethnicity or gender.

*Racism is real and it does exist. That's something minorities have to face. It does exist. I had a Caucasian who says that they know companies that do not hire color[ed] people .... They apply, but they never hire them, so that exists.*

*I-14. Female owner of an other services firm*

*It is hard to get permits from the County and the system is unfriendly to the Hispanic community.*

*AS-310. Hispanic American male representative of a construction-related firm*

*Black businesses are still substantially underutilized.*

*PM-1. African American male public meeting participant*

**Racial stereotyping.** Some business owners of color and others described incidents of stereotyping people of color as less capable.

*We probably would have had even more growth, if not for the biases that people hold, and ways that people try to box you in .... I think we've fought against that, and we've been somewhat successful.*

*I-29. African American female owner of a professional services firm*

*This is where [Black people are] treated unfairly because you're automatically seen as an inferior product of service because of your color. Some of our firms have even experienced where you know the CFO over at government agency said well, if I knew the diversity scoring was going to come in, I would have scored differently because they didn't want that firm to come in higher so they would have scored lower.*

*TO-5. African American female representative of a trade association*

**Closed networks.** Many reported that closed networks persist in the local marketplace.

*I would say that ['good ol' boy' networks] can be the case and always will because certain people are going to steer a contract to someone they know ... just because they know them. That's always been the case, but it's nothing out of the ordinary.*

*TO-1. White male representative of a trade association*

*Broward County, in general, is kind of a 'good ol' boy' system .... A lot of the people who have benefited from contracting opportunities continue to be at one level or another....*

*TO-3. African American representative of a business assistance organization*

## SUMMARY REPORT — Information about marketplace conditions

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**Contractor-subcontractor relationships.** Business owners and representatives were asked to comment on their experiences with prime contractor-subcontractor relationships.

**Barriers to subcontracting.** Some interviewees reported that certain contractors are reluctant to work with newer or smaller businesses. A number of subs indicated challenges when working with prime contractors.

*The majority of firms have the ability to block you out. However ... that's why it's important in governmental space that they mandate ... that there be that mentor-mentee relationship.*

*I-12. African American male owner of a professional services firm*

*I don't like partnering with a larger firm all the time, because the hard stories are there for that. You don't get paid or you get squeezed at the end. Then at the end of the day you can be a good sub, but you can't run the whole show. You never get a chance to run the whole show.*

*I-13. African American male owner of an other services firm*

**Bait and switch.** Some subcontractors reported providing a quote for a job and never hearing back or being engaged by a prime on a job only to be left behind when the job is underway.

*I think, as we've been able to show up, there have been contracts that I've applied for where repeatedly you get all the emails begging somebody to apply but you still don't win because I think they're trying to fill that quota of minority owned businesses applying. Yet ... [they're] going to go with another firm.*

*I-15. African American female owner of a professional services firm*

*Some practices like paying people to say they're a subcontractor, but you give them \$10,000 to really disappear. Obviously, there's no learning. There's no growth for that company.*

*TO-5. African American female representative of a trade association*

## SUMMARY REPORT — Utilization analysis

### District Utilization of Minority- and Woman-owned Firms and Other Businesses

**Results by group for FY2018–FY2022.** Keen Independent examined the ownership of firms performing District contracts and subcontractors awarded in FY2018–FY2022. Of the \$2.1 billion, about \$751 million (35.5%) went to minority- and woman-owned companies.

**Trends in MBE/WBE utilization.** The study team evaluated trends in District utilization of MBEs and WBEs.

Combined, MBE/WBE utilization increased since FY2018. About 26 percent of contract dollars examined in the study went to MBE/WBEs in FY2018. MBE/WBE utilization steadily increased to reach 47 percent in FY2021. MBE/WBE utilization decreased to 33 percent in FY2022, the same level of utilization in FY2019.

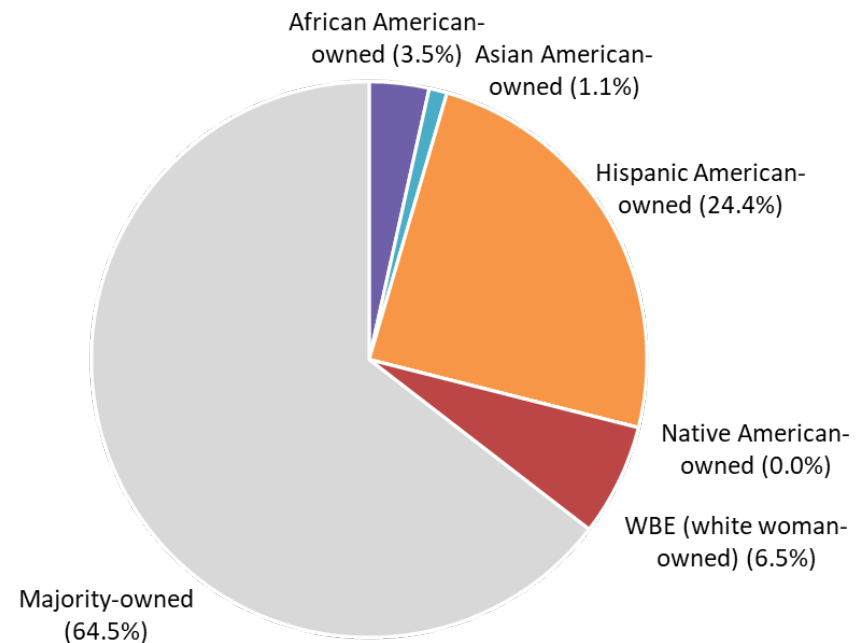
Compared with District MBE/WBE utilization reported in the 2015 Disparity Study, the share of District dollars going to minority-owned businesses appears to have increased for most groups:

- African American-owned: 3.5% (up from 1.9% in 2015 study);
- Asian American-owned: 1.1% (up from 0.5%);
- Hispanic American-owned: 24.4% (up from 12.1%); and
- Native American-owned: less than 0.1% (down from 0.1%).

The share of contract dollars going to white woman-owned firms remained about the same since the 2015 Disparity Study.

We caution the reader against placing great emphasis on direct comparisons of utilization trends reported here and in past disparity study reports. Differences in utilization may be due in part to certain technical differences in methodology between the 2015 and 2023 studies.

11. Share of District contract dollars going to MBEs, WBEs and other firms, FY2018–FY2022



Source: Keen Independent analysis of District contract data.



## SUMMARY REPORT — Utilization analysis

Figure 12 presents utilization analysis results for District contracts overall, by group (FY2018–FY2022). The top portion of the table reports participation for firms based on their ownership, without regard to whether they were certified. The bottom part provides utilization results for MBEs and WBEs that were certified. Participation of MBE/WBEs included:

- About \$74 million in District contract dollars went to 89 different African American-owned businesses (222 contracts and subcontracts).
- About \$22 million went to 32 different Asian American-owned businesses (110 contracts and subcontracts).
- About \$517 million went to 195 different Hispanic American-owned firms (718 contracts and subcontracts).
- One Native American-owned firm was paid about \$22,000 (one prime contract).
- About \$138 million went to 153 different woman-owned businesses (418 contracts and subcontracts).

About 14 percent of contract and subcontract dollars went to firms with a certification as an MBE, WBE, DBE or SBE.

12. District procurements and contract dollars going to MBEs, WBEs and other firms, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Business ownership</b>			
African American-owned	222	\$ 73,566	3.5 %
Asian American-owned	110	22,250	1.1
Hispanic American-owned	718	516,854	24.4
Native American-owned	1	22	0.0
Total MBE	1,051	\$ 612,692	28.9 %
WBE (white woman-owned)	418	137,989	6.5
<b>Total MBE/WBE</b>	<b>1,469</b>	<b>\$ 750,681</b>	<b>35.5 %</b>
Majority-owned	2,610	1,366,457	64.5
<b>Total</b>	<b>4,079</b>	<b>\$ 2,117,138</b>	<b>100.0 %</b>
<b>Certified MBEs, WBEs, DBEs and SBES</b>			
African American-owned	125	\$ 46,869	2.2 %
Asian American-owned	51	7,980	0.4
Hispanic American-owned	325	180,574	8.5
Native American-owned	0	0	0.0
Total MBE	501	\$ 235,423	11.1 %
WBE (white woman-owned)	176	53,357	2.5
<b>Total MBE/WBE</b>	<b>677</b>	<b>\$ 288,780</b>	<b>13.6 %</b>
Majority-owned	103	45,614	2.2
<b>Total certified</b>	<b>780</b>	<b>\$ 334,394</b>	<b>15.8 %</b>
Not certified	3,299	1,782,744	84.2
<b>Total</b>	<b>4,079</b>	<b>\$ 2,117,138</b>	<b>100.0 %</b>

Note: Number of procurements includes District contracts and subcontracts.

Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — Utilization analysis

### Utilization by Study Industry

Keen Independent also analyzed MBE/WBE utilization for each study industry.

**Construction.** Keen Independent examined MBE/WBE participation in about 1,300 District-funded construction contracts and subcontracts in the study period.

- About 4 percent of construction contract dollars went to 47 different African American-owned firms (135 contracts and subcontracts).
- Less than 1 percent of construction contract dollars went to 5 different Asian American-owned firms (9 contracts and subcontracts).
- About 34 percent went to 104 unique Hispanic American-owned firms (461).
- About 4 percent went to 34 different white woman-owned businesses (105).

During the study period, no construction contracts or subcontracts went to Native American-owned businesses.

Many of the MBEs and WBEs performing construction contracts and subcontracts were certified with BCPS or a regional certification agency. Of the \$552 million in District construction dollars going to MBE/WBEs, about \$215 million went to certified MBE/WBEs.

13. District construction contract dollars going to MBEs, WBEs and other firms, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Business ownership</b>			
African American-owned	135	\$ 54,231	4.2 %
Asian American-owned	9	1,281	0.1
Hispanic American-owned	461	445,274	34.4
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>605</b>	<b>\$ 500,786</b>	<b>38.7 %</b>
WBE (white woman-owned)	105	50,889	3.9
<b>Total MBE/WBE</b>	<b>710</b>	<b>\$ 551,675</b>	<b>42.6 %</b>
Majority-owned	565	743,910	57.4
<b>Total</b>	<b>1,275</b>	<b>\$ 1,295,584</b>	<b>100.0 %</b>
<b>Certified MBEs, WBEs, DBEs and SBES</b>			
African American-owned	91	\$ 37,353	2.9 %
Asian American-owned	5	503	0.0
Hispanic American-owned	226	149,365	11.5
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>322</b>	<b>\$ 187,221</b>	<b>14.5 %</b>
WBE (white woman-owned)	73	26,617	2.1
<b>Total MBE/WBE</b>	<b>395</b>	<b>\$ 213,838</b>	<b>16.5 %</b>
Majority-owned	15	1,516	0.1
<b>Total certified</b>	<b>410</b>	<b>\$ 215,354</b>	<b>16.6 %</b>
Not certified	865	1,080,230	83.4
<b>Total</b>	<b>1,275</b>	<b>\$ 1,295,584</b>	<b>100.0 %</b>

Note: Number of procurements includes contracts and subcontracts.

Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — Utilization analysis

**Construction prime contracts.** There were 719 prime construction contracts awarded during the study period amounting to about \$1.1 billion. Of these construction prime contract dollars, about 35 percent went to MBEs and about 3 percent went to WBEs.

- About 2 percent of prime construction contract dollars went to 13 different African American-owned businesses.
- Less than 1 percent went to three different Asian American-owned firms.
- About 33 percent went to 35 unique Hispanic American-owned businesses.

**Construction subcontracts.** There were 556 subcontracts on District construction contracts awarded during the study period. District construction subcontracts summed to about \$174 million (about 13 percent of District construction contract dollars). Of these subcontract dollars, about 62 percent went to MBEs and 8 percent went to WBEs.

- About 17 percent of construction subcontract dollars went to 38 unique African American-owned businesses.
- Less than 1 percent went to 3 different Asian American-owned businesses.
- About 45 percent went to 76 different Hispanic American-owned firms.

14. District construction prime contract and subcontract dollars going to MBEs, WBEs and other firms, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Prime contracts</b>			
African American-owned	42	\$ 25,200	2.2 %
Asian American-owned	3	558	0.0
Hispanic American-owned	207	366,684	32.7
Native American-owned	0	0	0.0
Total MBE	252	\$ 392,442	35.0 %
WBE (white woman-owned)	56	37,245	3.3
<b>Total MBE/WBE</b>	<b>308</b>	<b>\$ 429,687</b>	<b>38.3 %</b>
Majority-owned	411	692,274	61.7
<b>Total</b>	<b>719</b>	<b>\$ 1,121,961</b>	<b>100.0 %</b>
<b>Subcontracts</b>			
African American-owned	93	\$ 29,031	16.7 %
Asian American-owned	6	724	0.4
Hispanic American-owned	254	78,590	45.3
Native American-owned	0	0	0.0
Total MBE	353	\$ 108,344	62.4 %
WBE (white woman-owned)	49	13,643	7.9
<b>Total MBE/WBE</b>	<b>402</b>	<b>\$ 121,987</b>	<b>70.3 %</b>
Majority-owned	154	51,636	29.7
<b>Total</b>	<b>556</b>	<b>\$ 173,623</b>	<b>100.0 %</b>

Note: Number of procurements includes contracts and subcontracts.

Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — Utilization analysis

**Architecture & engineering (A&E).** Keen Independent examined MBE/WBE participation in 201 District-funded A&E contracts and subcontracts in the study period. These contracts totaled about \$72 million. About 58 percent of these dollars went to MBE/WBEs.

- About 2 percent of A&E contract dollars went to 5 different African American-owned businesses (16 contracts and subcontracts).
- Four Asian American-owned firms received about 14 percent of A&E contract dollars (51 contracts and subcontracts).
- One quarter (27%) of A&E contract dollars went to 18 unique Hispanic American-owned businesses (55 contracts and subcontracts).
- Five white woman-owned firms received about 14 percent of A&E contract dollars (23 contracts and subcontracts).

During the study period, no A&E contracts or subcontracts went to Native American-owned businesses.

Of the \$41 million in A&E contract dollars going to MBE/WBEs, about \$23 million went to MBE/WBEs certified with BCPS or other regional certification agencies.

15. District A&E contract dollars going to MBEs, WBEs and other firms, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Business ownership</b>			
African American-owned	16	\$ 1,377	1.9 %
Asian American-owned	51	10,375	14.4
Hispanic American-owned	55	19,525	27.2
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>122</b>	<b>\$ 31,277</b>	<b>43.5 %</b>
WBE (white woman-owned)	23	10,088	14.0
<b>Total MBE/WBE</b>	<b>145</b>	<b>\$ 41,365</b>	<b>57.6 %</b>
Majority-owned	56	30,476	42.4
<b>Total</b>	<b>201</b>	<b>\$ 71,841</b>	<b>100.0 %</b>
<b>Certified MBEs, WBEs, DBEs and SBES</b>			
African American-owned	4	\$ 424	0.6 %
Asian American-owned	31	2,264	3.2
Hispanic American-owned	43	12,629	17.6
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>78</b>	<b>\$ 15,317</b>	<b>21.3 %</b>
WBE (white woman-owned)	15	7,390	10.3
<b>Total MBE/WBE</b>	<b>93</b>	<b>\$ 22,707</b>	<b>31.6 %</b>
Majority-owned	8	243	0.3
<b>Total certified</b>	<b>101</b>	<b>\$ 22,950</b>	<b>31.9 %</b>
Not certified	100	48,891	68.1
<b>Total</b>	<b>201</b>	<b>\$ 71,841</b>	<b>100.0 %</b>

Note: Number of procurements includes contracts and subcontracts.

Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — Utilization analysis

**A&E prime contracts.** There were 119 prime A&E contracts awarded during the study period, totaling about \$70 million. About 44 percent of these dollars went to MBEs and 14 percent went to WBEs.

- About 2 percent of prime A&E contract dollars went to 3 different African American-owned businesses (6 prime contracts).
- Three different Asian American-owned firms received about 12 percent of A&E prime contract dollars (22 prime contracts).
- About 27 percent went to 11 different Hispanic American-owned businesses (33 prime contracts).

**A&E subcontracts.** There were 82 subcontracts on District A&E contracts awarded during the study period. These subcontract dollars totaled about \$5 million (about 7 percent of District A&E contract dollars). Of these subcontract dollars, about 72 percent went to MBEs and less than one percent went to WBEs.

- About 4 percent of A&E subcontract dollars went to 3 unique African American-owned businesses.
- Two distinct Asian American-owned businesses received about 42 percent of A&E subcontract dollars.
- About 36 percent went to 11 different Hispanic American-owned firms.

16. District A&E prime contract and subcontract dollars going to MBEs, WBEs and other firms, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Prime contracts</b>			
African American-owned	6	\$ 1,163	1.7 %
Asian American-owned	22	8,336	12.5
Hispanic American-owned	33	17,747	26.5
Native American-owned	0	0	0.0
Total MBE	61	\$ 27,246	40.7 %
WBE (white woman-owned)	21	10,065	15.0
<b>Total MBE/WBE</b>	<b>82</b>	<b>\$ 37,311</b>	<b>55.8 %</b>
Majority-owned	37	29,613	44.2
<b>Total</b>	<b>119</b>	<b>\$ 66,924</b>	<b>100.0 %</b>
<b>Subcontracts</b>			
African American-owned	10	\$ 215	4.4 %
Asian American-owned	29	2,038	41.5
Hispanic American-owned	22	1,778	36.2
Native American-owned	0	0	0.0
Total MBE	61	\$ 4,031	82.0 %
WBE (white woman-owned)	2	23	0.5
<b>Total MBE/WBE</b>	<b>63</b>	<b>\$ 4,054</b>	<b>82.4 %</b>
Majority-owned	19	863	17.6
<b>Total</b>	<b>82</b>	<b>\$ 4,917</b>	<b>100.0 %</b>

Note: Number of procurements includes contracts and subcontracts.

Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — Utilization analysis

**Other professional services.** Keen Independent examined MBE/WBE participation in 236 District professional services procurements outside of A&E awarded during the study period. About 22 percent of the \$97 million in other professional services contract dollars went to MBEs and about 46 percent went to WBEs.

- About 8 percent of other professional services dollars went to 15 unique African American-owned firms.
- Ten different Asian American-owned businesses received about 6 percent of other professional services dollars.
- About 9 percent went to 12 different Hispanic American-owned businesses.

No professional services contracts went to Native American-owned businesses during the study period.

About 16 percent of other professional services contract dollars went to MBE/WBEs certified with BCPS or another regional certification agency.

17. District other professional services dollars going to MBEs, WBEs and other firms, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Business ownership</b>			
African American-owned	23	\$ 7,706	7.9 %
Asian American-owned	16	5,332	5.5
Hispanic American-owned	21	8,220	8.5
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>60</b>	<b>\$ 21,258</b>	<b>21.9 %</b>
WBE (white woman-owned)	63	44,462	45.8
<b>Total MBE/WBE</b>	<b>123</b>	<b>\$ 65,719</b>	<b>67.7 %</b>
Majority-owned	113	31,421	32.3
<b>Total</b>	<b>236</b>	<b>\$ 97,141</b>	<b>100.0 %</b>
<b>Certified MBEs, WBEs, DBEs and SBES</b>			
African American-owned	10	\$ 3,527	3.6 %
Asian American-owned	6	2,658	2.7
Hispanic American-owned	1	1,485	1.5
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>17</b>	<b>\$ 7,671</b>	<b>7.9 %</b>
WBE (white woman-owned)	19	7,652	7.9
<b>Total MBE/WBE</b>	<b>36</b>	<b>\$ 15,323</b>	<b>15.8 %</b>
Majority-owned	7	1,334	1.4
<b>Total certified</b>	<b>43</b>	<b>\$ 16,657</b>	<b>17.1 %</b>
Not certified	193	80,484	82.9
<b>Total</b>	<b>236</b>	<b>\$ 97,141</b>	<b>100.0 %</b>

Note: Number of procurements includes contracts and subcontracts.

Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — Utilization analysis

**Goods utilization analysis.** MBEs and WBEs were awarded about 12 percent of District goods purchases. Figure 18 presents these results.

- Less than one percent of District goods dollars went to 12 different African American-owned businesses.
- Less than one percent went to 14 different Asian American-owned businesses.
- About 5 percent went to 51 unique Hispanic American-owned businesses.
- About 5 percent went to 68 different white woman-owned businesses.

No good contracts went to Native American-owned businesses during the study period.

Nearly all of the MBE/WBEs receiving District goods contracts during the study period were certified with BCPS or a regional certification agency. Of the 12 percent of goods dollars going to minority- and woman-owned businesses, about 11 percentage points went certified MBE/WBEs.

18. District goods dollars going to MBEs, WBEs and other firms, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Business ownership</b>			
African American-owned	27	\$ 4,224	0.8 %
Asian American-owned	33	4,899	0.9
Hispanic American-owned	141	28,661	5.2
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>201</b>	<b>\$ 37,784</b>	<b>6.9 %</b>
WBE (white woman-owned)	205	29,726	5.4
<b>Total MBE/WBE</b>	<b>406</b>	<b>\$ 67,510</b>	<b>12.3 %</b>
Majority-owned	1,536	482,179	87.7
<b>Total</b>	<b>1,942</b>	<b>\$ 549,689</b>	<b>100.0 %</b>
<b>Certified MBEs, WBEs, DBEs and SBES</b>			
African American-owned	8	\$ 622	0.1 %
Asian American-owned	9	2,554	0.5
Hispanic American-owned	41	6,965	1.3
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>58</b>	<b>\$ 10,141</b>	<b>1.8 %</b>
WBE (white woman-owned)	57	10,055	1.8
<b>Total MBE/WBE</b>	<b>115</b>	<b>\$ 20,197</b>	<b>3.7 %</b>
Majority-owned	58	38,067	6.9
<b>Total certified</b>	<b>173</b>	<b>\$ 58,263</b>	<b>10.6 %</b>
Not certified	0	491,426	89.4
<b>Total</b>	<b>173</b>	<b>\$ 549,689</b>	<b>100.0 %</b>

Note: Number of procurements includes contracts and subcontracts.

Source: Keen Independent analysis of District contract data.



## SUMMARY REPORT — Utilization analysis

**Other services utilization analysis.** About 21 percent of District other services dollars went to MBEs and 3 percent went to WBEs. Figure 19 presents these results.

- About 6 percent of District other services contract dollars went to 15 unique African American-owned firms.
- Less than 1 percent went to 1 Asian American-owned firm.
- About 15 percent went to 24 different Hispanic American-owned businesses.
- Less than 1 percent went to 1 Native American-owned business.
- About 3 percent went to 17 different white woman-owned businesses.

Two-third of District other services dollars going to MBE/WBEs went to certified MBE/WBEs. Of the 24 percent in other services dollars going to MBE/WBEs, about 16 percentage points went to MBE/WBEs certified with BCPS or another regional certification agency.

19. District services dollars going to MBEs, WBEs and other firms, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Business ownership</b>			
African American-owned	21	\$ 6,028	5.9 %
Asian American-owned	1	363	0.4
Hispanic American-owned	40	15,174	14.7
Native American-owned	1	22	0.0
<b>Total MBE</b>	<b>63</b>	<b>\$ 21,587</b>	<b>21.0 %</b>
WBE (white woman-owned)	22	2,824	2.7
<b>Total MBE/WBE</b>	<b>85</b>	<b>\$ 24,412</b>	<b>23.7 %</b>
Majority-owned	340	78,471	76.3
<b>Total</b>	<b>425</b>	<b>\$ 102,883</b>	<b>100.0 %</b>
<b>Certified MBEs, WBEs, DBEs and SBES</b>			
African American-owned	12	\$ 4,943	4.8 %
Asian American-owned	0	0	0.0
Hispanic American-owned	14	10,130	9.8
Native American-owned	0	0	0.0
<b>Total MBE</b>	<b>26</b>	<b>\$ 15,073</b>	<b>14.7 %</b>
WBE (white woman-owned)	12	1,642	1.6
<b>Total MBE/WBE</b>	<b>38</b>	<b>\$ 16,715</b>	<b>16.2 %</b>
Majority-owned	15	4,455	4.3
<b>Total certified</b>	<b>53</b>	<b>\$ 21,170</b>	<b>20.6 %</b>
Not certified	372	81,713	79.4
<b>Total</b>	<b>425</b>	<b>\$ 102,883</b>	<b>100.0 %</b>

Note: Number of procurements includes contracts and subcontracts.

Source: Keen Independent analysis of District contract data.

## SUMMARY REPORT — Utilization analysis

### Utilization by Application of SDOP Goals

Keen Independent evaluated minority- and woman-owned business participation in District contracts by application of participation goals.

As race- and gender-conscious participation goals applied primarily to construction and A&E contracts, Figure 20 illustrates the share of these contract dollars going to minority- and woman-owned businesses (by group). For comparison, Figure 20 also includes the share of construction and A&E contract dollars where no goals were applied.

- About 42 percent of construction and A&E contracts and subcontract dollars went to MBEs where MWBE goals applied;
- About 5 percent of these dollars went to WBEs where MWBEs goals applied;
- One-fifth (20%) of construction and A&E contract and subcontract dollars went to MBEs and about 4 percent went to WBEs where no goals applied.

20. District contract dollars going to minority- and woman-owned businesses, FY2018–FY2022

	Number of procurements	Dollars (1,000s)	Percent of dollars
<b>Contracts with MWBE goals</b>			
African American-owned	121	\$ 45,602	4.7 %
Asian American-owned	48	8,447	0.9 %
Hispanic American-owned	423	352,374	36.4
Native American-owned	0	0	0.0
Total MBE	592	\$ 406,423	42.0 %
WBE (white woman-owned)	88	49,556	5.1
<b>Total MBE/WBE</b>	<b>680</b>	<b>\$ 455,979</b>	<b>47.1 %</b>
Majority-owned	236	511,243	52.9
<b>Total</b>	<b>916</b>	<b>\$ 967,223</b>	<b>100.0 %</b>
<b>Contracts without goals</b>			
African American-owned	20	\$ 6,962	2.4 %
Asian American-owned	11	3,048	1.0
Hispanic American-owned	54	49,258	16.9
Native American-owned	0	0	0.0
Total MBE	85	\$ 59,268	20.3 %
WBE (white woman-owned)	39	10,771	3.7
<b>Total MBE/WBE</b>	<b>124</b>	<b>\$ 70,039</b>	<b>24.0 %</b>
Majority-owned	359	222,030	76.0
<b>Total</b>	<b>483</b>	<b>\$ 292,070</b>	<b>100.0 %</b>

Source: Keen Independent analysis of District contract data.

SUMMARY REPORT — Utilization analysis

Small Business Utilization

Keen Independent also evaluated small business participation in District contracts and subcontracts. The study team classified businesses as small according to the U.S. Small Business Administration’s size standards using revenue data from Dun & Bradstreet and responses to the 2023 availability survey, as well as certification data from directories and ownership sources detailed in Appendix B.

Figure 21 includes the small business participation overall, by industry and by application of various goals programs.

- About 47 percent of District dollars went to small businesses overall.
- More than half of construction and A&E dollars went to small businesses (62 and 56 percent, respectively).
- About 14 percent of other professional services contract dollars went to small businesses.
- About 18 percent of goods procurement dollars went to small businesses.
- About one third of other services contract dollars (36%) went to small businesses.

Two-thirds of contract dollars went to small businesses where MWBE goals applied and about 45 percent went to small businesses where E/S/MWBE goals applied. Where no goals were applied to District purchasing, about 27 percent went to small businesses (these procurements included goods and other services contracts).

21. District contract dollars going to small businesses, FY2018–FY2022

	Dollars (1,000s)	Small %
All contracts	\$ 2,117,138	47.1 %
By industry		
Construction	\$ 1,295,584	62.3 %
Architecture & engineering	71,841	56.2
Professional services	97,141	14.0
Goods	549,689	18.2
Other services	102,883	35.9
By goals application		
MWBE goals	\$ 1,024,452	66.0 %
E/S/MWBE goals	151,057	45.4
No goals	941,628	26.9

Source: Keen Independent analysis of District contract data.

Veteran-owned Business Utilization

The study team also examined veteran-owned business participation on District contracts. About 1 percent of District dollars went to veteran-owned businesses during the FY2018–FY2022 study period.

## SUMMARY REPORT — Availability analysis

Disparity studies compare the actual utilization of MBE/WBEs to what would be expected based on the availability of firms to perform that work. Keen Independent conducted a survey of businesses in the regional market area to identify companies indicating they were qualified and interested (ready, willing and able) to work on District contracts and subcontracts. The survey asked about the types of work performed, size of contracts bid and the ownership of the firm. Figure 22 outlines the steps to completing the survey.

### Methodology

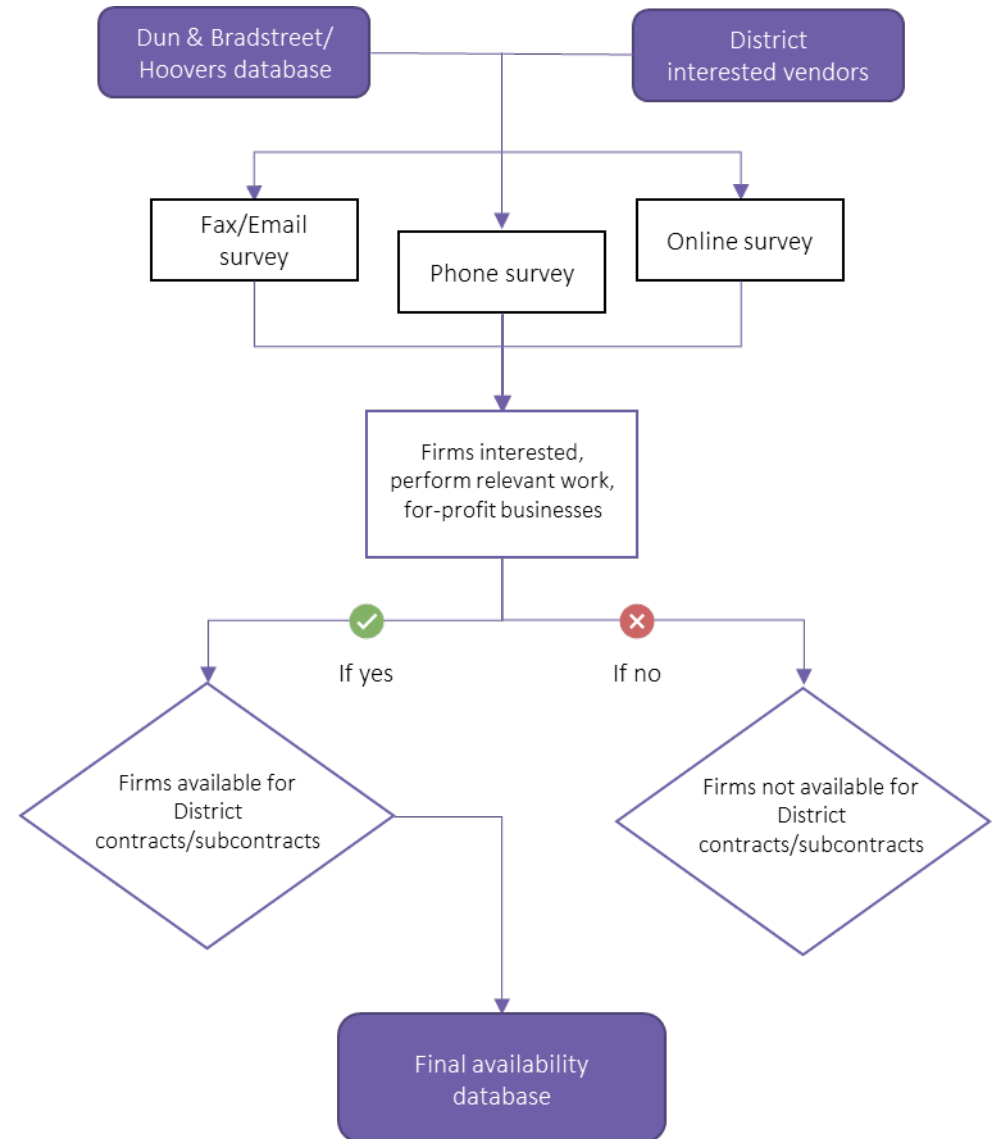
**List of firms to be surveyed.** In addition to a District list of businesses that had previously expressed interest in bidding on District contracts, Keen Independent compiled the list of firms to be contacted in the availability survey from the Dun & Bradstreet (D&B) Hoover's business establishment database.

Use of D&B information has been accepted and approved by federal courts in connection with disparity study methodology. The study team obtained listings for companies that D&B identified as:

- Having a location in South Florida; and
- Performing work or providing construction, goods and services that the study team determined were potentially related to contracts frequently purchased by the District.

About 44,000 business establishments were on this initial list. Only some of the firms expressed qualifications and interest in District contracts, as described in the following pages.

22. Availability survey process



## SUMMARY REPORT — Availability analysis

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**Availability surveys.** The study team conducted telephone surveys with business owners and managers of businesses on the D&B list. Customer Research International (CRI) performed the surveys under Keen Independent's direction. Surveys were conducted in May and June 2023.

**Survey execution.** CRI used the following steps to complete telephone surveys with business establishments.

- CRI contacted firms by telephone.<sup>90</sup>
- Interviewers indicated that the calls were made on behalf of Broward County Public Schools to gather information about companies interested in performing work for the District.
- Some firms indicated in the phone calls that they did not perform relevant work or had no interest in work with the District, so no further survey questions were necessary. (Such surveys were treated as complete at that point.)
- When a business was unable to conduct the interview in English, the study team called back with a bilingual interviewer (English/Spanish) to collect basic information about the company. Keen Independent then followed up with these firms with a bilingual interviewer (English/Spanish) to offer the option of filling out a written version of the full survey (in English).
- Up to six phone calls were made at different times of day and different days of the week to attempt to reach each company.

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<sup>90</sup> The study team offered business representatives the option of completing surveys via fax or email if they preferred not to complete surveys via telephone.

## SUMMARY REPORT — Availability analysis

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**Information collected.** Survey questions covered topics including:

- Types of work performed or goods supplied;
- Status as a subsidiary or branch of another company;
- Qualifications and interest in performing work or supplying goods for the District;
- Qualifications and interest in performing work as a prime contractor or as a subcontractor (or prime consultant or subconsultant);
- Largest prime contract or subcontract bid on or performed in South Florida in the previous six years;
- Year of establishment; and
- Race/ethnicity and gender of firm owners.

**Screening firms for the availability database.** Keen Independent considered businesses to be potentially available for District contracts or subcontracts if they reported possessing all the following characteristics:

- Were a private business;
- Performed work relevant to public sector contracts; and
- Reported qualifications and interest in work with the District and indicated whether they were interested in prime contracts or subcontracts or both.

# SUMMARY REPORT — Availability analysis

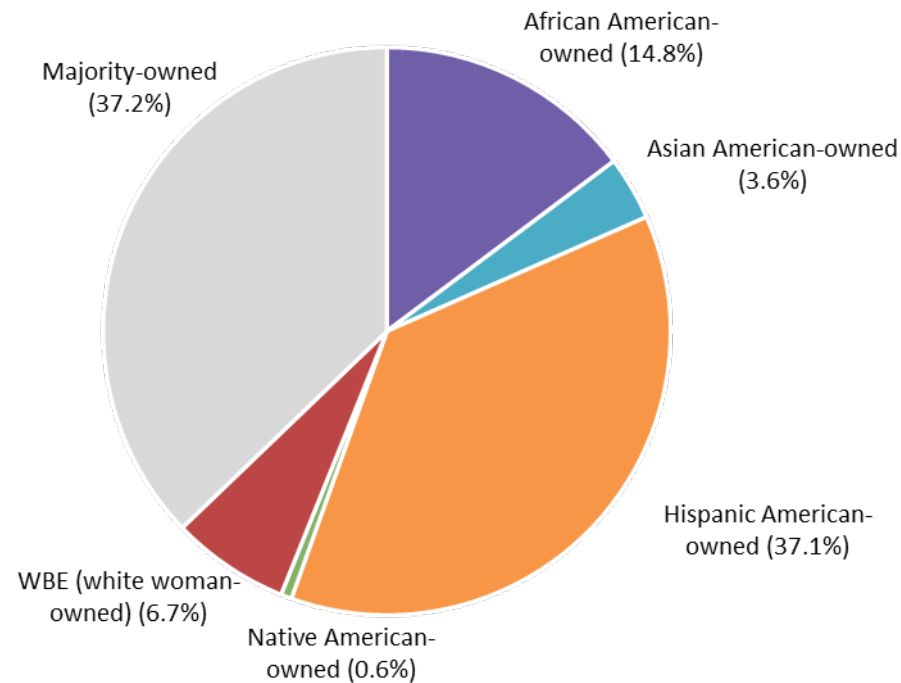
## Availability Survey Results

The study team successfully contacted 12,484 businesses in this survey, or 37 percent of the 33,846 firms that were called that had working phone numbers. Most of those businesses did not indicate interest or qualifications in performing work for BCPS. The following results are for those firms that did indicate qualifications and interest.

- In total, about 56 percent of South Florida firms available for District contracts were owned by people of color; and
- About 7 percent of qualified and interested businesses were woman-owned.

Appendix C presents information about survey response rates, confidence intervals and analysis of any differences in response rates between groups. It also provides a copy of the survey instrument.

23. Businesses included in the availability database, 2023



Note: Percentages may not add to totals due to rounding.  
Source: Keen Independent Research 2023 availability survey.



## SUMMARY REPORT — Availability analysis

### Methodology for Developing Dollar-Weighted Availability Benchmarks

Although MBE/WBEs comprise a large share of total firms available for District contracts, there are industry specializations in which there are relatively few minority- and woman-owned firms.

Keen Independent conducted a contract-by-contract availability analysis based on the specific types and sizes of District contracts and subcontracts for FY2018–FY2022 and dollar-weighted those results.

- The study team used the availability database developed in this study, including information about the type of work a firm performed, the size of contracts or subcontracts it bid, and the race, ethnicity and gender of its ownership.
- To determine availability for a contract or subcontract, Keen Independent first identified and counted the firms indicating that they performed that type of work of that size.
- The study team then calculated the MBE and WBE share of firms available for that contract (by race/ethnic group).
- Once availability had been determined for every District contract and subcontract, Keen Independent weighted the availability results based on the share of total District contract dollars that each contract represented.

Figure 24 provides an example of this dollar-weighted analysis. Appendix C further discusses these methods.

#### 24. Example of an availability calculation for a District contract

One of the subcontracts examined was for electrical work (\$837,226) on a 2021 subcontract. To determine the number of MBE/WBEs and majority-owned firms available for that subcontract, the study team identified businesses in the availability database that:

- a. Were in business in 2021;
- b. Indicated that they performed electrical work;
- c. Indicated qualifications and interest in such subcontracts; and
- d. Reported bidding on work of similar or greater size in the past six years in the market area.

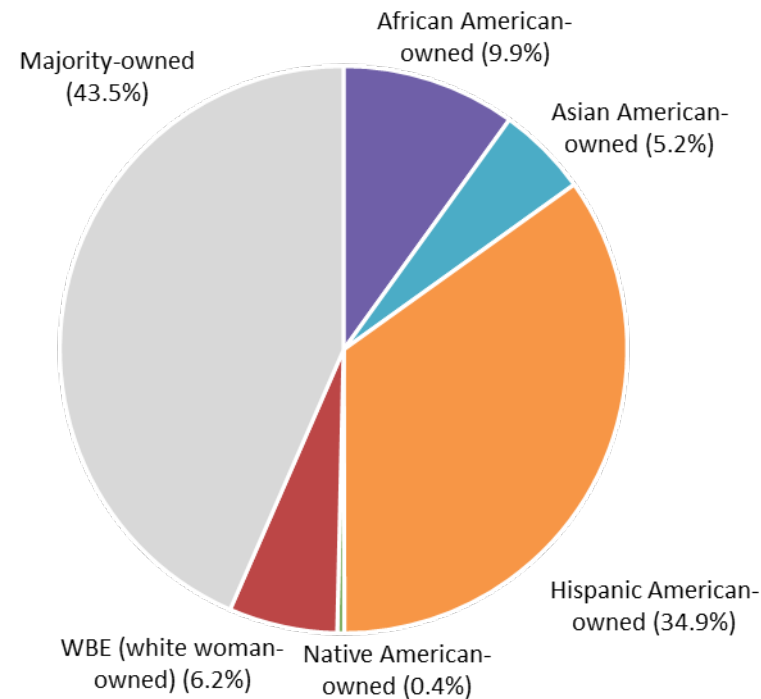
There were 59 businesses in the availability database that met those criteria. Of those businesses, 38 were MBE/WBEs. Therefore, MBE/WBE availability for the subcontract was about 64 percent (i.e.,  $38/59 = 64.4\%$ ).

The contract weight was  $\$837,226 \div \$2.1 \text{ billion} = 0.04\%$  (equal to its share of total procurement dollars). Keen Independent made this calculation for each prime contract and subcontract and then summed the results.

Dollar-Weighted Availability Results

The availability analysis described on the previous page indicates that about 57 percent of District contract dollars might be expected to have gone to MBEs and WBEs during the FY2018–FY2022 study period. (See Figure 25.)

25. Dollar-weighted availability for District contracts



Note: Percentages may not add to totals due to rounding.  
Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.

# SUMMARY REPORT — Disparity analysis

## Comparing Overall MBE/WBE Utilization and Availability

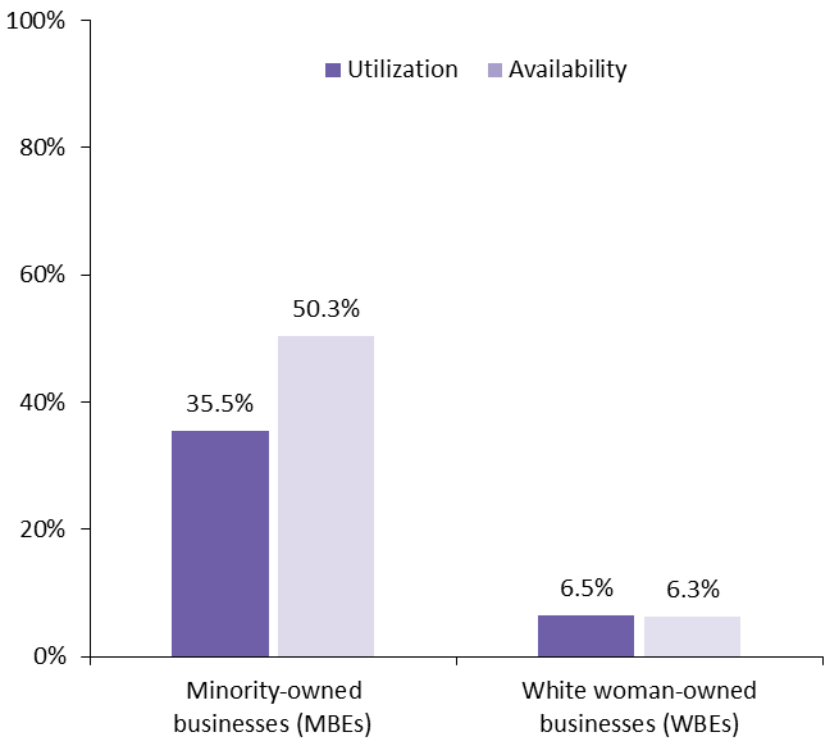
Disparity analyses compare the share of contract dollars going to MBE/WBEs with the dollar-weighted availability benchmarks described in previous pages.

As shown in Figure 26, the share of District contract dollars going to minority-owned firms (35.5%) was about 15 percentage points below what might be expected based on the availability analysis of firms qualified and interested (ready, willing and able) in doing business with the District (50.3%).

Utilization of woman-owned firms (6.5%) was about the same as the availability benchmark (6.3%) for District contracts overall.

Utilization and availability results varied by type of work performed and by whether District contract equity program elements applied. In the following pages, Keen Independent compares utilization to availability benchmarks for minority- and woman-owned businesses by group, by industry and by application of District programs.

26. Utilization and availability of MBE/WBEs for District contracts, FY2018–FY2022



Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.

# SUMMARY REPORT — Disparity analysis

## Disparity Analysis by Group

Utilization was below availability benchmarks for businesses owned by people of color. Figure 27 compares utilization and availability for each MBE group and for white woman-owned firms. For District contracts awarded during the study period:

- Utilization was below availability for African American-, Asian American-, Hispanic American- and Native American-owned businesses.
- Utilization (6.5%) was above the availability benchmark (6.2%) for white woman-owned businesses.

Following direction from court decisions, Keen Independent calculated disparity indices to compare utilization and availability.

- A disparity index is calculated by dividing utilization by availability and multiplying by 100, where a value of “100” equals parity.
- An index of less than 80 is described as “substantial.”

For African American-, Asian American-, Hispanic American- and Native American-owned businesses, the disparity index was below 80, and therefore substantial.

27. Utilization and availability of MBE/WBEs for all District contracts and subcontracts, FY2018–FY2022

	Utilization	Availability	Disparity index
African American-owned	3.5 %	9.9 %	35
Asian American-owned	1.1	5.2	20
Hispanic American-owned	24.4	34.8	70
Native American-owned	0.0	0.4	0
Total MBE	28.9 %	50.3 %	58
WBE (white woman-owned)	6.5	6.2	105
<b>Total MBE/WBE</b>	<b>35.5 %</b>	<b>56.5 %</b>	<b>63</b>
Majority-owned	64.5	43.5	148
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.  
Disparity index = 100 × Utilization/Availability.

Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.

# SUMMARY REPORT — Disparity analysis

## Disparity Analysis by Industry

Keen Independent calculated the utilization, weighted availability and disparity indices for District contracts by study industry.

**Construction disparity analysis.** Figure 28 compares utilization and availability for each MBE group and for white woman-owned firms for District construction contracts awarded during the study period:

- Utilization was substantially lower than availability for certain groups: African American- (disparity index of 41), Asian American- (2) and Native American-owned businesses (0). Each of these groups had a disparity index below 80.
- Utilization was about the same as availability for Hispanic American-owned businesses (99).
- Utilization exceeded availability for white woman-owned businesses.

Note that disparity results vary by SDOP application and vendor role (prime and subcontractor).

28. Disparity analysis for District construction contracts, FY2018–FY2022

	Utilization	Availability	Disparity index
African American-owned	4.2 %	10.2 %	41
Asian American-owned	0.1	4.9	2
Hispanic American-owned	34.4	34.7	99
Native American-owned	0.0	0.5	0
Total MBE	38.7 %	50.2 %	77
WBE (white woman-owned)	3.9	2.9	137
<b>Total MBE/WBE</b>	<b>42.6 %</b>	<b>53.1 %</b>	<b>80</b>
Majority-owned	57.4	46.9	122
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.

Disparity index = 100 × Utilization/Availability.

Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.

## SUMMARY REPORT — Disparity analysis

**Construction prime contracts.** Figure 29 compares utilization and availability for each MBE group and for white woman-owned firms on FY2018–FY2022 District construction prime contracts:

- Utilization was below availability for African American- (22), Asian American- (1), Hispanic American- (95) and Native American-owned businesses (0). These indices were below 80 and therefore substantial for all groups except Hispanic Americans.
- Utilization exceeded availability for white woman-owned businesses (164).

**Construction subcontracts.** Figure 29 also compares utilization and availability on District construction subcontracts.

- Utilization was below availability for Asian American- (12), Native American- (0) and white woman-owned businesses (95). These indices were below 80 and therefore substantial for Asian American- and Native American-owned businesses.
- Utilization exceeded availability for African American- (147) and Hispanic American-owned businesses (121).

29. Disparity analysis for District construction contracts by role, FY2018–FY2022

	Utilization	Availability	Disparity index
<b>Construction prime contracts</b>			
African American-owned	2.2 %	10.0 %	22
Asian American-owned	0.0	5.1	1
Hispanic American-owned	32.7	34.3	95
Native American-owned	0.0	0.3	0
Total MBE	35.0 %	49.6 %	70
WBE (white woman-owned)	3.3	2.0	164
<b>Total MBE/WBE</b>	<b>38.3 %</b>	<b>51.7 %</b>	<b>74</b>
Majority-owned	61.7	48.3	128
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	
<b>Construction subcontracts</b>			
African American-owned	16.7 %	11.4 %	147
Asian American-owned	0.4	3.4	12
Hispanic American-owned	45.3	37.5	121
Native American-owned	0.0	1.8	0
Total MBE	62.4 %	54.1 %	115
WBE (white woman-owned)	7.9	8.3	95
<b>Total MBE/WBE</b>	<b>70.3 %</b>	<b>62.4 %</b>	<b>113</b>
Majority-owned	29.7	37.6	79
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.

Disparity index =  $100 \times \text{Utilization/Availability}$ .

Source: Keen Independent Research 2022 availability survey and analysis of District contracts FY2018–FY2022.

## SUMMARY REPORT — Disparity analysis

**A&E disparity analysis.** Figure 30 compares utilization and availability for each MBE group and for white woman-owned firms. For District A&E contracts awarded during the study period:

- Utilization was below availability for African American- (84), Hispanic American- (88), Native American- (0) and white woman-owned businesses (70). These indices were below 80 and therefore substantial for Native American- and white woman-owned businesses.
- Utilization exceeded availability for Asian American-owned businesses.

30. Disparity analysis for District A&E contracts, FY2018–FY2022

	Utilization	Availability	Disparity index
African American-owned	1.9 %	2.3 %	84
Asian American-owned	14.4	4.9	200+
Hispanic American-owned	27.2	31.0	88
Native American-owned	0.0	0.0	0
Total MBE	43.5 %	38.2 %	114
WBE (white woman-owned)	14.0	20.0	70
<b>Total MBE/WBE</b>	<b>57.6 %</b>	<b>58.1 %</b>	<b>99</b>
Majority-owned	42.4	41.9	101
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.

Disparity index =  $100 \times \text{Utilization/Availability}$ .

Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.



## SUMMARY REPORT — Disparity analysis

**A&E prime contracts.** Figure 31 compares utilization and availability for each MBE group and for white woman-owned firms on FY2018–FY2022 District A&E prime contracts:

- Utilization was below availability for African American- (89) and Hispanic American-owned businesses (83). These disparities were not substantial. Utilization was also below and availability for white woman-owned businesses (73), a substantial disparity.
- A disparity index could not be determined for Native American-owned businesses due to zero availability of these firms for A&E prime contracts.

**A&E subcontracts.** Figure 31 also compares utilization and availability on District A&E subcontracts.

- Utilization was below availability for African American- (67), Hispanic American- (90) and for Native American- (0) and white woman-owned businesses (5). These disparities were substantial for African American-, Native American- and white woman-owned businesses.
- Utilization exceeded availability for Asian American-owned businesses.

31. Disparity analysis for District A&E contracts by role, FY2018–FY2022

	Utilization	Availability	Disparity index
<b>A&amp;E prime contracts</b>			
African American-owned	1.7 %	2.0 %	89
Asian American-owned	12.5	4.9	200+
Hispanic American-owned	26.5	30.3	87
Native American-owned	0.0	-	-
Total MBE	40.7 %	37.2 %	109
WBE (white woman-owned)	15.0	20.7	73
<b>Total MBE/WBE</b>	<b>55.8 %</b>	<b>57.9 %</b>	<b>96</b>
Majority-owned	44.2	42.1	105
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	
<b>A&amp;E subcontracts</b>			
African American-owned	4.4 %	6.5 %	67
Asian American-owned	41.5	4.9	200+
Hispanic American-owned	36.2	40.3	90
Native American-owned	0.0	0.0	0
Total MBE	82.0 %	51.7 %	159
WBE (white woman-owned)	0.5	9.7	5
<b>Total MBE/WBE</b>	<b>82.4 %</b>	<b>61.4 %</b>	<b>134</b>
Majority-owned	17.6	38.6	46
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.

Disparity index =  $100 \times \text{Utilization/Availability}$ .

Availability of Native American-owned businesses for A&E subcontracts was non-zero but less than half of one percent.

Source: Keen Independent Research 2022 availability survey and analysis of District contracts FY2018–FY2022.

## SUMMARY REPORT — Disparity analysis

**Professional services disparity analysis.** Figure 32 compares utilization and availability for each MBE group and for white woman-owned firms on District professional services contracts awarded during the study period.

- Utilization was below availability for Asian American- (25), Hispanic American- (94) and Native American-owned businesses (0). These indices were below 80 and therefore substantial for Asian American- and Native American-owned businesses.
- Utilization exceeded availability for African American- and white woman-owned businesses.

32. Disparity analysis for District professional services contracts, FY2018–FY2022

	Utilization	Availability	Disparity index
African American-owned	7.9 %	5.0 %	158
Asian American-owned	5.5	22.0	25
Hispanic American-owned	8.5	9.0	94
Native American-owned	0.0	0.2	0
Total MBE	21.9 %	36.3 %	60
WBE (white woman-owned)	45.8	29.0	158
<b>Total MBE/WBE</b>	<b>67.7 %</b>	<b>65.3 %</b>	<b>104</b>
Majority-owned	32.3	34.7	93
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.

Disparity index =  $100 \times \text{Utilization/Availability}$ .

Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.

## SUMMARY REPORT — Disparity analysis

**Goods disparity analysis.** Figure 33 compares utilization and availability for each MBE group and for white woman-owned firms on District goods contracts awarded during the study period.

Utilization was substantially below availability benchmarks for businesses owned by people of color and white women.

**Other services disparity analysis.** Figure 33 also compares utilization and availability for each MBE group and for white woman-owned firms on District other services contracts.

Utilization was substantially below availability benchmarks for businesses owned by people of color and white women.

33. Disparity analysis for District goods and other services contracts, FY2018–FY2022

	Utilization	Availability	Disparity index
<b>Goods</b>			
African American-owned	0.8 %	8.7 %	9
Asian American-owned	0.9	3.7	24
Hispanic American-owned	5.2	42.7	12
Native American-owned	0.0	0.2	0
Total MBE	6.9 %	55.3 %	12
WBE (white woman-owned)	5.4	7.5	72
<b>Total MBE/WBE</b>	<b>12.3 %</b>	<b>62.8 %</b>	<b>20</b>
Majority-owned	87.7	37.2	200+
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	
<b>Other services</b>			
African American-owned	5.9 %	21.7 %	27
Asian American-owned	0.4	1.2	30
Hispanic American-owned	14.7	21.4	69
Native American-owned	0.0	1.1	2
Total MBE	21.0 %	45.4 %	46
WBE (white woman-owned)	2.7	10.2	27
<b>Total MBE/WBE</b>	<b>23.7 %</b>	<b>55.6 %</b>	<b>43</b>
Majority-owned	76.3	44.4	172
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.

Disparity index =  $100 \times \text{Utilization/Availability}$ .

Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.

## SUMMARY REPORT — Disparity analysis

### “But-for” Analysis of District Construction and A&E Contracts

Keen Independent compared the utilization and availability of minority- and woman-owned businesses on District contracts by application of SDOP contract goals.

**Construction contracts and subcontracts.** Figure 34 includes the disparity indices for MBEs and WBEs on District construction contracts where participation goals applied to the contract (top panel) and where goals did not apply (bottom panel).

- MBE utilization was below availability on contracts with goals (disparity index of 87, not a substantial disparity) but was substantially below availability on contracts without goals (index of 38).
- Utilization was substantially below availability for African American-, Asian American- and Native American-owned businesses regardless of whether goals applied.
- WBE utilization was above availability on District construction contracts regardless of whether goals applied.

These analyses show that, but for the application of race-conscious contract goals, there would be substantial disparities for minority-owned businesses in District construction contracts and subcontracts. There were substantial disparities for each MBE group, as shown in the bottom portion of Figure 34.

34. Analysis of District construction contracts with participation goals and without goals, FY2018–FY2022

	Utilization	Availability	Disparity index
<b>Contracts with E/S/W/MBE goals</b>			
African American-owned	4.6 %	10.1 %	45
Asian American-owned	0.1	4.8	2
Hispanic American-owned	38.7	34.5	112
Native American-owned	0.0	0.5	0
Total MBE	43.3 %	50.0 %	87
WBE (white woman-owned)	3.9	3.1	127
<b>Total MBE/WBE</b>	<b>47.2 %</b>	<b>53.0 %</b>	<b>89</b>
Majority-owned	52.8	47.0	112
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	
<b>Contracts without goals</b>			
African American-owned	2.6 %	10.4 %	25
Asian American-owned	0.2	5.0	4
Hispanic American-owned	17.1	35.6	48
Native American-owned	0.0	0.4	0
Total MBE	19.8 %	51.4 %	38
WBE (white woman-owned)	4.2	2.1	200
<b>Total MBE/WBE</b>	<b>24.0 %</b>	<b>53.5 %</b>	<b>45</b>
Majority-owned	76.0	46.5	164
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.

Disparity index =  $100 \times \text{Utilization/Availability}$ .

Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.

## SUMMARY REPORT — Disparity analysis

**A&E contracts and subcontracts.** Figure 35 includes the disparity indices for MBEs and WBEs on District A&E contracts where participation goals applied to the contract (top panel) and where goals did not apply (bottom panel).

- For African American-owned businesses, utilization was substantially below availability on A&E contracts without goals but about the same as availability on contracts without goals.
- Asian American-owned business utilization exceeded availability regardless of whether goals applied.
- Availability exceeded utilization for Hispanic American-owned businesses regardless of goal application. This disparity was substantial where no contract goals applied.
- There was no utilization of Native American-owned firms on these contracts. A disparity index could not be calculated for Native American-owned firms for A&E contracts without goals due to no availability of these firms.
- WBE utilization exceeded availability on A&E contracts with participation goals but there was no utilization of WBEs on A&E contracts without goals.

These analyses show that, but-for the application of race-conscious contract goals, there would be substantial disparities for Hispanic American-, Native American- and white woman-owned businesses in District A&E contracts and subcontracts.

35. Analysis of District A&E contracts with participation goals and without goals, FY2018–FY2022

	Utilization	Availability	Disparity index
<b>Contracts with E/S/W/MBE goals</b>			
African American-owned	2.7 %	3.4 %	79
Asian American-owned	20.5	7.2	200+
Hispanic American-owned	37.6	38.9	97
Native American-owned	0.0	0.0	0
Total MBE	60.8 %	49.5 %	123
WBE (white woman-owned)	26.5	15.0	176
<b>Total MBE/WBE</b>	<b>87.3 %</b>	<b>64.5 %</b>	<b>135</b>
Majority-owned	12.7	35.5	36
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	
<b>Contracts without goals</b>			
African American-owned	1.0 %	1.0 %	107
Asian American-owned	7.6	2.3	200+
Hispanic American-owned	15.4	22.2	70
Native American-owned	0.0	-	-
Total MBE	24.1 %	25.4 %	95
WBE (white woman-owned)	0.0	25.5	0
<b>Total MBE/WBE</b>	<b>24.1 %</b>	<b>51.0 %</b>	<b>47</b>
Majority-owned	75.9	49.0	155
<b>Total</b>	<b>100.0 %</b>	<b>100.0 %</b>	

Note: Percentages may not add to totals due to rounding.

Disparity index =  $100 \times \text{Utilization/Availability}$ .

Source: Keen Independent Research 2023 availability survey and analysis of District contracts FY2018–FY2022.

## SUMMARY REPORT — Disparity analysis

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### Statistical Confidence in Results

Keen Independent conducted additional analyses to assess whether the disparities for people of color and woman-owned firms could have occurred by chance (i.e., whether results are “statistically significant”). See Appendix D for detailed descriptions of these analyses.

**Examination of whether chance in sampling could explain any disparities.** Keen Independent can reject sampling in the collection of utilization and availability information as a cause for any disparities.

- Keen Independent attempted to compile a complete “population” of District contracts for the study. There was no sampling of District contracts or subcontracts. Using a population of contracts provides statistical confidence in utilization results.
- Keen Independent’s availability survey attempted to obtain a population of firms within South Florida available for District contracts. There was no sampling of firms to be included in the survey since Keen Independent obtained the complete list of firms that Dun & Bradstreet identified as doing business within relevant lines of work (in addition to a District list of interested firms). The overall response rate to the survey was high (37%) and the confidence interval for MBE/WBE availability is within +/- 1.7 percentage points.

### Monte Carlo simulation to examine chance in contract awards.

One can be more confident in making certain interpretations from the disparity results if they are not easily replicated by chance in contract awards. Keen Independent performed Monte Carlo simulation to

determine whether chance could explain the disparities observed for minority-owned firms on District contracts overall. The study team separately examined whether observed disparities for MBEs and WBEs on contracts with and without goals could have been due to chance.

None of the simulations produced utilization equal to or less than the observed utilization for minority-owned firms on District contracts overall, construction contracts with contract goals and construction without contract goals. Chance in contract and subcontract awards can be rejected as an explanation for these disparities.

For WBEs, just 19 out of 10,000 Monte Carlos simulations produced utilization less than or equal to that of WBE utilization on A&E contracts and subcontracts without contract goals.

Therefore, one can be confident that the disparities observed for MBEs in District construction procurements and for WBEs in District A&E procurements without contract goals is not due to chance in contract awards.

It is important to note that this test may not be necessary to establish statistical significance of results. It also may not be appropriate for very small populations of firms.<sup>91</sup> Appendix D provides further discussion and detailed results of these statistical analyses.

# SUMMARY REPORT — Conclusions and recommendations

## Conclusions

The totality of quantitative and qualitative information for District contracts, subcontracts and the local marketplace indicates a need for continued operation and further development of measures to level the playing field for minority- and woman-owned firms to promote full opportunities for MBE/WBEs to do business with BCPS.

Figure 36 summarizes where there were substantial disparities between the utilization and availability of different MBE/WBE groups for District construction, A&E, professional services, goods and services contracts.

Note that the disparity analyses did not provide evidence of substantial disparities for firms owned by African Americans, Hispanic Americans and white women on District non-construction-related professional services contracts. However, the District operates several APIs that could not be evaluated here, which may have increased the utilization of MBEs and WBEs. The absence of disparities for these contracts could indicate program success rather than a lack of need for continued operation of APIs for these contracts.

The District should review all of the results in the 2023 Disparity Study and past research to evaluate the need to level the playing field for minority- and woman-owned businesses and other disadvantaged businesses to compete for its contracts and subcontracts.

### 36. Summary of key results

Summary of Keen Independent disparity analyses Broward County Public Schools contracts, FY2018–FY2022	
Construction	
<b>Substantial disparities when contract goals not applied:</b>	Figure 34
African American-owned firms	
Asian American-owned firms	
Hispanic American-owned firms	
Native American-owned firms	
Architecture & Engineering	
<b>Substantial disparities on contracts overall:</b>	Figure 30
Native American-owned firms	
White woman-owned firms	
<b>Substantial disparities when contract goals not applied:</b>	Figure 35
Hispanic American-owned firms	
<b>Substantial disparities on subcontracts:</b>	Figure 31
African American-owned firms	
Professional services	
<b>Substantial disparities with application of APIs:</b>	Figure 32
Asian American-owned firms	
Native American-owned firms	
Goods and services	
Substantial disparities for all groups	Figure 33

## SUMMARY REPORT — Conclusions and recommendations

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Following the 2015 Broward County Public Schools Disparity Study, the District considered several Affirmative Procurement Initiatives (APIs) to address disparities found in that study. (See Figure 1.)

The District implemented many of these APIs and, since the 2015 Disparity Study, the share of District dollars going to minority-owned businesses has increased from about 15 percent to about 29 percent while the share going to white-woman owned firms remained about the same (about 6.5%).<sup>92</sup>

The Keen Independent study examines whether the APIs the District implemented (a) were effective, (b) are still needed, and (c) if still needed, whether they need to be modified or expanded.

### Need for Action

The combined information in this study indicates a need for the District to refine, enhance and continue measures to level the playing field for minority-owned firms.

Keen Independent presents recommendations for District consideration in the following pages. These recommendations are summarized in Figure 37 to the right.

### 37. Summary of recommendations

#### Refine and Reauthorize the SDOP

1. SDOP Reauthorization
2. Update aspirational MBE/WBE goals
3. Refine Affirmative Procurement Initiatives
4. Modify evaluation preferences
5. Revise program compliance through self-performance

#### Continue Operating SDOP Elements

6. Continue targeted MBE/WBE outreach efforts
7. Continue tracking and reporting MBE/WBE participation
8. Other APIs

#### Enhance Program Elements and Operations

9. Small and local price preference for goods and other services
10. Review, enhance and simplify internal procedures
11. Fully staff the Economic Development & Diversity Compliance Department

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<sup>92</sup> Note that differences between may be due in part to certain technical differences in methodology between the 2015 and 2023 studies.



## SUMMARY REPORT — Conclusions and recommendations

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### Refine and Reauthorize the Supplier Diversity Outreach Program

**SDOP reauthorization.** Based on the information in the 2023 Disparity Study and other information it may have, the District should consider reauthorizing and refining SDOP.

- **Reauthorization.** The District might consider reauthorizing BCPS Policy 3330 to implement a race-conscious program with the following recommendations.
- **Continue and strengthen race- and gender-conscious elements.** The District might consider authorizing Procurement to modify race- and gender-conscious program elements, narrowly tailored to the results of this report. The results presented in this study support the continued application of race- and gender-conscious program elements with certain modifications discussed below.
- **Refine and modify gender-conscious elements.** The District might consider refining eligibility and application of gender-conscious elements based on the results of this study. As discussed below, application of segmented race- and gender-conscious elements might be applied on contracts, specific to racial, ethnic and gender groups and industry of work to be performed.

- **Sunset and reevaluation.** District reauthorization of SDOP should include an update to program sunset language (BCPS Policy 3330 Section F).

Revaluation of MBE and WBE utilization and availability should be repeated every five or six years after reauthorization. Prior to program sunset, the District should review whether there is a continued need for the program and extend the program as necessary.

The District might consider including a requirement for BCPS to conduct a disparity study update prior to program sunset in its program reauthorization language.

To help prevent delays to SDOP reevaluation, the District might establish the party responsible for pursuing a disparity study update in policy. BCPS would repeat this process in advance of the new program sunset (within five years after reauthorization or extension).

## SUMMARY REPORT — Conclusions and recommendations

**Update aspirational MBE/WBE goals.** The District’s aspirational goals are meant to serve as a baseline to compare against actual MBE/WBE participation. MBE/WBE aspirational goals are currently set by industry and by contractor role (prime or subcontractor).

The District met or exceeded three of its aspirational goals (MBE participation on construction, MBE participation on A&E subcontracts and WBE participation on A&E prime contracts) but fell short on nine others. Figure 38 to the right summarizes MBE/WBE aspirational goals, utilization and availability for District contracts by industry and contractor role.

The District might consider setting separate aspirational goals for MBE and WBE participation on its contracts overall, as well as for construction, architecture & engineering and professional services, overall. Currently, there are aspirational goals for construction and A&E prime contracts and subcontracts, but none for those industries overall.

Figure 38. Current District aspirational goals, MBE/WBE utilization and availability from 2023 Disparity Study

	Current goal	Utilization	Availability
<b>Minority-owned businesses</b>			
Construction	- %	39 %	50 %
Prime contracts	37	35	50
Subcontracts	33	62	54
Architecture & Engineering	-	44	38
Prime contracts	62	40	37
Subcontracts	58	82	52
Other professional services	-	68	65
Goods	34	12	63
Other services	41	21	56
<b>White woman-owned businesses</b>			
Construction	- %	4 %	3 %
Prime contracts	12	3	2
Subcontracts	11	8	8
Architecture & Engineering	-	14	20
Prime contracts	8	15	21
Subcontracts	9	1	10
Other professional services	-	46	29
Goods	16	5	8
Other services	23	3	10

# SUMMARY REPORT — Conclusions and recommendations

**Aspirational goal metrics.** Keen Independent considered two metrics in recommending an overall MBE goal: (a) current availability of MBE/WBEs to perform District work; and (b) the midpoint between current MBE/WBE participation on District contracts and availability of MBE/WBEs to perform District contracts.

**Current MBE/WBE availability.** MBEs might be expected to perform about 50 percent of the dollars of District contracts and WBEs might be expected to perform about 6 percent.

These availability metrics were based on the availability of firms to perform on the types and sizes of District prime contracts and subcontracts from FY2018–FY2022 (based on dollar-weighted availability analysis). These metrics include MBEs and WBEs that are certified and non-certified.

**Utilization and availability midpoint.** Another way to determine an aspirational goal using multiple sources of information is outlined in regulations regarding the Federal DBE Program for USDOT-funded contracts (in 49 Code of Federal Regulations Part 26). Those regulations suggest setting an overall goal based on:

- Current availability of minority-owned firms; and
- Other factors such as past utilization of those firms.

Using this approach, the District would set overall goals of 40 percent for MBE participation<sup>93</sup> and 6 percent for WBE participation.<sup>94</sup> See federal regulations in 49 CFR Part 26 for a description of this methodology.

<sup>93</sup> (28.9% MBE utilization + 50.3% MBE availability) ÷ 2 = 39.6%

**Overall aspirational goal level.** From the description of the metrics to the left, the District might consider the following aspirational goals for MBEs and WBEs on its contracts, overall.

- MBE: 50 percent (or 40 percent using the midpoint).
- WBE: 6 percent (also 6 percent using the midpoint).

**Industry-specific aspirational goals.** Based on metrics described to the left, the District might consider the industry-specific aspirational goals illustrated in Figure 39. The District would set aspirational goals using only one of the described metrics. Figure 40 on the following page includes these metrics by industry, role, race, ethnicity and gender.

Figure 39. Industry-specific aspirational goals

	MBE	WBE
Availability benchmark		
Construction	50 %	3 %
Architecture & engineering	38	20
Professional services	65	29
Utilization-availability midpoint		
Construction	45 %	3 %
Architecture & engineering	41	17
Professional services	66	37

<sup>94</sup> (6.5% WBE utilization + 6.2% WBE availability) ÷ 2 = 6.4%

## SUMMARY REPORT — Conclusions and recommendations

Figure 40. Summary of availability benchmarks and utilization-availability midpoints by industry, role, race, ethnicity and gender

	African American- owned	Asian American- owned	Hispanic American- owned	Native American- owned	White woman- owned
<b>Availability benchmark</b>					
All contracts	10 %	5 %	35 %	* %	6 %
Construction	10	5	35	1	3
Prime contracts	10	5	34	*	2
Subcontracts	11	3	38	2	8
Architecture & engineering	2	5	31	*	20
Prime contracts	2	5	30	0	21
Subcontracts	7	5	40	*	10
Professional services	5	22	9	*	29
Goods	9	4	43	*	8
Other services	22	1	21	1	10
<b>Utilization-availability midpoint</b>					
All contracts	7 %	3 %	30 %	* %	6 %
Construction	7	3	35	*	3
Prime contracts	6	3	34	*	3
Subcontracts	14	2	41	1	8
Architecture & engineering	2	10	29	*	20
Prime contracts	2	9	28	0	18
Subcontracts	5	23	38	*	5
Professional services	7	14	9	*	37
Goods	5	2	24	*	6
Other services	14	1	18	1	7

Note: \* Denotes values below half of one percent.

## SUMMARY REPORT — Conclusions and recommendations

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**Refine Affirmative Procurement Initiatives.** The disparity analysis presented in this Summary Report shows contracts with subcontract goal API application eliminated disparities or showed less severe disparities compared to contracts without subcontract goals applied. This program element appears to have been effective. If not for race- and gender-conscious participation goals, for example, there might have been substantial disparities for certain groups on District construction contracts and A&E contracts.

Not all minority groups equally benefited from the contract goals program element. There were substantial disparities for certain groups regardless of program application. Results above also indicate no disparities for certain groups without program application.

Based on the information in this study, the District might strengthen its per-industry segmented goals program element. Keen Independent recommends the following refinements to existing District policy.

Based on the industry-specific disparity analyses, Keen Independent recommends strengthening the industry-specific applications of the subcontract goals API of the SDOP listed to the right.

**Construction.** There were substantial disparities for African American-, Asian American-, Hispanic American- and Native American-owned businesses on District construction contracts without contract goals. The application of subcontract participation goals appears to have reduced or eliminated disparities for minority-owned businesses.

- **Minority-owned firms.** Based on these results, the District might consider continuing to apply MBE goals on its construction contracts. Firms owned by women of color would continue to be eligible to meet an MBE goal
- **White woman-owned firms.** The analyses above do not provide evidence of disparities for white woman-owned firms on construction contracts or subcontracts, regardless of application of contract goals.

Until the next evaluation of the program, the District might consider discontinuing eligibility of white woman-owned firms to meet any MBE/WBE contract goals for construction but continue to allow eligibility of small white woman-owned firms to meet SBE contract participation goals.

**Architecture & engineering.** There was evidence of substantial disparities on certain sets of District A&E contracts for all MBE/WBE groups except for Asian American-owned firms.

- **Minority-owned firms.** The District might consider continuing to apply MBE goals for its A&E contracts and include all MBE groups except for Asian American-owned as eligible to meet an MBE goal.
- **White woman-owned firms.** The District might consider continuing to apply WBE goals on its A&E contracts.

## SUMMARY REPORT — Conclusions and recommendations

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**Modify evaluation preferences.** For all contracts that are awarded on evaluation criteria other than price alone, the District currently may grant evaluation preferences to small and diverse bidders and proposers.

For construction and A&E contracts, the District grants evaluation preferences to certified SBEs and MBE/WBEs.

Certified firms that previously performed work with the District receive a preference between 7.5 and 10 percent of the total evaluation points; firms that had not previously worked with the District may receive between 15 and 20 percent of the total evaluation points.

Results of the bid case study discussed in Appendix N illustrate that MBE and WBE contract award rates were about equal to expected award rates. These results suggest that current District policies are effectively enabling MBE/WBEs to compete for and win District work.

Even with these evaluation preferences, there were disparities between the utilization and availability of certain MBE/WBE groups in District A&E and professional services contracts: Asian American- and Native American-owned firms for District A&E contracts and Native American- and white woman-owned firms for District professional services contracts. It was not possible to determine whether there would have been disparities for other groups for these two industries but for the evaluation preferences.

The District might consider the following modifications to the evaluation preference initiative.

**Single value preference.** Current District policy enables Procurement to assign a preference between 7.5 and 10 percentage points (or 15 to 20 percentage points for bidders and proposers that have not currently performed work with the District). The District might consider replacing the range of preference values with a single value for SBE-, MBE- or WBE-certification status. A single value preference (e.g., a 10 percent evaluation preference) would be consistent across bids and proposals for certified firms.

**Cost discount.** The District might consider restructuring the evaluation preference program into a bid discount program, wherein certified bidders' and proposers' cost proposals are discounted by a specified percentage when calculating this evaluation score (say, 10 percent).

**Preference cap.** The larger the contract, the more expensive the preference program may be to operate. Thus, to prevent extensive discounts on prices for the largest construction and A&E projects, the District might impose a cap on the amount eligible for discounts.

For example, the District might apply the evaluation preference program to contracts with expected values up to \$1 million, placing an effective cap on the program of \$100,000 (if the District applies a cost discount of 10 percent for certified firms).

## SUMMARY REPORT — Conclusions and recommendations

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**Revise goal compliance through self-performance.** District policy allows MBE- and WBE-certified businesses to meet MBE and WBE participation goals through self-performance. District guidelines also enable SBE/ESBE primes to self-perform SBE and ESBE goals. However, only MBE and WBE primes used self-performance to comply with participation goals on contracts the study team examined during the study period.

The District should continue to ensure that self-performance by all MBE and WBE primes applies to internal BCPS aspirational goals, regardless of vendor certification. The District should consider removing the policy allowing MBE- and WBE-certified firms to self-perform in order to comply with contract goal requirements, an advantage not available to non-certified firms.

The study team examined the share of dollars that applied toward complying with SDOP contract goals and the role of the contractor receiving those dollars (prime self-performing or subcontractor). On construction and A&E contracts with MBE- and WBE-certified primes, about one-half (47%) of the contract dollars that might have gone to subcontractors were self-performed by prime contractors and prime consultants. There were substantial disparities for African American-, Native American- and white woman-owned businesses on contracts with an MBE- or WBE-certified prime (not counting primes' self-performed work).

### Continue Operating SDOP Elements

**Continue targeted MBE/WBE outreach.** District policy currently includes minimum requirements for outreach to small and diverse businesses for opportunities to compete for District contracts. The District exceeds policy requirements by targeting and emailing potentially qualified businesses with bid opportunities at BCPS.

As part of the analysis of bids above, the study team examined District broadcast lists. These lists contain business contacts that were emailed with invitations to consider competing for District work. On average, about 500 unique businesses (and about 1,200 business contacts) were emailed for each District bid opportunity in the bid sample.

District broadcast lists also contain businesses' self-reported attributes. According to these attributes, about 22 percent of businesses emailed with bid opportunities identified as MBE/WBE. This proportion appears to be increasing, as 20 percent of businesses on broadcast lists identified as MBE/WBE in 2018 compared to 26 percent in 2022.

Given the District's success in MBE/WBE bid participation, the District should continue to broadly advertise opportunities to businesses, while continuing to expand the lists of businesses to email.

## SUMMARY REPORT — Conclusions and recommendations

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**Continue tracking and reporting MBE/WBE participation.** The District currently tracks small and diverse business participation on contracts eligible for SDOP elements and produces annual and monthly reports summarizing MBE/WBE participation on BCPS contracts. The District might consider the following modifications as it continues its MBE/WBE tracking and reporting efforts.

**Comparison to aspirational goals.** The District publishes quarterly scorecards indicating the District's total spending for that quarter and the share of dollars going to MBEs and WBEs (by group). The District might consider including MBE and WBE aspirational goals on scorecard evaluations.

If the District opts for industry- and role-specific MBE and WBE aspirational goals, the District might also consider reporting industry- and role-specific MBE and WBE participation rates on its quarterly scorecards (as well as the specific aspirational goals).

**Certified and non-certified firms.** District reports include certified MBE and WBE participation. BCPS also has business ownership information from B2Gnow, as well as information from this study, to report MBE and WBE participation regardless of certification.

The District might consider reporting both MBE/WBE participation among all firms regardless of certification as well as by certification status (see utilization analyses, for example). This way, the District can regularly evaluate the effectiveness of its program rules that require certification, such as subcontract goals, as well as efforts that do not require certification, such as outreach and other activities.

**Other APIs.** The District currently operates several other industry-specific API initiatives to level the playing field for small and diverse businesses. Many of these initiatives are aimed at building small and diverse firms' capacity, experience and business relationships. For example, the District operates a vendor rotation program to enable procurement to rotate through pre-qualified businesses available to perform work on small professional services, goods and other services contracts (\$50,000 or less). (See Figure 1 at the beginning of the Summary Report.)

The District should consider continued operation of other API initiatives to allow these program elements to mature and develop. There were substantial disparities for Asian American- and Native American-owned businesses on professional services contracts and for MBEs and WBEs on goods and other services contracts. However, the results of utilization analyses by year indicate a general upward trend for MBE and WBE participation combined in these industries.

The study team evaluated MBE and WBE utilization per industry per year and found that, for most industries, there was a long and general upward trend in MBE and WBE participation combined on District contracts. This trend was observed for contracts overall, per industry (except A&E) and for goods and other services purchases below \$50,000.



## SUMMARY REPORT — Conclusions and recommendations

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### Enhance Program Elements and Operations

**Small and local price preference for goods and other services.** The District might consider a small and local price preference for goods and other services contracts, such as security systems services, landscaping and janitorial services. A preference to small businesses headquartered in the market area may attract new vendors to pursue opportunities with the District.

As discussed above, the District's outreach efforts appear to be closing the gap between utilization and availability of MBEs and WBEs on goods and other services contracts. The District can further close this gap by attracting new vendors with a price preference for small local businesses, which tend to be minority- or white woman-owned in the market area.

Broward County, Miami-Dade County and Palm Beach County each operate a local business preference program that grants preferences to businesses within each respective county. Miami-Dade County has a reciprocity clause that would expand preferences to businesses headquartered in Broward County and Palm Beach County, if the other counties agreed to expand their preferences to Miami-Dade County businesses as well. The District might consider advocating for region-wide preferences to businesses headquartered anywhere in the South Florida market area.

**Review, enhance and simplify internal procedures.** Based on responses from in-depth interviewees and participants in focus group discussions, the District may have room to improve its internal procedures relating to prompt payment, certification, prequalification, the bid process and feedback.

The District should consider performing internal reviews of these processes to examine where they can be simplified and streamlined.

**Prompt payment.** Several respondents indicated difficulties related to prompt payment with the District and prime contractors. The District should evaluate its payment procedures to ensure that District prime contractors, consultants and suppliers are paid promptly and that primes are paying subcontractors and subconsultants in compliance with Florida's Prompt Payment Act.

**Bid process.** The District might consider reevaluating its use of Demand Star for online procurement. While an account is free when retrieving notifications from a single procurement agency, businesses must pay a monthly or annual subscription for notifications from more than one agency. Even a nominal fee for this service may be sufficient to dissuade small and diverse businesses.

## SUMMARY REPORT — Conclusions and recommendations

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### **Fully staff the Economic Development & Diversity Compliance**

**Department.** The District should consider adding at minimum two full-time staff members to fully staff the EDDC.

The District can help to ensure program and business success by adding staff to assist in tracking MBE and WBE participation, certifying SBEs, MBEs, WBEs and other firms, complying with program requirements relating to goal setting and data entry, marketing District opportunities, monitoring prime performance and enforcing program compliance.