



# City of San Antonio

## Agenda Memorandum

**File Number:**  
**{{item.tracking\_number}}**

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**Agenda Item Number:** 2

**Agenda Date:** March 22, 2022

**In Control:** Economic and Workforce Development Committee Meeting

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**DEPARTMENT:** Economic Development Department

**DEPARTMENT HEAD:** Brenda Hicks-Sorensen

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Briefing on the status of the ongoing Small Business Economic Development Advocacy (SBEDA) Disparity and Causation Analysis Study.

**SUMMARY:**

This briefing will provide a status report regarding the ongoing Small Business Economic Development Advocacy (SBEDA) Disparity and Causation Analysis Study (Disparity Study) that identifies potential racial and gender contracting disparities in the San Antonio marketplace and provides legal support to potentially continue the City's affirmative action contracting program.

**BACKGROUND INFORMATION:**

As determined in Supreme Court case of *Richmond v. Croson* (1989), government contracting policies using race and/or gender as a classification or as a consideration must withstand "strict scrutiny" under federal law and must show a "compelling governmental interest" to establish and

to maintain race and gender-specific programs. Essentially, the governmental entity must find statistical evidence of disparities in the market area, anecdotal evidence of barriers to full and fair inclusion must support the statistical evidence, and remedies must be “narrowly tailored” to address that evidence.

Industry best practice is to update disparity studies every five to seven years. To date, the City of San Antonio has conducted three disparity studies in 1992, 2010, and 2015 respectively. The 2010 Disparity Study led to a significant overhaul of the SBEDA Ordinance, which called for the creation of a central vendor registry, compliance module, goal setting committee, and contract specific race-neutral and race-conscious tools such as subcontracting goals, segmented subcontracting goals, and prime evaluation preference points. While the 2015 Disparity Study found a continuing disparity between the availability and utilization of minority and women-owned businesses (M/WBEs) on City contracts, as well as market-based disparities impacting M/WBEs regarding business formation rates and earnings, it also affirmed the City was making progress in the utilization of M/WBEs. As a result, that study called for minor programmatic adjustments, such as the expansion of effective SBEDA tools to all industries (i.e. the M/WBE prime evaluation preference point tool was not available in the construction industry, but was expanded to this industry post the 2015 Disparity Study) and the ability for certified vendors to self-perform SBEDA subcontracting goals.

In August 2021, City Council approved a contract with Colette Holt & Associates to conduct an updated Disparity Study. This work is currently ongoing.

## **ISSUE:**

This briefing will provide a status report regarding the Disparity Study and various contract deliverables to evaluate potential M/WBE disparities, including:

1. Define the relevant marketplace within which to conduct the study;
2. Calculate custom availability of M/WBEs that are ready, willing and able to do business with the City of San Antonio;
3. Analyze M/WBE utilization on City contracts between 2014 and 2020;
4. Determine any causation between disparities and discrimination;
5. Determine if barriers exist through public and private practices;
6. Analyze the effectiveness of current race- and gender-neutral remedies; and
7. Recommend the suspension, continuation, or expansion the SBEDA program.

A draft of the Disparity Study is expected to be received by fall 2022, and following a public engagement process and incorporating feedback, the Disparity Study is expected to be presented to City Council for adoption in early 2023. Findings of this Disparity Study will guide any potential modifications or amendments to the current SBEDA Ordinance, which will be competed through a separate public engagement process once the study and its findings have been adopted by City Council.

## **FISCAL IMPACT:**

This item is for briefing purposes only.

**ALTERNATIVES:**

This item is for briefing purposes only.

**RECOMMENDATION:**

This item is for briefing purposes only.