



FREQUENTLY ASKED QUESTIONS DISPARITY STUDY

Question 1: What is a Disparity Study?

Answer 1: A Disparity Study determines whether a government entity, either in the past or currently, engages in exclusionary practices in the solicitation and award of contracts to minority, and women-owned, and disadvantaged business enterprises (M/WDBEs). The City of Houston commissions periodic disparity studies to determine if there is disparity between the availability of firms and the utilization of those firms in its market area.

Question 2: What is the purpose of a Disparity Study? Why is it necessary?

Answer 2: The study is necessitated in part by the 1989 U.S. Supreme Court's decision in the case of *City of Richmond v. J.A. Croson*. The court decision imposed legal requirements on jurisdictions to establish a "compelling interest" to support the establishment of a minority and women business program. The results of this study will determine if a compelling interest exists for the continuation of the City's M/WBE program.

Question 3: What factors are considered in determining whether disparity exists?

Answer 3: The two main factors are quantitative and qualitative analyses. Disparity is calculated in the form of an index. The disparity index is a ratio of the percentage of utilization and the percentage of availability of M/WBE firms. If the disparity index is 100, the utilization of M/WBE is leveled with the availability of M/WBEs in the market area. If the index is less than 80, it indicates that M/WBEs are significantly underutilized by an entity based on availability. Indices between 80 and 100, which is close to full participation, indicates underutilization though not significant. Additional quantitative analyses performed include an analysis of the utilization of M/WBE firms in private sector contracting as well as a statistical analysis of disparities in business formation rates, projected growth rates, and self-employment revenue. Finally, to perform a qualitative analysis, anecdotal evidence – including, but not limited to, survey responses, focus groups, public meetings, interviews, and written responses/comments – is collected and analyzed to fully evaluate potential barriers faced by M/WBE firms in business formation, business growth, and contracting (both public and private).

Question 4: Has the City of Houston ever conducted a Disparity Study? What were the results the of previous disparity studies?

Answer 4: Yes, the City of Houston conducted the following Disparity Studies:

- In 2006, the City published a Disparity Study conducted by Mason Tillman that reviewed all city contract types from July 1, 2003 – June 30, 2006.
- In 2012, the City published a Disparity Study conducted by NERA Consulting that reviewed city construction contracts from July 1, 2005 –December 31, 2009. This Disparity Study was conducted pursuant to a settlement agreement in a court case.

Each disparity study concluded that there were disparities in city contracting regarding minority and women businesses requiring that the City implement remedial measures to address those disparities. These studies can be found at the following link: http://houstontx.gov/obo/disparity_study.html.

Question 5: Why hasn't a Disparity Study be conducted since the one published in 2012?

Answer 5: As discussed in a memorandum shared with City Council members in April 2022, the City commissioned a study in 2016, which was intended to be a comprehensive review of the City's contracting, performing an in-depth analysis of our Construction, Professional Services, and Goods and Non-Professional Services contracts for fiscal years 2012-2016. Despite our best efforts, we were unable to publish a study which the City could rely on to determine whether the M/WBE Program should continue in its current form; the data and methodology on which the draft study was based compromised the validity of the draft study's findings and conclusions. As a result, the City issued a Request for Proposal for a new Disparity Study consultant in April 2022.

Question 6: What information/data will the Disparity Consultant review in making its analysis (e.g. anecdotal, contracts, etc.)?

Answer 6: Data analyzed for the City of Houston, where available, includes:

- The City's contracting activity during the five-year period of FY2018-FY2022.
- Anecdotal data retrieved from focus groups, public hearings, surveys, and interviews.
- Current or past City policies, procedures, and programs that govern the procurement of contracts.
- In addition, to the analysis of M/WBE availability and utilization, the study will look at veteran, DBE, and ACDBE availability and utilization.

Question 7: When can we expect to see the results of the Disparity Study?

Answer 7: The City has requested the consultant produce a draft of the Study within nine (9) months of the contract award.