

	Disparity Study Recommendation	City Staff Response
Revision of MWBE Goals		
1: Narrow Tailoring of MWBE Goals	GSPC recommends that both the County and the City institute aspirational goals for minority and female subcontractors in the areas of statistically significant underutilization. This can either be effectuated through individual goals for each race/ethnicity/gender group, or it can be an overall goal that could be met by any MWBE. In this type of program, it is important that there be hands on involvement of compliance personnel to inquire when certain groups do not seem to be represented in subcontracting despite the availability of such firms to perform the needed services. Goals should be set at just below the availability figures (either individually or combined).	<p>Staff agrees with this recommendation. Broadening the pool of available certified firms is paramount, resulting in staff's recommendation to move forward with use of the HUB database instead of a standalone City certification program.</p> <p>Based on prior guidance from City Council, staff recommends that the City establish a single aspirational goal for minority participation and a single goal for women's participation. These two goals will be applied to all qualifying City contracts. Staff proposes setting both of these goals at 50 percent of the availability indicated by the GSPC study for each contract category (construction, professional services, services, and goods). After the first year of the revised program's implementation, its performance will be evaluated and the goals may be modified as needed.</p>
2: Asian American, American Indian, and Hispanic American Goals and Outreach	Goals for these consistently underutilized groups should be established through benchmarking based on relative availability of firms in each demographic category. MWBE goals should be based on vendor availability in the relevant market area. In addition, the City and County should make a concerted effort to target outreach to these underrepresented groups, including professional organizations and targeted business development nonprofits in order to advertise these new goals and encourage participation in City and County projects by Asian American, Hispanic American, and American Indian owned firms.	<p>Staff agrees with this recommendation. By moving to use of the HUB database and revising the eligibility criteria in the Ordinance to Promote Equal Business Opportunities in City Contracting, the City would likely increase its utilization of Asian, American Indian and Hispanic-owned firms immediately. Of the 1,226 MWBE firms identified in the study, a total of 186 (15%) were of these ethnicities.</p> <p>Under the recommended changes to the City's program, all ethnic minorities would be included in a singular minority participation goal, rather than individual goals for each ethnic category. The City's program would also include a separate goal for women-owned firms. Staff expects this approach to reduce confusion, increase compliance and simplify the contracting process. EO/EA will monitor and report participation by ethnicity and gender for equity.</p> <p>The City will also increase its outreach to organizations serving firms of these ethnicities, such as the Asian Chamber of Commerce, North Carolina Indian Economic Development Initiative, N.C. Hispanic Chamber of Commerce, N.C. Hispanic Contractors Association, and other organizations to promote business opportunities with the City.</p>
12-A: Declining MWBE Goals	A city with a successful MWBE program implemented a hybrid program by establishing a declining schedule of race-conscious targets. In the first year of the program, the City proposed to meet 70% of its MWBE goal with race-conscious means, the second year 50%, and the third year 25%. At the end of the three year period, the program was to be evaluated.	Staff does not agree with this recommendation. After further conversation with GSPC, EO/EA learned that this recommendation refers to a program in Jacksonville, Florida, and conducted further analysis. Staff concluded it would be equally valuable to set goals, monitor results regularly, and conduct a Disparity Study every three to five years for an overall program evaluation. No further action is needed.

Contractor Outreach & Assistance		
5: Mentor-Protégé Programs	<p>The City and County should consider the development of a mentor-protégé program (a suggestion that has considerable support from anecdotal evidence gathered for this study). In such a program, veteran and mid-size MWBEs serve as mentors for smaller and newer MWBE firms. The City and County may consider partnering with organizations such as Associated General Contractors, local builders associations, and other similar groups.</p>	<p>Staff agrees with this recommendation but note that further analysis is needed. The City of Durham developed and implemented a mentor-protégé program from 2005-2010 in which SDBE construction firms were paired with large majority construction firms to assist in development and capacity building. Of the 29 firms entering the program, 22 firms graduated. Some were able to increase their bidding opportunities with the City and 9 (40%) or the protégés continue to do so. The program was discontinued when the City found it difficult to find mentors and protégés to participate. Further, staff found that mentors failed to utilize their protégés to meet participation requirements.</p> <p>There are other models of mentor-protégé programs that might be researched and considered for implementation. Durham County has allocated resources to contract with NCIMED to assist them in implementation of the study recommendations, potentially including a mentor-protégé program. Staff recommends that the City continue dialogue with the County to explore if such a program should be developed as a joint initiative.</p>
9: Bonding Assistance Programs	<p>... it is important for the City and County of Durham to provide resources to SBE and MWBE firms by utilizing non-profit organizations for loans and bonding, and forming agreements with local banks to provide funding to small, minority, and women owned businesses... Further, the City and County should endeavor to make business owners in Durham aware of the avenues available through the Small Business Association and other bonding agencies.</p>	<p>Staff partially agrees with this recommendation. NCIMED has a surety bond assistance program offered through their South Atlantic Region Small Business Transportation Resource Center. The City will continue to educate firms about the availability of this program and of other financing sources, but staff does not recommend that the City pursue creation of a City-coordinated bonding program at this time.</p>
12-B: Declining MWBE Goals	<p>The City and County of Durham may consider creating and funding some of these initiatives to include:</p> <ul style="list-style-type: none"> • Bond Enhancement Programs • Access to Capital Program • Educational Summits • Semi-monthly MWBE payments • Cap on the number and dollar value of set-aside contracts • Appropriating funds necessary to implement these programs 	<p>Staff agrees with this recommendation and notes that bond enhancement programs, access to capital programs, and educational summits are already being provided or could be provided in Durham by NCIMED. Funding for any programs/initiatives identified to be provided by NCIMED will be explored as Durham County refines its scope of services with NCIMED, and the City of Durham's programs may benefit from joint efforts.</p> <p>Semi-monthly MWBE payments are a procedural issue and can be handled on a case-by-case basis, if needed. The City does not currently have an MWBE set-aside program or plans to develop such a program.</p>
16: Contractor Training and Education	<p>It was suggested by interviewees in the anecdotal analysis that MWBE and SBE firms be given more of an opportunity to understand and ask questions about the bid specifications. This may entail the City and County (jointly or separately) providing outreach resources in the form of contractor education. A semi-regular "class" or seminar on reading bid specifications, obtaining</p>	<p>Staff agrees with this recommendation. EO/EA staff is currently working to set up a meeting this fall with area contractors to explore this issue further. Staff met with NCIMED, Durham County and the President of the NC Minority Contractors Association to seek assistance in facilitating the meeting. Durham County is interested in contractor education and this may be a component of their contract with NCIMED, which may create an opportunity for a joint City/County initiative.</p>

City of Durham Response to Recommendations of the MWBE Disparity Study
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	bonding, and standard violations that may make a bid deemed unresponsive would be helpful in bridging that gap.	Currently, firms who attend pre-bid/pre-proposal conferences have the opportunity to ask questions about bid specifications or send in questions for clarification. EO/EA periodically offers bidding and estimating classes and classes on how to do business with the City and will continue to do so in the future. NCIMED currently offers surety bond assistance through its South Atlantic Region Small Business Transportation Resource Center, and the City will continue to educate firms about the availability of this program.
Bid Specifications and Process		
3: Joint Venture Contracts/MWBE Teams	In order to improve utilization of MWBE firms at the prime level, it is suggested that the City and County should look for instances in which MWBE capacity can be increased to match contract size through the encouragement of joint ventures. The City and County may also encourage joint ventures between MWBEs and nonminority firms on large-scale projects; however, these types of joint ventures pose the risk of potential illicit "fronts" and must be examined carefully.	Staff agrees with this recommendation but note that further analysis is needed. On the recommendation of GSPC, staff have obtained and analyzed information on the joint venture program operated by the City of Atlanta. EO/EA, in consultation with other City departments, will continue to research these programs and determine what types of projects might be appropriate for joint ventures. Staff will also explore the possible need to include language regarding joint ventures in the proposed ordinance revisions. Joint ventures may also represent another opportunity for a joint initiative with Durham County and NCIMED.
4: Contract Sizing	The City and County should consider issuing contracts in small dollar amounts to expand the opportunities that small MWBEs have to do business with Durham.	Staff does not agree with this recommendation as stated but offer an alternative approach. In general, splitting up contracts for bid introduces a tradeoff with efficiency and cost savings. Instead, subcontract sizing is already referenced in and will be addressed by strategic plans for CMAR contracts. This information will be better captured as the City modifies the reporting for CMAR subcontractors (as City Council has already requested). No further action is needed.
7: Debriefings	Both the City and County should engage in regular debriefings with unsuccessful bidders to improve contractor awareness of the requirements of bidders and to enable them to provide more qualified or accurate responses to solicitations in the future.	Staff agrees with this recommendation, as the City already debriefs unsuccessful bidders/proposers at their request. No further action is needed.
17-A: Digital Plans	Another insight gleaned from the anecdotal analysis was that the bidding process could be easier for some business owners if the City and County provided the digital plans online instead of the contractors having to go to other physical addresses to look up the plans or paying expensive fees to have another entity pull them.	Staff agrees with this recommendation and note that this approach is currently standard practice for contracts managed by General Services, Public Works and Water Management. Public Works and Water Management typically direct bidders to email the project engineer for a copy of the documents which can be downloaded for free. In addition, paper copies are also available for a fee; General Services and Water Management also make plans and specifications available for viewing at their offices. No further action is needed.
Performance Review and Oversight		
6: Performance Reviews	City and County employees and user departments should be evaluated regularly based on the quality, transparency, and effectiveness of their attempts to reach procurement goals and achieve the overall goals of the MWBE programs in place.	Staff agrees with this recommendation. New program results and goals will be integrated in both departmental and employee performance reviews in order to monitor progress as an implementation step of the modified MWBE program. Pending approval of the revised ordinance, this integration will begin at the start of the next fiscal year.

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8-A: Commercial Antidiscrimination Rules	... The City and County should be commended for providing officers and mechanisms for filing complaints against firms that have discriminated against MWBEs, and such mechanisms may be expanded to include a disseminated statement of due process of investigation by staff and, if necessary, the imposition of strict sanctions.	Staff agrees with this recommendation and note that these provisions are already part of the ordinance (and will be retained in the revised version). In the opinion of the City Attorney's Office, the City does not have legal authority to introduce additional provisions beyond what is already included in the ordinance. No further action is needed.
8-B: Additional Scrutiny of MWBE Applications	... Anecdotal evidence of contractor misrepresentation as White Female owned firms leads GSPC to recommend stricter policies regarding monitoring and review of such applications for certification.	Staff does not agree with this recommendation because moving to use of the HUB database will eliminate the City's role in certifying women-owned firms. The City will also continue to use firms certified by NCDOT and SBA. No further action is needed.
10: Balanced Scorecard	The City and County should develop additional measures to gauge the effectiveness of their respective efforts...	Staff agrees with this recommendation. EO/EA will accept the list of measures suggested by GSPC and begin or continue collecting data and reporting on these items, with the goal of including these measures in the next annual report.
13: Steering Committee	... There are key senior staff members in the City and County who should serve as a steering committee for each entity... The steering committee should be responsible for a quarterly review of outcomes and the monitoring of the department heads' responsibilities to implement, track, and report on the MWBE utilization efforts. Perhaps Durham City and County could consider a joint committee for the good of those Durham citizens and business owners who do business, or would like to, with both entities.	Staff agrees with this recommendation, but note that it will be challenging to properly scope this recommendation until other elements of the disparity study recommendations are finalized, as it will be helpful to have a deeper understanding of what metrics the committee will have at their disposal to track and monitor the outcomes of the revised program. Staff expects that this committee will develop a formal charter and guiding documents and will be made up of City staff. Staff does not recommend creating a joint committee with Durham County because of the differences in the organizations' purchasing practices.
Online Presence		
14: Additional Features for MWBE Websites	Each website, for both the City and County of Durham, should include the uniform certification application, program descriptions, information and resources on how to do business, bid tabulations, direct links to online purchasing manuals, capacity and experience data on certified firms, bid opportunities, vendor application, information on loan and bonding programs, and forecasts of business opportunities.	Staff agrees with this recommendation. Many of these items are already available on the "Bids & Contracts" sections of the City's website. Additional items and further consolidation of information can be addressed through the Web 2.0 update currently in process.
17-B: MWBE Database Updates	... It was noted by some interviewees within the City of Durham that the IT process should have a more explicit operating procedure by which the databases, especially for MWBE, can be updated concurrently and regularly.	Staff agrees with this recommendation. As the City transitions to use of the HUB database, staff will create tables to enable contractors to easily access and sort certified vendor information.