



2016 NYS Disparity Study FACT SHEET

What is a Disparity Study?

A Disparity Study ("Study") is an evaluation of the participation by Minority and Women-owned Business Enterprises (MWBES) in government contracting compared to the availability of MWBES in the marketplace.

What is the purpose of the Study?

The Disparity Study's chief purpose is as a tool to determine whether any race or gender-based disparity exists in New York State contracting. While the Study is not intended to address goal setting or program development, the findings provide the State with a foundation on which to address the disparities found in access to State contracting opportunities by MWBES.

What guidelines exist that helped direct the Study?

The Study has been guided by the United States Supreme Court's 1989 decision in *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) and its progeny.

Why did the State decide to conduct the Study?

Article 15-A of the Executive Law requires the State to periodically refresh the disparity study. The completed Study will allow the State of New York to:

- Increase participation of M/WBES on the State's contracts; and,
- Identify recommendations from the Study that assist the State in building a stronger MWBE program.

How does the State of New York benefit from a Disparity Study?

Three benefits to the State are to:

- Identify best practices to improve the State's contracting process.
- Increase number of bidders on the State's contracts.
- Lower the State's procurement costs.

Who conducted the Study?

New York State engaged in a competitive RFP process and in 2015 selected Mason Tillman Associates, Ltd., a national expert in conducting disparity studies, to conduct the Study. Particular strengths of Mason Tillman's proposed approach to conducting the disparity study included Mason Tillman's commitment to expand on the data collection effort undertaken for the 2010 disparity study, provide the most complete picture ever of the participation of MWBES in the state's contracting, and Mason Tillman's innovative approaches to most accurately identify the availability of MWBES in the state's market area. Mason Tillman also provided an excellent team of statistical analysts and a history of successfully producing legally defensible disparity studies. In order to undertake its



analysis, Mason Tillman reviewed the State of New York's contract records, identified market area businesses, and collected anecdotal accounts from business owners.

How did the State of New York identify available businesses?

To identify the State of New York's businesses, Mason Tillman Associates, Ltd., conducted a broad-based business outreach program using a thorough data collection process. The State's contract records, certification lists, outreach meetings, and trade and professional association lists were also used to identify available businesses.

Which industries were studied?

The industries studied were construction, construction-related services, non-construction-related services, and commodities.

What was the timeframe and market area of the Study?

Contracts issued by the State between April 1, 2010 and March 31, 2015 were analyzed to provide the baseline data for the Study. The market area was limited to the geographical borders of New York State.

How was the general public engaged in the development of the Study?

In addition to outreach which resulted in over 1,800 surveys received and reviewed by Mason Tillman, ESD hosted 17 disparity study meetings throughout the state in 2015-2016 which were attended by over 1,000 individuals.

What is different between the 2010 Disparity Study and the 2016 Study?

The state now has superior data on MWBE participation in state contracting, since the 2016 Study analyzed five times more contracting data compared to the 2010 Disparity Study.

What was the MWBE participation as prime contractors or subcontractors during the study time period?

The Study calculated that MWBE utilization as prime contractors ranged from a high of 32.54% in non-construction services, to a low of 13.84% in construction-related services.

Mason Tillman also calculated that MWBE subcontractor participation ranged from a high of 28.84% in construction-related services to a low of 22.96% in non-construction services.

If the above is the utilization of MWBEs in state contracting, what is the availability of state contracting? And what does the difference between the two mean?

MWBE availability equals the number of MWBE firms ready, willing and able to do work with New York State. After analysis and collection of firms available to work with New York State, it was determined that MWBEs make up 53.05% of available prime contractors, and 53.48% of available subcontractors in New York State. A statistical analysis between the differences in availability and utilization by gender, ethnicity and industry determined if there was a statistically significant disparity in each area.



What are some key findings of the 2016 Study?

Although MWBE participation in state contracting has increased significantly since the 2010 Study, MWBE utilization is disproportionately lower than MWBE availability in every category of state contracting. Disparities are greatest in the state's market for prime contractors; particularly MWBEs providing construction-related services, such as architects and engineers.

How will the Disparity Study affect the current MWBE Utilization Goals?

Among a number of programmatic recommendations, the Disparity Study recommends that the State continue to work to achieve Governor Cuomo's 30% MWBE participation goal and that New York State undertake new and more targeted efforts to support MWBE prime contractors.