FSIC Compendium

Prepared for:

The Leading Ladies of Richmond Men Making Moves Event

OCTOBER 20, 2024

A SELECTION OF ARTICLES RELATED TO ADVOCACY AND CURRENT EVENTS

This Compendium was prepared specifically for the LLRVA Men Making Moves Event. These articles reflect current events related to economic inclusion and our efforts to inform our communities so they can advocate effectively.

Sponsored by and in Association with:

February 29, 2024

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Subject: Strategic Implementation of the Disadvantaged Business Enterprise (DBE) Owner Controlled Insurance Program (DBEOCIP) within the Inflation Reduction Act, Bipartisan Infrastructure Investment Law, and American Rescue Plan Projects (Infrastructure Investments).

Dear President Biden,

With profound respect and commitment to national progress, we present a comprehensive proposal advocating the integration of the Disadvantaged Business Enterprise (DBE) Owner Controlled Insurance Program (DBEOCIP) into the Infrastructure Investments implementation agenda. This initiative is predicated on the insightful analyses of reports and guidelines from the U.S. Government Accountability Office, National Cooperative Highway Research Program, and Federal Highway Administration. It is further inspired by the leadership of key members of the Congressional Black Caucus, who are champions of economic inclusion, social justice, and criminal justice reform (see attached letters from members of the Congressional Black Caucus).

Our Proposal: Building a Sustainable and Inclusive Future

Under the visionary guidance of the late Congressman John Lewis, a team of experts created an economic justice program which is now called the DBEOCIP a program conceptualized as a transformative approach for the U.S. Department of Transportation (USDOT). This initiative is tailored to significantly alleviate the cost burden of insurance in major Infrastructure Investments, thereby unlocking substantial financial resources. These redirected funds are envisioned to support the On-the-Job Training Supportive Services Programs (OJT/SS) initiative, profoundly impacting disenfranchised contractors and communities through comprehensive workforce development, training, educational programs, and bolstering of the OJT/SS.

The DBEOCIP is not merely an insurance program but a paradigm shift in risk management for construction projects. By centralizing insurance coverages, it dramatically diminishes the insurance costs for DBE contractors, fostering an equitable and competitive environment, particularly benefiting small, disadvantaged, minority-owned, and women-owned enterprises. The potential reallocation of $10 to $20 million from a billion-dollar construction budget into crucial initiatives like OJT/SS, workforce development, and educational programs can markedly enhance the socio-economic landscape of our communities.

In this light, we advocate for an Executive Order establishing the integration of the DBEOCIP into the Infrastructure Investments to implement the DBEOCIP, realizing the objectives of the Justice40

Initiative and Congressman Lewis's foresight and capitalizing on redirected funding to reinforce OJT/SS.

OCIP Background: A Legacy of Efficiency and Equity

FHWA defines an OCIP as an asset protection option designed for major construction projects that allows coverages for multiple insured entities to be "wrapped up" into a single consolidated insurance program. OCIPs have been used for more than 30 years on private and public projects that include every type of construction - rail systems, airports, highways, stadiums, convention centers, prisons, bridges, schools, and hospitals.

One of the first types of wrap-up programs was the Defense Rating Plan (DRP). The DRP was developed for use in Department of Defense DOD projects (and later adopted by the Department of Energy DOE), representing hazards that contractors' insurance companies were unable to respond to. The DRP used insurance carriers to issue workers' compensation and general liability policies with one significant difference - no insurance (or risk transfer was provided). The "project" concept was adopted by the private sector in the 1970s in an effort to control the insurance costs associated with major projects, which ranged from 5 percent to 10 percent of the total project cost.

Under an OCIP or "wrap-up" program, a single insurance program provides insurance for the owner and all eligible (on-site) project contractors and subcontractors. Wrap-ups can be owner-sponsored (OCIP) or sponsored by the prime or general contractor (Contractor Controlled Insurance Program - CCIP). The total premium to cover the owner and contractors under a wrap-up tends to be significantly less than the total premium charged if each contractor buys its own insurance and includes that cost - plus any markup — in its bid to the owner. The program facilitates the inclusion of small and minority businesses by eliminating insurance barriers. The wrap-up provides a single point of focus for safety and claims management, offering a coordinated approach specifically tailored to the project. This eliminates disputes among contractors and their insurers, reduces the disruption at the work site, and can minimize potential delays attributed to accident investigation.

Our conviction in the OCIP's potential is fortified by affirmative Congressional responses (see letters attached) and the comprehensive Guide to FHWA Funded Wrap-Up Projects from USDOT, attesting to the feasibility, effectiveness, and federal-aid compatibility of OCIPs. These endorsements highlight the transformative capability of DBEOCIPs in reshaping the economic dynamics of substantial Infrastructure Investments. The collective advantages of DBEOCIPs, encompassing cost reduction, workplace safety enhancement, and the creation of a level playing field for small and disadvantaged enterprises, illustrate a future where federal Infrastructure Investments are not only economically efficient but also bastions of community development and social equity.

Embracing the robust coalition framework set forth by experts and the explicit endorsements from USDOT, we are convinced of the DBEOCIP's potential to serve as a beacon of innovation, justice, and sustainability in infrastructure development. This initiative pays homage to the legacy of Congressman John Lewis and paves the path for a future where economic growth and social equity are intrinsically linked.

Call to Action: Realizing a Vision of Progressive Infrastructure

In anticipation of your supportive stance, we stand ready to engage in meticulous discussions and collaborative endeavors to bring this initiative to fruition. We firmly believe that the DBEOCIP transcends the conventional scope of a program; it embodies a transformative force poised to redefine our nation's infrastructure landscape and the lives of countless Americans.

Enclosed is a detailed dossier comprising supporting documents that further elucidate the foundational principles, anticipated benefits, and strategic implications of the DBEOCIP.

We sincerely thank you for considering this matter of paramount national importance. We are enthusiastic about collaborating closely to realize an economically prudent, socially responsible, and fundamentally just vision of infrastructural development.

Yours faithfully,

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BUSINESS

Fearless Fund drops grant program for Black women business owners in lawsuit settlement

FILE - Co-founders and CEOs of The Fearless Fund Arian Simone, center left, and Ayana Parsons, center right, speak to journalists outside the James Lawrence King Federal Building in Miami, as they leave with their legal team following a hearing on Wednesday, Jan. 31, 2024. (AP Photo/Rebecca Blackwell, File)

BY ALEXANDRA OLSON
Updated 3:45 PM EDT, September 11, 2024
AP

NEW YORK (AP) — A venture capital firm has closed down a grant contest for Black women business owners as part of a settlement agreement with a conservative group that had filed a lawsuit alleging the program was discriminatory, both sides announced Wednesday.

The settlement came two months after a U.S. federal court of appeals panel ordered the Atlanta-Based Fearless Fund to suspend the Strivers Grant Contest, which provided $20,000 to businesses that are majority owned by Black women. In a 2-1 ruling, the appeals court ruled that the American Alliance for Equal Rights, led by conservative activist Ed Blum, was likely to prevail in its lawsuit claiming that the program illegally discriminated on the basis of race.

The lawsuit against the Fearless Fund, the Atlanta-based firm that has helped grow popular companies like beauty retailer Thirteen Lune and restaurant chain Slutty Vegan, has been closely watched as a bellwether in the growing legal battle waged by conservative groups against corporate diversity programs.

Bolstered by the [Supreme Court case that ended affirmative action] in college admissions, conservatives have targeted dozens of companies and government institutions and challenged a wide array of programs and policies bolstering diversity, equity and inclusion, known as DEI.

In a statement, Blum, who also brought the case that resulted in the affirmative action ruling, reiterated his view that "race-exclusive programs like the one the Fearless Fund promoted are divisive and illegal."

In a statement, Arian Simone, CEO and co-founder of the Fearless Fund, said she was pleased to put the lawsuit behind her and continue with the firm's mission of "helping and empowering women of color entrepreneurs in need."

So far, none of the anti-DEI lawsuits have resulted in a precedent-setting ruling on the level of the Supreme Court decision on affirmative action. Ben Crump, a civil rights attorney who represented the Fearless Fund, said that the settlement ensured that lawsuit ended without setting any such precedent.

"By strategically avoiding a Supreme Court ruling that could have eliminated race-based funding, we protected vital opportunities for the entire Black and brown community," Crump said in a statement.

Still, a growing number of companies — most recently including Lowe's and John Deere — have altered or dropped DEI programs amid the onslaught of lawsuits and conservative activist pressure.

In statement, Blum said "it is to be hoped race-exclusive programs like the one offered by the Fearless Fund will be stopped and opened to everyone, regardless of their race." Blum added that he had encouraged the Fearless Fund to open the Strivers Grant Contest to women of other races rather than shut it down. Other companies, including several law firms sued by Blum, have changed scholarships or fellowships to open it to all races.

Alphonso David, president and CEO of The Global Black Economic Forum and counsel to the Fearless Fund, shot back in an interview with The Associated Press that the "Fearless Fund was not going to allow Ed Blum to dictate how to run their business." David said the Strivers Grant was a small part of the Fearless Fund's operations and had already been scheduled to wind down. He said the settlement "is very narrow" and will not affect the venture capital's firms investments or other activities.

The Strivers Grant Fund was one of several programs run by the foundation arm of the Fearless Fund, which was founded with backing from investors including

JPMorgan Chase & Co. and Mastercard, to address the wide racial disparity in funding for businesses owned by women of color. In her statement Wednesday, Simone announced a new $200 million debt fund that will offer loans of between $5,000 to $250,000 to "under-resourced founders."

David Glasgow, executive director of the Meltzer Center for Diversity, Inclusion, and Belonging at New York University's School of Law, said the decision to settle the lawsuit was not surprising because "the gamble you are making in cases like this is that if you continue fighting you will get more adverse rulings that have the potential to cause wider damage."

"People are certainly seeing the writing on the wall on how the six-justice conservative super majority in the Supreme Court would rule in DEI-related cases," Glasgow said.

The Fearless Fund case and other lawsuits have revealed deep divisions among the country's judiciary on the issue of DEI.

Two judges, appointed by former President Donald Trump to the U.S. Court of Appeals for the 11th Circuit in Miami, sided with Blum's argument that the grant program violates section 1981 of the 1866 Civil Rights Act, which prohibits discrimination on the basis of race when enforcing contracts. The Reconstruction-era law was originally intended to protect formally enslaved people from economic exclusion, but anti-affirmative action activists have been leveraging it to challenge programs intended to benefit minority-owned businesses.

In sharp dissent, Judge Robin Rosenbaum, an appointee of former President Barack Obama, said none of the anonymous plaintiffs represented by Blum demonstrated that they had any real intention to apply for the grants and likened their claims of harm to soccer players trying to win by "flopping on the field, faking an injury."

The Associated Press' women in the workforce and state government coverage receives financial support from Pivotal Ventures. AP is solely responsible for all content. Find AP's standards for working with philanthropies, a list of supporters and funded coverage areas at AP.org.

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Trump Cites Opportunity Zones as a Triumph. Their Success Is Middling.

A tax incentive, with bipartisan roots, aims to foster development in poor areas. It has fueled building, but it hasn't always aided local residents.

Birmingham and the rest of Alabama are a window into how money has and hasn't soaked into the ground designated as opportunity zones over the past six years.Credit...Charity Rachelle for The New York Times

By Lydia DePillis

Lydia DePillis reported from Birmingham and Huntsville, Ala.

Aug. 2, 2024

On an Alabama day so oppressive that the sweat pools on your face in the shade, Alex Flachsbart talks almost too rapidly to understand and drives around central Birmingham with similar velocity. Every few minutes, he pulls over to expound on a victory: neglected public housing, a long-empty factory, a crumbling department store, all being transformed into shiny apartments or airy office and retail space.

"This was one of Birmingham's white-whale buildings," Mr. Flachsbart said of a former Red Cross office that had been renovated into 192 rental residences. The development happened with the help of a powerful tax break created in 2017 to lure investors toward poorer neighborhoods, an idea championed by Democrats and Republicans and cited by former President Donald J. Trump as among his proudest economic policy achievements. ("One of the greatest programs ever for Black workers and Black entrepreneurs," he called the incentive in an appearance this week at a National Association of Black Journalists conference.)

But the relatively low-income areas covered by the incentive, known as opportunity zones, didn't benefit equally. On Mr. Flachsbart's tour of new projects in downtown Birmingham, the stops dry up in the historically African American northwest quadrant. There, developable lots and vacant buildings haven't received as much of the capital flowing toward the buzzier parts of downtown.

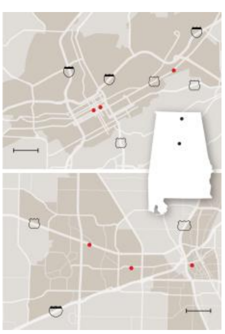
“O.Z. was a nudge there because it was already at a tipping point,” said Mr. Flachsbart, who has put together several of those deals as chief executive of a nonprofit organization called Opportunity Alabama. “There is a wall at about 17th Street.”

Alex Flachsbart, chief executive of Opportunity Alabama, in the Burger-Phillips Lofts in Birmingham, a building being renovated with opportunity zone financing.Credit...Charity Rachelle for The New York Times

Birmingham and the rest of Alabama are a window into how money has and hasn’t soaked into the ground designated as opportunity zones over the past six years. Congress is taking a closer look as it considers extending the incentive, which expires in 2026 along with most of the 2017 tax law.

The provision has driven tens of billions of dollars into the construction of multifamily apartment buildings, adding new housing during an intense affordability crunch. But some consider it an expensive boondoggle that allows wealthy investors to enjoy higher returns by financing projects that they might have backed even without an extra carrot.

The incentive has not worked as well as backers had hoped for new and existing businesses, largely because of restrictions on how businesses qualify. So far, there is no concrete evidence that poverty has declined more in opportunity zones than elsewhere. Although one study found greater employment growth in the zones than in similar areas, most of the new jobs probably went to residents who lived outside them.



"I'm all in for ways to create family-wage jobs in hard-hit communities," Senator Ron Wyden, the Oregon Democrat who is chairman of the Finance Committee, said in an interview, but reports "are not indicating that dollars are going to those type of places."

Supporters argue that the incentive will become more effective as developers learn how to use it, and are able to combine it with other subsidies to pull off more ambitious projects, sustaining a recovery fueled by federal stimulus in places that for decades have been overlooked.

"There's always going to be some use case in a big national program that doesn't fit the spirit of the law, but I think those are outliers," said John Lettieri, the chief executive of the Economic Innovation Group, a think tank that has championed the idea from the beginning. "I think the balance looks really good in terms of where it moved investment and the activities that it spurred."

An old movie theater in Birmingham was renovated as a space for lessons and performances.Credit...Charity Rachelle for The New York Times
Image


A lesson inside the restored space in Woodlawn, a predominantly African American neighborhood.Credit...Charity Rachelle for The New York Times

The opportunity zone idea was first laid out in a 2015 paper by Kevin Hassett, who went on to lead Mr. Trump's Council of Economic Advisers, and Jared Bernstein, who holds the position under President Biden. It then became essentially the only bipartisan part of the Tax Cuts and Jobs Act, Mr. Trump's first major legislative victory.

Unlike other tax incentives and subsidies, opportunity zones are available to anyone with investment income. They work by deferring and in some cases reducing capital gains taxes on that income, and wiping out taxes on the investment if it is held for at least 10 years. (The cost to federal coffers won't be clear until the beneficiaries claim forgiveness on taxes they would otherwise owe.) In another unusual feature, the incentive isn't parceled out by agencies or capped by a certain amount — it's designed for flexibility and ease of use.

That ease of use drew criticism from the beginning. Governors designated the opportunity zones in their state from a pool of eligible census tracts, sometimes to favor a project already in the works rather than to maximize impact. Beyond anecdotes, it was difficult to tell where and how the funds were landing, since the law required essentially no reporting.

Investors were eager to take part. The high equity valuations of 2018 to 2021 created a glut of capital gains, which poured into funds set up for use in opportunity zones. By the end of 2023, funds tracked by the tax credit consulting firm Novogradac totaled $37.6 billion, which the firm estimates at only a quarter to a third of the total; the Treasury Department has disclosed hard numbers only up to 2020.

“We were kind of shocked that even through the end of 2020 by how wide the investment had been, and how quickly it expanded,” said Jason Watkins, an opportunity zone specialist at Novogradac.

Fund-raising slowed in 2022, as the stock market slumped and the power of the incentive started to wear off. But because the funds must be spent within two and a half years, that money kept projects moving even as others fell victim to skyrocketing construction costs and interest rates.

Cornell Wesley, the chief economic development officer for Birmingham, said he was focused on projects that had local government participation.Credit...Charity Rachelle for The New York Times

In Alabama, civic leaders raced to pull down some of the billions for their communities. But Mr. Flachsbart, who had been helping to connect people with capital gains to eligible projects, recognized that Alabama wasn’t going to get its share without a more concerted push. That’s why his nonprofit started a fund management arm to raise money closer to home, he said.

“People in Alabama, who understand the state, can fill those gaps, because they can see the kinds of unique market opportunities that we can see, sometimes in real time,” Mr. Flachsbart said. Still, he notes, capital follows the path of least resistance.

The incentive could be used for almost any kind of real estate or business, but the rules made it best suited for building apartments. Such projects were already a magnet for capital after years of underbuilding, and opportunity zones appear to have slightly amplified the impact, according to an analysis of census data by the Economic Innovation Group.

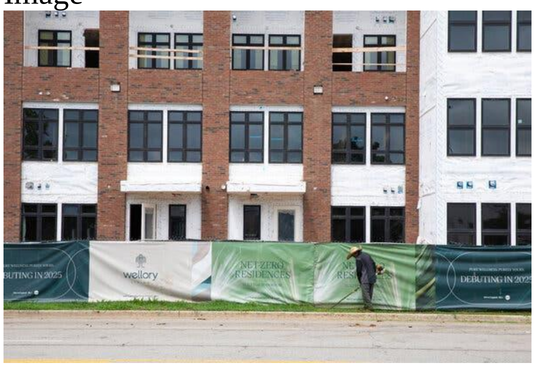
The tax benefits haven’t proved attractive for investment in housing restricted to low-income residents, since those properties tend not to appreciate much in value, but in some places so much market-rate housing was added that it likely weighed rents down anyway.

Take Huntsville, Ala., which was experiencing a job boom fed by aerospace engineering and advanced manufacturing. There, opportunity zones — which covered the city's sprawling research park as well as its genteel downtown — intensified a white-hot surge in construction.

"We had this road map of how we were going to grow our economy," said Shane Davis, Huntsville's director of urban and economic development, sitting in a brand-new city hall supported by a burgeoning tax base. "When you overlay the opportunity zones, it just added fuel to the fire."

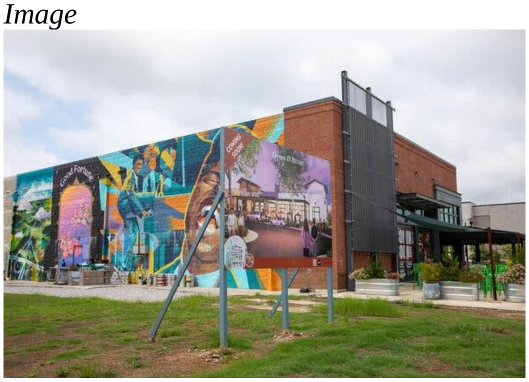
The sheer volume of supply added in Huntsville — 24,000 multifamily units over three years — appears to have mitigated housing costs. Max Grelier, a co-founder of RCP Companies, is redeveloping a 140-acre former mall as a multiuse community with hundreds of apartment units. To attract tenants, completed units are priced 10 percent lower than he originally intended.

Image



Opportunity zones in Huntsville, Ala., intensified a surge in construction.Credit...Charity Rachelle for The New York Times

Image



Development planned in the MidCity District includes dining and retail spaces.Credit...Charity Rachelle for The New York Times

"Nobody's really overly concerned about the market being able to absorb the product," Mr. Grelier said. "There was just so much of it at one time."

Huntsville is an example of a place where some development in opportunity zones would have happened anyway, and some was catalyzed or accelerated by the incentive. Early data showed that designated census tracts with relatively high income and low poverty — and those trending in that direction — were more likely to receive investment. Another paper found that places with more available land and some level of new development already also attracted the most interest.

Rural areas generally didn't fare as well. Projects that did come together required careful planning and stacking multiple incentives.

Some urban environs didn't have the natural advantages of rapid growth or large development sites. Woodlawn, a predominantly African American neighborhood of Birmingham left reeling by the white flight of the 1970s, has been a focus for local philanthropies and city grants. It received one significant investment with opportunity zone capital: A local music school bought and renovated an old movie theater as a space for lessons and performances.

But most of Woodlawn's possibilities are small ones that outside investors sometimes don't consider worthwhile. David Fleming, the president of REV Birmingham, a community development nonprofit that has focused on Woodlawn, said the program could use more time to work.

"These incentive programs always seem to flow more quickly to the more obvious, ready-to-go projects and deals," he said. "The more we keep it around and improve the program a little bit, it will have the potential for more impact."

Those pushing for legislation to reauthorize opportunity zones want to make some tweaks: disqualifying some relatively well-off census tracts, for example, and allowing investment managers to pool funds to increase the available capital. Mr. Flachsbart has also advocated funding for local organizations like his that can serve as matchmakers for worthy projects.

Cornell Wesley, the chief economic development officer for Birmingham — which has a Black majority population — doesn't think that goes far enough. Since Black people typically don't have capital gains to put into an investment fund, he notes, they have been largely unable to benefit directly from the program's tax breaks. And the real estate development industry in the state is overwhelmingly white.

That's why he's focused on projects that have some local government participation, whether through publicly owned land or through extra incentives. That way, at least the construction can be harnessed to create jobs for local people.

"We may not be able to control who the developer is," Mr. Wesley said, "but many of our incentives will come with the attachment of ensuring that there are minority subcontractors associated with it."

Jim Tankersley contributed reporting.

Lydia DePillis reports on the American economy. She has been a journalist since 2009, and can be reached at lydia.depillis@nytimes.com. More about Lydia DePillis

TREASURY NEWS RELEASE
NEW JERSEY DEPARTMENT OF THE TREASURY

Phil Murphy, Governor
Tahesha L. Way, Lt. Governor
Elizabeth Maher Muoio, Treasurer

For Immediate Release:
January 23, 2024
Media Contact:
Darryl Isherwood

Murphy Administration Releases Statewide Disparity Study of Contracting Opportunities for Minority and Women-Owned Businesses (MWBE)

Study Paves the Way for State Action to Create a More Equitable Business Environment in New Jersey

TRENTON - Governor Phil Murphy and Treasurer Elizabeth Maher Muoio today announced the release of a comprehensive statewide disparity study

examining public contracting opportunities for Minority and Women-Owned (MWBE) businesses. The study, conducted by Mason Tillman and Associates (MTA), reviewed statewide procurement data relating to goods and services, professional services, and construction over a five-year span and concluded that disparity in the awarding of public contracts exists across multiple minority-owned and women-owned business enterprises in those sectors.

Commissioned by the Murphy Administration in 2020, the purpose of the disparity study was to evaluate the participation of MWBEs in the State's multi-billion dollar contracting universe and determine if additional programs are warranted to create a more equitable business environment in New Jersey.

“In New Jersey, our diversity is our greatest strength, and it is imperative that our procurement processes reflect these values,” said Governor Murphy. “The critical findings from this study will ensure the State is well equipped to address the inequities in public contracting opportunities faced by Women-owned, Minority-owned businesses, and service-disabled Veteran-owned businesses. I look forward to the work ahead as we identify responsive state action while launching initiatives to promote equitable contracting practices with the support of our lawmakers and the business community.”

“The completion of this study marks a critical step in achieving the State’s goal of identifying and addressing disparities in public contracting,” said Treasurer Muoio. “I’d like to thank the Office of Diversity and Inclusion, led by Chief Diversity Officer Candice Alfonso, for their work in overseeing this study, and for their continued efforts to create greater equity in the State’s procurement process. I’d also like to thank the countless staff, departments and agencies, schools, businesses, and chambers who provided data and input necessary for this comprehensive study.”

“I’d like to thank my predecessor Hester Agudosi for laying the foundation for this important work, and I’m honored to have been able to bring the study to completion,” said Chief Diversity Officer Candice M. Alfonso. “This years-long effort will have an outsized impact in affording equitable opportunities to diverse businesses. I look forward to working with the Legislature, Administration, and the business community in transforming this space.”

In conducting the study, the State’s first since 2005, MTA reviewed more than 1.2 million records and 240,000 contracts from over 60 contracting agencies, authorities, commissions, state colleges and universities. The contracts reviewed were awarded between July 1, 2015 and June 30, 2020 and included procurement of goods and services, professional services, and construction. Based on the data that MTA received, key findings from the study include:

Statistically significant disparities were found in contracting with Minority Business Enterprises – including specifically in contracting with businesses owned by Black Americans, Asian Americans, and Hispanic Americans – for formal prime contracts in construction, professional services, and goods and services and for informal prime contracts across all industries studied. For example, minority-owned businesses represented 27.97% of the available construction businesses but received only 3.69% of the dollars for prime construction contracts valued from $65,000 to $5,710,000. Likewise, minority-owned businesses represented 23.56% of the available goods and services businesses but received only 4.24% of the dollars on prime goods and services contracts valued from $40,000 to $360,000.

Statistically significant disparities were found in contracting with Woman Business Enterprises – including in contracting with businesses owned by Caucasian females – for formal prime contracts in construction, professional services, and goods and services and for informal prime contracts across all industries studied. For example, woman-owned businesses represented 37.75% of the available professional services businesses but received only 9.91% of the dollars on prime professional services contracts valued from $40,000 to $800,000.

In the award of State contracting agencies’ subcontracts in the construction industry, the study found statistically significant disparities in subcontracts awarded to Minority Business Enterprises, including specifically businesses owned by Black Americans and Asian Americans.

In the award of State contracting agencies’ subcontracts for professional services, the study found statistically significant disparities in subcontracts awarded to businesses owned by Black Americans and Hispanic Americans and to Woman Business Enterprises, including businesses owned by Caucasian females.

Conversely, the study found statistically significant overutilization of businesses owned by non-minority males across all areas studied.

The Office of Diversity and Inclusion within the Department of the Treasury oversaw the disparity study. The Office is headed by the Chief Diversity Officer, a position that was created by statute and tasked with the authority to monitor State procurement and contracting practices on the awarding of contracts to minority-owned and women-owned businesses.

In conducting its review, MTA performed extensive community outreach, working with business organizations throughout the State, including the African American Chamber of Commerce, the Statewide Hispanic Chamber of Commerce, the New Jersey Diverse Business Council, the Alliance of Asian Architects, and the New Jersey Veterans Chamber of Commerce, to ensure consideration of views from minority-, woman-, and service-disabled veteran-owned businesses as well as small businesses from across New Jersey.

In September of 2021, over 500 businesses attended six virtual business community meetings held in all regions of the State.

In addition to its analysis of contracting disparities for minority- and woman-owned businesses, the report presents anecdotal analysis of obstacles faced by small business enterprises and serviced-disabled veteran-owned businesses seeking to contract with State contracting agencies. This week the Governor also signed legislation, S2249/A4211, that revises the number of disabled veterans' businesses required to designate a set-aside contract from three to two. The "Set-Aside Act for Disabled Veterans' Businesses" had established a goal for contracting agencies to set aside at least three percent of their contracts for disabled veterans' businesses, but the act required that at least three disabled veterans' businesses be reasonably likely to bid for a contract for the set-aside to apply to the contract. The legislation signed last week underscores Governor Murphy's commitment to increasing access to state contracting opportunities.

While the study was proceeding, Treasury has been undertaking a series of initiatives to promote equitable contracting practices. For example, after determining that the lack of a statewide, centralized repository with uniform data for collection and retrieval made it harder to analyze contractor diversity, in January 2023, Treasury launched a statewide web-based Supplier Diversity Management System (SDMS) to collect real-time vendor, contract, and diverse spending data. The SDMS will allow for real-time monitoring and analysis of statewide diverse spending data, so State agencies are better able to take action when necessary. In an effort to encourage certification of MWBEs, in 2021 Treasurer Elizabeth Maher Muoio announced the waiver of the $100 fee required for all business certifications.

Now that it has been completed, the study will provide a foundation for additional initiatives to address disparities in state contracting. The Administration looks forward to working with lawmakers and the business community to identify responsive state action.

"This report documents an historical pattern of disparities in the awarding of public contracts that has long plagued the system," said Senate President Nicholas Scutari. "Businesses run by women, minorities, disabled veterans and others who have been denied equal treatment should have the opportunity to fully participate in the procurement process. Public entities have a responsibility to treat everyone with fairness."

"I commend the administration for completing an historic and exhaustive assessment of 60 state government entities' recent history of contracts," said Assembly Speaker Craig J. Coughlin. "It is clear that more needs to be done including notably greater public awareness of public procurement opportunities and increased registration of more Minority and Women-Owned businesses. I am pleased that the administration has already taken steps to collect future data to guide policy decisions and reduce barriers of entry. I look forward to working with my legislative colleagues and the administration to develop further legislative changes to further our common goal of providing procurement opportunities to all New Jersey businesses and ensure the public continues to receive the best goods and services at the best price."

"Senator Rice would have been proud today of the release of The New Jersey Study on Disparity in State Procurement. This study ultimately shines a light on how we can improve State procurement practices. This study is validation that we can and must do better," said Assemblywoman Shavonda Sumter, Chair of the Legislative Black Caucus. "We must support small businesses and it is essential that we support women and minority-owned small businesses throughout the state. It is time to do the work to ensure practices are equitable and offer fair opportunities and inclusivity for all businesses in state procurement opportunities."

“The report’s findings about disparities for minority-, women- and disabled veteran-owned businesses competing for public contracts are disturbing yet not surprising,” said Senator Nellie Pou, Chair of the Legislative Latino Caucus. “Such a comprehensive report has been a long time coming. I was a member of the committee that examined the issue with the late Sen. Ron Rice taking a leadership role. He was a vigilant public servant who saw these disparities firsthand and wanted to expose them more broadly through quantifiable data. I look forward to taking a more complete dive into the specifics, and to see where it takes us. These numbers give us a hard look at procurement disparities, and can provide a baseline to address these inequities and find remedies for a fairer process that will move New Jersey forward.”

"This study sheds light on a disconcerting historical pattern in the way Minority and Women-Owned Businesses are impacted by the State’s multi-billion dollar contracting system," said Assemblyman Sterley Stanley, Chair of the Asian-American and Pacific Islander Legislative Caucus. The findings show unequal access to prime contracts in construction, professional services and goods and services for minority-owned businesses, emphasizing the urgent need for swift and effective measures to remedy these disparities and ensure a fair and equitable procurement marketplace for all."

"Since I came into the legislature I have been a strong advocate for expanding contracting opportunities to minority, women and disabled-veteran owned businesses," said Senator Troy Singleton, Chair of the Senate Community and Urban Affairs Committee, and sponsor of legislation requiring a disparity study. "Women and minority-owned businesses are integral to our state’s economy, yet have not always had equal opportunity or access to contracts within state government. It is no secret that the contracts awarded do not represent the diverse landscape of our business community. Now that we have this data, I look forward to continuing to explore remedies to this issue so we can ensure all businesses across the state have equal opportunities to compete for these lucrative contracts."

“The disparity study recognizes the need for immediate action in order for there to be more equity in government contracting for Minority and Women-Owned (MWBE) businesses,” said Tom Bracken, President & CEO, New Jersey Chamber of Commerce. “The imbalances outlined have long been articulated by those affected – and is the focus of one of the Chamber’s economic priorities that calls for equal opportunities for MWBEs when it comes to securing not only public but also private sector contracts. Increasing supplier diversity spending with MWBEs has economic and social benefits for all by enhancing competition, encouraging innovation, increasing job creation and supporting communities. Now it is time to move forward and have constructive dialogues and collaborations between the Administration and our business community colleagues to develop solutions that remedy the inequities that exist.

“On behalf of the 1.2 million black residents and over 88,000 black owned businesses in the state of New Jersey, the announcement of the completion of the disparity study, is the news that we have been patiently awaiting and have prepared our hearts and minds to receive”, said John E. Harmon, Sr., IOM., Founder, President & CEO, African American Chamber of Commerce of NJ (AACCNJ). “Acknowledgement is an essential step to establishing the proper pathway to a credible coexistence Today’s announcement serves as a confirmation of what we all knew, and we are eagerly looking forward to a focused strategic alignment with the Murphy Administration. As we move forward, we plan to work in partnership with the State to put forth best practices that will provide the constituency of the AACCNJ, and others, with consistent access to opportunities and resources that they can leverage to strengthen their enterprises and ideals while mitigating past underperformance. Our mutual goal henceforth is to have a more equitable participation in every area of the public sector wherein economic opportunities exist."

"The findings of the state disparity study highlight a persistent issue – the inequitable distribution of state contracts," said Rajeev Krishna, President. Asian Indian Chamber of Commerce. "With increased transparency and awareness of available state contracts, the Asian Indian Chamber of Commerce (AICC) can utilize targeted outreach programs to build awareness within its membership of these contracts. By collaborating with key stakeholders, the Chamber envisions a New Jersey where opportunities flourish for all communities. AICC has taken a proactive stance since 2022, in ensuring that its members have the proper Diverse and/or Woman Owned Business Certification to avail these business opportunities."

"We extend our gratitude to Governor Murphy for demonstrating the courage to initiate a thorough Disparity Study. We anticipate that this will result in increased participation from bidders, fostering competition and ultimately leading to a cost savings to the state," said Carlos Medina, President and CEO, Statewide Hispanic Chamber of Commerce of NJ.

"The New Jersey Association of Women Business Owners has eagerly anticipated this report for quite a while. We are optimistic about establishing an equitable and collaborative path ahead," said Bertha Robinson, The New Jersey Association of Women Business Owners (NJAWBO) President.

"While the state disparity study's findings are deeply concerning, they serve as a stark reminder of a longstanding issue - the unfair and inefficient allocation of state contracts," said Indy Samra, Co-Chair Punjabi Chamber of Commerce. "This has been a major focus for the Punjabi Chamber of Commerce, who have actively advocated for change. The Chamber is committed to working with Governor Murphy and stakeholders to implement concrete solutions, such as improved data transparency and targeted outreach programs. We commend Governor Murphy's commitment to equity in contracting and urge him to prioritize swift and decisive action to address the identified disparities. Together, we can build a New Jersey where opportunity thrives for all communities."

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White-owned businesses boxed out from $2.3 billion in contracts to renovate JFK International Airport

Cortney Weil May 13, 2024
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Leaders in New York City and throughout New York state have celebrated an initiative by the New York Port Authority to reserve a sizeable portion of the nearly $20 billion renovation project at JFK International Airport for businesses owned by women and non-white men.

"What we didn't want to happen is to go back to the community ... and people look at us and say, 'Well, what did you do? No one on that project looks like us. No one in that project represents us,'" she said.

The plan to renovate JFK airport was announced all the way back in 2017 and will cost an estimated $19 billion, which will be paid for by both public and private funds. Of that $19 billion, renovation contracts worth a total of $2.3 billion have been reserved for MWBEs — minority- and women-owned business enterprises — as part of Democrat Gov. Kathy Hochul's goal of increasing state partnerships with MWBEs. Thus far, 680 MWBEs have been awarded contracts for the JFK renovation project.

"New York remains committed to providing travellers with a premier experience that includes world-class amenities and record involvement by local minority- and women-owned businesses will ensure just that," Hochul said in a statement. "This transformative project uplifts these businesses and deepens investments in the community while bolstering the state workforce."

Indeed, the Port Authority has openly embraced "a progressive diversity and inclusion initiative" which aims to increase "contract participation" with MWBEs, its website says. More specifically, by 2030, the agency hopes to have minority-owned businesses represent 20% of its contract partners and women-owned businesses represent another 10%. It is unclear how businesses owned by female racial minorities might be categorized.

White-owned businesses may not have been entirely excluded from bidding on contracts related to the JFK airport renovation. The Port Authority has also worked with Queens-based businesses — some of which may be owned by white men — awarding approximately 200 of them some $950 million in JFK-related contracts.

However, even the agency's commitment to working with local businesses has still been touted as a form of minority outreach. Adrienne Adams, speaker of the New York City Council, claimed that the JFK renovation project has always been focused on "advanc[ing] more equitable contracting" in a way that will benefit "M/WBE firms, local small businesses, and Southeast Queens residents."

Likewise, Queens Borough President Donovan Richards indicated that the goal was not just to work with Queens-based businesses but to assist the "thousands of Queens residents from historically marginalized communities who call the airport their workplace."

Congressman Gregory Meeks (D-N.Y.) expressed a similar sentiment. "I understand the importance of creating wealth-building and entrepreneurial opportunities for individuals who have historically faced barriers," he said.

At an event to mark the $2.3 billion in MWBE contracts, state Assemblywoman Alicia Hyndman suggested that the racial makeup of the individuals and businesses working on the renovation is very important to her constituents. "What we didn't want to happen is to go back to the community ... and people look at us and say, 'Well, what did you do? No one on that project looks like us. No one in that project represents us,'" she said.

"For us, by us," she continued, perhaps gesturing to FUBU, a popular hip-hop apparel manufacturer, "to make sure that this community that we represent looks like us."

With $2.3 billion in contracts for MWBEs, the JFK renovation project surpasses the state's previous record of $2.2 billion in public-private contracts with MWBEs set by those in charge of renovating nearby LaGuardia Airport. The JFK renovation project is scheduled to be completed sometime in 2028.

"The Port Authority is committed to supporting inclusiveness in the design, financing, construction and operation of our major redevelopment projects across the region by setting ambitious goals for MWBE participation," said Port Authority Chairman Kevin O'Toole. "Just as we've done at Newark-Liberty's new Terminal A and at LaGuardia Airport, JFK's redevelopment is a game-changer for MWBE firms that were too often left on the side lines during these historic capital projects."