

APPENDIX A.

Definitions of Terms

This appendix provides explanations and definitions useful to understanding the City of Portland and the Portland Development Commission disparity study reports. These definitions are only relevant in the context of these reports.

Anecdotal evidence. Includes personal accounts and perceptions of incidents, including of discrimination, told from an individual's perspective.

Availability analysis. Examination of the relative number of minority- and women-owned firms ready, willing and able to perform work for the City of Portland or Portland Development Commission.

Business. A for-profit company, including all of its establishments (equivalent to "firm").

Business listing. A record in the Dun & Bradstreet database of businesses (or other database). A D&B record is just a "listing" until the study team determines it to actually be a business establishment with a working phone number.

Business equity program. The PDC program adopted in 2008 to encourage utilization of minority- and women-owned businesses.

Business establishment. A place of business with an address and working phone number. One firm can have many business establishments (same as "establishment").

Certified MBE/WBE. A firm certified with the State of Oregon as a minority- or women-owned firm. To become certified, a firm must be owned and controlled by one or more people who are members of a minority group (defined by OMWESB as Black American, Hispanic American, Native American, Asian Pacific American and Subcontinent Asian American) or who are women. Those individuals must have made a "real and substantial contribution of capital or expertise to the business."¹ The firms must be independent and not exceed the small business size standards set by the Small Business Administration.

Contract. A legally binding relationship between the seller of goods or services and a buyer.

Contractor. A firm performing a contract. Also used to refer to a construction firm.

Controlled. Exercising management and executive authority for a company, per federal and state regulations, including Oregon Administrative Rule 445-050-0005.

¹ Oregon Administrative Rules, chapter 400, division 050, rule 0005.

Disparity. A difference or gap between an actual outcome and a reference point. For example, a difference between an outcome for one race/ethnic group and an outcome for non-Hispanic whites may constitute a disparity. Similarly, a difference between an outcome and a benchmark may constitute a disparity.

Disparity analysis. Comparisons of actual outcomes with what might be expected based on other data. Analysis of whether there is a “disparity” between minority- and women-owned business utilization and availability is one tool in examining whether there is evidence consistent with discrimination against minority- and women-owned businesses.

Disparity index. Computed by dividing percentage utilization by percentage availability and then multiplying the result by 100. A disparity index of 100 indicates “parity.” Smaller disparity indices indicated greater disparities.

Diversity programs (PDC). Programs used by PDC during the study period to encourage participation of minority- and women-owned businesses.

Dun & Bradstreet. The leading firm in the United States and abroad that provides lists of business establishments and other business information (see www.dnb.com).

Emerging small business (ESB). Emerging small business as defined by the OMWESB. These businesses must have their principal place of business in Oregon, be properly licensed, have a business name registered with Oregon Corporations Division and be independently owned. ESBs are classified in two tiers based on size. For the purposes of the disparity study, the study team did not differentiate between first tier and second tier ESBs. The size restrictions are adjusted for inflation each year in accordance with Oregon Administrative Rule 445-050-0115. Most firms may be certified for a maximum of 12 years.

Employer firms. Firms with paid employees other than the business owner and family members.

Enterprise. An economic unit that could be a for-profit firm or establishment, not-for-profit organization or public sector organization.

Establishment. See “business establishment.”

Fair contracting programs (City). See “Good Faith Efforts Program” and “Sheltered Market Program.”

Flexible services (PDC). PDC term for personal services contracts administered on a task order or on-call basis.

Firm. See “business.”

Good Faith Efforts (GFE) Program (City). The City of Portland operates a Good Faith Efforts Program that applies to most construction contracts over \$200,000, and some contracts between \$100,000 and \$200,000 if the City determines there are substantial subcontracting opportunities. This program requires prime contractors to make an effort to provide subcontracting opportunities to state certified MWESB firms.

Industry. A broad grouping of firms providing related goods or services.

Majority-owned businesses. For-profit firms not owned and controlled by minorities or women (see definition of “minorities” below).

Minorities. Racial and ethnic groups identified in the federal regulations in Oregon Administrative Rule 445-050-0005:

- Black Americans (or “African Americans” in this study), which includes persons having origins in any of the black racial groups of Africa;
- Hispanic Americans, which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- Native Americans, which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
- Asian-Pacific Americans, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the United States Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirabati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong; and
- Subcontinent Asian Americans, which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.

Minority business enterprise (MBE). A firm with at least 51 percent ownership and control by minorities. Minority groups are defined according to federal regulations, as outlined above. For purposes of this study, a firm need not be certified to be counted as a minority-owned firm. Firms owned by minority women are counted as MBEs in this study (where that information is available).

NAICS code. North American Industry Classification System code that identifies the primary line of business of an enterprise. See <http://www.census.gov/epcd/www/naics.html>.

Non-response bias. Occurs when the observed value to a survey question differs from what would be obtained if all individuals in a population, including non-respondents, answered the question.

Office of Minority, Women and Emerging Small Business (OMWESB). The office that administers the Disadvantaged Business Enterprise (DBE), Minority Business Enterprise (MBE), Women Business Enterprise (WBE) and Emerging Small Business (ESB) certification programs for the State of Oregon.

Owned. Ownership of at least 51 percent of a company. For example, a “minority-owned” firm is at least 51 percent owned by one or more minorities. (For MBE certification, additional regulations are set forth in Oregon Administrative Rule 445-050-0030.)

Owned project (PDC). A project where the prime contract is administered directly by PDC.

PDC. Refers to the Portland Development Commission.

Personal services (PDC). PDC term for professional services contracts.

Prime consultant. The professional services firm performing a contract for an end user, such as the City of Portland.

Prime contract. The contract between the seller and end user, such as the City of Portland.

Prime contractor. The firm performing a prime contract for an end user, such as the City of Portland.

Professional, expert and technical services (PTE) (City). City of Portland label for professional services contracts. Please note that the disparity study covered construction-related PTE contracts (e.g. architecture, engineering and surveying).

Race-and gender-based measures. Remedies or measures that apply to individuals or firms that include some races and ethnicities and not others, or includes women and not men. This term is equivalent to “race- and gender-conscious.” An MBE contract goal is one example of a race- and gender-based measure. Note that this term is more accurately “race-,” “*ethnicity*-” and “gender-” based. For ease of communication, the study team has shortened this to “race- and gender-conscious” or “race- and gender-based” measures.

Race- and gender-neutral measures. Remedies or measures that apply to individuals or firms that are not classified based on race, ethnicity or gender. Note that this term is more accurately “race-,” “*ethnicity*-” and “gender-” neutral. For ease of communication, the study team has shortened this to “race- and gender-neutral.”

Race- and gender-neutral measures may include assistance in overcoming bonding and financing obstacles, simplifying bidding procedures, providing technical assistance, establishing programs to assist start-up firms, and other methods open to all firms or any disadvantaged firm regardless of race or gender.

Relevant geographic market area. The geographic area that contains most establishments receiving City of Portland or Portland Development Commission work, based on dollars. It is also referred to as the “local marketplace.” Case law related to MBE/WBE programs requires disparity analyses to focus on the “relevant geographic market area.”²

Remedy. A program element designed to address barriers to full participation for a particular group.

Sheltered Market Program (SMP) (City). The City of Portland’s Sheltered Market Program (SMP) was established in 1997 to provide opportunities for state-certified MBE/WBE/ESBs in the regional market area. The program allows the City to limit bidders on certain construction contracts to SMP program participants. The City can designate to the SMP program up to one-half of its construction contracts between \$100,000 and \$200,000. Additionally, SMP participants are the first source for the City’s informal contracts ranging from \$5,000 to \$100,000.

² See, e.g., Croson, 448 U.S. at 509; 49 C.F.R. § 26.35; Rothe, 545 F.3d at 1041-1042; N. Contracting, 473 F.3d at 718, 722-23; Western States Paving, 407 F.3d at 995.

Small business. In general, a firm with low revenues or employment size relative to other firms in the industry. “Small business” does not necessarily mean that the firm is certified as such.

Small Business Administration (SBA). The U.S. Small Business Administration, which is an independent agency of the United States government.

Sponsored project (PDC). In contrast to “owned” projects, a project that is not directly administered by PDC but is financially supported by PDC (including projects for which PDC provides land).

Standard contracts. When referring to City PTE contracts or PDC personal services contracts, those contracts that are not on-call or task order based.

Statistically significant difference. A difference in which chance in the sampling process can be eliminated as a reasonable explanation at the 95 percent confidence level (meaning that chance in the sampling process could still explain the difference in no more than 5 out of 100 cases).

Subconsultant. A professional services firm performing a service for the prime consultant as part of a larger contract.

Subcontract. The contract between a prime contractor and another firm selling goods or services to the prime contractor.

Subcontractor. A firm performing a service for a prime contractor as part of a larger project.

Supplier. A firm selling supplies to a firm as part of a larger project.

Utilization. Percentage of total dollars of a type of work going to MBE/WBEs (or another group).

White women-owned business. See WBE.

Women business enterprise(WBE). A firm with at least 51 percent ownership and control by women. For this study, a firm need not be certified as a WBE or DBE to be counted as a woman-owned firm. In addition, firms owned and controlled by minority women are counted as minority-owned firms. Therefore, WBEs principally refer to firms owned by white women.