
1.0 INTRODUCTION

1.1 Background

In February 2007, the State of Oregon's Department of Transportation contracted with MGT to conduct a disparity and availability study. The purpose of the disparity study was to determine whether minority-owned and disadvantaged business enterprises (DBEs) were underutilized in ODOT procurement activities.

Governmental entities like ODOT have authorized disparity studies in response to the 1995 Supreme Court Case of *Adarand Constructors, Inc v. Pena*.¹ The (*Adarand*) decision determined whether there is a compelling interest for remedial procurement programs. The (*Adarand*) decision also determined that federal DBE programs should be examined by the same strict scrutiny standard used for state and local programs. Also, recommendations resulting from the disparity study are used to narrowly tailor any resulting program to specifically address findings of underutilization attributable to unfair business practices.

1.2 Overview of Study Approach

MGT followed a carefully designed work plan that allowed study team members to fully analyze availability, utilization, and disparity with regard to DBE participation. Our approach has been tested in over 105 disparity studies and proven reliable to meet our objectives. The final work plan included the following major tasks:

- conducting a legal review;
- establishing data parameters;
- reviewing policies, procedures, and programs;
- conducting market area and utilization analyses;

¹ *Adarand v. Pena*, 790 F. Supp.240, 16 F.3d 1537 (10th Cir.(1996), cert. granted, 63 U.S.L.W. 3213 (U.S. Oct. 4, 1996) (No.63-12), 115 S. Ct. 2097 (1995).

- determining the availability of qualified firms;
- analyzing the utilization and availability data for disparity and statistical significance;
- conducting a telephone survey, one on one interviews, focus groups, and a public hearing;
- conducting a statistically valid regression analysis;
- conducting disparity analyses of the relevant private market;
- collecting and analyzing anecdotal information;
- identifying narrowly tailored race- and gender-based remedies; and
- preparing the final report for this study.

1.3 Report Organization

In addition to this introductory chapter, this report consists of:

- **Chapter 2.0** – an overview of controlling legal precedents that impact remedial procurement programs.
- **Chapter 3.0** – a review of the ODOT’s procurement policies and procedures and an analysis of its DBE program and race- and gender-neutral efforts.
- **Chapter 4.0** – a description of the methodology used to determine ODOT’s relevant market area and a statistical analysis of vendor utilization by ODOT and the availability of firms for procurement activities. (This section of the report contains two sections, consisting of construction contracts and professional contracts. These sections give a statewide analysis, as well as analyses by regions.
- **Chapter 5.0** – a discussion of the levels of disparity for prime contractors and subcontractors and a review of the multivariate analysis.
- **Chapter 6.0** – a statistical analysis of disparity in small business credit markets.
- **Chapter 7.0** – an analysis of the presence of disparity in the private sector and its effect on the ability of firms to win procurement contracts from ODOT.
- **Chapter 8.0** – an analysis of anecdotal data collected from the telephone survey and personal interviews.

- **Chapter 9.0** – a summary of the findings presented in previous chapters as well as conclusions, commendations, and recommendations.

We recommend reading the report in its entirety to understand the basis for the recommendations presented in **Chapter 9.0**.