

I. INTRODUCTION

In May, 2013, Montgomery County, Maryland (“County”) contracted with Griffin & Strong, P.C. (“GSPC”) to conduct a comprehensive disparity study (“Study”). The purpose of the disparity study was to examine and analyze the procurement policies and practices of the County and its prime contractors regarding Minority, Female and Disabled owned businesses (“MFD”) that provide goods and services to the County, including construction.

The goal of the study was to determine whether there exists a statistically significant disparity between the number of available MFDs in the Montgomery County, Maryland marketplace and the number of such firms that have actually received contract awards from the County or its prime contractors. The study also will be used to determine if a legal predicate exists to maintain or create any remedial programs under City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989).

Governmental entities, like Montgomery County, Maryland have authorized disparity studies in response to Croson and the cases which followed, to determine whether there is a compelling interest for the continuation and creation of remedial procurement programs, based upon race, gender, and ethnicity.

In order for the legal predicate to exist, GSPC must determine whether the County has been a passive or active participant in discrimination with regard to the access of MFDs to its procurement process or whether the existing Local Small Business Reserve Program, which became effective on January 1, 2006, eliminated the need for any such remedial programs.

To achieve these ends, GSPC analyzed the contracting and subcontracting activities of the County and its prime contractors during the five (5) year period beginning July 1, 2007 and ending June 30, 2012 (“Study Period”); and evaluated various options for future program development.

A. Objectives

The principal objectives of this Study were:

- to determine whether the County either in the past or currently engages in discriminatory practices in the solicitation and award of contracts, in the business categories of Construction, Professional Services, Services, and Goods;
- to determine if a legally justified need continues to exist for any or all of Montgomery County's MFD efforts in accordance with the guidelines set forth by the Supreme Court and relevant subsequent cases; and
- to provide recommendations as to suggested actions to be taken by the County based upon the findings of the Study, including the consideration of race-neutral programs.

B. Technical Approach

In conducting this Study and preparing its recommendations, GSPC followed a carefully designed work plan that allowed Study team members to fully analyze availability, utilization, and disparity with regard to MFD participation. The final work plan consisted of, but was not limited to, the following major tasks:

- establishing data parameters and finalizing a work plan;
- legal analysis;
- policy and procurement process review and race-neutral program analysis;
- collecting, organizing, and cleaning data;
- conducting market area analyses;
- conducting utilization analyses;
- determining the availability of qualified firms;
- analyzing the utilization and availability data for disparity and statistical significance;
- conducting private sector analysis including credit and self-employment analysis;
- collecting and analyzing anecdotal information; and
- preparing a final report that presents race- and gender-neutral and narrowly tailored race- and gender-based remedies if indicated by the findings.

C. Report Organization

This report is organized into the following sections, which provide the results of GSPC's analytical findings as to the utilization and availability of firms to perform work for the County. In addition to this introductory chapter, this report includes:

- Chapter II, which presents a summary of the findings of the Study;
- Chapter III, which is an overview of the legal history and basis for the Study;
- Chapter IV, which provides a review of the County's purchasing policy and remedial policy;
- Chapter V, which presents the methodology used in the collection of statistical data from the County and the analyses of the data as it relates to relative MFD utilization and availability. It also includes a discussion on levels of disparity for the County's prime contractors and subcontractors;
- Chapter VI, which analyzes discrimination in the private sector;
- Chapter VII, which outlines the qualitative analyses: the analysis of anecdotal data collected from the telephone survey, personal interviews, focus groups and public meetings;
- Chapter VIII, which presents GSPC's detailed findings and recommendations; and
- Chapter IX, which is GSPC's conclusion.

D. Project Team

- Rodney K. Strong, Esq., CEO, Griffin & Strong, P.C.
- Dr. Gregory Price, Senior Economist, Morehouse College
- Michele Clark Jenkins, J.D., Senior Director and Project Manager, Griffin & Strong, P.C.
- Imani Strong, Deputy Project Manager, Griffin & Strong, P.C.
- Winston Terrell Group, Anecdotal Supervisor

- Cardell Orrin, Data Analyst

- Copeland & Associates, Purchasing, Practices, Policies, and Procedures Review

- Leronia Josey & Associates, Anecdotal Interviews

- Oppenheim Research, Inc., Telephone Survey

- 1st Choice Staffing, Data Entry

About the Project Team—Griffin & Strong, P.C.

Griffin & Strong, P.C. (GSPC) is a professional corporation based in Atlanta, Georgia that is actively engaged in the practice of law, as well as governmental and private consulting. Since the firm’s inception in 1992, the public policy consulting division has been continuously directed and controlled by *Rodney K. Strong*. Attorney Strong has an extensive background in the area of public contracting with specific experience conducting disparity studies. *Gregory Price, Ph.D.*, served as Senior Economist for this Study and reviewed all quantitative aspects of the Study. *Michele Clark Jenkins*, as the project manager was responsible for the day-to-day aspects of the Study and for executing the methodology. Ms Jenkins has extensive experience in managing disparity studies, bench-markings, and goal settings. *Imani Strong* served as Deputy Project Manager and supported all activities of the Study. Ms. Strong’s expertise in anthropological studies and prior experience on GSPC studies made her an asset to the execution of this Study, particularly in the analysis of the anecdotal evidence. *Cardell Orrin* was responsible for organizing the data in preparation for statistical and other analysis, as well as taking samples. *Susan Johnson* handled the administration of the Study particularly with regard to subcontractor tracking and payments.

Other Members of the Project Team

- Winston Terrell Group, Anecdotal Supervisor, is a government affairs, public outreach and community relations firm which prides itself on innovative strategies to assist in strategic development for its clients. The firm puts a premium on servicing clients and providing reasonable solutions to problems. Specialty areas include public participation, procurement, representation before government entities, and building relationships with local, state and federal governments. The firm’s diverse portfolio includes engineering and architectural firms, public relation firms, non-profits, technology firms, social service providers, municipalities and other interests. This firm will assist with anecdotal evidence and data collection/data entry supervision.

- Copeland & Associates, Purchasing, Practices, Policies, and Procedures Review, is a firm based in Washington, D.C. that specializes in management consulting, small business assistance and minority and disadvantaged business program management.

- Leronia Josey & Associates, Anecdotal Evidence, is a minority owned business based in Baltimore, and performs legal management and consulting, specializing in government relations and public affairs.

- 1st Choice Staffing, Data Entry, is a certified MBE and WBE based in Baltimore. The firm provides Management Consulting, Program and Project Management, Document and Records Management as well as Staff Augmentation services for various business and government agencies, including Baltimore City Government and Baltimore City Public Schools.

- Oppenheim Research, Inc., is a Florida-based female owned, full-service market research firm with over 35 years of experience serving public and private entities. Some of their services include telephone interviews, focus group, and mail survey data. For this project, they conducted the telephone survey.