

January 4, 2024

**To:** Mayor and Members of City Council

202400017

**From:** Sheryl M. M. Long, City Manager

**Subject: Communication response re Councilmember Motion on City Plans for a New Disparity Study**

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**Reference Document #202302220**

The City Council at its session on October 25, 2023, referred the following item for review and report:

MOTION, submitted by Vice Mayor Kearney, WE MOVE that the Administration prepare a report within the next thirty (30 days) on plans for a new disparity study ("Croson Study") for the City of Cincinnati including the timeline for issuing a new Request for Proposal from vendors through the targeted completion date for the study, as well as the proposed scope of the new disparity study.

**Background**

The City of Cincinnati's Department of Economic Inclusion ("DEI"), which administers and oversees the City's inclusion programs, was established in 2015. Before that, responsibility for administration of the City's race-and-gender-neutral inclusion program was vested in the Office of Contract Compliance under the City Manager's Office. To ensure economic opportunity and inclusion for all citizens seeking to do business with the City of Cincinnati and to serve as a catalyst for the growth of minority, women, and small businesses in the city and throughout the region, a disparity study was conducted in February 2015. Disparity studies are required for government agencies to stand up an MBE/WBE program. A disparity Study determines whether there is a statistically significant disparity in the percentage of dollars received by minority- and women-owned businesses under government contracts and the availability of those firms in the relevant geographic market area that cannot be explained by factors unrelated to race/ethnicity and gender.

The 2015 study analyzed the City's contracting for the period January 1, 2009, through December 31, 2013, and it analyzed the data by contract type, contract size, prime vs. subcontract spend, race, and gender. A copy of the July 2015 City of Cincinnati, Ohio Disparity Study Final Report can be found on DEI's website at [www.cincinnati-oh.gov/inclusion/economic-inclusion-advocacy-accountability-board/](http://www.cincinnati-oh.gov/inclusion/economic-inclusion-advocacy-accountability-board/) for reference.

To maintain the City's inclusion program, a new disparity study must be conducted every 5 to 7 years. Thus, staff embarked on a new disparity study with Griffin & Strong, PC (GSPC) in June 2021 and concluded in February 2023. GSPC performed a comprehensive review of the City's procurement and contracting processes and of City dollars spent with minority-owned and women-owned businesses as prime contractors and subcontractors. GSPC's methodology did not include non-certified MBE and WBE businesses in their calculation of availability. While GSPC found that disparities by race, ethnicity, or gender status of the firm owners remained, the subset used to determine these findings were limited to only certified firms. This inadvertently excluded non-certified minority and women owned firms; a large subgroup which was not analyzed.

In response to these findings and recommendations, effective September 30<sup>th</sup>, 2023, the previous Chapter 324 of the Cincinnati Municipal Code, Minority and Woman Business Enterprise Program, was repealed in its entirety. It was replaced with the new Chapter 324 Minority and Woman Business Enterprise Program. Effective October 1, 2023, the previous inclusion program was replaced with a new one due to GSPC’s disparity study findings.

Under the current programs, there is no option for Minority Women Business Enterprise (MWBE) Certification. All minority women (defined by race) are represented in the MBE category and are no longer eligible for WBE certification. The industry categories included in the 2023 disparity study are Construction, A&E (or Architecture and Engineering), Professional Services, Other Services, and Goods.

Under the City’s MBE/WBE Program, which was narrowly tailored to address the specific findings of the previous disparity study, the new program removes Asian Americans and African Americans from the goods category. Only women of non-color are included in the goods category. The inclusion program now also includes Hispanic-owned businesses in construction, A&E, professional services, and other services.

Pursuant to CMC § 324-15, each contract valued at \$50,000.00 or more is reviewed by DEI, in consultation with the Chief Procurement Officer, to determine the appropriateness for inclusion in the City’s MBE/WBE Program. For those contracts included within the program, DEI recommends specific mandatory subcontracting goals for the participation of City-certified MBE and WBE firms. Solicitations are advertised with MBE/WBE goals, SBE goals, or no goals as approved by the City Manager. Only those firms that have completed the application process, been individually vetted by DEI, and approved for certification by the City as an MBE or as a WBE may be counted toward the attainment of the established MBE/WBE contract goals. The following chart outlines the changes in eligibility criteria for different program categories from the previous program to the new program effective October 1, 2023. DEI will continue to monitor inclusion spending and generate quarterly reports.

| <b>Program Category</b>      | <b>Previous Eligibility</b>   | <b>New Eligibility</b>  |
|------------------------------|---|---|
| Construction                 | All Women-owned and African American-owned firms                        | African American-owned, Hispanic American-owned, and Non-minority Woman-owned firms                       |
| Professional Services        | All Women-owned and African American-owned firms                        | African American-owned, Hispanic American-owned, and Non-minority Woman-owned firms                       |
| Architecture and Engineering | -   | African American-owned, Hispanic American-owned, and Non-minority Woman-owned firms                       |
| Non-professional Services    | All Women-owned, African American-owned, and Asian American-owned firms | African American-owned, Asian American-owned, Hispanic American-owned, and Non-minority Woman-owned firms |
| Goods                        | All Women, African American, Asian American                             | Non-minority Women  |

**Recommendation**

To ensure the city’s inclusion program eligibility is reflective of all available businesses in the City of Cincinnati and Hamilton County respectfully, staff recommends a new disparity study be conducted. The new disparity Study should review and analyze the City’s contracting over a 5-year period that includes January 1, 2019, through December 31, 2023. The new study should capture availability beyond certification status to ensure a holistic representation of MBE and WBE firms within the City’s geographic market area.

### ***Summary of Proposed Scope of Services***

The selected Consultant will evaluate the total number of minority-owned-and-controlled business enterprises, women-owned-and-controlled business enterprises, and non-minority/non-women-owned-and-controlled business enterprises within the City's market area that are ready, willing, and able to do business with the city. The Consultant will also generate statistical data regarding the City's utilization of contractors within each group to determine whether any statistically significant disparity exists. The analysis must include results disaggregated by gender and by racial/ethnic groups, including African Americans, Hispanic Americans, Asian Americans, and Native Americans. The analysis also should evaluate the data by contract type (Construction, Professional Services, Non-Professional Services, and Supplies/Goods) and by contract value. In its determination of market area, the Consultant should be aware that it is common in the Greater Cincinnati area for firms and individuals located outside the geographic boundaries of the City of Cincinnati, including those located in villages, townships, and smaller municipalities, to utilize "Cincinnati" in their mailing addresses. Moreover, the selected Consultant shall conduct a comparative analysis examining Cincinnati's inclusion spend compared to cities of a comparable size.

### ***Proposed Timeline***

1. Preparation Phase (December 2023 – April 2024):
  - Compile and review City payment data
  - \*\*Data migration updates
  - Finalize Request for Proposals (RFP) for firms to conduct the study.
  - Develop, review and finalize the RFP.
2. RFP Release and Firm Selection (April 2024 – June 2024):
  - Release the RFP to solicit bids from qualified firms.
  - Evaluate proposals and select a firm based on qualifications and cost-effectiveness.
3. Study Preparation (June 2024 – August 2024):
  - Contract negotiation with the selected firm.
  - Develop a detailed plan and methodology for the study.
4. Study Implementation (August 2024- June 2025):
  - Provide necessary data and information to the firm.
  - Commence the disparity study as outlined and agreed upon in the prepared plan.
  - Kick off meeting and presentation to City Council
  - Regular check-ins with the study committee and selected firm for progress updates.
  - Mid-point
5. Data Analysis and Reporting (June 2025 – September 2025):
  - Analyze collected data and information.
  - Compile findings and draft a comprehensive report.
6. Review and Presentation (September 2025 – November 2025)
  - Review the draft report internally for accuracy and completeness.
  - Prepare a presentation to the City Council summarizing the findings.
  - Present the final report to the City Council for review and discussion.

### ***\*\*Challenges***

*DEI is dedicating resources to improving the current data migration process. The data migration exports contract payments and PO payments from CFS to B2GNow by using Microsoft Access. DEI has been facilitating data migration over the past two years and has recently seen issues with payments not posting to the contract. The City's Enterprise Technology Solutions department is investigating the issue as payment data will be a major component analyzed in the proposed disparity study.*

### **Anticipated Fiscal Impact**

Based on the proposed scope of services and previous proposal submissions, staff anticipates a total cost of \$900,000-\$1,000,000 to conduct a new unlimiting and comprehensive disparity study.

c:/     Natasha S. Hampton, Assistant City Manager  
          Laura Castillo, Interim Director, Department of Economic Inclusion