



## Addressing the Disparity in Contracting

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# Overview

The Minority Business Office (the Office) has worked diligently and strategically for the past 16 years to maximize equity for women and people of color in opportunities to do business with the City of Asheville (the City). This work supports the following City Council goals:

- A Thriving Local Economy
- An Equitable and Diverse Community
- A Connected and Engaged Community

In 2018, the City completed a disparity study to analyze the effectiveness of our efforts between 2012 and 2017. The Final Report, issued on April 2, 2019, showed that - despite our work - significant disparities still remain between the number of contracts awarded by the City to minority and women-owned businesses and the amount of City contracts that those businesses were eligible to compete for.

One of City Council's 2019 goals is to "develop a business inclusion program to increase minority contractor participation in response to the Disparity Study." This report recommends a first phase of actions the City can take in an effort to meet that goal.

## History

In May 1993, the City of Asheville's Minority Business Program (MB Program) was developed to provide minority businesses with an equal opportunity to participate in City construction, professional, and procurement contracting. Over the years, numerous strategies were undertaken to help meet this goal.

### MINORITY BUSINESS DIRECTORY

To increase staff awareness of minority and women-owned businesses providing goods or services that the City typically procures, the Office developed a directory of minority and women-owned business vendors and their available products and services. This directory increases the visibility of historically disadvantaged businesses to City staff needing contracted goods and services.

### EDUCATIONAL OPPORTUNITIES

The Office sponsored and held events to assist minority and women-owned businesses in engaging in procurement and contracting opportunities. One of these educational opportunities, Government-Business Connect (also known as the Reverse Vendor Fair), was a biennial event that invited businesses and entrepreneurs to engage with local government staff seeking contractors.

Workshops in various business skills have also been offered throughout the years, as have one-on-one training to assist businesses in securing the State of North Carolina's Historically Underutilized Business (HUB) certification and the Department of Transportation's Disadvantaged Business Enterprise (DBE) certification.

### PARTNERSHIPS AND FINANCIAL SUPPORT

With a staff of one, the Office relies heavily on partnerships with local small business support groups to meet its goals. Each year, through a competitive application process, the City of Asheville's Community Development Division provides Community Development Block Grants (CDBG) to local nonprofits to maximize community-wide capacity building. Two small business support organizations have received this funding: Mountain Bizworks and the Western Women's Business Center, which is a program of the Carolina Small Business Development Fund.

The mission of Mountain Bizworks is "to build a vibrant and inclusive entrepreneurial community in Western North Carolina by helping small businesses start, grow, and thrive." They do this by offering small business start-up and expansion loans, providing business coaching and training, and developing special initiatives that support small business success. The Western Women's Business Center focuses its efforts on supporting the success of women entrepreneurs in Western North Carolina. That support includes offering technical assistance, coaching, and training, and providing women entrepreneurs with access to capital. The coaching available through both organizations is funded by the CDBG grant.

It is important to note that while both Mountain Bizworks and The Western Women's Business Center give entrepreneurs important tools to be successful in small business, providing the public contracting and procurement skills needed to successfully bid and complete a contract with the City of Asheville is very specialized.

## Race- and Gender-Neutral or Race- and Gender-Conscious?

The City of Asheville's program has historically been race- and gender-neutral. This means that the goal of the program is to maximize the opportunities for all businesses and entrepreneurs to participate in contracting with the City. While minority and women based businesses and entrepreneurs are encouraged to utilize the program, it does not exclude any entrepreneur or business from participation.

The U.S. Supreme Court has held that both race- and gender-neutral programs and race- and gender-conscious programs are legal for municipalities to utilize for contracting purposes under certain circumstances. For a race- and gender-neutral program, one which encourages but does not enforce the inclusion of these factors in contracting, the governmental body must be able to show that it has some rational basis for the program. In other words, there must be some rational connection to a legitimate government interest. This is a fairly low legal standard to meet, and most of these programs are upheld by the courts.

Regarding race- and gender-conscious programs, the government must meet a legal standard known as strict scrutiny. This is the highest legal bar for such an analysis. In order to establish a valid program under this standard, the government must have a "compelling government interest" and the program must be narrowly tailored to address that interest. In the case of public contracting, specific data about the relevant local market is required to show some disparity. Local governments generally use the results of disparity studies to meet this burden. Once the data determines where the disparity lies, the government must still narrowly tailor the program to only address the disparities supported by the data. These efforts should also have sunset dates to limit the programs from continuing past the time necessary to address the disparity, however other program details will be important to ensure the approach is sufficiently narrow. Strict scrutiny is a very high legal standard, and many programs of this nature have been struck down by the courts. If properly developed, however, they can be utilized.

## 2018 Disparity Study

To determine whether disparities still exist in City contracting, the City completed a disparity study in 2018 (Final Report issued on April 2, 2019). The study used a tool called a disparity index to compare City contracting opportunities available to minority and women-owned businesses to the contracted dollars actually awarded to those businesses between 2012 and 2017. A smaller number indicates a larger disparity.

- ❖ The disparity index for Black American-owned businesses was approximately 22, indicating that Black American-owned businesses received roughly \$0.22 for every dollar that they might be expected to receive based on their availability for prime contracts and subcontracts that the City awarded during the study period.
- ❖ The disparity index for Asian American-owned businesses was approximately 5.4, indicating that Asian American-owned businesses received roughly \$0.05 for every dollar that they might be expected to receive based on their availability for prime contracts and subcontracts that the City awarded during the study period.
- ❖ The disparity index for Native American-owned businesses was approximately 1.9, indicating that Native American-owned businesses received roughly \$0.02 for every dollar that they might be expected to receive based on their availability for prime contracts and subcontracts that the City awarded during the study period.

These results show that, despite the ongoing work of the City and the Office, substantial disparities and program underutilization still exist. Therefore the City of Asheville does not meet the legal standard to adopt a race- and gender-conscious program if it so chooses, allowing more targeted efforts to address the disparities identified in the study.

# Recommended Actions

To begin to address these disparities, staff recommends the City of Asheville prioritizes the actions below. The goal of these actions is to increase contracting dollars awarded to minority and women-owned businesses with the City and with other anchor institutions in the area. The actions are interconnected and will be most successful if implemented together.

## 1. Rename the Office to reflect inclusivity.

Staff recognizes that to better reflect how we are moving forward with the equity work that the City is doing we need to internally change the way we view race, ethnicity, and gender. To some, the word “minority” can be offensive and symbolize the oppressiveness of what is like not to be white. As we address the Disparity Study results, we aim to develop more inclusive policies and opportunities. Thus, staff recommends changing the name of the Minority Business Program to the Asheville Business Inclusion Office.

### How will this help?

The name Asheville Business Inclusion Office will better reflect the intention of the work being done and may encourage those who are uncomfortable with the word “minority” to seek the services of this office.

### Budget:

None.

## 2. Determine if the Minority Business Program will remain race- and gender-neutral or become race- and gender-conscious.

Until now, the Minority Business Program has been race- and gender-neutral. The results of the disparity study demonstrate that the race-neutral program model has not successfully addressed disparities. The City of Asheville must now determine if it wants this program to become race- and gender-conscious.

### How will this help?

If the City determines the Minority Business Program should become race- and gender-conscious, the strategies adopted can be targeted at providing equitable opportunities to people of color and to women. A more targeted approach allows us to address existing disparities and break down some of the barriers that these business owners may face.

### Budget:

None.

## 3. Develop a Small Business Enterprise (SBE) certification program and a Shelter Market Program that requires certification for some contract awards.

Modeled after a similar program in Charlotte, North Carolina, the Asheville SBE certification program would serve as a stepping stone toward more rigorous HUB or DBE certifications. SBE certification would be available to small businesses and would be considered when using local funds.

In conjunction with the certification program, staff recommends the City also develop a shelter market program. The shelter market program would identify specific contracting opportunities that can give priority to SBE certified businesses or require applicants to hold an SBE certification. These opportunities will help businesses become more established and develop their capacity so they are better positioned to acquire HUB or DBE certifications.

Together, the SBE certification and the shelter market program would provide a path for small businesses to acquire more substantial contracts while allowing them to overcome financial and business capacity barriers. SBE certification would

provide small businesses with more opportunities to secure contracts with the City of Asheville. That means more opportunities to increase and stabilize their cash flow and build business capacity, which could allow owners to take their business to the next level.

**How will this help?**

These programs could help small businesses overcome barriers to successfully bidding on and delivering projects due to the lack of cash flow and other financial obstacles which may arise.

**Budget request in FY 19-20:**

WHAT	COST	DESCRIPTION
Community Consultants to SBE certified businesses	\$10,000 annually	This is a stipend for Minority Business input from the working community who may not be able to take time off from their businesses to assist the City
<b>Total to develop the SBE certification program:</b>	<b>\$10,000 annually</b>	

**4. Fund additional targeted training opportunities that complement existing programs.**

There are a myriad of excellent training and coaching opportunities provided by our partners and other small business support organizations in Asheville. These opportunities give businesses start-up tools and support as they grow.

Staff recommends expanding these opportunities by adding a cohort-based program that focuses on capacity building related to procurement and contracting with government agencies and other large companies. Cohorts start and finish programs as collective groups and share instructors and experiences along the way. Productive learning environments and the temporary culture of a group encourage productivity and enhance the overall learning experience. The underlying benefit of a cohort program is that people learn better as they study as part of a group.

One option for adding a cohort-based program is to utilize an existing program developed by the nonprofit Interise that would be facilitated by paid educators from the local African American community and customized to meet Asheville’s needs (see Interise curriculum models on page 10). Another option is to look to the African American community for facilitators that could be hired to develop a new local program for cohort-based capacity building.

**How will this help?**

This targeted, cohort-based training program will complement existing small business training by providing guidance on local government contracting. More small businesses that understand local government contracting should result in more small businesses successfully competing for City of Asheville contracts.

**Budget request in FY 19-20:**

WHAT	COST	DESCRIPTION
Minimum of two cohorts of 20 SBEs	\$1,000 annually	This will pay for materials and supplies.
Contract with Capacity Building Organization	\$40,000 annually	The sample fee is based on Interise fees. The Interise model requires a 3-year contract @ \$40K each year. See the program description and deliverables on page 10.
Trainer Fees	\$10,000 annually	
Travel for Trainer	\$1,500 annually	
<b>Total to provide additional training:</b>	<b>\$52,500 annually</b>	

## 5. Implement a direct loan program for SBE certified businesses.

### Future Funding Strategy:

In addition to human capital, financial capital is an essential indicator of business formation and success. Individuals can acquire financial capital through many sources including employee wages, personal wealth, homeownership, and financing. If race- or gender-based discrimination exists in those capital markets, minorities and women may have difficulty acquiring the capital necessary to start, operate, or expand businesses.

Staff recommends the inclusion of funding for a direct loan program in the FY 20-21 budget. Loans would be available only to businesses within Asheville city limits that are SBE certified with City contracts or contracts with other approved entities. Ranging from \$5,000 to \$40,000, these loans would be short term, project-specific, and offered at the low-interest rate of Prime+0.5%. This funding could be used for working capital, equipment, and materials.

### How will this help?

Minorities and women face many barriers in trying to access credit and financing for business capital. Researchers have often attributed those barriers to various forms of race- and gender-based discrimination that exists in credit markets, and that Black American-owned businesses and Hispanic American-owned businesses are more likely to forgo submitting business loan applications and are more likely to be denied business credit when they do seek loans. This loan program will directly address these financial barriers by creating access to capital for small businesses that are awarded contracts with the City. These loans would use the contract as collateral, making it more easily accessible and more quickly processed than other available loan options.

### Budget request in FY 20-21:

WHAT	COST	DESCRIPTION
Loan fund for SBE Certified Businesses	\$200,000 annually + administrative expenses	This would come from the General Fund. The goal is to increase this fund to \$500,000
<b>Total to provide loans:</b>	<b>\$200,000 annually + administrative expenses.</b>	

## Business Inclusion Program Goals

Each business that we work with will be tracked throughout the program, and for three years after they complete the program. The program's success will be evaluated by both the number of contracts and the total contracted dollar amounts obtained and fully executed by the program participants. Other metrics will include the number of jobs created and retained and the number of new businesses started. Our target is to increase the participation of women and people of color who reside in the City of Asheville's relevant geographic market area to the full potential of current availability.

Based on current availability as determined by the Disparity Study, our goals should be set to:

Program Goals Based on Current Availability			
	Minority	Women	Total Goal
Construction	5%	3%	8%
Prof. Services	12%	12%	24%
Goods/Services	15%	2%	17%

Some of the information in this document may have been taken directly from the [2018 City of Asheville Disparity Study](#) produced by BBC Research & Consulting.

# Resources

## BUDGET

Action	Annual Budget	Comments
<b>City of Asheville SBE Certification</b>		
Community Consultants	\$10,000	This is a stipend for Minority Business input from the working community who may not be able to take time off from their businesses to assist the City
<b>Training and Mentoring for Capacity Building</b>		
At least Two cohorts of 20 SBEs each year (Materials & Supplies)	\$1,000	
A contract for capacity building	\$40,000	The sample fee is based on Interise fees. The Interise model requires a 3-year contract @ \$40K each year. See the program description and deliverables on page 11.
Trainer Fees	\$10,000	Yearly
Travel for Trainer	\$1,500	Yearly
<b>Total Funds Requested for FY 19-20</b>	<b>\$62,500</b>	
<b>Budget request for FY 20-21:</b>		
Loan fund for SBE Certified Businesses	\$200,000 + administrative expenses	General Fund-Optimal amount would be \$500,000

## IMPLEMENTATION TIMELINE

<i>City of Asheville SBE Certification</i>					
<i>Key Action Steps</i>	<i>Timeline</i>	<i>Expected Outcome</i>	<i>Data Source &amp; Evaluation</i>	<i>Responsible Person</i>	<i>Comments</i>
Certification Guidelines & Shelter Market guidelines	3/1/2019 - 6/1/2019	Prescribe metrics that will allow our communities of color to obtain certification and an advantage over large companies	Yearly reports	Rosanna, legal, Community Members & Contracting Equity Team	We need to be intentional about the guidelines to reach our target market in a legal way
Start recruiting	6/1/2019	Start a pool of SBEs who are interested in becoming SBE Certified	n/a	Rosanna, Equity Team & Community Members	
Start Certifications	7/1/2019	Start a pool of SBEs who will participate in the shelter market	n/a	Rosanna	
Work with the City Project Managers to develop a pool of projects for the shelter market	Continuous	Develop a pool of projects	Yearly reports	Rosanna & COA Project Managers	
Start new partnerships with organizations that are willing to recognize COA Certified SBEs	Start 8/1/2019 and continuous	Increase contract availability for SBEs. City of Asheville should not be the SBEs only income source	Collect direct data from SBEs such as the number of contracts and monetary value of contracts	Rosanna & Community Development Partners	The goal of the SBE designation is to maintain all stakeholders engaged throughout the process and eventually graduate the SBEs to bigger companies that can bid on larger contracts
<i>Training and Mentoring for Capacity Building- At least Two cohorts of 20 SBE each year.</i>					
<i>Key Action Steps</i>	<i>Timeline</i>	<i>Expected Outcome</i>	<i>Data Source &amp; Evaluation</i>	<i>Responsible Person</i>	<i>Comments</i>
Review and Sign Contract	9/1/2019	Interise has a proven capacity building course to increase the capacity of the businesses in our community	n/a	Legal and Sam Powers	
Contract with trainer	9/15/19	Increase utilization of African American professionals	n/a	Sam & Rosanna	The optimal candidate is an informal leader with training experience.



First Cohort	10/1/2019	At least 50% of the cohort will be ready to contract with COA and other partnering institutions	Compare contract pre-qual before training and after training	Contracted Trainer & Rosanna	Cohort size of 20 business owners. With a goal of at least 15 business owners completing the training
<b>Loan fund for SBE Certified Businesses</b>					
<b>Key Action Steps</b>	<b>Timeline</b>	<b>Expected Outcome</b>	<b>Data Source &amp; Evaluation</b>	<b>Responsible Person</b>	<b>Comments</b>
Secure funds to start loan fund and develop loan fund guidelines	TBD	Develop a loan fund to assist SBEs with fulfilling contracts. At prime plus .5 to provide loan fund management.		Sam, Rosanna, Legal	General fund request. Short term loans to support SBEs that have city or other entities contracts: Working capital, Equipment, Materials
Develop a plan for Loan Fund administration	TBD	The City may not have the capacity to provide direct lending. Work with Finance Department, Human Resources Department, and Community and Economic Development Department to research and determine logistics for Loan Program administration, which could include contracted services.		Sam, Rosanna, Legal, Finance	
Develop Partnerships to grow the fund and grow contracting opportunities for SBEs	TBD	As the program grows, more funding is going to be needed to support SBEs	Yearly review of partnerships and SBEs contract acquirement	Rosanna & Contracting Equity Team	

## ACRONYMS

WWBC: Western Women Business Center

MBW: Mountain Bizworks

NCDOT: North Carolina Department of Transportation

HUB: Office of Historically Underutilized Businesses

SBE: Small Business Enterprise

CDFI: Community Development Financial Institution

CDBG: Community Development Block Grant

## INTERISE CURRICULUM MODULES

**Business Strategy:** Participants identify and set strategic goals needed to grow their businesses over the next three years. They also assess their leadership styles and form CEO Mentoring Groups with whom they will collaborate throughout the program.

**Financial Analysis:** This portion of the program focuses on key financial measures to help participants gauge the financial health of their businesses and to help participants make effective decisions.

**Accessing Capital:** Participants become familiar with the funding landscape by hearing from experts in the field of both public and private lending.

**Marketing:** Participants will work to identify which products and customers promise to be the most profitable and which markets have the most significant potential for growth. They will also learn the importance of market segmentation and the benefit of interviewing their customers.

**Sales Strategy:** Learn the importance of having a sales strategy and the necessary tools to track sales performance. Identify sales blockages and develop a plan for removing those blockages.

**Talent Acquisition:** Participants will learn how to select and nurture the key talent necessary to grow their business and the importance of culture in retaining talent.

**Contracting:** This session will educate participants on the opportunities that exist with both government and anchor institutions, as well as prepare them for doing business with these types of entities.

**Strategic Growth Action Plan:** Each participant walks away with a customized action plan for their business. The program is revised at the end of each course module with input from peers, the instructor, and guest experts. Improves operational effectiveness and enhances strategic positioning.

**CEO Mentoring Groups:** Beyond the classroom, participants engage with a small CEO Mentoring Group of their peers to discuss business challenges, provide mentorship and feedback, and build lasting professional and personal relationships. Provides a practical, action-based road map with clear steps for business growth.

