

CITY OF HOUSTON CONSTRUCTION DISPARITY STUDY RECOMMENDATIONS



WORKING GROUP REPORT ON IMPLEMENTATION WITH STAKEHOLDER COMMENTS

April 25, 2013

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Background and Purpose

The City of Houston implemented its Minority and Women Business Enterprise Program (M/WBE) in 1984. This remedial program, codified in Chapter 15 of the City Code of Ordinances, Article V, governs the administration of the Program, which includes construction services, the supply of goods and services and performance of professional services.

In 1996, the City's M/WBE Program was challenged in the case of *Kossmann Contracting Co., Inc. v. City of Houston*, and as a result, the City authorized a settlement agreement in March of 2009 that ended the Women-Owned Business Enterprise portion of the M/WBE Program for construction contracts until a comprehensive disparity study could be performed. Therefore in 2010, the City of Houston commissioned the National Economic Research Associates (NERA), a consulting firm, to perform a disparity study. A disparity study examines the past and current status of minority-owned business enterprises and women-owned business enterprises in the geographic and product markets for construction contracting of the City of Houston.

In April 2012, NERA presented the final results of the disparity study. NERA's study provided statistical and anecdotal evidence of business discrimination against minorities and women in the City's relevant market area. The study's findings supports that the City has a compelling interest to maintain a race and gender conscious program to remediate discrimination in City contracting. Based on the results of the disparity study, NERA has provided the City of Houston with 20 recommendations for consideration. In addition to addressing the issues raised in the *Kossmann* case, disparity studies generally help to guide the development and direction of affirmative action programs. As a result, Mayor Parker created a working group, co-led by Council Member Larry Green and OBO Director Carlecia D. Wright, tasked with providing responses to the recommendations provided by NERA. Working Group members include: Carlecia Wright (Co-Lead), Council Member Larry Green (Co-Lead), Dan Krueger, Humberto Bautista, Marsha Murray, Jarrett Simmons, Augustus Campbell, Esq., and Rashaad Gambrell, Esq. The Working Group held various Focus Group meetings to share their presentation, "Construction Services Disparity Study: Implementation of Recommendations", with the public and explain the Working Group's preliminary responses to the recommendations provided by NERA. Each Focus Group was given the opportunity to respond to the presentation by submitting comment papers to the Office of Business Opportunity. The unedited comments of the various stakeholder organizations are included in this report.

This report provides the administration and City Council with a comprehensive overview of comments from the Working Group and stakeholder organizations in response to the study's recommendations and provides a plan of action to enhance the City's S/MWDBE Program. Several of the recommendations provided by NERA coincide with recommendations provided by an appointed MWDBE Transition Taskforce¹. Ongoing or completed efforts by OBO prior to receiving NERA's recommendations will be mentioned accordingly.

¹ Prior to approving the Settlement Agreement, under then Controller Annise Parker, in 2008, the City of Houston Controller's Office Audit Division conducted a performance review of the Mayor's Office of Affirmative Action and Contract Compliance Division (AACC). As a result of the Controller's audit findings, an MWDBE Transition Taskforce was created to address the deficiencies identified in the AACC. Recommendations provided by the MWDBE Taskforce in 2010 yielded an aggressive effort by Mayor Annise Parker to establish a revised vision and mission for the AACC Division and bring in new leadership.

Continue and Augment Race and Gender Neutral Initiatives

NERA suggested the following recommendations to enhance the current efforts being made by the City of Houston. Recommendations are based on business owner interviews, input of City staff, and national best practices for M/WBE programs. The full text of each recommendation can be found in the published Disparity Study located at: <http://www.houstontx.gov/obo/disparitystudyrecommendations.pdf>. The Working Group has provided responses to the race and gender neutral recommendations. Under each recommendation is its scope and projected impact. Following each recommendation is the response from the Working Group, Women Contractors Association, Houston Contractors Association, Houston Minority Supplier Development Council and the National Association of Minority Contractors. The responses from each Focus Group comes directly and unedited from their comment papers which were submitted to OBO.

INCREASE VENDOR COMMUNICATION AND OUTREACH

Program-Wide Application

Impact: Certified Firms and City Departments

WORKING GROUP RESPONSE

Since April 2011, the Office of Business Opportunity has gone through extensive re-branding efforts that include the creation of a new logo and renaming the department (formerly Affirmative Action and Contract Compliance). During this period, OBO reorganized to include an External Affairs Division, Vendor Services Unit, and a Procurement Specialist.

The External Affairs division focuses on educating, connecting and growing small businesses in the local community by partnering with private sector and educational institutions to provide education and training to firms. In addition, External Affairs facilitates frequent networking opportunities to connect certified firms with City purchasers and prime contractors.

In conjunction with the Director's Office, the External Affairs team accelerated outreach efforts and executed Memoranda of Understanding with trade organizations, chambers, and business organizations to identify prospective small businesses eligible to participate in the City's S/MWPDDBE program. As a result of these efforts, OBO has increased the pool of certified firms by approximately 35% over the past year. Additionally, the Director maintains a robust outreach schedule that includes meeting one-on-one with firms and speaking engagements at stakeholder and trade organizations events.

In July 2012, OBO developed a Vendor Services Unit dedicated to assessing certified firms needs, alerting them of new opportunities, and assisting with their overall business development. In October 2012, OBO re-designed its website to include more useful information for contractors and firms seeking COH certification. The new design provides a user-friendly experience and easy access to information commonly requested by small businesses and certified firms.

The Working Group supports OBO's and Departments' business development efforts going forward which include: providing annual purchasing and contracting forecasts from City Departments to allow businesses to prepare themselves for upcoming opportunities; providing a pre-bid confirmation to

review said forecast; exchanging pre-bid and potential subcontractor information, whenever possible, to facilitate match-making between primes and subcontractors. It is important for small businesses to have forecast and pre-bid information on hand in order to prepare for major purchasing and subcontracting opportunities. Additionally, proposed revisions, for Council approval, are being made to Chapter 15 to include provisions that expand City Departments' responsibilities in support of the S/MWBE program and generally comply with the terms of the settlement agreement.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Be vigilant in exposing S/MWBES/MWSBE certification applications by “pass-through”, fronts, or other fraudulent business entities.

The members of the Women Contractors Association want to conduct business in a fair and ethical manner. We also want the City certification process to be fair and ethical. We support the City's efforts to only certify those businesses that are truly small businesses, or women-owned or minority-owned.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA does not oppose this recommendation. This is a City Issue. Nothing has changed about bid dates, Thursdays at 10:30 a.m.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

Consideration of qualified minority and women suppliers

The HMSDC believes that all contractors, vendors, and suppliers should be required to provide written notice to the City of reasonable eligibility requirements for subcontractors prior to the awarding of a city contract or purchase order to eliminate any subsequent disagreements about the qualifications of minority and women subcontractors. Reasonable goals for MWDBE utilization should be set on all contracts based on availability of certified MWDBEs in the City of Houston service area.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

INCREASE CONTRACT UN-BUNDLING

Program-Wide Application

Impact: City Departments

WORKING GROUP RESPONSE

Whether it is new construction, renovation and/or maintenance, for cost efficient and manageable projects, contracts are currently sized appropriately to the required scope to address project needs. Unbundling large contracts may unnecessarily present an operational burden which will result in higher costs and additional personnel needed to supervise and administer an increased number of contracts. It

is important to note that smaller contracts are available through job order contracts and task order contracts.

Departments are committed to continue to search for opportunities for small contracts by reinvigorating the use of Executive Order 1-2, which requires that City departments reduce the size of contracts to allow for increased participation by smaller contractors, and forecast future opportunities so the businesses can create partnerships for upcoming larger projects. To this end, Departments will set the tone for primes to work in Mentor- Protégé programs.

In addition, the City will continue to dedicate resources to assist businesses to increase their bonding capacity. Beginning in August 2012, OBO and the U.S. Department of Transportation, with the support of the Public Works and Engineering Department and several stakeholders, co-sponsored a free Bonding Education Program which provided seven weeks of training and resulted in several companies increasing their bonding capacity. The next program series is slated to begin in May 2013.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Un-bundle contracts, where possible, to reduce the dollar amounts of contracts. We understand that un-bundling of contracts is not always feasible and cost effective but we would want the City to consider that option often and the extent that it makes good business sense.

The City needs to actively and purposefully examine work to be performed to see if the work can be divided into separate contracts. The City has a policy to encourage the growth and success of MWSBEs. Emerging contractors usually do not have a lot of capital and a large credit limit. If the City truly wants to implement its policy and do more business with MWSBEs, it will establish contracts at a dollar amount that will allow MWSBEs to bid contracts and obtain the bonds required by law. City departments are asked to forecast timely to encourage identification and growth of direct prime contract opportunities for MWSBEs.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA does not oppose this recommendation. It will cost the City money to break down jobs and they will be more difficult to manage. The City needs to be aware that if key pieces, like sidewalks, are removed from existing jobs it will be more difficult for contractors to achieve the goals.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

REVIEW SURETY BONDING, INSURANCE AND EXPERIENCE REQUIREMENTS

Construction Only Application

Impact: City Departments, Prime Contractors and Subcontractors

WORKING GROUP RESPONSE

Essentially, municipalities have these requirements to protect the public's assets. Chapter 2253 of the Texas Government Code (commonly referred to as the "MacGregor Act") requires contractors to obtain payment and performance bonds on any contract for public work, starting at \$25,000. All City of Houston construction contracts contain standard insurance requirements for contractors. City departments may consider Owner Controlled Insurance Plans for specific large projects. The City will also determine the impact to small businesses.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

This is a City issue. HCA does not oppose this recommendation The City will be assuming greater exposure for incomplete or unacceptable work.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

In favor of Owner Controlled Insurance Plan.

IMPLEMENT A BONDING AND FINANCING PROGRAM

Construction Only Application

Impact: Certified Firms and Small Businesses

WORKING GROUP RESPONSE

In August 2012, OBO and the U.S. Department of Transportation with the support of the Public Works and Engineering Department and several other stakeholders facilitated a free seven-week Bonding Education Program, which provided contractors with information about how to improve their company's operations and increase their bonding capacity. OBO plans on continuing to provide this program, at least once annually, and based on lessons learned during its initial rollout, will adopt a targeted approach to inviting firms to participate so that firms can receive maximum benefit. The next class series will begin in May 2013.

Additionally, in FY 2014, the City may explore the feasibility of a bonding program pursuant to Chapter 380 of the Texas Local Government Code whereby the City may provide funding to help guarantee bonds for small business prime contractors.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Do everything possible to assist MWSBEs to obtain bonding and capital to finance their projects.

Every S/MWSBE would prefer to have a contract directly with the City. In many cases the only thing keeping them from bidding on City projects is their inability to obtain the payment and performance bonds required by state law. The City should do the following to help MWSBEs to obtain bonding: Continue education programs to help MWSBEs to obtain bonds and Offer incentives to banks and bonding companies to extend credit to MWSBEs.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

This is a City Issue. HCA does not oppose this recommendation. If the City creates such a program, the industry would encourage our MWBE subcontractors to utilize the program. It is expensive for small companies to get a bond.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

Consider developing a small contractor bonding program that will provide actual bonding for SBE's on projects \$100,000 and smaller. This is not just an education program.

ENSURE PROMPT PAYMENTS

Program -Wide Application

Impact: Departments and Prime Contractors

WORKING GROUP RESPONSE

OBO will document complaints in its online database and work with Departments to address and resolve complaints in compliance with the Texas Prompt Payment Act. In furtherance of the City's Prompt Pay Executive Order, Departments will continue to monitor timeliness of prime contractor payments and subcontractor complaints and work with OBO to closely monitor incident rates that may require a change in the City's current practices. OBO, as part of its contract compliance monitoring function, will continue to monitor prime contractor's wage compliance and payments, and provide mediation services to primes and subcontractors. In addition, OBO will include in its suite of vendor services educational information to subcontractors about their payment rights.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Pay promptly on City contracts and monitor general contractors to be certain they pay their subcontractors and lower tiers promptly as well.

It is a well-known fact that the biggest problem facing small businesses is lack of capital. In the construction industry, the subcontractors finance the projects, by paying the laborers, for materials and equipment, and have to wait until the owner pays the general contractor, before they are paid. The vast majority of subcontracts contain "pay if paid:" clauses – the subcontractor is not entitled to be paid until after the owner has paid the general contractor. Often subcontractor defaults occur when a subcontractor runs out of money while waiting to be paid for work performed. Prompt pay by the City to the general contractor will help the subcontractors. In cases where a small business has a contract directly with the City, the same logic applies – a small business has less of a capital cushion to see it through a period where an owner is delaying payment.

The WCA strongly recommends that the City do the following to help the MWSBEs be paid:

- ***Require in its contracts that general contractors pay subcontractors within seven days of the general contractor receiving the funds for the subcontractor's work.***
- ***Indicate when it pays a general contractor what work; including percentage of work, on the Schedule of Values is being paid.***

Have a place on the City of Houston website showing:

- ***The name and address of the general contractor's bonding company***
- ***Payments made to general contractors, including date of payment, amount, and what work, including percentage of work, on the schedule of values is being paid***

Respond quickly and effectively to claims by WMSBEs regarding unfair or unethical treatment by general contractors.

The City has a vested interest in seeing MWSBEs succeed. That is the goal of the Office of Business Opportunity. Although the City has no legal duty to insure that subcontractors are paid, the City's policy of encouraging the growth and success of these entities mandates that the City take immediate action when a subcontractor claims it is not being paid or has encountered other unethical or unfair treatment from a general contractor. In line with this, the City should avoid contracting with general contractors who regularly receive claims of unfair treatment from their subcontractors. Some of the reasons why the City should avoid such general contractors are:

- *the City should not have to spend its manpower dealing with these complaints*
- *Projects should move faster where everyone is being paid timely*
- *The general contractors are breaching their contracts with the City, and violating City Code § by not paying their subcontractors timely.*

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

Receiving timely payment from the City is not typically a problem anymore. If the general contractor does not pay on time, there should be repercussions.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

HMSDC has received numerous complaints about slow pay by the City of Houston. We have met with Controller Ronald Green and are confident that the problem is not with his office. In further investigation, we have tracked the problem to the departmental level where invoices can sit for months before they are approved for processing. There are not just invoiced for MWDBE firms. Prime contractors have experienced this as well, thus delaying payment to them and to their subcontractors, putting their subcontractors in a precarious cash flow situation that impedes their growth and utilization on other projects. HMSDC suggests a through tracking process from receipt of invoice, through the approval process and ultimate payment. Full recommendations will be sent to Controller Ronald Green for his consideration as well.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

ENSURE BIDDER NON-DISCRIMINATION AND FAIRLY PRICED SUBCONTRACTOR QUOTATIONS

Program-Wide Application

Impact: Departments and Prime Contractors

WORKING GROUP RESPONSE

In order to ensure bids are fairly priced, the City will encourage pre-bid proposal submission collaboration between primes and subcontractors. Both primes and potential subcontractors should be involved in preliminary evaluations, constructability review, and value engineering to ensure each project can be completed on time and within budget. The City will require that primes retain subcontractor quotes received prior to final bid submission. Additionally, for bids to be considered responsive, prime contractors will be required to submit, with their bids, a participation plan for meeting the contract S/MWBE goal or provide documented good faith efforts to meet the goal.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

The recommendation in this suggestion could be difficult, not all subcontractors and suppliers quote the same price to general contractors. Some information could be confidential. TxDOT requires the general contractor to turn in a list of all bids received after the bid has been awarded. There is no pricing included on the list, just the names of the subcontractors and suppliers. It will be difficult for someone to review

bids that are not familiar with the work, the quote and working relationships between the general contractor and the subcontractor.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

Incorporation of the Equal Employment Opportunity Clause in every City Contract involving the expenditure of \$10,000 or more of City funds

The HMSDC believe that this requirement should be enforces and should also include every non-bid contract and purchase order issues involving the expenditure of \$10,000 or more of City Funds.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No Objections.

Work towards ensuring MWBE's are not unfairly specified out of projects by consultants. Rotate consultants regularly.

ENSURE SOLICITATION OF M/W/SBES FOR INFORMAL CONTRACTS AND ROTATION LISTS FOR WORK ORDER CONTRACTS

Program-Wide Application

Impact: Departments

WORKING GROUP RESPONSE

In compliance with AP 5-2, Departments currently require the solicitation of at least 3 bids from Historically Underutilized Businesses, including City of Houston M/WBES, for informal procurements. Departments will continue this practice and augment current policy and procedures to include required monitoring and reporting of “no response” to solicitations from City purchaser. These “no responses” from prospective vendors will be tracked, via SAP or another system, and Departments can determine by the continued non-responsiveness of certain vendors whether to exclude them from future solicitations.

Concern: NERA’s recommendation to create rotation lists for Departments’ work order contracts, if implemented, might violate Texas competitive bid law requirements because these contracts tend to exceed the Texas bid law threshold of \$50,000 and require selection of the lowest responsible bidder.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Effectively manage the database of certified MWSBES to eliminate those companies that are not ready, willing, and able to perform work.

The members of the Women Contractors Association want an honest and reliable S/MWSBE program. We have heard general contractors complain that the list of certifies MWSBES is unreliable – that it contains companies that are out of business or cannot be reached.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

This is a City Issue. HCA does not oppose this recommendation.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

Transparency of Opportunities and Outcomes

The City asserts that its policy applies to all contracts involving an expenditure of City funds of \$10,000 or more. However, only those contracts involving an expenditure of \$50,000 or more are voted upon and monitored by City Council. There is no advance publication of contracts (or purchase orders) valued between \$10,000 and \$49,000 nor a reporting of the firms receiving the contracts nor a reporting of whether those firms are minority firms.

The HMSDC believes the CENTRAL posting of ALL upcoming contract bid opportunities (\$50,000 and greater) and non-bid opportunities (contracts and purchase orders between \$10,000 and \$49,000) would ensure that qualified minority suppliers are aware of opportunities in a timely fashion and that contractors and department directors would be aware of qualified minority and women firms eligible for the work. The City's posting policy should provide for sufficient advance notice for qualified firms to respond in a professional and timely manner. Further, we believe that there should be "real-time reporting," e.g. quarterly, of the firms that were awarded contracts or purchase orders, a descriptions of the goods and services provided to the City, the value of the contract or purchase order, identification of the firm as a minority-owned or non-minority firm, and the City department to whom the products or services were provided. Such transparency would allow everyone to monitor the City's performance with regard to its Affirmative Action commitment.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

REVISE THE SMALL BUSINESS ENTERPRISE COMPONENT

Program-wide

Impact: Certified Firms and Departments

WORKING GROUP RESPONSE

The Working Group supports the creation of a small business enterprise program by using the Target Market Method to create a program with a \$500,000 cap to encourage prime-level participation by small firms. Legislative support is being sought to effectuate this program because competitive bidding requirements, which functionally prohibit an SBE component, apply to all contracts over \$50,000. The current S/MWBE program will assume an SBE goal cap for individual contracts until an alternate SBE program is implemented.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA has no issue with the City creating set-asides for projects under \$50,000. HCA supports placing women back into the program but would strongly urge the City to consolidate the goals into one MWBE goal.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

In favor of set asides for SBE's for projects \$500,000 and less.

IMPROVE CONTRACTING AND PROCUREMENT DATA COLLECTION AND RETENTION PROCEDURES

Program-Wide Application

Impact: City Departments and Prime Contractors

WORKING GROUP RESPONSE

As a result of the process of gathering the data required to conduct the disparity study, OBO has changed its data collection process for construction-related contracts. OBO now requires primes to provide payment information of non-minority and/or non-certified subcontractors, in addition to payments made to certified companies. All contract related data is now uploaded into the contract management software, B2G Now, for retention. OBO is currently working with the Houston Information Technology Services Department to integrate several databases in order to better track and report utilization rates. If the proposed amendments to Chapter 15 of the City's Code of Ordinances are approved, OBO will provide utilization reporting on a quarterly basis instead of bi-monthly.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

This is a City Issue, however HCA would request that the City adopt a policy that will recognize when City generated change orders affect goals. These change orders should be evaluated and recognized prior to completion of the project, so everyone knows if and why goals are not met. Timing of the City generated change order is critical. There may not be time for the contractor to achieve a goal when an item is added late in the contract and there is no availability for MWDBE participation on the added work. Conversely, when work is deleted from the contract at the end of a project, the deleted work may have been where a contractor had planned to achieve a goal.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

INCREASE CERTIFICATION OUTREACH

Program-Wide

Impact: Prospective S/MWPDBE Companies

WORKING GROUP RESPONSE

Over the past year, in compliance with recommendations made in the MWDBE Transition Taskforce Implementation Plan, OBO has expanded its outreach efforts to include targeted outreach to eligible companies by creating partnerships with Chambers of Commerce, Trade Associations and business organizations. Additionally, OBO executed Memoranda of Understanding with other certifying entities (HMSDC and WBEA) to expedite the certification process and expanded the certification period from 1 year to 3 years to retain firms. These efforts have resulted in an increased pool of certified companies by approximately 35% over the past year. To further increase the pool of certified firms and the industries in which these firms are represented, OBO is completing an analysis of past City procurement activities to identify gaps in opportunities for certification and to use the results of this analysis to further refine future OBO outreach initiatives.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Increase certification outreach and make certification an efficient, reliable, and timely process.

There are many minority, women-owned, and small businesses that are not certified. Most of these businesses are excellent contractors which could be making a great contribution on City projects. If the City could increase the number of certified businesses in every category, every goal could be met on every project. The City should get the list of contractors discovered by NERA, and contact the various contractors associations to get contact information to identify these businesses in order to try to certify them.

Equalize the compliance and certification for SBEs.

SBEs must be certified with the same due diligence and effort as MWDBEs. The process is burdensome, and in and of itself restrictive due to financial and other confidential information which must be submitted. Their Owners must submit a personal net worth and financial statements and comply to a maximum personal net worth limit and to a limited number of affiliated businesses, that MWDBEs are required to fulfill.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA agrees with this recommendation, the deeper the pool, the more options there are for the prime contractor which is better for competition and helps to grow small business.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

90 day certification process

Try for 20% growth in certified firms per year.

Adopt Race and Gender Conscious Policies and Procedures to Enhance Current Measures

From NERA: The Study's results support the determination that Houston has a strong basis in evidence to implement its M/WBE Program. The record establishes that M/WBEs in the City's market area continue to experience statistically significant disparities in their access to private and public sector contracts and to those factors necessary for business success, leading to the inference that discrimination is a significant cause of those disparities. This conclusion is supported by quantitative and anecdotal evidence.

The Working Group has provided responses to the race and gender conscious recommendations. Under each recommendation is its scope and projected impact. Following each recommendation is the response from the Working Group, Women Contractors Association, Houston Contractors Association, Houston Minority Supplier Development Council and the National Association of Minority Contractors. The responses from each Focus Group comes directly and unedited from their comment papers which were submitted to OBO.

IMPLEMENT NARROWLY TAILORED PROGRAM ELIGIBILITY STANDARDS

Program –Wide

Impact: Departments

WORKING GROUP RESPONSE

Expand Geographic Coverage to the 10 Counties Identified by NERA

The City's geographic coverage will mirror that of the 10 county geographic scope of the study which is by based on data collected by the U.S. Census Bureau. The broader implications of an expansion need to be explored, specifically regarding how other City policies that have a geographic emphasis will be affected.

Recognize groups that are not members of the Presumptively Disadvantaged Group

The City may explore this recommendation in the future but currently is not adopting the recommendation to expand the program to persons who are not members of the presumptively disadvantaged groups.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA supports a policy that would include women in one MWBE goal with a maximum city goal of between 18-25%, HCA would also support an SBE goal of between 2 –3%

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections to recommendations.

Certifications: validate the true ownership of MWBE's through periodic audits

Commercially Useful Function – COH should adopt the Federal DBE regulations to determine commercially useful function and to determine how participation is applied.

- *The value of the fee paid to brokers or dealers etc. is the only amount counted towards the goals.*
- *Section B-7 page 11 of the Disparity Report Recommendations suggested that the City of Houston do a better job at monitoring MWDBE utilization once a contract award has been given. Specifically measurement of whether the subcontractor being used to fulfill the MWDBE goal recommended on the project is performing a commercially useful function (CUF). The purpose of the CUF requirement is to prevent certified MWDBE businesses from acting as a “pass through” (brokers, dealers, and distributors should be looked at very carefully and the City of Houston should adopt rules similar to the rules in 49 CFR Part 26 that speak to way to count and therefore minimize pass through utilization through these types of business structures) or “front” when identified as the prime bidder or when participation to meet the socio-economic objective of a solicitation or contract. CUF compliance monitoring can only be accomplished through resources supplied to the Compliance or Audit Officer. Most agencies do not supply the necessary resources to accomplish true compliance and thus many MWDBE programs become vulnerable to court attach because of failure to adhere to the “narrowly tailored” aspect of race conscious contracting programs.*

The following principals should be used to determine if the MWDBE is performing a CUF:

- *The MWDBE is responsible for the performance, management, and supervision of a distinct element of the work, in accordance with normal industry practice (except where such practices are inconsistent with the regulations).*
- *The firm receives compensation, as agreed upon, for the work performed, regardless as to whether or not the agreement is standard industry practice. If the agreement erodes the ownership, control or independence of the MWDBE firm or does not meet the commercially useful function requirements, the contractor will not receive credit towards the contractual goal.*

The following situations are examples of an MWDBE firm that is not performing a commercially useful function under the definition above. (This list is taken from a collection of other programs around the country)

- The work to be performed by the MWDBE is outside of the MWDBE's known experience or capability*
- The MWDBE provides little or no supervision of the work, the MWDBE superintendent is not a regular employee of that firm or supervision is performed by personnel associated with the prime contractor, another business or personnel not under the control of the MWDBE*
- the MWDBE's workforce is not under the MWDBE firm's control and direction or work is performed by personnel normally employed by the prime contractor or another business*
- any part of the work designated to be performed by a MWDBE subcontractor is performed by the prime contractor*
- a substantial portion of the equipment used by the MWDBE firm belongs to the prime contractor or another contractor with no formal lease agreement or the equipment signs and markings cover another owners identity, usually through the use of magnetic signs.*
- materials or supplies, necessary for the MWDBE firms performance, are delivered to, billed to or paid by another business*
- the MWDBE firm subcontracts or assigns any portion of work to*
 - another firm*
- the MWDBE firm is working without a subcontract agreement*
- a MWDBE trucking business utilizes trucks owned by the prime contractor*
- a MWDBE prime contractor subcontracts more than 50% of the contract value*
- a MWDBE prime contractor only purchases materials while performing little or no work*
- the agreement between the prime contractor and DBE firm artificially inflates the MWDBE participation or erodes the ownership, control or independence of the firm*
- a MWDBE firm works for only one prime contractor*
- employees work for the MWDBE firm and the prime contractor or mentor*
- the volume of work is beyond the capacity of the MWDBE firm*
- inquiries by owner or representatives*

RESUME WBE CONTRACT GOALS AND ADOPT OVERALL M/WBE GOALS

Construction Only Application

Impact: City Departments, Certified Firms and Prime Contractors

WORKING GROUP RESPONSE

The Working Group agrees that the Study's findings support the reinstatement of WBE goals. The City's existing race conscious goal is a 14% MBE goal, whereas there is no gender conscious goal. The disparity study recommends that the City adopt overall M/WBE goals and has identified that the availability in the Houston marketplace is 34.73% for both race and gender. Therefore, the Working Group recommends that the City adopt the marketplace MWBE availability of 34% as the City's new citywide aggregated MWBE goal. The City maintains flexibility in designating race-neutral SBE goals.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Reinstate WBEs as a contracting goal in the percentage of 11%, which is in line with the percentage of ready, willing and able WBEs.

This is a vital recommendation. From our experience of the last five years we know that if the City does not have a WBE goal, the general contractors will use few WBE subcontractors. The Disparity Study showed that eleven percent of contractors in the greater Houston area are women-owned. If the City sets the goal at eight percent, and the City achieves nine percent usage of WBE's, the City could again claim that WBE's are being over utilized, even though the nine percent usage is lower than the actual percentage of eleven percent. Due to the City eliminating the WBE goal in 2007, WBE's have fallen behind. If the City wants WBEs to catch up in utilization, it will establish the goal at eleven percent.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA agrees with this position as long as the City keeps one MWSBE goal. HCA would also like to see the City's schedule for future disparity studies.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

The City of Houston conducted a disparity study three years ago and found that a significant disparity exists. The study reported that sufficient MWBEs are ready and available to fulfill 34.73% of the construction contracts with the City of Houston. Current utilization rate is at 29.2%. Goals of only 28% are being recommended. These recommendations, even if achieved, would still result in a remaining disparity and represent a reduction in MWSBE utilization.

It is important that the City of Houston move progressively in setting and achieving increasing goals until the overall goal of full utilization of MWBEs is achieved. According to the disparity study, that would be

43%. That has to be the ultimate goal. As vital as MWSBE development is to the future of Houston, we have to drive beyond that goal to fully achieve the sustainable benefits to our communities.

HMSDC believes that the goals should be no lower than 34.73%. Setting a goal lower than current utilization rate or lower than the level suggested by the study is unacceptable.

Setting Race Specific Goals

The Disparity Study shows that a large disparity exists in African-American owned business contract awards compared to the other ethnic groups despite years of having an MWDBE program in the City of Houston. Moreover, other ethnic groups still show disparity even though the gap has decreased dramatically. For the same reason that WBEs were removed from the program two years ago, the need to have a program that addresses the specific disparities within the racial sub categories is needed in an effort for the City of Houston's MWDBE program to become more narrowly tailored to meet the City's compelling interest. The disparity study shows that the City of Houston has a compelling interest to maintain its race conscious program. However, the City must use race specific goals in order to address the specific disparities within the racial subcategories. Failure to do this will result in a program that will never end. This, in turn, will eventually lead to a court ruling that the City's program is not narrowly tailored. We recommend that the City should employ race specific contract goals as well as overall race specific goals to level the playing field not only between majority MWDBE businesses but within the sub categories of the presumed social disadvantaged groups.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections WBE goals.

NAMC not in favor of an overall MWBE Goal. NAMC is in favor of race based goals: WBE, BBE, HBE, ABE, NABE

NAMC is in favor of increasing overall goal to 35% to reflect the percentage of availability in the community.

SET CONTRACT-SPECIFIC GOALS

Program- Wide Application

Impact: City Departments

WORKING GROUP RESPONSE

OBO has reorganized to include a Procurement Specialist to assist with the City's goal setting processes including goal setting for city funded and federally funded projects. The Procurement Specialist reviews all Department goal waivers and "low-goal" (currently goals below 3%) requests to ensure that they reflect the true availability of certified firms in the City's S/MWSBE directory for each particular project. In addition, OBO is currently working with its B2G Now provider to include a module in the software that will provide an automated function that can be used by Departments for setting contract specific goals.

All goal-setting efforts are reinforced by OBO's Procurement Training Institute, which provides training on a step-by-step approach to developing a goal setting methodology. The Procurement Specialist area will be expanded to include a review of S/MWSBE participation plans and good faith efforts requests submitted by bidders/potential contractors.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Adjust S/MWSBES goals according to the requirements of each project and the availability of WBEs, SBEs, and MBEs for the particular type of work.

As a practical matter, each contract should be evaluated and the goals for each contract set according to the availability of contractors that can perform the particular work required.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

This issue is critical to the civil construction industry; the industry cannot meet goals where availability does not exist. Subcontractors must have a commercially useful function. Review of the work in the project is critical, to determine goals. HCA believes that it is in the City's best interest to maintain the \$1 million threshold for affirmative action contracts. Contract specific goals should be broken down by CIP category not NAICS codes.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

Consideration of qualified minority and women suppliers

The HMSDC believes that all contractors, vendors, and suppliers should be required to provide written notice to the City of reasonable eligibility requirements for subcontractors prior to the awarding of a city contract or purchase order to eliminate any subsequent disagreements about the qualifications of minority and women subcontractors. Reasonable goals for MWDBE utilization should be set on all contracts based on availability of certified MWDBEs in the City of Houston service area.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

COUNT M/WBE PRIME CONTRACTOR PARTICIPATION TOWARDS MEETING CONTRACT GOALS

Program- Wide Application

Impact: Prime Contractors, Certified Firms and City

WORKING GROUP RESPONSE

This would require a change to the City Code of Ordinance Chapter 15 because the City's program does not currently allow for Prime credit. While the City recognizes that adopting the recommendation would

encourage MWBEs to act as prime contractors instead of subcontractors, in its procurement of services, the City will not show favoritism, regarding compliance requirements, towards particular prime contractors by relaxing its race and gender conscious participation goals. Such a preference may violate Texas competitive bid laws, which do not allow the City to consider race or gender in awarding prime contracts. The City will explore supporting joint ventures as a way to encourage more MWBEs to serve in prime contractor capacity.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA does not agree with this recommendation and feels that if a company is capable of participating as a general contractor, then they need to participate in the goals of the program.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

NAMC recommends two types of goals:

- 1. Department Goals for department heads to contract directly with Prime MWSBE contractors*
- 2. Goals for subcontracting with MWSBE's*

Allow a 5% preference for MWSBE participation at the prime level

- Consider providing points for Primes who partner, team, or JV with an MWSBE Prime*
- Consider adopting the attached evaluation criteria document to give points to Prime Contractors teamed, JV, or partnered with MWSBE Primes*

Self-performing credit – if a minority prime self performs a portion of the goal then the portion of work that is performed by that prime should count towards the goal Department Prime Goal .

CREDIT LOWER TIER M/WBE UTILIZATION TOWARD CONTRACT GOALS

Program-Wide

WORKING GROUP RESPONSE

This is currently the practice of the City of Houston.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA agrees with this recommendation.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

ENHANCE POLICIES AND PROCEDURES FOR GOOD FAITH EFFORTS REVIEWS AND APPROVALS

Program-Wide Application

Impact: Departments, Primes, Certified Firms

WORKING GROUP RESPONSE

With Invitation for bids, provide list of certified firms for scope of work

This is currently the practice on Houston Airport System (HAS) projects. Additionally, OBO and HAS send opportunities to the firms in the certification directory that are matched up to opportunities so that they can attend pre-bid conferences. The sign-in sheet is also public. All Departments will be encouraged to adhere to this practice if they are not currently doing so.

Require the Participation Plan be due with bids -Increase number of days Primes have to find certified firms before submitting bids

Beginning in FY2014, bids will be deemed responsive only if they include a plan that meets the solicited goal or has a good faith efforts account of a bidder's attempt to create a plan to meet the goal. OBO and Legal have worked to update the City's Good Faith Efforts policy and develop a plan for the submission of participation plans with bids. The new process will be unveiled shortly.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Monitor general contractors post-award to insure that they are complying with the S/MWSBE plans submitted to the City to win the work.

This is one of the most important tasks that the City must accomplish if it wants a valid, reliable MSWBE goal program. Probably every MSWBE subcontractor has experienced situations where a general contractor uses the subcontractors name to show it is complying with the goals, only to have the general contractor actually use a different, non-S/MWSBE contractor for the work. One way that other governmental entities have to insure that the general contractor will actually use the S/MWSBE subcontractors is to require that the general contractor name the MWSBEs with the bid and require that the general contractor promise to use the named subcontractors. The City should also obtain documentary evidence from general contractors about their good faith efforts to meet the goal. Many

MWSBEs report that some general contractors call and ask them to bid on the project on the day the bid is due, which is not enough time for the subcontractor to bid the project. **The City should require that general contractors document their solicitations of bids from MWSBEs by:**

- Contacting them by email or fax;
- Delivery of Notice to the City and the Subcontractor the same day and time the bids are due, “Participation Plans”
- Saving the documentary evidence of such contacts.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA has concerns with some of items listed in this recommendation. While we agree that food faith efforts are a critical component to the affirmative action program, we request that HCA have input on any changes to the current requirements. Participation plans sound reasonable but create a burden on the bidding process. A ten day window is needed to fully evaluate all bids; many quotes are received only moments before a bid is due.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

Accountability

HMSDC believes that all bid and contract proposals should clearly identify the MWDBEs to be utilized in achieving the MWDBE utilization goals and that this utilization should become part of the contract, preferable signed by all parties involved. Any changes would require approval by the City of Houston. Failure to comply with the terms of the specified would constitute a breach of contract leading to punitive awards and sanctions.

Sanctions

The HMSDC believes that the City should follow its policy with regard to imposing sanctions on contractors who are found to be in non-compliance and that the sanctions imposed should be commensurate with the nature of the violation and substantial enough to deter future non-compliance. A policy that is not enforced has no effect.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

Consider adopting the attached evaluation criteria document to give points to Prime Contractors teamed, JV, or partnered with MWBE Primes.

ENSURE MONITORING OF CONTRACT PERFORMANCE

Program-Wide

Impact: City Departments, Prime Contractors and Certified Firms

WORKING GROUP RESPONSE

OBO has modified its contract compliance process. OBO's contract compliance staff now regularly engage with Department project managers to monitor and record contract performance progress. Implementation of improvements is ongoing even though decreased staffing has compromised this function. Effective in FY2014, the day-to-day monitoring of utilization of S/MWBEs will be transferred to the Departments, so their project managers who are most familiar with each project, can monitor each contract. OBO will maintain an oversight monitoring role, which will include a monthly check-in with Departments regarding active projects. OBO will continue to review, for approval, good faith efforts requests, Prime deviation requests, conduct mediations and recommend sanctions when necessary. This change will afford OBO the opportunity to use its limited resources to performing prevailing wage audits, equal employment opportunity monitoring and performing more commercially useful function audits.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Monitor general contractors post-award to insure that they are complying with the S/MWSBE plans submitted to the City to win the work.

*This is one of the most important tasks that the City must accomplish if it wants a valid, reliable MSWBE goal program. Probably every MSWBE subcontractor has experienced situations where a general contractor uses the subcontractors name to show it is complying with the goals, only to have the general contractor actually use a different, non-S/MWSBE contractor for the work. One way that other governmental entities have to insure that the general contractor will actually use the S/MWSBE subcontractors is to require that the general contractor name the MWSBEs with the bid and require that the general contractor promise to use the named subcontractors. The City should also obtain documentary evidence from general contractors about their good faith efforts to meet the goal. Many MWSBEs report that some general contractors call and ask them to bid on the project on the day the bid is due, which is not enough time for the subcontractor to bid the project. **The City should require that general contractors document their solicitations of bids from MWSBEs by:***

- *Contacting them by email or fax;*
- *Delivery of Notice to the City and the Subcontractor the same day and time the bids are due, "Participation Plans "Saving the documentary evidence of such contacts.*

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

Proper monitoring of both the subcontractors and the prime contractor is essential to making the program work. However using liquidated damages or debarment as a punishment for failure to reach these goals can work against the City by promoting the use of pass through companies. It is imperative that a commercially useful function standard be applied to all subcontractors to remove the pass through firms from the City rolls.

HCA strongly agrees with the position concerning requiring subcontractors to perform a commercially useful function. Increasing retainage by the City will hurt the subcontractors because the prime will apply this same increase to the subcontractors.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

Employment of a sufficient number of Compliance Officers to ensure that the City of Houston’s contract compliance standards are being met

The HMSDC believes that the language of the City policy is meaningless if the City does not have the capacity to enforce it. We believe that the staff of the Office of Business Opportunity should be expanded to more effectively fulfill its monitoring and enforcement responsibilities.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

ENHANCE PROGRAM ADMINISTRATION

Program-Wide

WORKING GROUP RESPONSE

OBO has restructured and added new functionalities to the program’s administration that addresses several NERA recommendations which include the following: creating an External Affairs Section for outreach and partnership development; creating a Vendor Services Unit to assess certified companies and help them navigate opportunities; adding a Procurement Specialist to work with Departments on goal setting and training needs.

OBO’s process of handling substitutions mirrors those recommended by NERA. Since Primes submit substitution requests directly to OBO, the Departments may not have been aware of the approved/denied substitutions. Therefore, as of June 2012, OBO has informed Department project managers of all decisions to approve or deny substitution requests. In addition, City Contracts, regardless of MWBE provisions, require that contractors notify the city of proposed change of subcontractors and suppliers.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

This is a City issue.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

Contact Information for Department Contract Compliance Officers

The HMSDC believes that the name, e-mail address, and telephone number of each Department's Contract Compliance Officer(s) should be provided on the Department's webpage.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

OBO DBE Liaison – Should exist for each department. These positions responsibilities are to enforce the policies and compliance levels of each department.

OBO on Selection Committees – OBO should participate as a voting member in each selection committee to review for compliance with the MWSBE Plan.

DEVELOP PERFORMANCE MEASURES FOR PROGRAM SUCCESS

Program-Wide

WORKING GROUP RESPONSE

The City has developed quantitative and qualitative performance measures to evaluate the Program's effectiveness in reducing systemic barriers to M/WBEs in the marketplace. Specifically, OBO produces augmented utilization reports which function as departmental "report cards" analyzing Department-specific awards made by the City to S/M/WBEs and non-S/M/WBE firms and progress made to meet citywide contracting goals. These utilization reports assess the City's progress in meeting citywide contracting goals by analyzing the City's awards to S/MWBE Primes, Subcontractors and Joint Venturers. The progress made by the City towards meeting the citywide goal is one measure of how effective the City is in addressing disparities identified in the marketplace.

Program success is also measured by the how many companies have increased their capacity post-certification. OBO will expand its analytics beyond tracking utilization goals to analyzing the specific progress of firms beyond certification. OBO's new Vendor Services division focuses on helping to develop the capacity of certified firms through bonding education programs and other capacity building workshops. The success of firms are then analyzed by assessing factors such as increased bonding limits, size of jobs, profitability, with the ultimate goal of eventual graduation from the Program. In addition, OBO has created a gap analysis dashboard to identify the industries in which S/M/WBEs are participating and their levels of participation in all industries in order to direct resources to addressing any gaps identified.

The proposed revisions to Chapter 15 incorporate a section on Department responsibilities which include a requirement that Departments forecast annual procurement opportunities, create annual S/MWBE utilization plans for submission to OBO and refer S/MWBE firms to OBO for technical

assistance when necessary. This increase in the role of Departments serves to further increase the likelihood of the Program's success in addressing disparities identified in the Houston marketplace.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

No specific response.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

This is a City issue.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

Strong Performance

The HMSDC believed that the progress in implementing the City's Affirmative Action Contract Compliance standards should become a criterion for every Department Director's performance appraisal. Department Directors who have demonstrated significant progress should be formally recognized by the City in a manner that the Mayor deems appropriate and that is meaningful to the Department Directors.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.

Document and recognize capacity increase of certified firms over a period of time. MWSBE capacity should show an overall 20% growth each year.

MANDATE PROGRAM REVIEW AND SUNSET

Program-wide

WORKING GROUP RESPONSE

The Program should be reviewed every 5 years to ensure it is narrowly tailored to meet objectives. In preparation for each review, a new disparity study should be performed. Prior to this disparity study which covers 2005-2010, the last disparity study the City commissioned, which covered construction, professional services, and purchasing, was released in 2006. Courts generally will not question a study that is less than 5 years old; beyond 5 years, courts give less discretion. It is recommended that the next disparity study the City commissions covers construction, professional services and purchasing.

WOMEN CONTRACTORS ASSOCIATION RESPONSE

Continually review the performance of the program to ensure and maintain a high quality program.

There are a lot of available MWSBEs available that need work. If the City can implement an effective, quality S/MWSBE program there is no reason why the local MWSBEs cannot have work to perform and no reason why the City and its general contractors cannot have qualified, competent MWSBEs to perform their work.

HOUSTON CONTRACTORS ASSOCIATION RESPONSE

HCA agrees with this position. In addition to the sunset date and regular reviews HCA would also like to see an annual review of the individual job goals and a date for the delivery of the next full disparity study.

HOUSTON MINORITY SUPPLIER DEVELOPMENT COUNCIL

No specific response.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS RESPONSE

No objections.