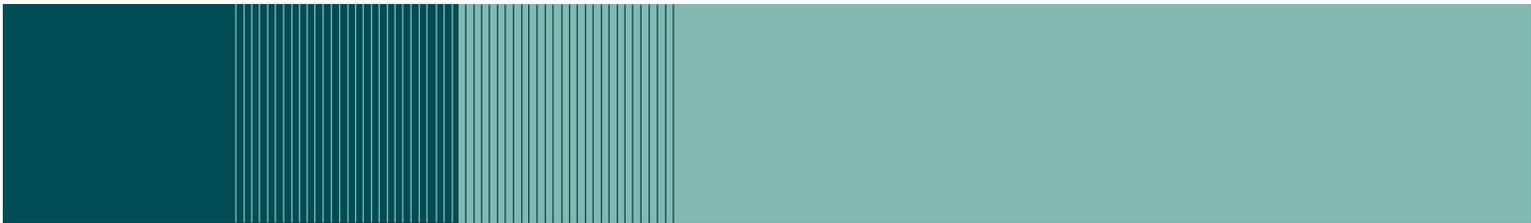


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Race, Sex, and Business Enterprise: Evidence from the Commonwealth of Massachusetts: Volume I

Prepared for the Massachusetts Housing Finance Agency



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I. Introduction and Overview

A. Introduction

The Massachusetts Housing Finance Agency (“MassHousing”) has long been committed to including Minority-Owned Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE) in the contracting activities of the affordable housing developments it finances. The courts have made it clear, however, that in order to implement a race- and gender-based program that is effective, enforceable and legally defensible, MassHousing must meet the judicial test of constitutional “strict scrutiny”¹ to determine the legality of such initiatives. Strict scrutiny requires current “strong evidence” of the persistence of discrimination, and “narrowly tailored” measures to remedy that discrimination.

To assist in this assessment, MassHousing, jointly with the Commonwealth of Massachusetts’ Division of Capital Asset Management (DCAM), commissioned the NERA Economic Consulting study team to examine the past and current status of MBEs and WBEs (collectively, “M/WBEs”) in their respective geographic and product markets.² MassHousing records included reports of construction contracts between development owners and general contractors and their respective subcontracts, as well as of the goods and services purchased by property managers in the course of their development, maintenance, and operation of the buildings in MassHousing’s loan portfolio of affordable housing developments. The results of NERA’s Study, summarized below, provide an important part of the record necessary to implement new and revised M/WBE policies that comply with the requirements of the courts and to assess the extent to which previous and current M/WBE policies have assisted M/WBEs in participating in contracts with prime contractors and property managers of affordable housing developments financed by MassHousing.

We found both statistical and anecdotal evidence of business discrimination against M/WBEs in all major procurement categories and data sources we examined. Our examination included an analysis of the contracting behavior of prime contractors and property managers of MassHousing-financed developments. We also analyzed the statistical record for evidence of disparate impact in the private sector of the relevant markets within which MassHousing’s developments operate. Furthermore, as a check on our statistical findings, we surveyed the contracting experiences and credit access experiences of M/WBEs and non-M/WBEs in the relevant markets and conducted a series of in-depth personal interviews with local area business enterprises, both M/WBE and non-M/WBE.

The Study is presented in ten chapters. Chapter I contains this introduction and overview of the Study. Chapter II provides a detailed overview of the current legal environment governing public sector affirmative action programs. The remaining Chapters address the following questions:

¹ The lesser standard of “intermediate scrutiny” may apply to gender-based measures; however, in practice courts have often treated these tests as functionally equivalent. *See infra* at p. 21.

² Volume II presents our research, findings, and conclusions for DCAM.

- Chapter III: What is MassHousing’s relevant geographic market and how is it defined? What are the relevant product markets and how are they defined?
- Chapter IV: What percentage of all businesses in MassHousing’s relevant markets is owned by minorities and/or women? How are these availability estimates constructed?
- Chapter V: Do minority and/or female wage and salary earners earn less than similarly situated White males? Do minority and/or female business owners earn less from their businesses than similarly situated White males? Are minorities and/or women in Massachusetts less likely to be self-employed than similarly situated White males? How do the Massachusetts area findings differ from the national findings on these questions? How have these findings changed over time?
- Chapter VI: Do minorities and/or women face discrimination in the market for commercial capital and credit compared to similarly situated White males? How do findings for the New England region differ from findings nationally? How do findings for Massachusetts differ from findings nationally?
- Chapter VII: During the last five years, to what extent have M/WBEs been utilized by prime contractors and property managers of developments financed by MassHousing and how does this utilization compare to the availability of M/WBEs in the relevant marketplace?
- Chapter VIII: How many M/WBEs report disparate treatment in the last five years? What types of discriminatory experiences are most frequently encountered by M/WBEs? How do the experiences of M/WBEs differ from those of non-M/WBEs regarding the difficulty in obtaining contracts?
- Chapter IX: What are MassHousing’s requirements for contracting by prime contractors and property managers of MassHousing-financed developments? What have been the experiences of M/WBEs and non-M/WBEs with MassHousing’s M/WBE Program?
- Chapter X: Based on the Study findings, what are NERA’s recommendations for revised contracting policies and procedures in construction and in goods and services related to property management?

In assessing these questions, we undertake in Chapters IV through IX to present a series of quantitative and qualitative analyses that compare minority and/or female outcomes to non-minority male outcomes in all of these business-related areas. The remainder of this chapter provides a brief overview of each chapter and its key findings and conclusions, where applicable.

B. Legal Standards for Government Affirmative Action Programs

Chapter II provides a detailed and up-to-date overview of current constitutional standards and case law on strict scrutiny of race-conscious government efforts in public contracting. This area of constitutional law is complex and constantly shifting. The elements of MassHousing's compelling interest in remedying identified discrimination and the narrow tailoring of its programs to address that important government concern are delineated, and particular judicial decisions, statutes, regulations, etc. are discussed as relevant, with emphasis on critical issues and evidentiary concerns. Examples include the proper tests for examining discrimination and the role of disparities, the applicability of private sector evidence, and MassHousing's responsibility to narrowly tailor its program. These parameters guide the balance of this report.

C. Defining the Relevant Markets

Chapter III describes how the relevant geographic and product markets were defined for this Study. MassHousing's records of public construction contracts and associated subcontracts and of property management company expenditures for goods and services for affordable housing developments financed by MassHousing were analyzed to determine the geographic radius around MassHousing's developments that accounts for at least 75 percent of such spending over the last 5–6 years in the relevant procurement categories. These records were also analyzed to determine which detailed industry categories collectively account for at least 75 percent of contract and subcontract spending over the last five years in the relevant procurement categories. The relevant geographic and product markets were then used to focus and frame the quantitative and qualitative analyses in the Study.

D. Statistical Evidence of Discrimination

The courts have held that statistical evidence of race- or gender-based disparities in business enterprise activity is a requirement for any state or local entity to adopt race-conscious or gender-conscious contracting requirements. Chapter IV estimates current availability levels in Massachusetts for M/WBEs in various industry groups. Chapters V and VI document in considerable detail the extent of disparity facing M/WBEs in the private sector, where contracting and procurement activities are rarely subject to M/WBE requirements. Chapter VII examines whether there is statistical evidence of disparity in the construction and property management expenditures of prime contractors and property management companies of affordable housing developments financed by MassHousing.

1. M/WBE Availability in MassHousing's Marketplace

Chapter IV estimates the percentage of firms in MassHousing's relevant marketplace that are owned by minorities and/or women. For each industry category, M/WBE availability is defined as the number of M/WBEs divided by the total number of businesses in MassHousing's developments' contracting market area. Determining the total number of businesses in the relevant markets is more straightforward than determining the number of minority- or women-owned businesses in those markets. The latter task has three main parts: (1) identify all listed

M/WBEs in the relevant market; (2) verify the ownership status of listed M/WBEs; and (3) estimate the number of unlisted M/WBEs in the relevant market.

We used Dun & Bradstreet's *MarketPlace* database to determine the total number of businesses operating in the relevant geographic and product markets. *MarketPlace* is a comprehensive database of U. S. businesses containing over 13 million continuously updated records, and Dun & Bradstreet issues a revised version each quarter. For this Study, we used data for the third quarter of 2005. We used the *MarketPlace* database to identify the total number of businesses in each four-digit Standard Industrial Classification (SIC) code to which we had anticipated assigning a product market weight. Industry weights reflect construction and property management expenditures by MassHousing-financed developments between July 1, 1999 and June 30, 2004 (FY2000-FY2004).

While extensive, *MarketPlace* does not adequately identify all businesses owned by minorities or women. Although many such businesses *are* correctly identified in *MarketPlace*, experience has demonstrated that many are missed. For this reason, several additional steps were required to identify the appropriate percentage of M/WBEs in the relevant market. First, NERA completed an intensive regional search for information on minority-owned and woman-owned businesses in Massachusetts and surrounding areas. Beyond the information already in *MarketPlace*, NERA collected listings of M/WBEs from MassHousing itself as well as from numerous other public and private entities in and around Massachusetts. The M/WBE businesses identified in this manner are referred to as "listed" M/WBEs.

If the listed M/WBEs we identified are *all* in fact M/WBEs and are the *only* M/WBEs among all the businesses identified, then an estimate of "listed" M/WBE availability is simply the number of listed M/WBEs divided by the total number of businesses in the relevant market. However, neither of these two conditions holds true in practice and therefore this is not an appropriate method for measuring M/WBE availability. To deal with this "misclassification/non-classification bias," we conducted a supplementary telephone survey on a stratified random sample of firms in our baseline business population that asked them directly about the race and sex of the firm's primary owner(s). We used the results of these surveys to statistically adjust our estimates of M/WBE availability for misclassification by race and sex. The resulting estimates of M/WBE availability are presented at the end of Chapter IV and used in Chapter VII for disparity testing compared to contracting and subcontracting activity over the last five fiscal years by prime contractors and property managers of MassHousing-financed developments. These availability figures are also averaged by their industry weights to provide guidance on aggregate (*i.e.* not contract-level) goal-setting.

Table A provides a top-level summary of the M/WBE availability estimates derived in this Study.

Table A. Aggregate Business Availability by Major Procurement Category (Percentages)

Procurement Category	Black	Hispanic	Asian	Native American	White female	M/WBE	Non-M/WBE
<i>CONSTRUCTION</i>	0.72	1.74	0.87	0.25	7.27	10.86	89.14
<i>PROPERTY MANAGEMENT</i>	0.57	1.90	0.93	0.17	11.18	14.75	85.25

Source: See Tables 4.9 and 4.10.

2. Statistical Disparities in Minority and Female Business Formation and Business Owner Earnings

Chapter V demonstrates that current M/WBE availability in Massachusetts, as measured in Chapter IV, is substantially and statistically significantly lower than that which would be expected to be observed if commercial markets operated in a race- and sex-neutral manner. This suggests that minorities and women are substantially and significantly less likely to own their own businesses as the result of discrimination than would be expected based upon their observable characteristics, including age, education, geographic location, and industry. We find that these groups also suffer substantial and significant earnings disadvantages relative to comparable White males, whether they work as employees or entrepreneurs.

Data from the Current Population Survey (CPS) and the Five Percent Public Use Microdata Samples (PUMS) from the 2000 decennial census were used to examine the incidence of minority and female business ownership (self-employment) and the earnings of minority and female business owners across the U.S. and within the Massachusetts region. The 2000 PUMS contains observations representing five percent of all U.S. housing units and the persons in them (approximately 14 million records), and provides the full range of population and housing information collected in the most recent census. Business ownership status is identified through the “class of worker” variable, which allows us to construct a detailed cross-sectional sample of individual business owners and their associated earnings. The CPS is the source of official government statistics on employment and unemployment and has been conducted monthly for over 40 years by the U.S. Census Bureau and the U.S. Department of Labor. Currently, about 56,500 households are interviewed monthly, scientifically selected based on area of residence to represent the Nation as a whole, individual States, and large metropolitan areas.

Using the PUMS and the CPS, we found:

For the U.S. as a whole and the economy as a whole, average annual wages for Blacks (both sexes) in 2000 were almost 30 percent lower than for White males who were otherwise similar in terms of geographic location, industry, age, and education. These differences are large and statistically significant. Large, negative, and statistically significant wage disparities are also observed for Hispanics, Asians, Native Americans, and White women. These disparities are consistent with the presence of discrimination. Observed disparities for these groups range from a low of -17 percent for Hispanics to a high of -36 percent for White women (Tables 5.1–5.3). Similar results are observed when the analysis is restricted to construction and construction-

related industry sectors. That is, large, negative, and statistically significant wage disparities are observed for all minority groups and for White women. All wage and salary disparity analyses were then repeated using interaction terms designed to specifically test whether observed disparities in Massachusetts were different enough from elsewhere in the country or the economy to alter any of the basic conclusions regarding wage and salary disparity. They were not.

This analysis demonstrates that prime age minorities and women earn substantially and significantly less from their labors than their White male counterparts. Such disparities are symptoms of discrimination in the labor force that, in addition to its direct effect on workers, reduces the future availability of M/WBEs by stifling opportunities for minorities and women to progress through precisely those internal labor markets and occupational hierarchies that are most likely to lead to entrepreneurial opportunities. These disparities reflect more than mere “societal” discrimination because they demonstrate the nexus between discrimination in the job market and reduced entrepreneurial opportunities for minorities and women. Other things equal, these reduced entrepreneurial opportunities in turn lead to lower M/WBE availability levels than would be observed in a race- and sex-neutral marketplace.

Next, we analyzed race and sex disparities in business owner earnings. We observed large, negative, and statistically significant business owner earnings disparities for Blacks, Hispanics, Asians, Native Americans, and White women consistent with the presence of discrimination in these markets. Large, negative, and statistically significant business owner earnings disparities are observed in the PUMS data for the construction and construction-related professional services sector as well for all groups but Asians. The CPS construction and construction-related professional services data show large, negative and statistically significant business owner earnings disparities for Blacks, Hispanics, and White females. Coefficients for Asians, and Native Americans in the CPS data were typically large and negative but not always statistically significant. As with the wage and salary disparity analysis, we enhanced our basic statistical model to test whether minority and female business owners in the Massachusetts region differ significantly enough from business owners elsewhere in the U.S. economy to alter any of our basic conclusions regarding disparity. They did not.

As was the case for wage and salary earners, prime age (ages 16-64) minority and female entrepreneurs earn substantially and significantly less from their efforts than similarly situated White male entrepreneurs. These disparities are a symptom of discrimination in commercial markets that directly and adversely affects M/WBEs. Other things equal, if minorities and women cannot earn remuneration from their entrepreneurial efforts comparable to that of White males, growth rates will slow, business failure rates will increase, and as demonstrated in this Chapter, business formation rates will decrease. Combined, these phenomena result in lower M/WBE availability levels than would otherwise be observed in a race- and sex-neutral marketplace.

Next, we analyzed race and sex disparities in business formation. As with earnings, in almost every case we observed large, negative, and statistically significant disparities consistent with the presence of discrimination in these markets. For the economy as a whole, business formation rates for Blacks, Hispanics, Asians, and Native Americans were 16–39 percent lower than the corresponding White male business formation rate. For White women, business formation rates

were estimated to be 24-33 percent lower than the corresponding White male rate. For the construction sector, business formation rates for Hispanics, Asians, Native Americans were estimated to be 20–33 percent lower than the corresponding White male business formation rate. For Blacks, the estimates ranged from 35 percent lower to 17 percent higher. For White women, estimates ranged from 17–46 percent lower than the corresponding White male business formation rate.

As a further check on the statistical findings in this Chapter, we present evidence from the Census Bureau’s *Survey of Business Owners and Self-Employed Persons* (SBO), formerly known as the *Surveys of Minority- and Women-Owned Business Enterprises* (SMWOBE). The SBO collects and disseminates data on the number, sales, employment, and payrolls of businesses owned by women and members of racial and ethnic minority groups and has been conducted every five years since 1972. Using the SBO data, we calculate the percentage of firms in Massachusetts in 2002 that were owned by minorities or by women and compare this to their corresponding share of sales and receipts in that year. We divide the latter by the former and multiply the product by 100 to create a disparity ratio.

Statistically significant disparity ratios of less than 100 indicate disparate impact consistent with business discrimination against minority- and female-owned firms. In Massachusetts, disparity ratios are quite large—far below 80 percent in all cases examined (See Panel C, Table 5.23). The most severe disparities are observed among Black-owned, Native American-owned, Hispanic-owned, and female-owned firms. The 2002 SBO results also reveal that minority-owned and female-owned firms use significantly more employees per dollar of sales and have significantly higher payrolls per dollar of sales than do non-minority and male-owned firms. One explanation for this observation is that these firms respond to marketplace discrimination by, among other things, employing additional inputs in the production process in the form of more labor (per unit of sales) and higher labor compensation (per unit of sales).³ This economically rational response to discrimination on the part of minority- and female-owned firms can, ironically, reinforce their competitive disadvantage in the public and private marketplace where lowest cost is often the determining factor in the award of contracting and procurement opportunities.⁴ These additional disadvantages can then translate into even lower business owner earnings and business formation rates.

Table B provides a summary of these key results from the regression analyses presented in Chapter V. For the private sector statistical regression analyses, there were 18 distinct regression analyses for Blacks, Hispanics, and White females, and 12 distinct regression analyses for Asians and Native Americans, each with three different potential outcomes (i.e., adverse and statistically

³ Marketplace discrimination can take many forms. Examples are listed below in Table 8.3.

⁴ For example, the original disparity study for the City of Atlanta and Fulton County, Georgia (Brimmer and Marshall, 1990) recounted the story that one of the earliest Black-owned construction contractor/developers in that city had to set up a White-owned real estate subsidiary to purchase land for development on his behalf because of racially restrictive deed covenants and because Whites would not sell land to Blacks. More contemporary examples were recounted of MBEs having to take on White partners in order to gain access to their network of personal contact to secure private sector business, and of MBEs that had to send all-White staff out to complete sales to White customers. All of these examples could cause a MBE to use more labor and pay more for labor than non-MBE firms that did not face marketplace discrimination.

significant, adverse but not statistically significant, and not adverse). Measures tested were wage and salary worker earnings, business owner earnings, and business formation both in the economy as a whole and in the construction/architecture and engineering (A&E) sector specifically.

For Blacks: 15 out of 18 potential outcomes were adverse and statistically significant, 1 of 18 potential outcomes was adverse but not significant, and 2 of 18 potential outcomes were not adverse and not significant.

For Hispanics: 16 out of 18 potential outcomes were adverse and statistically significant and 2 of 18 potential outcomes were adverse but not significant.

For White females: all 18 potential outcomes were adverse and statistically significant.

For Asians: 10 out of 12 potential outcomes were adverse and statistically significant and 2 of 12 potential outcomes were adverse but not significant.

For Native Americans: 11 out of 12 potential outcomes were adverse and statistically significant and 1 of 12 potential outcomes was adverse but not significant.

Table B. Summary of Private Sector Disparity Analysis Outcomes

	ALL INDUSTRIES		
	2000 PUMS	1979-91 CPS	1992-2002 CPS
	<i>WAGE AND SALARY DISPARITIES</i>		
BLACK	NEG/SIG	NEG/SIG	NEG/SIG
HISPANIC	NEG/SIG	NEG/SIG	NEG/SIG
ASIAN	NEG/SIG	N/A	NEG/SIG
NATIVE	NEG/SIG	N/A	NEG/SIG
OTHER	NEG/SIG	NEG/SIG	N/A
WHITE FEMALE	NEG/SIG	NEG/SIG	NEG/SIG
	2000 PUMS	1979-1991 CPS	1992-2002 CPS
	<i>BUSINESS OWNER EARNINGS DISPARITIES</i>		
BLACK	NEG/SIG	NEG/SIG	NEG/SIG
HISPANIC	NEG/SIG	NEG/SIG	NEG/SIG
ASIAN	NEG/SIG	N/A	NEG/SIG
NATIVE	NEG/SIG	N/A	NEG/SIG
OTHER	NEG/SIG	NEG/SIG	N/A
WHITE FEMALE	NEG/SIG	NEG/SIG	NEG/SIG
	2000 PUMS	1979-1991 CPS	1992-2002 CPS
	<i>BUSINESS FORMATION DISPARITIES</i>		
BLACK	NEG/SIG	NEG/SIG	NEG/SIG
HISPANIC	NEG/SIG	NEG/SIG	NEG/SIG
ASIAN	NEG/SIG	N/A	NEG/SIG
NATIVE	NEG/SIG	N/A	NEG/SIG
OTHER	NEG/SIG	POS	N/A
WHITE FEMALE	NEG/SIG	NEG/SIG	NEG/SIG

Table B. Summary of Private Sector Disparity Analysis Outcomes, Cont'd

CONSTRUCTION AND AE INDUSTRIES			
	2000 PUMS	1979-91 CPS	1992-2002 CPS
<i>WAGE AND SALARY DISPARITIES</i>			
BLACK	NEG/SIG	NEG	NEG/SIG
HISPANIC	NEG/SIG	NEG	NEG/SIG
ASIAN	NEG/SIG	N/A	NEG/SIG
NATIVE	NEG/SIG	N/A	NEG/SIG
OTHER	NEG/SIG	NEG/SIG	N/A
WHITE FEMALE	NEG/SIG	NEG/SIG	NEG/SIG
	2000 PUMS	1979-1991 CPS	1992-2002 CPS
<i>BUSINESS OWNER EARNINGS DISPARITIES</i>			
BLACK	NEG/SIG	NEG/SIG	NEG/SIG
HISPANIC	NEG/SIG	NEG/SIG	NEG
ASIAN	NEG	N/A	NEG
NATIVE	NEG/SIG	N/A	NEG
OTHER	NEG/SIG	NEG/SIG	N/A
WHITE FEMALE	NEG/SIG	NEG/SIG	NEG/SIG
	2000 PUMS	1979-1991 CPS	1992-2002 CPS
<i>BUSINESS FORMATION DISPARITIES</i>			
BLACK	NEG/SIG	POS	POS
HISPANIC	NEG/SIG	NEG/SIG	NEG/SIG
ASIAN	NEG/SIG	N/A	NEG/SIG
NATIVE	NEG/SIG	N/A	NEG/SIG
OTHER	NEG/SIG	POS	N/A
WHITE FEMALE	NEG/SIG	NEG/SIG	NEG/SIG

Source: Tables 5.1–5.12, Tables 5.15–5.20.

Notes: “N/A” means category is not applicable; “SIG” means regression coefficient(s) is statistically significant ($p < 0.05$, two-tailed test), *i.e.* highly unlikely to be due to random chance alone; “NEG” means regressions coefficient(s) measuring race/sex effect is negative—indicating presence of an adverse disparity; “POS” means regression coefficient(s) measuring race/sex effect is positive.

3. Statistical Disparities in Capital Markets

In Chapter VI, we analyze data from the National Survey of Small Business Finances (NSSBF) and the Survey of Small Business Finances (SSBF), both conducted by the Federal Reserve Board and the U.S. Small Business Administration, along with data from a survey we conducted in the Massachusetts region, to examine whether discrimination exists in the small business credit market. Discrimination in the credit market against minority-owned small businesses can have an important effect on the likelihood that that business will succeed. Moreover, discrimination in the credit market might even prevent the business from opening in the first place. This analysis has been held by courts to be probative of an entity’s compelling interest in

remedying discrimination. We provide qualitative and quantitative evidence supporting the view that minority-owned firms, particularly Blacks, are discriminated against in this market.

The results are as follows:

- Minority-owned firms were particularly likely to report that they did not apply for a loan over the preceding three years because they feared the loan would be denied.
- When minority-owned firms did apply for a loan, their loan requests were substantially more likely to be denied than other groups, even after accounting for differences in factors like size and credit history.
- When minority-owned firms did receive a loan, they were charged higher interest rates on the loan than was true of comparable White-owned firms.
- Far more minority-owned firms report that credit market conditions are a serious concern than is the case for White-owned firms.
- A greater share of minority-owned firms believes that the availability of credit is the most important issue likely to confront the firm in the next 12 months.
- Judging from the analysis done using data from the NSSBF and SSBF, there is no reason to believe that evidence of discrimination in the market for credit is different in Massachusetts, the New England region, or in the construction industries than it is in the nation as a whole.
- The evidence from our statistical analysis of MassHousing's geographic market area, taken from the Massachusetts Credit Survey that we conducted, is entirely consistent with the results we obtained using data from the NSSBF and SSBF.

We conclude that there is statistically significant evidence of discrimination in Massachusetts in the small business credit market, particularly with respect to firms owned by Blacks. We find little or no significant evidence, however, that White females are discriminated against in this market.

4. M/WBE Public Sector Utilization in MassHousing's Contracting and Procurement Markets, FY2000-FY2004

Chapter VII provides a quantitative overview of the extent to which MassHousing's prime contractors and property management companies of MassHousing-financed developments have utilized M/WBEs between FY2000 and FY2004. During this entire period, construction and property management contracting activities of MassHousing-financed developments were subject to race- and gender-conscious affirmative action requirements. Although we observed adverse and statistically significant disparities between current availability levels and participation in construction and property management opportunities of MassHousing-financed developments in several cases, in other cases we observed participation levels that were

proportional to or even exceeded current availability levels. We take this as evidence that the influence of MassHousing's past and present affirmative action policies have had a substantial and significant impact on M/WBE business opportunities throughout the relevant marketplace. In other words, utilization exceeds availability primarily because of the MassHousing goals program, so the absence of disparity in these cases is not probative of an absence of discrimination.

E. Anecdotal Evidence

1. Mail Survey of Disparities in MassHousing's Marketplace

Chapter VIII presents the results of a large scale mail survey we conducted of M/WBEs and non-M/WBEs about their experiences and difficulties involved in obtaining contracts. The purpose of this survey was to quantify and compare anecdotal evidence on the experiences of M/WBEs and non-M/WBEs.

We mailed M/WBE and non-M/WBE questionnaires to a random sample of firms in MassHousing's geographic market area. We asked about bid requirements and other factors (bonding and insurance requirements, etc.) affecting their ability to obtain contracts. The questionnaires also asked for characteristics of the firms and the owners such as the number of years the firm has been in business, the number of employees, revenue, and the education level of the primary owner. The M/WBE questionnaire also asked firms whether they experienced disparate treatment in various business dealings (such as commercial loan applications and obtaining price quotes from suppliers or subcontractors) in the past five years due to their race or gender and how often prime contractors who use them as subcontractors on public-sector projects with M/WBE requirements also use them on public-sector or private-sector projects without such goals or requirements.

Many survey respondents had done or attempted to do business with MassHousing-financed developments or public entities in Massachusetts in the past five years. The survey results show that a substantial proportion of M/WBE respondents reported that they had been treated less favorably in various business dealings in the last five years. Moreover, the survey also demonstrated that prime contractors who use M/WBEs on public sector contracts with goals rarely hire, or even solicit, such firms on projects without goals, either public or private.

2. Business Owner Interviews

Chapter VIII also presents the results from a series of in-depth personal group interviews conducted with M/WBE and non-M/WBE business owners in early 2006. The purpose of these interviews was much the same as the mail surveys. However, the longer interview length and more intimate interview setting were designed to allow for more in-depth responses from business owners.

The interview findings mirror the results from the mail surveys. In general, minorities and women reported that they still encounter significant barriers to doing business in the public and private sector marketplaces in the Commonwealth, as both prime contractors and subcontractors.

They often suffer from stereotypes about their suspected lack of competence and are subject to higher performance standards than similar White men. They also encounter discrimination in obtaining loans and surety bonds; receiving price quotes from suppliers; working with trade unions; obtaining public and private sector prime contracts and subcontracts, and being paid promptly. Finally, there was general agreement that without the use of affirmative action remedies such as subcontracting goals, minorities and women would receive few if any opportunities on MassHousing-assisted projects. Prime contractors that solicit M/WBEs on goals projects rarely do so in the absence of goals. Thus, the continued operation of MassHousing's Program was deemed essential to M/WBEs' survival.

F. MassHousing's Contracting Policies and Procedures

Chapter IX first reviews MassHousing's contracting policies and procedures. This provides an overview of the agency's history and mission and the operation of the M/WBE program, including certification of M/WBEs, the award of construction and property management contracts, and outreach and support for M/WBEs and other small firms.

Next, this Chapter discusses the results of the business owner interviews related to the operations of MassHousing's program. In general, majority-property owners were satisfied with the support they receive from the agency. They experienced challenges in meeting the M/WBE goals, especially outside the Boston area. There were also concerns about the legitimacy of many firms that were self-certified as M/WBEs to property managers of MassHousing-financed developments, as well as the use of "front" companies to meet goals.

M/WBEs providing construction services, as well as property management goods and services, found participation in the Program overall to be useful. Contractors and suppliers/vendors also reported that they were usually paid reasonably promptly by property managers. There were barriers to accessing current information about subcontracting opportunities, especially for management support services. Several minority firms stated that they seek to become developers, prime contractors, and property managers, not just function as subcontractors or suppliers/vendors.

All groups agreed that better monitoring of contract performance was warranted, and that greater focus on compliance with contractual M/WBE commitments is needed.