



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Angela Robinson Piñon
Deputy City Administrator

SUBJECT: Disparities In Contracting Study
Update

DATE: June 10, 2023

City Administrator Approval


Jestin Johnson (Jun 16, 2023 00:45 EDT)

Date: Jun 16, 2023

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report From The City Administrator On The Status Of The Disparities In Contracting Study Being Conducted By Mason Tillman Associates (MTA) Pursuant To Resolution 89058 C.M.S, Including MTA's Findings To Date Regarding Disparities In The City's Professional Services, Procurement, And Construction Contracting Activities And A Timeline On When The Final Report Would Be Presented To The City Council.

EXECUTIVE SUMMARY

Pursuant to City Council direction contained in [Resolution No. 89058 C.M.S](#), the City has contracted with Mason Tilman Associates to conduct a new Disparity Study for the City of Oakland. The purpose of this report is to provide a summary of activities to date and a timeline for the production of a report to City Council.

BACKGROUND / LEGISLATIVE HISTORY

As stated in the [Oakland Municipal Code Chapter 2.29.170](#), "the City of Oakland will intentionally integrate, on a Citywide basis, the principle of "fair and just" in all the City does in order to achieve equitable opportunities for all people and communities." The City's contracting and procurement processes represent a significant opportunity to advance this objective.

On November 5, 1996, [Proposition 209](#) passed amending the California Constitution to prohibit governmental entities from discriminating against or granting preferential treatment on the basis of race, sex, color, ethnicity or national origin in public contracting, education and employment. Although the Proposition did not affect federal race and gender-based contracting policies and programs, it effectively made it onerous for California public agencies either to continue or establish race or gender-based preferential contracting programs.

In response, Oakland voters added [Section 808\(b\)](#) to the City Charter in 1998, which required the City to conduct a "race and gender disparity evaluation to determine if the City has been an active or passive participant in actual, identifiable discrimination within its relevant market place." Moreover, "if such disparity evaluation evidences such discrimination, the City Council, to remedy

Life Enrichment Committee
June 27, 2023

the discrimination, shall establish a narrowly tailored race and/or gender business participation program, as substantiated by the disparity evaluation for the bidding and awarding of purchases and contracts. Any such program shall continue only until the discrimination has been remedied. The City Administrator or an authorized officer shall require all awardees and bidders to comply with the established program.”

On March 1, 2022, the City Council did approve a [Resolution No. 89058 C.M.S](#) authorizing The City Administrator to award a professional services contract to Mason Tillman Associates (MTA) in an amount not to exceed six hundred thousand dollars (\$600,000) to study the City’s professional services, procurement and construction contracting activities for the period of July 1, 2016 through June 30, 2021 and waiving the competitive request for proposal/qualifications (RFP/Q) process and Local And Small Local Business Enterprise (L/SLBE) Program Requirements.

ANALYSIS AND POLICY ALTERNATIVES

Timeline

Disparity studies require extensive collection and detailed review of agency contracting data, in depth review of agency procedures, and practices and interviews with multiple stakeholders and market-area businesses, among other things. At the project kick-off meeting held in July 2022, Mason Tillman provided an overview of the scope of work to executive staff and those persons who will be responsible for data collection in their respective departments.

Although the project was slated to be completed by July 2023, the project timeline has been affected by staff capacity, as well as the ransomware attack which impeded the City’s ability to obtain data needed for the Disparity Study. Without complete data, MTA cannot complete its analysis. As a result, the study is expected to be completed later this year and the City will need to extend the contract term with MTA. Once the Disparity Study is complete, staff will present the report with its findings and recommendations to the City Council for its consideration.

Findings to Date

As was stated previously, the Disparity Study is not complete at this time; and so, there are no findings to report.

FISCAL IMPACT

There is no fiscal impact associated with the preparation of this informational report.

PUBLIC OUTREACH / INTEREST

No public outreach has been conducted for this informational report beyond the required posting to the City’s website. However, elements of the scope of work require engagement with various stakeholders, including those who do business with the City those who have been unsuccessful in doing business with the City, and those who have chosen not to. Stakeholder input is an essential element of a complete disparity study process.

COORDINATION

Preparation of this informational report was done in coordination between the City Administrator and City Attorney's Offices.

With respect to the preparation of the Disparity Study, the project team has engaged with numerous City departments, including Workplace & Employment Standards, Finance, Public Works, Transportation, Housing & Community Development, Economic & Workforce Development, Police, Fire and Human Services.

SUSTAINABLE OPPORTUNITIES

Economic: The City's volume of procurement activity provides significant opportunity for advancing City goals and supporting local and small businesses, particularly from communities that have been historically disadvantaged.

Environmental: There are no specific environmental opportunities associated with this report.

Race & Equity: Equity is the main driver of this effort. The City Charter requires this work "to determine if the City has been an active or passive participant in actual, identifiable discrimination within its relevant market place." The Charter goes on to say that should such discrimination be found, the City should take action to address it. This study will allow for the analysis that will support any such action.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report From The City Administrator On The Status Of The Disparities In Contracting Study Being Conducted By Mason Tillman Associates (MTA) Pursuant To Resolution 89058 C.M.S, Including MTA's Findings To Date Regarding Disparities In The City's Professional Services, Procurement, And Construction Contracting Activities And A Timeline On When The Final Report Would Be Presented To The City Council.

For questions regarding this report, please contact Angela Robinson Piñon, Deputy City Administrator, at arobinsonpinon@oaklandca.gov.

Respectfully submitted,


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Deputy City Administrator, CAO

Reviewed by:
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