

# A DISPARITY STUDY FOR THE PORT OF PORTLAND, OREGON

## Final Report



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***Submitted to:***

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Program Manager  
121 NW Everett Street  
Portland, OR 97209-4049

***Submitted by:***

**MGT**   
OF AMERICA, INC.

***March 30, 2009***

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**2123 Centre Pointe Boulevard  
Tallahassee, Florida 32308-4930**

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## ***E.0 EXECUTIVE SUMMARY***

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## **EXECUTIVE SUMMARY**

In November 2007, MGT of America, Inc. (MGT), was retained to conduct a Disadvantaged Business Enterprise Disparity Study for the Port of Portland (Port) to determine whether there was a compelling interest to justify race- and gender-conscious elements of the disadvantaged business enterprise (DBE) program for the Port. The study consisted of fact-finding to determine whether existing Port efforts had eliminated active and passive discrimination; analyzing Port procurement trends and practices for concessions for the study period from fiscal year 2002, through 2007; and evaluating various options for future program development for minority, women, and disadvantaged firms (M/W/DBEs).

### **E.1 Findings**

#### **FINDING E.1: M/W/DBE Prime Utilization**

Over the current study period in the relevant market the following took place:

- Eighteen M/W/DBEs won 51 prime construction contracts for \$34.8 million on Port projects (13.22 percent of the total).
- Eight M/W/DBEs won 10 prime architecture and engineering (A&E) contracts for \$1.2 million on Port projects (9.64 percent of the total).
- Seven M/W/DBEs won 14 prime professional services contracts for \$207,351 on Port projects (2.42 percent of the total).
- Ten M/W/DBEs won 25 other services contracts for \$736,669 on Port projects (17.90 percent of the total).
- Three M/W/DBEs won 4 goods and supplies contracts for \$337,016 on Port projects (9.37 percent of the total).

#### **FINDING E.2: M/W/DBE Subcontractor Availability and Utilization**

The dollar value of M/W/DBE subcontractor utilization in the relevant market by the Port is shown in **Exhibit E-1**. Over the current study period in the relevant market, the following took place:

- Seventy-three M/W/DBE construction subcontractors won \$14.1 million in construction subcontracts on Port projects (15.85 percent of total construction subcontracts). In contrast based on building permit data M/W/DBEs won less than 0.7 percent of private sector commercial subcontracts.
- Six M/W/DBEs won 12 A&E subcontracts for \$39,425 on Port projects (14.98 percent of total A&E subcontracts).
- As shown in **Exhibit E-1**, substantial disparity for subcontracting existed for the following underutilized M/W/DBEs groups.

**EXHIBIT E-1  
PORT OF PORTLAND  
SUMMARY OF SUBCONTRACTOR UTILIZATION AND AVAILABILITY  
BY BUSINESS CATEGORY  
JULY 1, 2002, THROUGH JUNE 30, 2007**

| Business Category                 | African American | Hispanic American | Asian American | Native American | Nonminority Women | M/W/DBEs |
|-----------------------------------|------------------|-------------------|----------------|-----------------|-------------------|----------|
| <b>Disparity</b>                  |                  |                   |                |                 |                   |          |
| Construction                      | Yes              | Yes               | Yes            | Yes             | No                | 14.99%   |
| Architecture and Engineering Prim | Yes              | No                | Yes            | Yes             | Yes               | 31.22%   |

Source: **Chapter 4.0**, Analysis Results.

**FINDING E.3: Utilization of M/W/DBEs on Non-Goal Contracts**

The Port stopped placing DBE goals on construction contracts in 2006. Minority DBE construction subcontractor utilization stopped entirely at that point (**Exhibit E-2**). The implementation of the ESB program in 2007 did not halt this pattern. There was, however evidence of use of women-owned DBEs in the absence of goals. There was also evidence of the use of M/WBEs that were not certified DBEs on projects without goals, such as: (1) on nonfederally funded projects, and (2) in 2007 when there were no DBE goals.

**EXHIBIT E-2  
PORT OF PORTLAND  
SUMMARY OF DBE CONSTRUCTION SUBCONTRACTOR UTILIZATION  
FEDERALLY FUNDED PROJECTS  
JULY 1, 2002, THROUGH JUNE 30, 2007**

| FY   | African American | Hispanic American | Asian American | Native American | Nonminority Woman | Total DBE \$ |
|------|------------------|-------------------|----------------|-----------------|-------------------|--------------|
| 2003 | \$0              | \$69,159.31       | \$0            | \$95,671.50     | \$47,086.25       | \$211,917.06 |
| 2004 | \$3,180.00       | \$0               | \$0            | \$0             | \$280,000.00      | \$283,180.00 |
| 2005 | \$133,875.00     | \$1,800.00        | \$59,024.00    | \$34,143.00     | \$525,695.00      | \$754,537.00 |
| 2006 | \$0              | \$0               | \$0            | \$0             | \$376,505.00      | \$376,505.00 |
| 2007 | \$0              | \$0               | \$0            | \$0             | \$238,751.00      | \$238,751.00 |

Source: **Chapter 4.0**, Analysis Results

M/W/DBE utilization in private sector commercial construction in Portland as evidenced by building permit data was very low. Permits issued to M/W/DBEs were valued at \$7.7 million, representing less than 1 percent (0.20 percent) of construction values. M/W/DBE firms were issued permits for projects totaling \$1.5 million (0.68 percent of all subcontracting projects).

**FINDING E-4: M/W/ACDBE Concession Utilization**

The dollar value and percent of M/W/DBE airport concession utilization at the Port is shown in **Exhibit E-3**. Over the current study period the following took place:

- MW/ACDBEs received \$36.5 million in food and beverage concession revenue (26.09 percent of the total); certified ACDBEs received \$26.6 in food and beverage concession revenue (18.28 percent of the total).
- MW/ACDBEs received \$30.6 million in retail concession revenue (23.06 percent of the total); certified ACDBEs received \$7.0 in retail concession revenue (5.34 percent of the total).
- MW/ACDBEs received \$5,447,284 in services concession revenue (21.64 percent of the total); certified ACDBEs received \$4.5 million in service concession revenue (18.07 percent of the total).
- MW/ACDBEs received no direct car rental concession revenue (0 percent of the car rental concession revenue). Nine car rental companies reported \$13,919,761 in spending with DBE suppliers (14.7 percent of their spending with suppliers) and \$13,291,836 with other small business suppliers (14.0 percent of their spending with suppliers).

**FINDING E-5: Disparity in MWBEs Concessions Utilization**

As shown in **Exhibit E-3**, disparity for concessions existed for the following underutilized MWBEs vendor groups:

**EXHIBIT E-3  
PORT OF PORTLAND  
SUMMARY OF MW/ACDBE UNDERUTILIZATION  
FISCAL YEARS 2002 TO 2006**

| Business Category | African American | Hispanic American | Asian American | Native American | Nonminority Women |
|-------------------|------------------|-------------------|----------------|-----------------|-------------------|
| Food & Beverage   | No               | No                | Yes            | No              | No                |
| Retail            | No               | Yes               | No             | No              | No                |
| Service           | Yes              | Yes               | Yes            | Yes             | Yes               |

Source: **Chapter 9.0** Analyses

**FINDING E-6: Emerging Small Business (ESB) Program**

The study found \$1.86 million in spending with ESB construction subcontractors, of which 23.9 percent went to minority and female ESBs.

## **E.2 Recommendations**

### **COMMENDATION AND RECOMMENDATION E-1: ESB Program**

The Port should be commended for establishing an ESB program. The Port should consider expanding its ESB program; in particular, broadening the definition of a small business to include other certified small businesses, such as DBEs, HUBZone firms and small, disadvantaged business enterprises (SDBs).

### **RECOMMENDATION E-2: DBE Goal Setting**

There is evidence supporting the reestablishment of race- and gender conscious DBE goals in construction subcontracting and A&E. This evidence is based on disparities in subcontracting, and the significant decrease in use of DBEs in the absence of goals on federal contracts, considerable statistical and anecdotal evidence of barriers in the private sector markets associated with race and gender after controlling for capacity variables. At the same time there was some evidence of the use of non-certified M/WBEs in the absence of goals. The strongest case for the restoration of DBE goals can be made for minority DBEs.

Port DBE goals should be linked to certified DBE availability. Port DBE goals should not be a rigid quota placed on every project. The limited use of DBE goals means that the Port should continue to let out some opportunities without specific DBE goals and closely monitor DBE utilization on these projects. The objective should be to steadily increase the number of DBE dollars achieved without using race and gender conscious DBE goals.

There were not clear disparities on Port concessions for all MW/ACDBE ethnic/gender groups in all concession categories. The study also found significant dollar utilization of MWBE concessionaires that were not certified ACDBEs. In addition, this study found a wide range of estimates for M/W/DBE availability depending on whether bidder/vendor availability measures or census availability estimates were used. There was at least some evidence of private sector disparities for all MW/ACDBE ethnic gender groups (African American, Hispanic American, Asian American, Native American and women) in addition to the limited evidence of disparities for Port concessions. This evidence provides a factual predicate for some use of DBE goals for concessions for all DBE ethnic/gender groups. While the Port has been able to achieve MW/ACDBE concession utilization through its commendable outreach efforts in direct contracting for Port concessions, certified DBE participation were sometimes lower than overall women and minority utilization. In some cases, for some groups, certified DBE utilization was zero. The Port should continue to seek opportunities for under-utilized ACDBE groups through direct contracting, or where feasible, as sub concessionaires.