

WASHINGTON SUBURBAN SANITARY COMMISSION

CONSULTING SERVICES FOR A DISPARITY STUDY

*Commissioner's
Presentation*

April 15, 2015



MGT OF AMERICA, INC.

- MGT is a national management and research consulting firm established in 1974.
- National leader in disparity research and litigation support.
- Provide consulting services to all sectors of government from organizational reviews, strategic planning, facilities planning, performance review, and program evaluations.
- Successfully managed more than 7,000 client engagements in all 50 states and several foreign countries.



Offices in Austin, TX, Sacramento, CA, Olympia, WA, Bay City MI, and Tallahassee, FL

MGT OF AMERICA, INC. *Experience*

- MGT has conducted 200 disparity studies.
 - 26 special district clients - including transportation authorities, water management districts and commissions, waste management authorities, public works, and utility districts.
 - 11 water and utility district clients.
- Conducted the WSSC 1999 Disparity Study.
 - SLBE Program was established.
 - Establishment of web-based compliance system.

DISPARITY STUDY TEAM

MGT EXECUTIVE VICE PRESIDENT/TECHNICAL ADVISOR *Dr. Fred Seamon*

- Provide technical methodological advice and expertise to the MGT project management teams throughout the engagement.

MGT EXECUTIVE-IN-CHARGE (EIC) *Reggie Smith*

- Responsible for ensuring the MGT disparity study team has the resources to fulfill all contractual requirements, including delivering a final report that is accurate, valid, and legally defensible.

MGT PROJECT DIRECTOR *Vernetta Mitchell*

- Provides the day-to-day management of the study, the study team, and has regular interface with the Commission's Project Manager.

DISPARITY STUDY TEAM

MGT PRINCIPAL INVESTIGATOR *Dr. Vince Eagan, J.D.*

- Provide technical methodological advice to the MGT project management teams throughout the engagement.

MGT DATA MANAGER *Marilyn Wiley, Ph.D., ABD*

- Responsible for all activities related to data assessment and collection.
- Conduct utilization, availability, and statistical disparity analyses.

DISPARITY STUDY TEAM *Subconsultants*

MCMILLION COMMUNICATIONS, INC. *Doris McMillon* (MBE) (Ft. Washington, MD)

- Conduct in-depth interviews.
- Coordinate and manage focus groups.
- Develop Community Outreach Plan.
- Conduct stakeholder interviews.

TRANSFORMATION CONSULTING *Lee Brazzell* (Richmond, VA)

- Coordinate and manage public hearings.
- Develop a master M/WBE listing.

OPPENHEIM RESEARCH *Anneliese Oppenheim* (Tallahassee, FL)

- Conduct custom census surveys.
- Conduct telephone survey.

PURPOSE OF DISPARITY STUDIES

1. The primary objective is to assess, quantify, and evaluate the prevalence, magnitude, and extent of marketplace discrimination, if any, against minority- and women-business enterprises (M/WBE).
2. The Study is necessitated in part by the 1989 U.S. Supreme Court's decision in the case of *J.A. Croson v. City of Richmond* for M/WBE Programs that imposed legal requirements on jurisdictions to establish a “compelling interest” to support the establishment or continuation of a M/WBE Programs.

DISPARITY STUDY TIMETABLE

3. While the courts have not established a definitive timeframe between studies, discussions have held that studies should be conducted every 5 – 7 years so the most recent relevant data is utilized in reviewing the continuance of a program.
4. Timeframe to conduct a study is driven by the scope of services and condition of data.
 - 12 months is a normal timeframe.

DISPARITY STUDY LEGAL FRAMEWORK

Croson V. Richmond

Strict Scrutiny

- Must show a compelling interest with factual predicate evidence.
- Remedy must be narrowly-tailored.

Narrow-Tailoring

- Recommendations linked to findings.
- Goals linked to availability.
- Limit burden on 3rd parties.

Passive Participant

- Private sector disparities linked to public sector can provide a compelling interest.

LEGAL CHALLENGES

Jurisdictions	Outcomes
<input type="checkbox"/> North Carolina DOT (Rowe)	<input type="checkbox"/> Program Upheld (M/WBE Program)
<input type="checkbox"/> Nebraska Department of Roads (Gross Seed Co.)	<input type="checkbox"/> Program Upheld
<input type="checkbox"/> Kansas DOT (Klavier)	<input type="checkbox"/> Suit Dismissed
<input type="checkbox"/> Colorado DOT (Adarand)	<input type="checkbox"/> Program Upheld
<input type="checkbox"/> South Florida Water Management District (IT Corp.)	<input type="checkbox"/> Settled – Program Intact
<input type="checkbox"/> Phoenix (Arizona AGC)	<input type="checkbox"/> Settled – Program Intact
<input type="checkbox"/> Florida DOT (Phillips and Jordan)	<input type="checkbox"/> Remedy Suspended – Balance of Program Intact
<input type="checkbox"/> Florida DOT (Cone Construction)	<input type="checkbox"/> Settled – Program Intact
<input type="checkbox"/> North Carolina DOT (Dickerson)	<input type="checkbox"/> Program Reinstated

KEY WORK PLAN ELEMENTS

ESTABLISH LEGAL FRAMEWORK

- Review legal framework for disparity studies, particularly in the 4th Circuit.

ASSESS AND COLLECT DATA

- Study Period FY 2010-2014.
- Assess the availability of WSSC's awards and payments for primes and subcontractors.
- Collect all available award and payment data for the study period, including procurement cards.

DETERMINE RELEVANT GEOGRAPHIC MARKET

- Analyze expenditures to determine where 75% of WSSC's dollars are awarded.

KEY WORK PLAN ELEMENTS *Continued*

AVAILABILITY ANALYSIS

- Identify qualified prime firms and subcontractors who are:
 - Currently doing business with WSSC.
 - Interested in doing business.
 - Could potentially do business with WSSC.

UTILIZATION ANALYSIS

- Analyze dollars spent with minority and women business (M/WBE) firms in the relevant market area in the industries of:
 - Construction.
 - Architectural and Engineering.
 - Professional Services.
 - Goods.
 - Other Services.

CALCULATE DISPARITY INDICES

- The disparity index is the ratio of the percentage of utilization and the percentage of availability times 100.
- Calculated for M/WBEs and non-M/WBEs in each industry analyzed.
- Calculated for primes and subcontractors.

KEY WORK PLAN ELEMENTS *Continued*

ANECDOTAL EVIDENCE ANALYSIS

- Collect anecdotal evidence:
 - Stakeholder interviews.
 - In-depth interviews.
 - Focus Groups.
 - Surveys.
 - Public Meetings.

CONDUCT PRIVATE SECTOR ANALYSIS

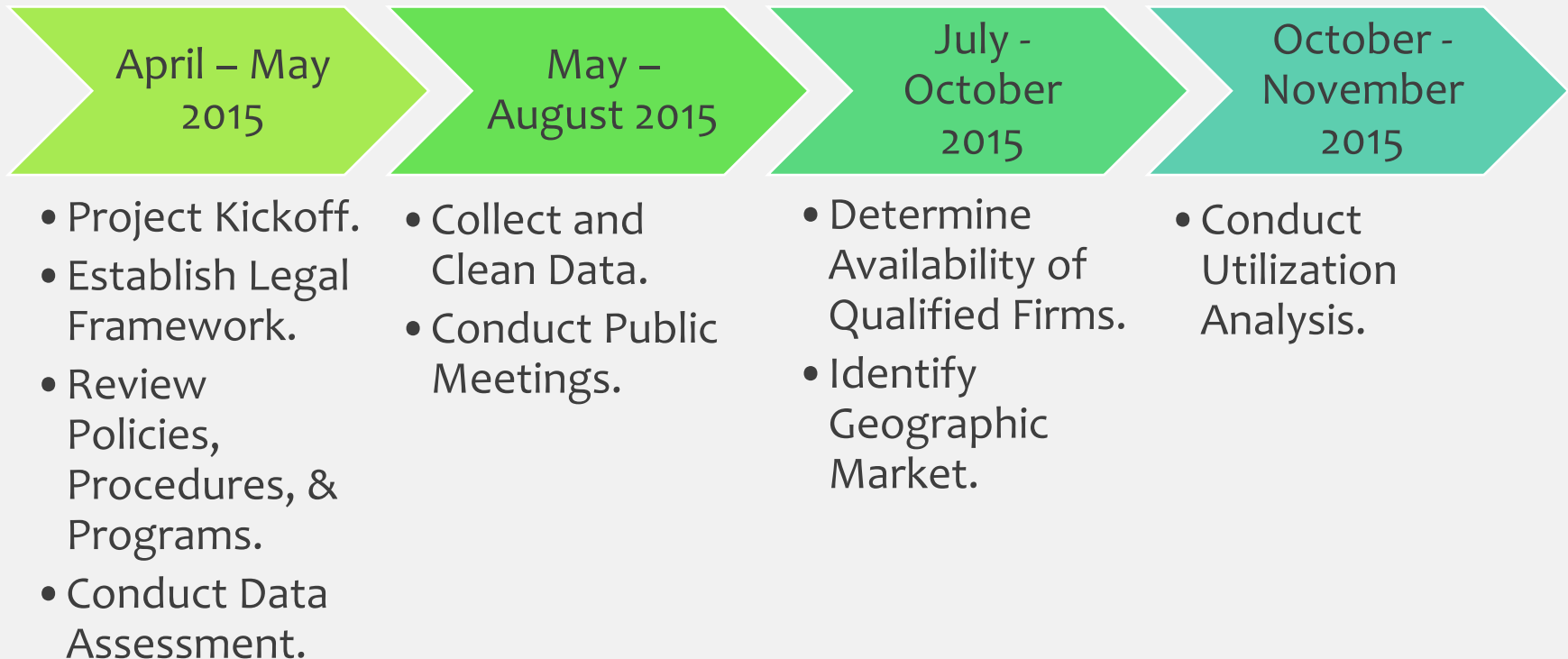
- Analyze presence (or absence) of passive discrimination in the private sector.
- Conduct a non-goal analysis but analyzing the utilization of M/WBEs in the private sector.

FINDINGS AND RECOMMENDATIONS

- Narrowly tailored remedies to any identified disparity.

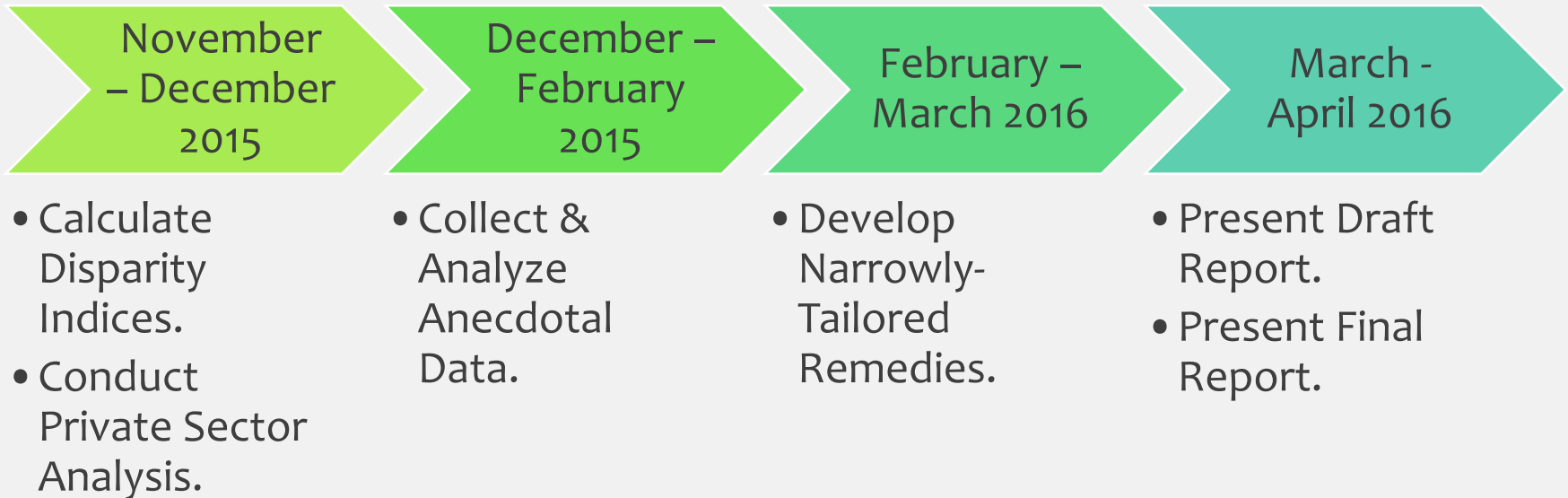
PROJECT SCHEDULE

Estimated Start Dates



PROJECT SCHEDULE *Continued*

Estimated Start Dates



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