

APPENDIX

State Disparity in Procurement Study Commission Report Outline

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Supplier Diversity Best Practices

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Department of the Treasury

**Division of Minority and
Women Business
Development**

Quarterly Report

4th Quarter
(October 1st – December 31st)
2007

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Division Of Minority and Woman Business Development

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I. EXECUTIVE SUMMARY

Addressing the disparities that minority and women-owned business enterprises (MWBEs) face in competing for State contracts is a priority of the Corzine Administration and the New Jersey Department of Treasury. On September 15, 2006, Governor Corzine signed Executive Order #34, which created the Division of Minority and Women Business Development (the Division) to track and monitor State spending with MWBEs across 109 State agencies, authorities, departments, commissions, colleges and universities¹.

EO 34 directs the Division to obtain quarterly reports from all reporting agencies and to provide an annual report to the Governor, Legislature, and the public.

There are two components that comprise the State's spending with MWBEs: (1) spending with prime vendors; (2) spending with subcontractors. The below major findings displayed in this first public quarterly report, focus only on the State's spending with prime vendors during the fourth quarter of calendar year 2007 *since systematic reporting on subcontracting spending is not yet in place*. Section IV of the report does, however, provide a sampling of subcontractor information as an indication of how this data may ultimately add to the State's MWBE reporting.

MWBE Results Based on Payment Data

Minorities and women combined received 7.9% of all payments on prime contracts in this quarter.

- Minority vendors (both male and female) received payments of \$25.4M or 2.9% of the total \$851M in payments.
- Non-minority women vendors received \$42.3M or 5% of payments.
- The remaining 92.1% were recorded by vendors not classified as minority or women-owned.

Spending Highly Concentrated

Procurement spending tends to be concentrated in a small number of commodity codes.

- The top ten commodity codes (out of 375 active codes) represent 58% (\$494.8M) of the total statewide spend.
- MWBE vendors account for \$41 million or 8.29% of payments in the top ten commodity codes.

Importance of Subcontracting in State Procurement

As noted above, the findings in this report do not include subcontractor spending. As a result, the findings in this report represent a minimum overview of the State's MWBE spending.

¹ The network of 109 State agencies is further defined as 95 required reporting agencies, authorities, departments, colleges and universities and 14 multi-state voluntary reporting agencies submitting data to the Division.



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- Subcontractors, especially in the construction and construction-related procurement categories, receive a significant portion of State contracts.
- There are greater contracting opportunities for small, minority, and women-owned businesses in the subcontracting arena.
- The Division expects that the inclusion of subcontractors will result in a higher percentage of MWBE receipt of the State contracting spend. See “Overview of Data Collection” section below for a more detailed discussion of the potential impact of collecting and analyzing this data in the future.

Growth in MWBE Contracting

Monitoring of the state’s procurement activity confirms a steady increase in the rate of MWBE contracting (compared to the 2004 disparity study) since the implementation of the EO 34 initiative. This report also identifies areas where the State can continue to improve its spending with MWBEs.

Payment vs. Award Activity

Payment activity on contracts is the focus of this report. Payments represent the amount of money that has been paid in the quarter to businesses on State contracts. These payments are made to businesses as they conduct work on the contracts.

However, in its mission to leverage the State’s procurement process to support the growth of MWBEs, the Division understands the need to analyze awards activity. Contracts awarded represent spending that will take place on contracts in the future but are issued in this quarter. Many contracts awarded are paid over longer periods of time, ranging from over the course of a few quarters to over the course of several years. In this quarter, MWBEs received 8% of the awards issued statewide. For more details, see Section VI of report: “Statewide Awards: A Long-Term Look at MWBE Contracting.”

Recommendations:

Based on the findings above, the Division of Minority and Women Business Development is assessing ways in which the State can improve the percentage of MWBEs that successfully compete for State contracts. The following recommendations are currently under consideration:

- **The Office of Supplier Diversity (OSD) and the Division partner in the creation of a vendor pipeline to identify vendors that can perform as either prime or subcontractors and assist them with the financial/technical skills required to compete.** By increasing the pool of MWBE prime and subcontractors, the State can increase participation of MWBEs in areas where significant procurement dollars are being spent.
- **Analyze spending patterns with MWBE awardees that receive payments on contracts that are awarded to a pool of vendors.** The State awarded more contracts to MWBEs than payment dollars on these contracts reflect.



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The differences in awarded dollars vs. payments may be attributable in part to the way dollars are allocated among a pool of vendors post-award or to timing. By analyzing the data, the Division can develop improvement strategies aimed at increasing the payments actually made to MWBE vendors.

- **OSD and the Division develop programs to enhance minority participation in the top agencies where most of the award/payment volume sits and where historically, MWBEs have had limited opportunity to compete.** By focusing first on opportunities within the top ten agencies, the impact can be most pronounced (e.g. *for every 1% of procurement dollars shifted by an agency in the top 10 to minority and women-owned businesses an increase of \$29M in MWBE spending can be realized*). **In addition, the Governor's Senior Staff will help to convene meetings with all State agencies to discuss the findings of this report to ensure that all agencies understand the importance of this initiative.**
- **Investigate ways to increase the use of MWBE subcontractors while encouraging vendors to identify themselves as MWBE companies through the State's certification process.**
- **OSD and the Division conduct focus groups with vendors that were successful in attaining State contracts to determine the key success factors that led to their being awarded contracts with the State.** This information can then be used by the State to develop tools, training and strategies.

II. Background on the Division of Minority and Women Business Development and Executive Order 34

Disparity Study

In 1993, Governor James Florio issued Executive Order 84 (1993), which established a set-aside program that mandated that minority and women-owned firms be awarded specific percentages on public contracts. 10 years later, this set-aside program was permanently enjoined by a Consent decree entered by the federal district court in the matter of GEOD vs. State of New Jersey. As a result, then Governor James McGreevey issued Executive Order 71 (2003), which eliminated set-aside goals for minority and women-owned businesses and replaced these goals with a small business set-aside program that is both race- and gender-neutral.²

² See Executive Order 34 (2006) for a discussion of the history of the New Jersey set-aside programs.



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In 2004, the State conducted a disparity study. This study was designed to determine if there were historical and current disparities between firms "ready, willing and able to do business with the State"³ and those firms actually awarded contracts. Proof of such disparities could potentially be used in the future to re-implement minority and women set-aside programs.

The study, which was completed in 2004 and which evaluated two major areas of state procurement activity, found that less than 2% of state procurement business in the two areas studied was being awarded to MWBEs. This compared very unfavorably to the fact that 48% of all small businesses in New Jersey in 2004 were MWBEs.

Additionally, the Disparity Study compiled utilization rates that showed that a small percentage of all the MWBEs who had registered with the state through self-reporting actually received awards and payments from the state.

Executive Order #34 – The Governor’s Response to the Disparity Study

Executive Order #34 (EO 34) was issued by Governor Corzine in September 2006 in response to the Disparity Study. EO 34 addressed these issues by directing the state to work towards the following objectives:

- Develop MWBE utilization improvement goals
- Track and monitor procurement activity for all agencies and organizations (presently 109) under Executive Order #34⁴
- Establish standards and procedures to better enable agencies and organizations to meet their improvement goals
- Obtain quarterly reports from each State department, agency, authority, college, and university relating to their purchasing and procurement activities
- Create and maintain an electronic MWBE supplier database
- Provide an annual report to the Governor

All of these objectives would be initiated within the framework of the ethnic groupings defined in the Disparity Study. These groupings were (1) African Americans, (2) Asian Americans, (3) Hispanic Americans, (4) Native Americans and (5) Women (non-Minority).

³ Ibid.

⁴ The network of 109 State agencies is further defined as 95 required reporting agencies, authorities, departments, colleges and universities and 14 multi-state voluntary reporting agencies submitting data to the Division.



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III. Key Terms

The following are key terms used throughout this report:

Statewide Procurement: Activity conducted by all four types of state agencies: Executive Branch, Colleges & Universities, Authorities (& Corporations), and Commissions. Inclusive of the New Jersey-based activities of multi-state agencies.

Reporting Quarter: Three-month period that runs parallel with the calendar year.

Procurement Categories: Each type of procurement activity is classified as pertaining to one of the following six categories: Construction, Construction Related, Professional Services, Goods & Commodities, Other services, and Miscellaneous. See Glossary in appendix for a more detailed description of these categories.

Commodity Codes: These consist of expense account codes that provide information and/or descriptions of the nature of the purchases made by state agencies. Constitutes a system of identifying a commodity by an assigned number. All reporting is based on NIGP coding system. Agencies may submit quarterly reports using NIGP, NAICS, or Object coding systems. The codes are then cross-walked to the NIGP Code structure to ensure uniformity in reporting.

Minority Business Enterprise (MBE): Business ownership is classified as pertaining to one of the following ethnic minority groups: African American (A.A.), Asian American (As.A.), Hispanic American (H.A.), and Native American (N.A.), Multiple Ethnicities.

Women Business Enterprise (WBE): Business ownership is classified as pertaining to women-owned businesses that are *not* identified as minorities. Minority women are included in their respective minority category.

Minority and Women Business Enterprise (MWBE): Total of minority- and women-owned business enterprises.



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IV. Overview of Data Collection in Report

The Division's data collection efforts are entirely dependent on the data that the 95 required reporting agencies and organizations and 14 voluntary reporting, multi-state agencies provide on a quarterly basis. The Division of Minority and Women Business Development has worked diligently to identify a senior staff member within each agency to serve as the agency's spokesperson on policy and strategic planning related to the implementation of Executive Order 34. This effort has ensured the development of a network of 109⁵ MWBE Liaisons (DMWBD network) that create the framework necessary to accurately track and report on dollars spent across the administration.

The Division continually works very closely with the Office of Information Technology (OIT), Treasury's Division of Purchase and Property (DPP), as well as other State agencies to improve and refine its data collection, and there is still room for significant enhancements.

Looking Forward: Enhancing Data Through Including Subcontracting Activity and Capturing MWBE Activity

As mentioned above, current reporting only covers procurement activity (awards and payments) related to prime contractors, although EO 34 anticipated inclusion of subcontractor data as well. The Division is currently exploring how to measure sub-contractor activity in the future. The Division anticipates that the findings in this report will increase once subcontractor activity is included.

The Division has worked with the Division of Purchase and Property to analyze a sample of available subcontracting data to determine the impact of including this data on future reporting results. While it is not possible to make scientific conclusions based on the scarce data available, the brief analysis that DPP and the Division conducted does provide some evidence that including subcontractor data will have a meaningful impact on the reported share of contracting dollars paid to MWBEs. The analysis found millions of dollars that are paid to MWBEs as subcontractors that are not currently reflected in this report.

Data Collection Process

There are a number of steps that the Division follows to collect the information necessary to complete this quarterly report. Each agency first reports its procurement activity on a template developed by the Division in collaboration with OIT. This template captures basic information highlighted in the Diversity Study such as ethnic groupings and adds more criteria such as commodity codes.

⁵ The network of 109 State agencies is further defined as 95 required reporting agencies, authorities, departments, colleges and universities and 14 multi-state voluntary reporting agencies submitting data to the Division.



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DPP reports procurement activity from 36 State departments, agencies, and commissions, and has worked closely with the Division to tailor their reporting format and template to ensure that DPP's reports are comprehensive and consistent with the Division's reporting systems.

Before it is sent to the Division, the Commissioner of each agency signs off on the data, indicating that he/she has reviewed the information. When the data reaches the Division, it goes through a minimum of two filters to assure the highest level of accuracy. The first is a check for basic errors and inconsistencies that, if necessary, result in the vendor information being sent back to the originating agencies for resolution.

Having successfully passed through this first filter, the data is then processed through a master statewide tracking file developed by the Division in partnership with OIT. This file contains registration/certification and financial information for all state vendors. It is used to verify information. For example, Agency X has identified a vendor as a small business but not as a minority owned business because the vendor had not provided the information to Agency X . When this small business vendor's information is compared to the Master file, it turns out that this same vendor is also a minority-owned business. This vendor had also done business with another agency that had required ethnic data. That missing piece is added to the final profile of the business.

Progress towards a More Accurate and Detailed Data Set

To date the Division has collected data for three quarters: April-June '07, July-September '07 and October-December '07. The quality of the data collection varied significantly from the first "startup" quarter to the more reliable fourth quarter. The data from the second quarter of calendar year 2007 was collected through manual Excel process and only 75% of the 95 required reporting agencies responded. For the fourth quarter of 2007, 100% of the 95 required reporting agencies and seven (out of 14) voluntary reporting multi-state agencies responded. The Division used an efficient, automated system, and raw data processing time has been reduced from 30 days to 2 weeks.

The following charts provide snapshots of our progress throughout the three reporting periods and highlight areas of greatest significance and/or challenge. As demonstrated below, report compliance (the percentage of agencies that provide data to the Division for each quarter) has improved substantially over the past 3 quarters.

<i>2007 Quarterly</i>	<i>2nd</i>	<i>3rd</i>	<i>4th</i>
<i>Report Compliance</i>	75%	92%	100%
<i>MBE's</i>			
<i>Payments</i>	1.6%	2.38%	2.98%
<i>Awards</i>	N/A ⁶	3.10%	3.26%

⁶ N/A: Award data was not available for this quarter

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WBE's

<i>Payments</i>	2.3%	2.33%	4.97%
<i>Awards</i>	N/A ⁷	1.34%	4.82%

Another major goal of the Division has been to ensure high levels of reliability and the comprehensiveness of the data itself. In preparation for the second quarter reporting and to address the identified data reliability improvement needs, the Division:

1. Conducted debriefing sessions with agency top management staff (fiscal officers and purchasing agents, IT personnel, EEO officers, etc), in addition to MWBE liaisons. The primary goal of these sessions was to provide MWBE liaisons with additional resources and support that would facilitate the process of change within their agencies. Agency staff received instruction and clarity on EO 34 objectives, expected deliverables, as well as uniformity guidelines for the capturing of data.
2. Customized trainings by segment/agency types (for example, colleges and universities) to address the challenges particular to each of the reporting groups.
3. Undertook a case management approach (e.g. providing individual hands-on technical assistance to MWBE Liaisons and/or other staff within each agency such as IT personnel responsible for systems set up) to correct reporting errors

The following chart reflects the progress made in ensuring high levels of data reliability and the progress made in ensuring high levels of data reliability. The Division has substantially reduced the percentage of contracts that are identified as "unspecified," those businesses that are classified as minorities but provide no information clarifying that assertion, and "multiple ethnicities," businesses which have indicated that more than one ethnicity is present but have provided no indication of who has operating control.

2007 Quarterly	2nd Q	3rd Q	4th Q
Unspecified Minority⁸			
Payments	63%	1.24%	0.26%
Awards	N/A	1.33%	0.10%
Multiple Ethnicities			
Payments	0.01%	0.01%	0.01%
Awards	0.00%	0.00%	0.00%

⁷ N/A: Award data was not available for this quarter.

⁸ Unspecified Minorities are MBE vendors whose ethnicity is minority but otherwise not specified.

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V. FINDINGS OF REPORT - STATEWIDE PAYMENTS

This chapter of the report analyzes the composition of the payments on prime contracts made by the aggregate of the agencies that comprise the DMWBD reporting network. Payments represent the amount of money that has been paid in the fourth quarter to businesses. These payments are made to businesses as they conduct work on State contracts, so that one contract awarded may result in multiple payments to a vendor.

Section I, "Statewide – Top 10 Paying Agencies", provides a brief overview of the concentration of payment activity within the State's 109 agencies and organizations. Section II, "Total Statewide Payments by Ethnicity and Gender," provides an analysis of all statewide payments made by ethnicity and gender. Finally, Section III, "Total Statewide Payments by Procurement Categories and Commodity Codes," outlines the concentration of payments made to minorities and women by procurement categories and in the top ten commodity codes.

I. Statewide - Top 10 Agencies

Ten agencies accounted for \$549M or 64.6% of all payments made during this reporting period.

Top 10 Statewide Paying Agencies		
Agency Name	Payment Amt (mil)	Percentage
NJ School Development Authority	\$ 113.4	13.33 %
NJ Parapublic Authority	\$ 102.0	11.99 %
University of Medicine & Dentistry	\$ 97.3	11.44 %
Dept of Corrections	\$ 57.7	6.79 %
Dept of Treasury	\$ 42.3	4.97 %
Sub-total of Top Five Agencies	\$ 412.7	48.52 %
NJ Transit Authority	\$ 33.8	3.97 %
NJ Sport & Exposition Authority	\$ 32.2	3.78 %
Dept of Law & Public Safety	\$ 29.0	3.41 %
Rutgers University	\$ 21.4	2.51 %
Dept of Human Services	\$ 20.2	2.38 %
Sub-total of Top 10 Agencies	\$ 136.6	16.05 %
Remaining Agencies	\$ 301.5	35.43 %
Grand Total	\$ 850.8	100 %



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II. Total Statewide Payments by Ethnicity and Gender:

Overall, minority vendors (male and female combined) received \$25.4M or 2.9% of the \$851M in state payments made in this quarter. Within the minority designation, Asian Americans received the highest payments, \$11.3M. This amount is almost double the amount African Americans received, (\$7.1M) and almost triples what Hispanic Americans received, (\$4M).

Statewide Payments by Ethnicity

<u>Ethnicity</u>	<u>Payments (Millions)</u>	<u>% of Total Payment</u>
Asian American	\$ 11.4	1.33 %
African American	\$ 7.1	0.84 %
Hispanic American	\$ 4.1	0.48 %
Unspecified Minority ⁹	\$ 2.6	0.31 %
Native American	\$ 0.1	0.01 %
Multiple Ethnicities	\$ 0.1	0.01 %
Total MBE Ethnic Groups:	\$ 25.4	2.98 %

Payments to women (non-Minority) were \$42.3M, 4.9% of the statewide total. Combined payments to minority and women-owned businesses were \$67.7M, 7.9% of the total payments issued statewide.

Statewide Payments by MWBE Ownership

<u>MWBE Ownership</u>	<u>Awards (Millions)</u>	<u>% of Total Awards</u>
Women Business Owners	\$ 42.3	4.98 %
Minority Business Owners	\$ 25.4	2.98 %
Grand Total:	\$ 67.7	7.96%

⁹ Unspecified Minorities are MBE vendors whose ethnicity is minority but otherwise not specified.

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The pie chart below provides a picture of the allocation of statewide payments to the three main categories of businesses – minority (male and female), women (non-minority) and non-MWBE vendors (not classified as minority or women-owned).

Statewide Payment Allocation
by Ethnicity and Gender



III. Total Statewide Payments by Procurement Categories and Commodity Codes

The State made \$851M in payments during the 4th Quarter of 2007. Construction Related spending ranked first, providing \$267.6M or 31% of the total. The other three procurement categories (Goods and Commodities, Professional Services and Other Services) recorded spending that was evenly balanced, ranging between 17-22%. Please refer to the chart below for details.

Statewide Payments by Procurement Categories

<u>Procurement Categories</u>	<u>Payments (Millions)</u>	<u>% of Total Payments</u>
Construction – Related	\$ 267.6	31.46 %
Other Services	\$ 188.3	22.14 %
Subtotal:	\$ 455.9	53.60 %
Goods & Commodities	\$ 147.0	17.28 %
Professional Services	\$ 148.3	17.43 %
Miscellaneous	\$ 89.0	10.46 %
Construction	\$ 10.6	1.23 %
Subtotal:	\$ 394.9	46.40 %
Grand Total:	\$ 850.8	100 %

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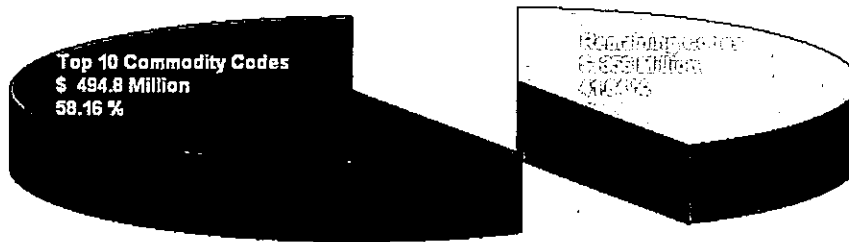
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There were 375 unique commodity codes that the State actively used to describe the types of purchases and awards made during Q4 2007. The pie chart below demonstrates that of these 375 codes, ten commodity codes (less than 3% of the total) accounted for \$495M or 58.1% of all payment activity ¹⁰.

State Top 10 Payments



Analyzing ethnic commodity code payments, on a percentage basis, of the top ten codes:

- MWBE vendors account for \$41 million or 8.29% of payments in the top ten commodity codes
- African Americans received 9 % of their business from the top ten codes
- Hispanic Americans received 60% of their business from the top ten codes
- Asian Americans received 78 % of their business from the top ten codes
- Native American received 21% of their business from the top ten codes
- Multiple Ethnicities received 75 % of their business from the top ten codes
- Unspecified Minorities received 82 % of their business from the top ten codes
- Women-owned (non-Minority) firms received 63% of their business from the top ten codes.

The chart below also demonstrates these figures:

¹⁰ A detailed chart of top 10 paying commodity codes is available as Appendix 1a.

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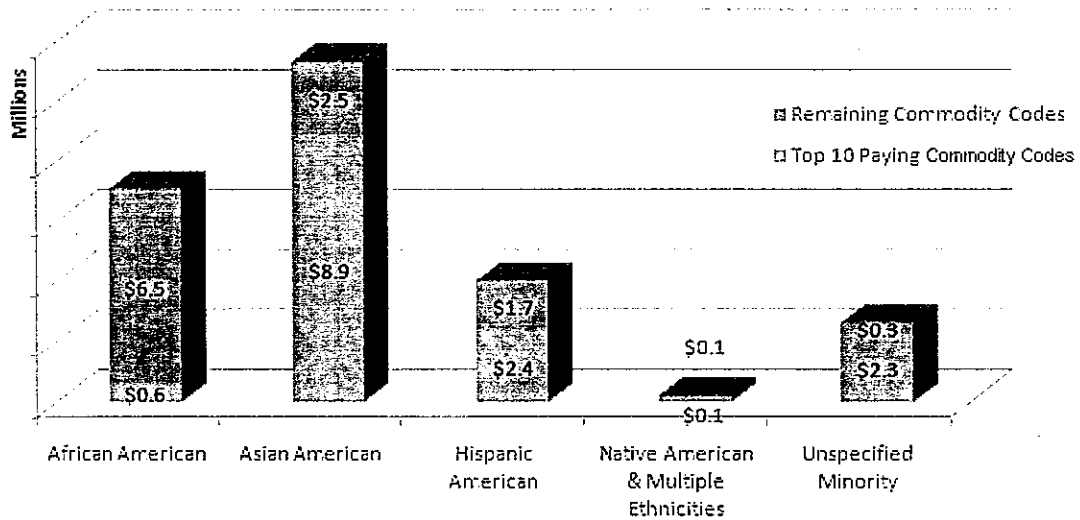
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Statewide Allocation for Commodity Code Distribution by Ethnicity



Totals:

\$7.1

\$11.4

\$4.1

\$0.2

\$2.6

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VI. STATEWIDE AWARDS – A LONG-TERM LOOK AT MWBE CONTRACTING

The comprehensive scope of the disparity study report, as well as in-depth discussions with business community stakeholders, have affirmed the importance of looking at contracts awarded to MWBEs as a means to ensure a complete assessment and understanding of the State’s overall procurement process and its impact on the stability and growth of our business sector.

These awards represent spending that will take place on contracts in the future. Many contracts awarded are paid over longer periods of time, ranging from one quarter to over the course of several years. The data reflected in this section does not necessarily represent State spending potential over the course of one quarter; it instead provides a longer look at MWBE spending that will be occurring in future months and years.

This chapter of the report analyzes the composition of prime contracts awarded by the aggregate of the 100+ agencies that comprise the DMWBD reporting network.¹¹

Section I, “Statewide – Top 10 Awarding Agencies”, provides a brief overview of the concentration of procurement activity within the State’s agencies and organizations. Section II, “Total Statewide Awards by Ethnicity and Gender,” provides an analysis of all statewide awards by ethnicity and gender. Finally, Section III, “Total Statewide Awards by Procurement Categories and Commodity Codes,” outlines the concentration of contracts awarded to minorities and women by procurement categories and in the top ten commodity codes.

I. Statewide - Top 10 Awarding Agencies

Ten awarding agencies represented 86.4% of the State’s total reported awarded contracts.

Top 10 Statewide Awarding Agencies		
Agency Name	Award Amt (Millions)	Percentage
University of Medicine & Dentistry	\$2,215.4	31.84 %
NJ School Development Authority	\$1,646.5	23.66 %
NJ Turnpike Authority	\$ 831.1	11.94 %
Montclair State University	\$ 379.0	5.45 %
NJ Transit Authority	\$ 303.8	4.37 %
Sub-total of Top Five Agencies	\$5,375.8	77.26 %
NJ Sports & Exposition Authority	\$ 193.2	2.78 %
Port Authority of NY & NJ	\$ 186.9	2.69 %
Dept of Treasury	\$ 97.8	1.41 %

¹¹ While most agencies measure the amounts of contracts awarded, there are 36 State agencies that utilize the State’s centralized procurement process that measure Purchase Order spend instead. That data set is included in this section.

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Delaware River Joint Toll Bridge Commission	\$ 90.4	1.30 %
Casino Reinvestment Development Authority	\$ 68.3	0.98 %
Sub-total of Second Top Five Agencies	\$ 636.6	9.16 %
Remaining Agencies	\$ 946.0	13.58 %
Grand Total	\$6,958.4	100 %

II. Total Statewide Awards by Ethnicity and Gender¹²:

Overall, minority vendors (male and female combined) received \$226.8M or 3.2% of the \$7B the state awarded in prime contracts in this quarter. Within the minority designation, Asian Americans received the largest amount, \$113M.

Statewide Awards by Ethnicity

<u>Ethnicity</u>	<u>Awards</u> <u>(Millions)</u>	<u>% of Total</u> <u>Awards</u>
Asian American	\$ 113.0	1.63 %
Hispanic American	\$ 75.2	1.08 %
African American	\$ 31.1	0.45 %
Unspecified Minority ¹³	\$ 7.1	0.10 %
Native American	\$ 0.3	0.00 %
Multiple Ethnicities	\$ 0.1	0.00 %
Total MBE Ethnic Groups:	\$ 226.8	3.26 %

Awards to women were \$335M, 4.8% of the total. Combined awards to minority *and* women-owned businesses were \$562M, 8% of the total awards issued statewide.

Statewide Awards by MWBE Ownership

<u>MWBE Ownership</u>	<u>Awards</u> <u>(Millions)</u>	<u>% of Total</u> <u>Awards</u>
Women Business Owners	\$ 335.1	4.82 %
Minority Business Owners	\$ 226.8	3.26 %
Grand Total:	\$ 561.9	8.08%

¹² Two ethnic categories not in the Disparity Study, multiple and unspecified minorities, were added to this report in order to reflect as complete a picture as possible of the state's procurement environment. These segments represent businesses that are owned by more than one ethnic group and/or businesses that are reported as minority owned but their ethnicity has not been specified. Women Business Enterprises are defined as women who are not classified as minorities, exclusively.

¹³ Unspecified Minorities are MBE vendors whose ethnicity is minority but otherwise not specified.

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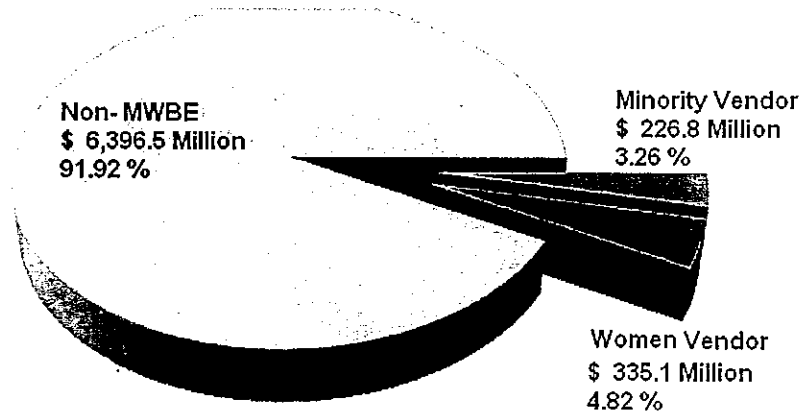
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The pie chart below provides a picture of the allocation of statewide awards to the three main categories of businesses – minority (male and female), women (non-minority) and non-MWBE vendors (not classified as minority or women owned).

Statewide Awards Allocation
by Ethnicity and Gender



III. Total Statewide Awards by Procurement Categories and Commodity Codes

Of the total \$7B in contracts awarded statewide in this quarter, these awards trace primarily to Construction-Related (\$2.6B) and Goods & Commodities (\$1.8B) categories¹⁴. As the chart below shows, together, these two categories accounted for \$4.4M or 63% of awards on a statewide basis.

Statewide Awards by Procurement Categories

<u>Procurement Categories</u>	<u>Awards</u> <u>(Billions)</u>	<u>% of Total</u> <u>Awards</u>
Construction- Related	\$ 2,625.7	37.73 %
Goods & Commodities	\$ 1,755.9	25.23 %
Subtotal:	\$ 4,381.6	62.96 %
Professional Services	\$ 1,109.9	15.96 %
Other Services	\$ 1,078.1	15.49 %
Miscellaneous	\$ 350.2	5.03 %
Construction	\$ 38.8	0.56 %
Subtotal:	\$ 2,577.0	37.04 %
Grand Total:	\$ 6,958.4	100 %

¹⁴ See Glossary for detailed definition of categories.

18x

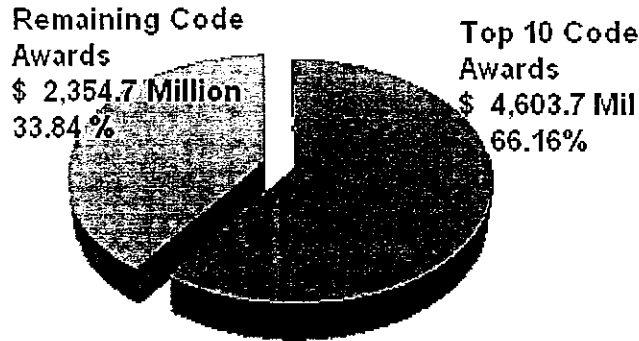


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There are a total of 375 commodity codes that the State actively used to identify the types of awards made by the state agencies during Q4 2007. The chart below demonstrates that of these 375 codes, ten commodity codes accounted for \$4.6B or 66% of all contracts awarded during the 4th quarter of 2007¹⁵.

Statewide Top 10 Awards



Analyzing ethnic commodity awards statewide, on a percentage basis, of the top ten commodity codes:

- African Americans received 10% of their business from the top 10 commodity codes.
- Asian Americans received 73% of their business from the top 10 commodity codes.
- Hispanic Americans received 74% of their business from the top 10 commodity codes.
- Native Americans received 9% of their business from the top 10 commodity codes.
- Multiple Ethnicities received 56% of their business from the top 10 commodity codes.
- Unspecified received 83% of their business from the top 10 commodity codes.
- Women-owned (non-minority) received 74% of their business from the top 10 commodity codes.

The chart below also demonstrates these figures:

¹⁵ A detailed chart is available as appendix 1b.

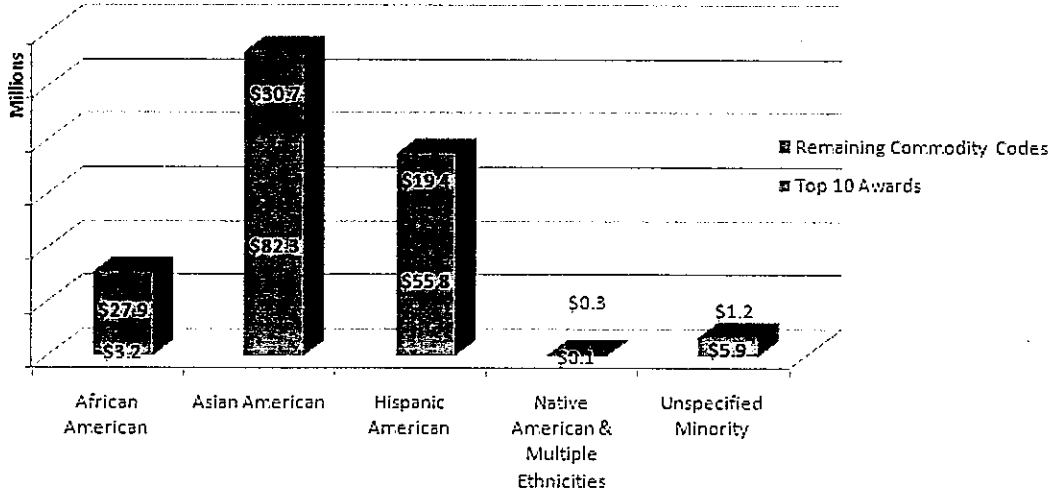


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Statewide Allocation for Commodity Code Distribution by Ethnicity



Totals:

\$ 31.1	\$ 113	\$ 75.2	\$ 0.4	\$ 7.1
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VII. Glossary

Statewide Procurement: Activity conducted by all four types of state agencies: Executive Branch, Colleges & Universities, Authorities (& Corporations), Commissions. Inclusive of bi-state agencies, (NJ based activities only).

Treasury Based Procurement: Procurement activity conducted through the States' centralized purchasing unit, known as Division of Purchase and Property (DPP). Inclusive of activities conducted by DPP on behalf of the executive branch (i.e. departments) and other agencies.

Non-Treasury Based Procurement: Procurement activity conducted directly by the individual State agencies.

Reporting Quarter: Three-month period that runs parallel with the calendar year.

Procurement Categories: Highest level grouping of account codes providing descriptions of purchases made by state agencies. The categories represent a summary of all of the segments into which the commodity codes fall. Each type of procurement activity is classified as pertaining to one of the following six categories:

Construction: New construction and renovations. Does not include routine building maintenance. All residential and non-residential building constructions; heavy constructions, such as streets, roads, and bridges; and special trade construction, such as fencing, HVAC, paving, and electrical are included.

Construction Related: Design services, such as architectural, engineering, and construction management services that are performed as part of a construction project.

Professional Services (excluding construction related architectural and engineering services): Services provided by a person or firm that are of a professional nature and requiring special licensing, education degrees, and/or unusually highly specialized expertise, including:

- Accounting and financial services
- Advertising services
- Laboratory testing services
- Legal services
- Management consulting services
- Professional and technical services
- Technical services
- Training



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Goods & Commodities: Equipment and consumable items purchased in bulk or a deliverable product including:

- Automobiles and equipment
- Chemicals and laboratory supplies
- Construction materials and supplies
- Equipment parts and supplies
- Fuels and lubricants
- Janitorial and cleaning supplies
- Office equipment
- Office supplies
- Radio equipment
- Special department supplies
- Technical supplies
- Tires and tubes
- Traffic signals
- Uniforms

Other Services: Services that are labor intensive but not considered professional or construction related, including:

- Equipment rental
- Janitorial and maintenance services
- Landfill services
- Laundry and dry cleaning
- Maintenance and repairs
- Printing
- Real property
- Security services
- Special department supplies
- Subsidy, care and support
- Technical services
- Telecommunications
- Temporary Help

Miscellaneous: Services with object codes (colleges & universities) that as of yet have not received formal approval for crosswalk to the centralized coding system - NIGP.

NOTE: Purchases classified as administrative (utility payments, insurance or banking transactions, etc.) or fringe benefits (reimbursement for food, parking, or conference fees) were excluded from this reporting system.



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Commodity Codes: These consist of expense account codes that provide information and/or descriptions of the nature of the purchases made by state agencies. Constitutes a system of identifying a commodity by an assigned number.

All reporting is based on NIGP coding system. Agencies may submit quarterly reports using NIGP, NAICS, or Object coding systems. The codes are then cross-walked to the NIGP Code structure to ensure uniformity in reporting.

Ethnic Groups:

African American: All persons having origins in any of the black racial groups of Africa.

Asian American: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, Vietnam, and the Pacific Islands

Hispanic American: All persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish cultures or origin regardless of race.

Native American: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Multiple Ethnicities: All persons having origins in more than one of the four primary ethnic categories (AA, As. A., HA, NA) or when ownership of at least 51 percent is by one or more minorities.

Unspecified: Ethnicity is minority, but was otherwise not specified.

Minority Business Enterprise (MBE): Business ownership is classified as pertaining to one of the following ethnic minority groups: African American (A.A.), Asian American (As.A.), Hispanic American (H.A.), and Native American (N.A.), Multiple Ethnicities.

Women Business Enterprise (WBE): Business ownership is classified as pertaining to a women who are not classified as minorities. Minority women were included in their respective minority category.

Minority and Women Business Enterprise (MWBE): Total of minority- and women-owned business enterprises.

Disadvantaged Business Enterprise (DBE) Designation:

The DBE designation is similar to the Division's MWBE designation. DBE Eligibility Criteria:

- firm must be a small, for profit business;



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- firm must be at least 51% owned and controlled by socially and economically disadvantaged individual(s);
- the same socially and economically disadvantaged individual(s) must control the management and operations of the firm on a day-to-day basis; and
- the socially and economically disadvantaged owner(s) must be citizens of the US (or lawfully admitted permanent residents).

The following groups are presumed to be socially and economically disadvantaged by the federal government:

- Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and any additional groups whose members are designated as economically and socially disadvantaged by the SBA, AND Women, regardless of race.

24x



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VIII. APPENDIX

Appendix 1a. Total State top 10 paying commodity codes per ethnic groups.

State Wide Top Ten Commodity Paying Codes – Ethnic Comparison									
Rank	State Code	Commodity Description	Payment (Million)	AA	AsA	HA	Mult	Unspe	Non-MBE
1.	914	Construction Services, Trade (New Const.)	101.3	0.0	0.5	0.6	0.0	0.0	100.2
2.	9999	Miscellaneous	89.0	0.3	0.5	0.5	0.0	1.6	86.1
3.	913	Construction Services, Heavy	56.5	0.0	0.0	0.2	0.0	0.0	56.2
4.	918	Consulting Services	53.8	0.0	1.6	1.0	0.1	0.0	51.1
5.	962	Miscellaneous Services, No 2	38.7	0.1	0.0	0.0	0.0	0.0	38.6
6.	948	Health Related Services	35.9	0.2	0.4	0.1	0.0	0.3	34.9
7.	915	Communications and Media Related Services	33.3	0.0	0.0	0.0	0.0	0.0	33.3
8.	912	Construction Services, General	32.1	0.0	5.9	0.0	0.0	0.1	26.1
9.	961	Miscellaneous Services No 1	29.3	0.0	0.0	0.0	0.0	0.0	29.3
10.	925	Administration of Housing Programs	24.9	0.0	0.0	0.0	0.0	0.3	24.6
		Grand Total	494.8	0.6	8.9	2.4	0.1	2.3	480.4

25x



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Appendix 1b. Total State top 10 awards commodity codes per ethnic groups.

Rank	State Code	Commodity Description	Award \$ Mil	AA \$ Mil	AsA \$ Mil	HA \$ Mil	NA Mil	Unspe \$ Mil	Non-MBE
1.	914	Construction Services, Trade	\$1,354	0.0	2.5	21.4	0.0	0.0	1,330.2
2.	475	Hospital, Surgical, And Medical Related Accessories and Sundry	\$ 697	0.2	0.0	0.0	0.0	0.0	696.8
3.	913	Construction Services, Heavy (Incl. Maintenance/Rpr Services)	\$ 557	0.0	0.3	21.0	0.0	0.0	536.0
4.	918	Consulting Services	\$ 516	0.0	4.3	11.9	0.0	0.1	500.1
5.	465	Hospital And Surgical Equipment, Instruments, and Supplies	\$ 388	0.0	0.0	0.0	0.0	0.0	388.2
6.	9999	Miscellaneous	\$ 350	2.3	1.7	1.5	0.0	5.6	339.1
7.	958	Management Services	\$ 223	0.0	0.0	0.0	0.0	0.0	223.0
8.	912	Construction Services, General (Incl. Maintenance/Rpr Services)	\$ 190	0.5	71.8	0.0	0.0	0.2	117.0
9.	4056	Bldgs/Equip/Furn – Foundation	\$ 178	0.0	0.0	0.0	0.0	0.0	177.7
10.	962	Miscellaneous Services, No. 2 (Not Otherwise Classified)	\$ 150	0.2	1.7	0.0	0.0	0.0	148.4
		Grand Total	\$4,603	3.2	82.3	55.8	0.0	5.9	4,456.5

26x



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Department of Treasury

Division Of Minority and Woman Business Development

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Appendix 2

Amounts Paid by MWBE Designation:

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State of New Jersey
 Disparity in State Procurement Study Commission
 c/o PO Box 624
 Trenton, NJ 08625

Hester Agudosi, Esq.
 Chair

Ronald L. Rice, Senator
 Vice Chair

MEMBERS:

Hon. Chris A. Brown
 Senator - 2nd Leg. District

Hon. Annette Chaparro
 Assemblywoman - 33rd Leg. District

Hon. Sandra B. Cunningham
 Senator - 31st Leg. District

Hon. Governor Richard J. Codey
 Senator - 27th Leg. District

Maurice Griffin, Acting Director
 Division of Purchase & Property

Hon. Jamel C. Holley
 Assemblyman - 20th Leg. District

Hon. Nancy F. Munoz
 Assemblywoman - 21st Leg. District

Hon. Declan J. O'Scanlan
 Senator - 13th Leg. District

Hon. Nancy J. Pinkin MPA, CHE
 Assemblywoman - 18th Leg. District

Hon. Nellie Pou
 Senator - 35th Leg. District

Hon. Britnee Timberlake
 Assemblywoman - 34th Leg. District

Melanie Walter, Director
 Local Government Services

April 9, 2019

Honorable Philip D. Murphy
 Governor, State of New Jersey
 225 West State Street, 5th Floor
 PO Box 001
 Trenton, NJ 08625

Dear Governor Murphy,

The first meeting of the Disparity in Procurement Study Commission was held on February 19, 2019. As the newly elected Chair of the Commission I have been asked to reach out to you for assistance in ensuring compliance with the reporting requirements of Executive Order # 34 (attached).

By way of background, as the State Chief Diversity Officer, I previously distributed a Diversity and Inclusion Assessment Questionnaire to state departments, authorities and commissions. Among other things, the questionnaire sought procurement spend with minority, and women owned business enterprises (M/WBE's). Although I am pleased to share that there was 100 percent compliance in assessment responses received, further analysis revealed that many of the departments do not track M/WBE spend data. This is in large part due to unfamiliarity with the state's commitment to increase the participation of minorities and women in purchasing and procurement processes as well as the mandates of Executive Order #34.

In order for the Disparity in Procurement Study Commission to carry out its mandate to assess and determine disparities, if any, between the availability and utilization of small, disadvantaged, and minority and women-owned business enterprises in state contracting, immediate measures must be undertaken to capture and report procurement spend with diverse suppliers. Accordingly, the Commission requests the issuance of a directive from your office requiring all state departments, agencies, authorities, colleges and universities to capture and provide quarterly reports of contracting dollars paid to M/WBE's through formal bidding processes, pursuant to delegated purchasing authority, and under cooperative purchasing agreements.

Thank you in advance for your consideration and assistance with this request.

Very truly yours,

Hester Agudosi Esq., Chair
 Disparity in Procurement Study Commission

/attachment

**State of New Jersey
Executive Order #34**

Governor Jon S. Corzine

WHEREAS, New Jersey maintains a diverse business community that includes many thousands of small businesses, which generate substantial economic activity and provide numerous employment opportunities throughout the State; and

WHEREAS, small businesses that employ less than 100 people each account for nearly half of all jobs in the State; and

WHEREAS, the State's economic strength and vitality are inextricably linked to the continued growth and success of small and emerging business enterprises; and

WHEREAS, minority- and women-owned businesses comprise a significant percentage of the State's small businesses; and

WHEREAS, New Jersey's diverse population is an invaluable asset to the State and its business community; and

WHEREAS, each year the State enters into billions of dollars worth of contracts to obtain construction and construction-related services, as well as other goods and services needed by State departments and agencies; and

WHEREAS, it is a priority of my administration to take all necessary remedial steps to overcome the factors that have operated to prevent or inhibit participation by minority- and women-owned business enterprises in the procurement opportunities offered by the State, and to ensure that State government renews its commitment to the utilization of minority- and women-owned business enterprises in its procurement practices through increased outreach, enhanced transparency, and effective monitoring of the progress made in this regard; and

WHEREAS, the State has previously taken steps intended to identify, quantify, and remedy racial and gender disparities resulting from its procurement practices; and

WHEREAS, in 1984, the State adopted the New Jersey Set-Aside Act, N.J.S.A. 52:32-17 et seq. (the "Set-Aside Act"), in an effort to address historic discrimination based upon race and gender in the State's procurement practices; and

WHEREAS, in 1989, the Supreme Court of the United States concluded, in the case of *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989), that a race-based set-aside program established by a local government entity was unconstitutional under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because it was not justified by a compelling interest and narrowly tailored to accomplish a remedial purpose; and

WHEREAS, the Supreme Court in *Croson* indicated that government set-aside programs based on racial

classifications must adhere to strict constitutional standards, including that such programs or policies must be justified based on strong evidence of actual discrimination carried out by the governmental entity and that the program or policy must be narrowly tailored to remedy the discrimination; and

WHEREAS, in order to comply with the constitutional requirements outlined in the Croson decision, Governors Kean, Florio, Whitman, McGreevey, and Codey took various steps to evaluate past and present discrimination in the State's procurement practices, beginning with Governor Thomas H. Kean's issuance of Executive Order No. 213 (1989) establishing the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts? (the "Commission"); and

WHEREAS, the Commission issued its report in 1993, which contained evidence of widespread discrimination against firms owned and operated by minorities and women and indicated that these firms experience pervasive exclusion from the public contracting process; and

WHEREAS, in light of the Commission's findings, Governor James J. Florio issued Executive Order No. 84 (1993) establishing a set-aside program mandating that minority- and women-owned firms be awarded specific percentages of public contracts, and Governor Christine T. Whitman thereafter issued Executive Order No. 112 (2000), which established the Governor's Study Commission on Discrimination in State Employment and Contracting (the "Study Commission") and charged that Study Commission with the task of examining the nature and scope of any past or present discrimination in State employment and procurement practices; and

WHEREAS, the Study Commission, later renamed the Disparity Study Commission, continued its investigative work through the administrations of Governors James E. McGreevey and Richard J. Codey; and

WHEREAS, in 2003, the Set-Aside Act was permanently enjoined by a Consent Decree entered by the federal district court in the matter of GEOD v. State of New Jersey, Civil Action No. 01-2656 (SRC) (D.N.J.) (the "Consent Decree") and following entry of the Consent Decree, Governor McGreevey issued Executive Order No. 71 (2003) eliminating set-aside goals for minority- and women-owned businesses and instead instituting a race- and gender-neutral small business set-aside program; and

WHEREAS, in 2005, the Disparity Study Commission issued its reports, the Disparity Study of Procurement in Professional Services, Other Services and Goods and Commodities Report and the Construction Services Disparity Report (the "Disparity Studies"), finding significant disparities between firms ready, willing, and able to do business with the State and those firms actually awarded contracts to provide goods and services to State departments, agencies, authorities, colleges, and universities; and

WHEREAS, the results of the Disparity Studies clearly demonstrate the necessity of immediate action to promote more inclusive purchasing and procurement processes;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established within the Office of Economic Growth, which was created at the outset of this administration to oversee job creation and business expansion activities in the State of New

Jersey, a Division of Minority and Women Business Development (the "Division"). The purpose of the Division shall be to administer and monitor policies, practices, and programs that will further the State's efforts to ensure equal opportunity for minority- and women-owned business enterprises ("M/WBEs") to participate in State purchasing and procurement processes.

2. A Director, who shall report to the Chief of the Office of Economic Growth and the State Treasurer, or their designees, shall lead the Division. The Director also shall have the title of Advisor to the Governor.
3. The Governor shall appoint the Director of the Division. The Director may, in consultation with the Department of Personnel and the Director of the Office of Management and Budget in the Department of the Treasury, utilize any available persons or resources needed to carry out the duties of the Division as set forth in this Order.
4. The Director shall be responsible for administering and monitoring programs to increase the participation of minorities and women in State purchasing and procurement processes in an effort to remedy the significant disparities identified in the Disparity Studies. Specifically, the Director shall:
 - a. Develop M/WBE utilization goals, initially basing those goals on data contained in the Disparity Studies and thereafter periodically updating those goals based on subsequent studies, findings, recommendations, or other information as approved by the Division, and develop M/WBE policies and programs aimed at meeting those goals through race- and gender-neutral means;
 - b. Track and monitor, in coordination with the Division of Purchase and Property in the Department of the Treasury and the State departments, agencies, authorities, colleges, and universities, all of the State's procurement practices, including but not limited to the share of contracting dollars paid to M/WBEs through formal bidding processes, pursuant to delegated purchasing authority, and under cooperative purchasing agreements;
 - c. Establish standards and procedures that State departments, agencies, authorities, colleges, and universities shall use in developing annual procurement opportunity plans, which shall incorporate appropriate M/WBE utilization goals;
 - d. Obtain quarterly reports from each State department, agency, authority, college, and university relating to their purchasing and procurement activities;
 - e. Create and maintain an electronic M/WBE supplier database and ensure that listings of qualified M/WBEs are provided to the appropriate State entities as procurement opportunities arise; and
 - f. Provide an annual report to the Governor, the Legislature, and the public concerning the purchasing and procurement activities of the State departments, agencies, authorities, colleges, and universities.
5. The Director of the Division, or a designee, may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of the Division's mission.
6. Each State department, agency, authority, college, and university shall designate, within thirty (30) days of the issuance of this Order, an M/WBE liaison, who shall have direct, independent access to his or her Commissioner, Secretary, department head, or similar cabinet-level official concerning M/WBE program matters, including but not limited to coordination with the Director as required pursuant to this Order.
7. Furthermore, there is hereby established a Minority and Women's Business Development Advisory Council (the "Council"). The Council shall be comprised of individuals representing varying racial, ethnic, and socio-economic backgrounds who have experience in business, State procurement and contracting processes, legal affairs concerning equal opportunity in public contracting, or other areas

- relevant to the activities of the Council.
8. No Council member shall actively seek to secure a State contract or other agreement to provide goods or services to the State on behalf of any entity or organization of any kind in which the member has any personal or pecuniary interest.
 9. The Council shall consist of thirteen (13) voting members as follows:
 - a. The Chief of the Office of Economic Growth, or a designee, who shall serve ex officio;
 - b. The State Treasurer, or a designee, who shall serve ex officio;
 - c. The Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission, or a designee, who shall serve ex officio;
 - d. Ten (10) public members, appointed by the Governor, two of whom shall be based upon the recommendation of the President of the Senate, provided that no more than one of whom shall be of the same political party, and two of whom shall be appointed based upon the recommendation of the Speaker of the General Assembly, provided that no more than one of whom shall be of the same political party.
 10. The public members of the Council shall serve voluntarily and for terms of two years and until such time as a successor is appointed and qualified, except that of those members first appointed, five (5) shall be appointed for a term of two (2) years and five (5) shall be appointed for a term of one (1) year. Any vacancy caused by reason other than expiration of a member's term shall be filled in the same manner as the original appointment for the unexpired term only.
 11. The Governor shall designate a Chairperson who will preside over all meetings of the Council. A Vice-Chairperson may be selected by a majority vote of the Council.
 12. The Council shall be provided with Executive Branch representatives who shall assist with administrative support and other necessary functions in order to carry out the duties of the Council.
 13. The Council shall advise the Director and the Division on all matters referred to it by the Director, or a designee, and may make recommendations to the Director on other relevant policy and implementation matters as the Council deems appropriate.
 14. As part of its duties under this Order, the Council may review the State's current procurement and contracting practices and make recommendations for the improvement thereof. The Council may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.
 15. Each State department, agency, authority, college, and university is hereby directed, to the extent not inconsistent with law, to work cooperatively with the Division in order to increase participation by M/WBEs in the procurement opportunities offered by the State. The Division is authorized to call upon any State department, agency, authority, college, or university to provide such information, personnel, resources, or other assistance available to such agency as the Director deems necessary to discharge the responsibilities of the Division under this Order. Each State department, agency, authority, college, and university is hereby required, to the extent not inconsistent with law, to cooperate fully with the Division and to furnish the Division with such information and assistance on as timely a basis as is necessary to accomplish the purposes of this Order.
 16. This Order shall take effect immediately.

GIVEN, under my hand and seal this 15th day
of September, Two Thousand and Six, and of
the Independence of the United States, the Two
Hundred and Thirty-First.

/s/ Jon S. Corzine

Governor

[seal]

Attest:

/s/ Stuart Rabner
Chief Counsel to the Governor