



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard
Executive Director

DATE: 20 January 2022

SUBJECT: House Bill 1593/Senate Bill 1235 (State Contracting and African-American Owned Businesses) Final Report for Approval

The attached Commission report is submitted for your approval. It was prepared in response to House Bill 1593 by Representative Miller (Senate Bill 1235 by Senator Gilmore) in the 112th General Assembly, which directs the Commission to study whether disparities exist in the issuance of state contracts to businesses owned and operated by African Americans; provide information on the effect of any such disparities on the African American business community, as well as the manner in which other states have addressed disparities; and report its findings no later than January 31, 2022, including any recommendations for reducing disparities if they are found. Additionally, in committee discussions of House Bill 1593, House Minority Leader Camper asked whether any of the recommendations included in the state's 2009 study of disparities in state contracting for minority-owned and woman-owned businesses had been implemented.

Since the draft report was presented at the previous meeting, staff have added information provided by the Fiscal Review Committee on the number of contracts reviewed with African American-owned businesses and made other refinements to the report. These changes in the report are highlighted in yellow.

Notwithstanding these changes and additions, the report's findings remain unchanged:

- Most of the 23 recommendations included in the 2009 disparity study have been implemented, however none of the six race- and gender-conscious policy recommendations included in the 2009 disparity study were adopted despite the

study's results likely providing the legal basis to enact them. The state has not updated the disparity analysis from the 2009 study in the decade since its publication.

- Without a new disparity study, it is not possible to say definitively whether disparities in state spending with African American-owned businesses still exist. Comparisons of the data over the years do show some increase in the share of procurement funds received by African American-owned businesses, although that increase is not evenly distributed across business sectors.

The draft report recommended that data related to each department's aspirational goals for spending with different categories of disadvantaged businesses be made publicly available. This remains unchanged in the final report:

- Race-conscious procurement policies are not feasible at this time given that the data collected by the CPO cannot on its own support the type of analysis needed to demonstrate whether racial disparities exist in state contracting. **Should the state decide it wants to update the 2009 disparity study, it would benefit from exploring cost-effective ways to enhance procurement data collection to better compare state procurement spending with the availability of different categories of businesses—including but not limited to African American-owned businesses—and calculate disparity ratios.**
- However, the fact that many departments are not meeting their aspirational goals for minority-owned businesses suggests it is worth looking at whether the state's race-neutral approach can be improved. Go-DBE hasn't published data on whether departments were meeting their goals for minority-owned businesses since its 2013-14 annual report. . . . Annually publishing data on whether agencies are meeting their annual aspirational procurement goals for minority-owned businesses could help keep interested parties informed of agency progress at meeting goals, encourage efforts to identify areas where improvements are warranted, and potentially refine the goal setting process. For these reasons, **Go-DBE should publish in its annual report each state department's aspirational goals and achievements for businesses owned by minorities, women, persons with disabilities, and service-disabled veterans, as well as other small businesses. This information could also be published on the Go-DBE website; Go-DBE could discuss sharing this information with the staff of Transparent Tennessee, which serves as the executive branch's clearinghouse for making data more accessible.**