

Disparity Study Update



Debbie Dennis

Chief Administrative Officer and Deputy Director

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Topics

1. Background
2. Findings
3. Next Steps



Background



Background



A disparity study examines and measures potential inequities within a state's contracting activity.

- The Oregon Disparity Study budget was passed in [HB5006](#) at the end of the 2021 legislative session.
- The study was initiated in October 2022 with BBC Research & Consulting. The study was completed in November 2023.
- DAS is currently collaborating with a network of external partners to develop an action plan.

Background



Assess

- Disparities between participation and availability
- Marketplace barriers

Recommend

- Policy and program refinements

Determine

- If race/gender programs are warranted

Background



- The disparity study provides the necessary **strong legal foundation** to remedy any disparities that are found.
- Remedies must be able to withstand **strict scrutiny** to avoid violating the Equal Protection Clause of the Fourteenth Amendment.

Case Law:

City of Richmond v. J. A. Croson Co., 488 U.S. 469 (1989)

Adarand Constructors, Inc. v. Peña, 515 U.S. 200 (1995)

Background



Study Parameters

- **Date range:** July 1, 2017 – June 30, 2022
- **Businesses included in the study:**
 - Private sector
 - Oregon-based and able to perform work in Oregon
 - Primary lines of work that Oregon state government would contract with, in these categories:
 - Construction; professional services; Non-professional services, goods and supplies

Background



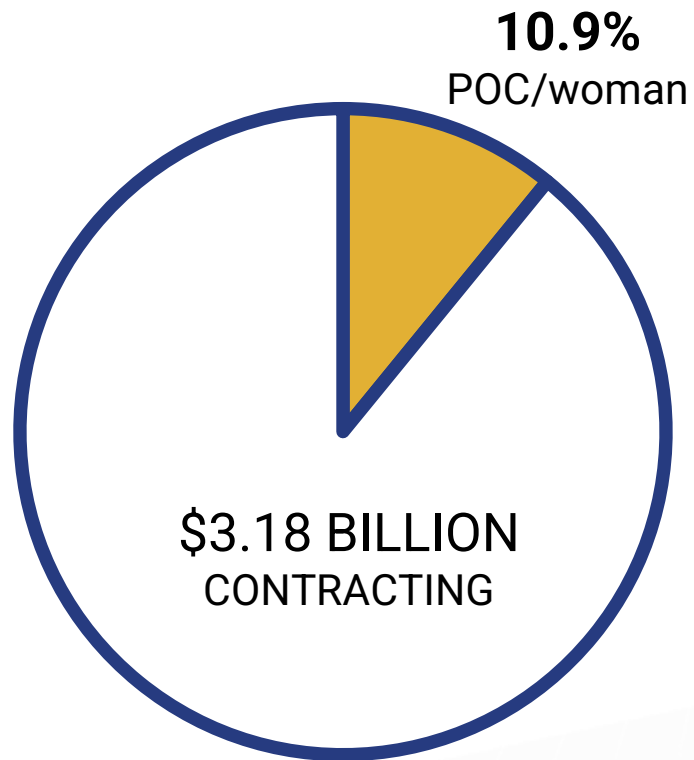
Study Parameters cont'd.

- **Businesses excluded from the study:**
 - Businesses that indicated they were not *for-profit*
 - Businesses that reported primary lines of work outside the study scope
 - Businesses that reported no interest in contracting opportunities with government or other public sector organizations

Findings

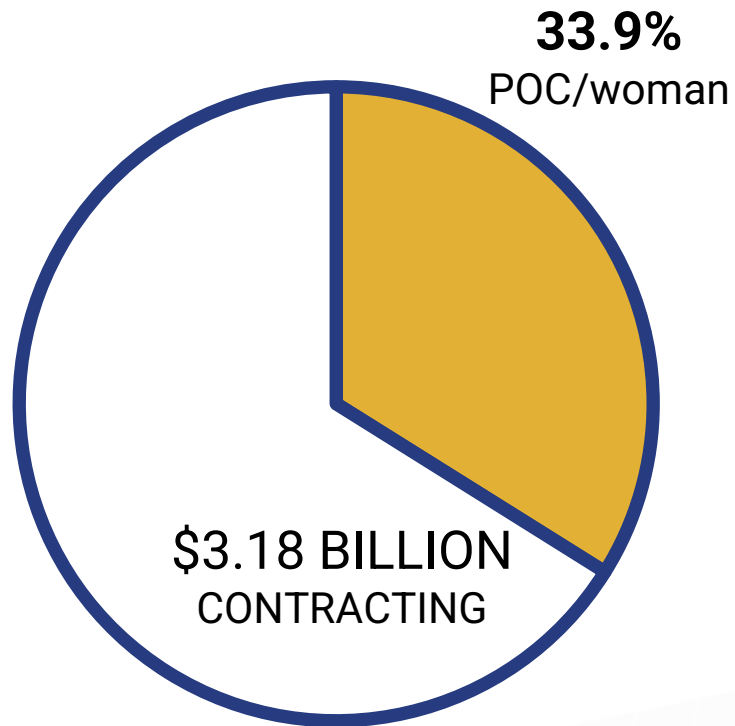


Participation



	% participation
White woman	6.6%
Asian American	1.0%
Black American	0.1%
Hispanic American	2.0%
Native American	0.1%
TOTAL	10.9%

Availability



	% availability
White woman	18.6%
Asian American	8.3%
Black American	0.5%
Hispanic American	5.1%
Native American	1.5%
TOTAL	33.9%

Calculation



$$\frac{\text{PARTICIPATION}}{\text{AVAILABILITY}} \times 100 = \text{DISPARITY INDEX}$$

80 OR LESS = **SUBSTANTIAL** UNDERUTILIZATION

Disparity



<u>Contract set</u>	<u>White woman</u>	<u>Asian American</u>	<u>Black American</u>	<u>Hispanic American</u>	<u>Native American</u>
All work	●	●	●	●	●
Construction	●	●	●	●	
Professional services	●	●	●	●	●
Non-prof. svcs., goods, supplies	●	●	●	●	
Prime contracts	●	●	●	●	●
Subcontracts	●	●	●	●	

● = substantial disparity

Next Steps



Guidance & Recommendation Options

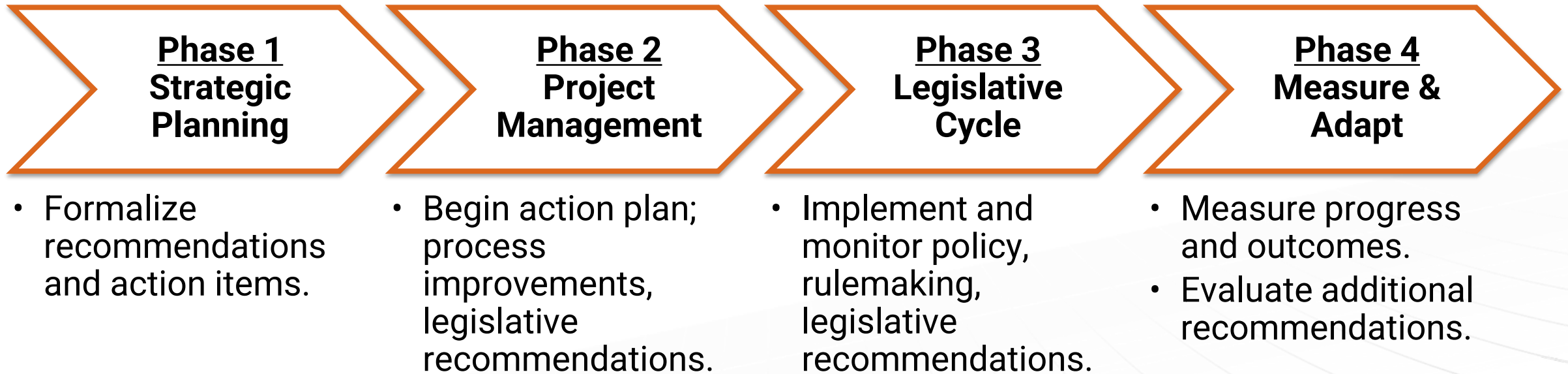


- Develop **program manual**
- Increase **solicitation timelines**
- **Unbundle** large projects
- Engage **new businesses**
- Expand **competitive bidding**
- Use **subcontracting minimums**
- Improve **subcontract data collection**
- Use **small business contract goals**
- Use **small business set-asides**
- Establish **prompt pay for subcontractors**
- Enforce **subcontract commitments**
- Track **business growth**



Developing an Action Plan

- ✓ **Work with internal and external partners**
- ✓ **Consider guidance and recommendation options**



Questions?

Debbie Dennis

Chief Administrative Officer & Deputy Director

971-701-0295

debbie.dennis@das.oregon.gov

Meliah Masiba

Legislative Director

503-931-7267

meliah.masiba@das.oregon.gov

Christopher D. Wilson

Office of Procurement Equity Manager

971-283-4990

christopher.d.wilson@das.oregon.gov



For more information, visit:
<https://oregon.gov/das/pages/disparity-study.aspx>