



**Texas Comptroller of Public Accounts**

# **A Historically Underutilized Business (HUB) Disparity Study of State Contracting 2009 Final Report**



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# A Historically Underutilized Business (HUB) Disparity Study of State Contracting 2009

## FINAL REPORT

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## ***EXECUTIVE SUMMARY***

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## **EXECUTIVE SUMMARY**

In September 2008, MGT of America, Inc. (MGT), was retained to conduct a minority and nonminority woman-owned businesses enterprise (M/WBE) disparity study for the State of Texas (Study), to determine whether there was a compelling interest to continue a narrowly-tailored Historically Underutilized Business (HUB) program, as required by the U.S. Supreme Court decision in *Richmond v. Croson*, 488 U.S. 469 (1989).

The results of this study and the conclusions drawn are presented in detail in **Chapters 2.0** through **8.0** of this report. A complete discussion of findings and recommendations is contained in **Chapter 9.0**. The following sections briefly summarize each of the study's findings, and are followed by related major recommendations (**Chapter 9.0**). Selected best practices are described in **Chapter 10.0** of this report.

### **State of Texas HUB Program**

In 1991 Texas instituted the HUB program to increase the opportunities available to businesses owned by minorities and women in the area of state procurement and contracting.<sup>1</sup> In accordance with Title 34, Section 20.13 of the Texas Administrative Code, each state agency shall make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases. The Texas HUB program sets aspirational goals by procurement category and allows for HUB subcontracting plans for contracts above \$100,000.

### **1994 Texas Disparity Study**

The first attempt to assess disparity in Texas procurement and contracting took place in 1994. The 1994 Disparity Study (1994 Study) was mandated by H.B 2626 of the 73<sup>rd</sup> Legislature. The 1994 Study, covered five fiscal years (FY) from FY1989 through FY1993.<sup>2</sup> The 1994 Study focused on the analysis of procurement data from five state agencies and two institutions of higher education:

- General Services Commission

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<sup>1</sup> A HUB is a business entity with its principal place of business in Texas, which must be at least 51% owned by an Asian Pacific American, African American, Hispanic American, Native American, and/or American woman who resides in Texas and has a proportionate interest and demonstrates active participation in the control, operations, and management of the entity's affairs. The Statewide HUB Program provides HUB certification for minority and nonminority woman-owned businesses in the state of Texas. Vendors seeking certification as a HUB are required to submit a completed HUB certification application with supporting documentation, affirming under penalty of perjury that their business qualifies as a HUB. Certified HUB businesses are subject to periodic compliance audits.

<sup>2</sup> Along with the 1994 Study, several local and regional studies have been conducted in various jurisdictions in Texas. The following is the list of selected studies: Austin: Disparity and Availability Study – 1992; Dallas Area Rapid Transit Authority Disparity – 1997; Dallas Availability and Disparity Study – 2001; City of Dallas Independent School District Disparity – 2002; Austin Disparity and Availability Study (update) - 2003 ; City of Houston Disparity Study – 2006; North Texas Transit Authority Availability and Disparity Study – 2008; Austin: Race, Sex, and Business Enterprise – 2008; San Antonio Regional Business Disparity Causation Analysis Study -2009. Several other counties and municipalities plan to conduct initial disparity studies or update the existing studies.

- Texas Department of Criminal Justice
- The Comptroller of Public Accounts
- Texas Parks and Wildlife Department
- Texas Department of Transportation (TxDOT)
- Texas Agricultural & Mechanical University System
- University of Texas System

**Additional 1994 Texas Disparity Study Observations**

- The 1994 Study was based on \$11.1 billion in prime contracts (unknown subcontract amount) during FY1989 through FY1993.
- The 1994 Study was limited to purchases from firms within the State of Texas.
- The 1994 Study covered four procurement types of construction, professional services, other services, and commodities.
- The 1994 Study provided percentage dollar utilization for subcontracting for TxDOT construction only.
- The 1994 Study found that over \$959.96 million was spent with HUB prime vendors from FY1992-93<sup>3</sup>, 8.64 percent of the total. The largest procurement area in percentage terms was professional services, with 11.60 percent.<sup>4</sup>
- With the exception of Asian Americans in professional services and commodities, the Study identified disparity and discrimination in all categories.
- Despite recording disparities in nearly all categories and stressing the presence of “discrimination,” the Study did not provide any recommendation.

**2009 Texas Disparity Study**

The 2009 Disparity Study (2009 Study) consisted of fact-finding to examine the extent to which State race- and gender-conscious and race and gender-neutral remedial efforts had effectively eliminated ongoing effects of any past discrimination affecting the state’s relevant marketplace, by analyzing state procurement trends and practices for the study period from FY2006 through FY2008. The purpose of the study was twofold: to provide a comprehensive review of the State’s utilization of historically underutilized businesses (HUBs); and to evaluate various options for future program development. All state agencies along with state medical and health centers, and institutions of higher education were included in this study.

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<sup>3</sup> The 1994 Study was divided into two sections, Pre-HUB Program (1989-1992) and HUB Program Period (1992-1993).

<sup>4</sup> NERA, *State of Texas Disparity Study* (1994), Tables 3.4 and 3.6.

The objectives of the 2009 Texas Disparity Study were to:

- Identify from the most accurate sources, the availability of HUBs that are ready, willing and able to do business with the state.
- Analyze the contracting and procurement data of specific state agencies to determine their respective utilization of HUBs, as well as the state's utilization as a whole.
- Determine the extent to which any identified disparities in the utilization of available HUBs by the state might be impacted by discrimination.
- Examine what, if any, disparities exist between the proportion of ready, willing and able HUBs and the actual proportion of utilization of HUBs in state contracting.
- Collect anecdotal and qualitative data on HUB participation in state procurement.
- Determine whether there is a factual predicate for measures to foster inclusion of HUBs in state procurement.
- Recommend programs to remedy the effects of any discrimination identified, and to reduce or eliminate barriers that adversely affect the contract participation of such HUBs.

### **Source of Data and Research Design**

The extensive research for this study included: (1) the review of state prime contractor and subcontractor utilization data from 210 participating state agencies and institutions of higher education; (2) the review of availability data based on bids, bidders, prequalified firms, vendors, census, business surveys and Dunn & Bradstreet; (3) the review of anecdotal evidence from four public hearings, a survey of 1,032 firms, five focus groups, 102 individual interviews with firms, a web survey of Texas procurement and HUB staff resulting in 142 responses (74%), policy interviews with 60 Texas procurement and HUB staff; and (4) the review of private sector disparities based on data from the U.S. Census Bureau, local building permits data, survey responses, Reed Construction Data and the National Survey of Small Business Finance. The study reviewed data of the period from September 1, 2005, through August 31, 2008. The results were reviewed by the state's ten member Technical Review Team (TRT), a body composed of social scientists, attorneys, and state procurement and HUB specialists.

The participating state agencies and institutions of higher education were clustered into the following four groups: state agencies (148), universities (52), medical and health centers (9), and the Texas Department of Transportation (TxDOT) as a single agency. This clustering strategy was adopted due to variation in size and volume of procurement activities by participating state agencies and institutions of higher education. Please see **Appendix A** for a complete list of all participating agencies and institutions of higher education.

### **Prime Contract Utilization Findings**

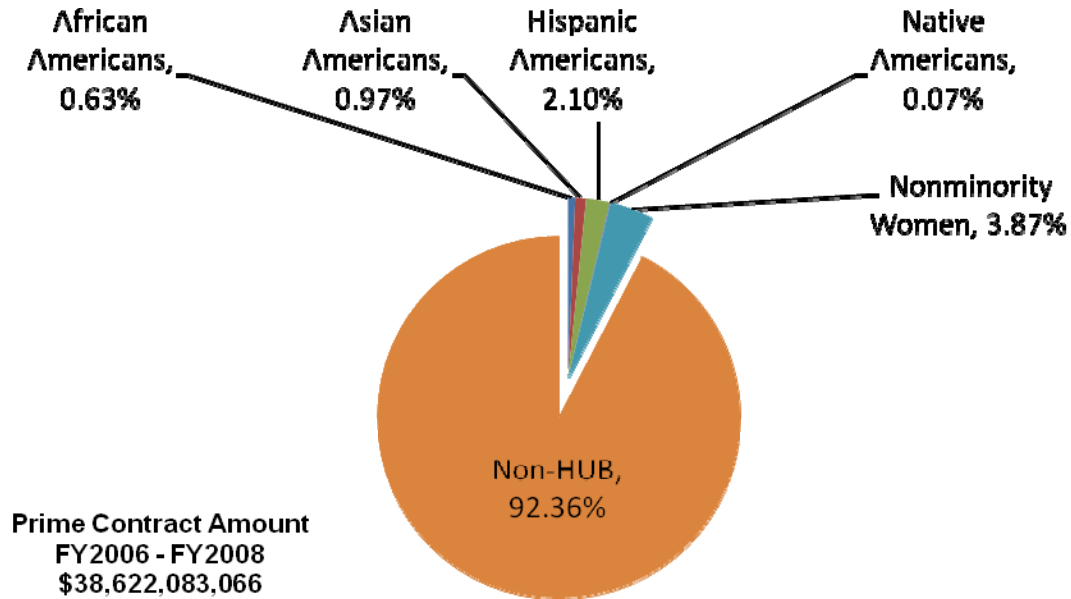
The 1994 study:

- Over the study period, construction accounted for 67.6 percent of the state's procurement spending; professional services accounted for 3.8 percent, other services for 9.3 percent, and commodities for 19.3 percent.
- Of the \$11.10 billion in state prime contract estimated spending, HUB vendors received 6.8 percent during Pre-Program Period (pre-HUB program) and 7.8 percent during the Program Period.
- During the Pre-Program Period, minority business enterprise (MBE) utilization ranged from about 2.1 percent of dollars in construction to 5.6 percent of dollars in professional services. During the same period, women owned business enterprise (WBE) ranged from 1.2 percent in construction to 5.3 percent in other services.
- During the HUB Program Period, HUBs, as a group, received between 8.0 percent and 11.6 percent of the dollars across procurement categories.

The 2009 study:

- Over the study period, construction (heavy construction, Building construction, and special trade construction combined) accounted for 52.22 percent of the State's procurement spending; professional services accounted for 4.61 percent, other services for 19.27 percent, and commodities for 23.89 percent.
- Of the \$38.61 billion in state prime spending, 5,713 HUB vendors received over \$2.95 billion, 7.64 percent of the overall payments (**Exhibit ES-1**).
- Of the four agency groups, universities had the largest HUB prime utilization in absolute and relative terms. The universities spent \$896.9 million (12.9%) with HUB prime vendors.
- In reference to procurement categories, the **special trade construction** category showed the highest rate of utilization of HUBs (26.82%) followed by commodities, professional services, and other services, 11.93 percent, 10.76 percent, and 10.63 percent, respectively.
- HUBs received \$393.8 million, or 2.49 percent, of total prime spending in heavy construction. HUB utilization outside of heavy construction was 11.13 percent over the study period.
- HUB utilization was 74.60 percent of procurement card purchases, 17.57 percent of Department of Information Resources (DIR) purchases, 6.83 percent of group purchases and 6.13 percent of term contract purchases.

**EXHIBIT ES-1  
PRIME CONTRACTOR AMOUNT BY RACE, ETHNICITY/GENDER CLASSIFICATION  
FISCAL YEAR 2006 THROUGH FISCAL YEAR 2008**



**Disparity Ratio**

The final prime contract disparity ratio is summarized in **Exhibit ES-2**.

- With the exception of special trade construction and commodities procurement categories, the Study revealed disparity in utilizing African American firms in heavy construction, Building construction, professional services, and other services.
- Hispanic American-owned firms were underutilized in all procurement categories.
- With the exception of special trade construction, Asian American-owned firms were underutilized in all procurement categories.
- Native American-owned firms were underutilized in all procurement categories except commodities.
- Non-minority women-owned firms were underutilized in heavy construction, Building construction, professional services, other services, and commodities.



**EXHIBIT ES-2  
UTILIZATION AND DISPARITY IN HUB PRIME CONTRACTOR UTILIZATION  
BY RACE, ETHNICITY/GENDER CLASSIFICATION  
FISCAL YEAR 2006 THROUGH FISCAL YEAR 2008**

Business Category	African American	Asian American	Hispanic American	Native American	Nonminority Women	Total HUB
<b>Heavy Construction</b>						
Utilization Dollars	\$5,346,256	\$14,835,751	\$196,485,079	\$822,262	\$174,582,831	\$392,072,179
Utilization Percent	0.03%	0.09%	1.24%	0.01%	1.10%	2.48%
Disparity	YES*	YES*	YES*	YES*	YES*	
<b>Building Construction</b>						
Utilization Dollars	\$5,963,406	\$12,250,225	\$65,495,031	\$155,889	\$99,395,814	\$183,260,364
Utilization Percent	0.18%	0.38%	2.02%	0.00%	3.06%	5.65%
Disparity	YES*	YES*	YES*	YES*	YES*	
<b>Special Trades Prime</b>						
Utilization Dollars	\$20,785,063	\$16,953,768	\$60,668,145	\$2,331,164	\$191,038,550	\$291,776,691
Utilization Percent	1.91%	1.56%	5.58%	0.21%	17.56%	26.82%
Disparity	NO	NO	YES*	YES*	NO	
<b>Professional Services</b>						
Utilization Dollars	\$5,691,385	\$66,217,935	\$81,085,425	\$422,411	\$38,318,870	\$191,736,026
Utilization Percent	0.32%	3.72%	4.55%	0.02%	2.15%	10.76%
Disparity	YES*	YES*	YES*	YES*	YES*	
<b>Other Services Firms</b>						
Utilization Dollars	\$85,379,101	\$110,762,489	\$157,005,765	\$14,517,975	\$423,741,216	\$791,406,546
Utilization Percent	1.15%	1.49%	2.11%	0.20%	5.69%	10.63%
Disparity	YES*	YES*	YES*	YES*	YES*	
<b>Commodities Vendors</b>						
Utilization Dollars	\$118,533,869	\$155,316,580	\$249,251,472	\$9,338,117	\$568,066,480	\$1,100,506,519
Utilization Percent	1.28%	1.68%	2.70%	0.10%	6.16%	11.93%
Disparity	NO	YES*	YES*	N/A	YES*	

Source: MGT of America, Inc., disparity analysis.

**Subcontractor Utilization**

The 1994 Study:

- The 1994 Study found that HUBs comprised 10.1 percent of the subcontracts used in those state agencies (seven state agencies and universities) after the HUB program was established in 1991.<sup>5</sup>

<sup>5</sup> NERA, *State of Texas Disparity Study* (1994), page 48.

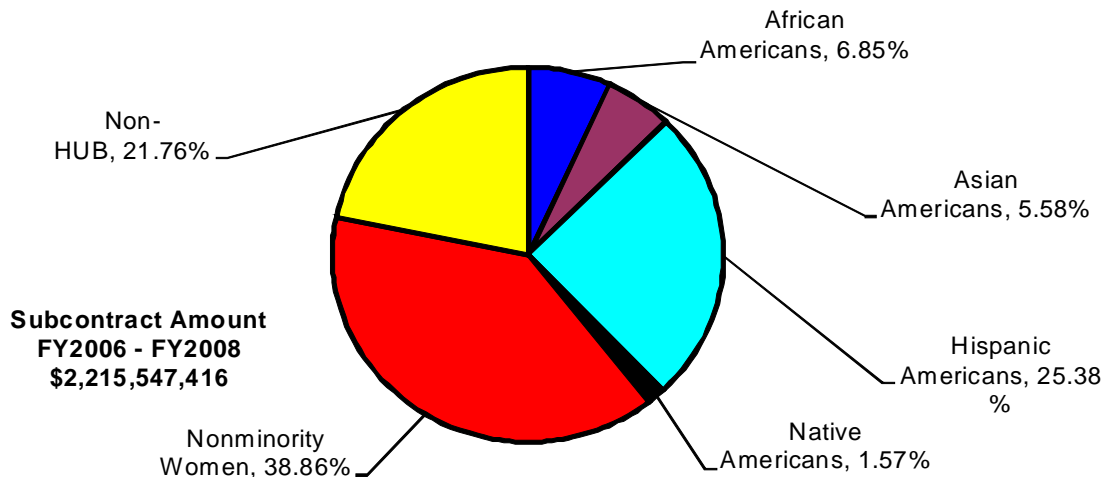
- The 1994 Study also found that HUBs received 36.7 percent of TxDOT construction subcontract dollars after the HUB program was established.<sup>6</sup>

The 2009 Study:

- The 2009 Study showed that approximately \$1.7 billion was paid to 2,861 HUB subcontractors over the study period.
- HUB subcontractor spending was 4.24 percent of state contract spending.
- As shown in the exhibit, the largest proportion of subcontracting (38.86%) belonged to women-owned businesses followed by Hispanic American-owned business (25.38%).
- HUB subcontractors received \$824.7 million from TxDOT, \$396.8 million from universities, \$354.4 million from state agencies and \$157.3 million from medical institutions over the study period.
- During the current study period, Hispanic American-owned, Asian American-owned, and non-HUB firms were underutilized in building construction subcontractors. Native-American-owned and non-HUB firms were underutilized in special trade construction subcontractors.

**Exhibit ES-3** depicts the reported subcontract amount for FY2006 through FY2008 by race, ethnicity, and gender classification of business owners.

**EXHIBIT ES-3  
SUBCONTRACTOR AMOUNT BY RACE/ETHNICITY/GENDER CLASSIFICATION  
FISCAL YEAR 2006 THROUGH FISCAL YEAR 2008**



<sup>6</sup> Analysis of subcontract data is based on the reported HUB and non-Hub subcontract data reported to the Statewide HUB Program by all State Agencies and Institutions of Higher Education.

**Prime and Subcontract Utilization**

**Exhibit ES-4** depicts the prime and subcontract utilization amount by procurement type and race/ethnicity/gender for participating firms in state HUB-related contracting from FY2006 through FY2008. More specifically:

- Over the study period, construction (heavy construction, Building construction, and special trade construction combined) accounted for 53.45 percent of the state's procurement spending; professional services accounted for 4.69 percent, other services for 19.18 percent, and commodities for 22.68 percent.
- Combined HUB prime and subcontractor spending was \$4.68 billion, 11.41 percent of total state contract spending over the study period.
- In ranking the combined prime and subcontract expenditures by procurement type, heavy construction accounted for over 40 percent of the state expenditure (\$16.6 billion), followed by commodities, and other services, \$9.2 billion, and \$7.8 billion, respectively.

**EXHIBIT ES-4  
PRIME AND SUBCONTRACTOR UTILIZATION AMOUNT BY PROCUREMENT  
TYPE AND BY RACE/ETHNICITY/GENDER CLASSIFICATION  
FISCAL YEAR 2006 THROUGH FISCAL YEAR 2008**

Procurement Type	HUB Groups	Prime Contractor Utilization	Subcontractor Utilization	Combined Prime and Subcontractor Utilization	HUB Utilization
<b>Heavy Construction</b>	African Americans	\$5,346,256	\$74,162,659	\$79,508,915	
	Asian Americans	\$14,835,751	\$36,523,132	\$51,358,883	
	Hispanic Americans	\$196,485,079	\$297,555,271	\$494,040,350	
	Native Americans	\$822,262	\$17,932,248	\$18,754,510	
	Nonminority Women	\$174,582,831	\$341,046,199	\$515,629,030	
	HUB-Total	\$392,072,179	\$767,219,508	\$1,159,291,687	7.32
	Non-minority	\$15,443,726,309	\$46,793,860	\$15,490,520,169	
	<b>Total</b>	<b>\$15,835,798,488</b>	<b>\$814,013,368</b>	<b>\$16,649,811,856</b>	

**EXHIBIT ES-4 (Continued)  
PRIME AND SUBCONTRACTOR UTILIZATION AMOUNT BY PROCUREMENT TYPE  
AND BY RACE/ETHNICITY/GENDER CLASSIFICATION  
FISCAL YEAR 2006 THROUGH FISCAL YEAR 2008**

Procurement Type	HUB Groups	Prime Contractor Utilization	Subcontractor Utilization	Combined Prime and Subcontractor Utilization	HUB Utilization
<b>Building Construction</b>	African Americans	\$5,963,406	\$26,912,555	\$32,875,961	
	Asian Americans	\$12,250,225	\$6,910,780	\$19,161,004	
	Hispanic Americans	\$65,495,031	\$130,058,369	\$195,553,400	
	Native Americans	\$155,889	\$13,796,031	\$13,951,920	
	Nonminority Women	\$99,395,814	\$237,992,102	\$337,387,916	
	HUB-Total	\$183,260,364	\$415,669,837	\$598,930,201	18.46
	Non-minority	\$3,061,242,631	\$388,679,454	\$3,449,922,086	
	<b>Total</b>	\$3,244,502,996	\$804,349,291	\$4,048,852,287	
<b>Special Trade Construction</b>	African Americans	\$20,785,063	\$2,275,995	\$23,061,059	
	Asian Americans	\$16,953,768	\$1,712,267	\$18,666,035	
	Hispanic Americans	\$60,668,145	\$11,653,157	\$72,321,302	
	Native Americans	\$2,331,164	\$663,092	\$2,994,256	
	Nonminority Women	\$191,038,550	\$18,532,051	\$209,570,601	
	HUB-Total	\$291,776,691	\$34,836,563	\$326,613,254	30.02
	Non-minority	\$796,276,868	\$5,118,842	\$801,395,710	
	<b>Total</b>	\$1,088,053,559	\$39,955,405	\$1,128,008,964	

**EXHIBIT ES-4 (Continued)  
PRIME AND SUBCONTRACTOR UTILIZATION AMOUNT BY PROCUREMENT TYPE  
AND BY RACE/ETHNICITY/GENDER CLASSIFICATION  
FISCAL YEAR 2006 THROUGH FISCAL YEAR 2008**

Procurement Type	HUB Groups	Prime Contractor Utilization	Subcontractor Utilization	Combined Prime and Subcontractor Utilization	HUB Utilization
<b>Professional Services</b>	African Americans	\$5,691,385	\$7,762,857	\$13,454,242	
	Asian Americans	\$66,217,935	\$20,071,248	\$86,289,183	
	Hispanic Americans	\$81,085,425	\$35,805,984	\$116,891,409	
	Native Americans	\$422,411	\$925,819	\$1,348,230	
	Nonminority Women	\$38,318,870	\$30,568,338	\$68,887,208	
	HUB-Total	\$191,736,026	\$95,134,247	\$286,870,272	16.11
	Non-minority	\$1,589,480,801	\$38,473,186	\$1,627,953,986	
	<b>Total</b>	<b>\$1,781,216,826</b>	<b>\$133,607,432</b>	<b>\$1,914,824,259</b>	
<b>Other Services</b>	African Americans	\$85,379,101	\$31,350,848	\$116,729,949	
	Asian Americans	\$110,762,489	\$57,456,684	\$168,219,173	
	Hispanic Americans	\$157,005,765	\$75,029,256	\$232,035,021	
	Native Americans	\$14,517,975	\$1,311,086	\$15,829,061	
	Nonminority Women	\$423,741,216	\$222,808,023	\$646,549,239	
	HUB-Total	\$791,406,546	\$387,955,898	\$1,179,362,444	15.84
	Non-minority	\$6,652,547,325	\$2,755,170	\$6,655,302,495	
	<b>Total</b>	<b>\$7,443,953,871</b>	<b>\$390,711,068</b>	<b>\$7,834,664,939</b>	

**EXHIBIT ES-4 (Continued)  
PRIME AND SUBCONTRACTOR UTILIZATION AMOUNT BY PROCUREMENT TYPE  
AND BY RACE/ETHNICITY/GENDER CLASSIFICATION  
FISCAL YEAR 2006 THROUGH FISCAL YEAR 2008**

Procurement Type	HUB Groups	Prime Contractor Utilization	Subcontractor Utilization	Combined Prime and Subcontractor Utilization	HUB Utilization
<b>Commodities</b>	African Americans	\$118,533,869	\$9,204,719	\$127,738,588	
	Asian Americans	\$155,316,580	\$942,102	\$156,258,681	
	Hispanic Americans	\$249,251,472	\$12,268,939	\$261,520,411	
	Native Americans	\$9,338,117	\$134,609	\$9,472,727	
	Nonminority Women	\$568,066,480	\$10,119,927	\$578,186,408	
	<b>HUB-Total</b>	<b>\$1,100,506,519</b>	<b>\$32,670,296</b>	<b>\$1,133,176,815</b>	<b>12.28</b>
	Non-minority	\$8,128,050,807	\$240,556	\$8,128,291,363	
	<b>Total</b>	<b>\$9,228,557,326</b>	<b>\$32,910,852</b>	<b>\$9,261,468,178</b>	
<b>Total</b>	African Americans	\$241,699,081	\$151,669,634	\$393,368,715	
	Asian Americans	\$376,336,747	\$123,616,212	\$499,952,959	
	Hispanic Americans	\$809,990,918	\$562,370,976	\$1,372,361,894	
	Native Americans	\$27,587,817	\$34,762,886	\$62,350,704	
	Nonminority Women	\$1,495,143,762	\$861,066,641	\$2,356,210,402	
	<b>HUB-Total</b>	<b>\$2,950,758,325</b>	<b>\$1,733,486,348</b>	<b>\$4,684,244,674</b>	
	Non-minority	\$35,671,324,740	\$482,061,068	\$36,153,385,808	
	<b>Total</b>	<b>\$38,622,083,066</b>	<b>\$2,215,547,416</b>	<b>\$40,837,630,482</b>	

### **Anecdotal Evidence**

Among the M/WBEs which responded to survey questions about barriers to doing business, the greatest concern was the difficulty of competing with large firms (425 respondents, 59.36% of M/WBEs). Seventy M/WBEs (9.78% of M/WBE respondents) reported discriminatory experiences with state agencies and/or institutions over the past five years. These responses were not significantly different from the responses of non-M/WBEs to this question. Ninety-eight M/WBEs (13.8%) reported discriminatory experience in the private sector over the past three years. This was statistically significant for African American-owned firms.

Some prominent themes in interviews and focus groups were:

- Inadequate enforcement of the HUB programs. Specifically, participants expressed concern that (1) HUBs are listed in HUB subcontracting plans but are dropped after the contract is awarded, and (2) good faith effort submissions are not reviewed or enforced.
- Inadequate communication between prime and subcontractors.
- Inadequate enforcement of rules covering the business interaction between prime and subcontractors.
- Lack of timely payment of HUB and non-HUB subcontractors by prime contractors.

### **Private Sector Evidence**

MGT collected data on private sector commercial construction from major cities in the state of Texas. HUB subcontractor utilization was between 35 and 50 percent on state projects as compared to 1 to 2 percent on private sector commercial projects. Evidence was also presented on disparities in entry into and earnings from self-employment, in census business data, and in access to business credit.

### **Commendations and Recommendations**

Sixteen commendations and recommendations are provided in **Chapter 9.0** to enhance HUB utilization. The following is a list of selected recommendations:

#### **Commendations and Recommendation ES-1: Outreach**

State agencies and institutions should be commended for some of the most extensive outreach activities by any state in the United States. State agencies and institutions should consider more consistent feedback, debriefing, and sharing of scoring methodologies with interested prime and subcontractors as a form of outreach.

### **Commendations and Recommendation ES-2: SBE Program**

The State should be commended for establishing a Small Business Enterprise (SBE) program. However, at this point, the SBE program is currently a self-certification program at TxDOT. A strong SBE program is central to maintaining a narrowly tailored program to promote HUB utilization. In particular, the state should focus on increasing HUB utilization through an SBE program. Other possible SBE initiatives include SBE set-asides, bid preferences and financial incentives for utilizing SBEs. Other race neutral measures suggested in the report include: vendor rotation, a commercial anti-discrimination statute, joint ventures, adjustment of the size of contracts to facilitate procurement by smaller firms and increased business development assistance.

### **Recommendation ES-3: HUB Subcontractor Plans**

The case law involving federal Disadvantaged Business Enterprise (DBE) programs provides important insight into the design of the state HUB program. The federal courts have consistently found the federal DBE regulations to be narrowly-tailored. The core theme should be that prime contractors should document their outreach efforts and the reasons why they may have rejected qualified HUBs that were the low-bidding subcontractors.

### **Recommendation ES-4: Certification**

The state should consider the following changes to HUB certification: (1) adopt a two-tier standard for HUB and SBE certification, covering large and small HUBs and SBEs, (2) add socially and economically disadvantaged firms to the state definition of HUBs, and (3) allow for federally certified DBE, HUBZone and Small Disadvantaged Businesses (SDBs) located in the State of Texas to automatically qualify for HUB status.

### **Recommendation ES-5: Annual Aspirational HUB Goals**

Possible revised aspirational goals based on M/WBE availability are proposed below in **Exhibit ES-5**. The proposed goals are a weighted average of HUB availability and HUB utilization (please see **Appendix K** for a full discussion of the methodology and stepwise calculation of Aspirational Goals). The proposed goals reflect only the Statewide HUB Program activities without reference to a specific agency or institution of higher education. These goals can be adjusted for each state agency and institution of higher education.



**EXHIBIT ES-5  
STATE OF TEXAS  
PROPOSED HUB ASPIRATIONAL GOALS  
BY PROCUREMENT TYPE**

<b>Procurement Category</b>	<b>Current HUB Utilization FY2006 through FY2008</b>	<b>Proposed Goals</b>
Heavy Construction	7.32	11.2
Building Construction	18.46	21.1
Special Trade Construction	30.02	32.7
Professional Services	16.11	23.6
Other Services	15.84	24.6
Commodities	12.28	21.0

Source: MGT of America, Inc.

**Commendations and Recommendation ES-6: HUB Program Data Management**

The State of Texas has one of the most detailed state HUB reports in the U.S. However, there are some modifications to HUB expenditure reporting that should be considered, including:

- State Agencies and Institutions of Higher Education should edit and verify their HUB related payment data prior to submission to the Statewide HUB Program. For example, payments made to cities or counties as a set-aside fund for road maintenance or membership fees for professional associations should not be considered as HUB related payments.
- Explore a web-based data management system such as the HUBSCO system used by North Carolina.
- Report bidders by procurement category.
- Add a drop-down menu or list of critical data elements.
- Create mandatory fields for data entry.
- Conduct a comprehensive assessment of all HUB Reportable and Non-reportable Object Codes.

### **Benchmarking and Best Practices**

**Chapter 10.0** of the 2009 Texas Disparity Study is devoted to benchmarking and best practices. This chapter introduced several successful programs around the nation which could be tailored for Texas to stimulate HUB utilization. The following is a list of a few recommended programs reviewed in that chapter:

- Race and Gender-Neutral Prime Contract Programs:
  - Port of Portland (Small Business Enterprise bid preferences)
  - City of New York (HUBZones)
  - State of North Carolina (DBE Program)
  - Miami-Dade County, Florida (Bidder rotation)
  - Bexar County, Texas (Outreach)
- Race and Gender-Conscious Subcontracting Goal Setting:
  - North Carolina Department of Transportation (Project oriented goals)
  - City of Denver, Colorado ( Modified M/WBE good faith efforts)
- Race and Gender-Neutral Subcontracting Programs:
  - City of Columbia, South Carolina (Mandatory Subcontracting)
  - State of Oregon (Subcontractor Disclosure and Substitution).

### **Continuation of the Statewide HUB Program**

The 2009 Texas Disparity Study provides evidence to support the continuation of the Statewide HUB Program. This conclusion is based primarily on: 1) statistical disparities by race, ethnicity and gender classification in current HUB utilization, particularly in prime contracting; 2) statistical disparities by race, ethnicity and gender classification in the private marketplace, particularly in the area of utilization of women- and minority-owned firms in commercial construction; 3) statistical disparities in firm earnings by race, ethnicity and gender classification, even after controlling for capacity-related factors; and 4) anecdotal testimony of disparate treatment as presented by business owners in interviews, surveys, public hearings and focus groups.