

# MWSBE Program Expansion FAQs



## FAQs

<i>Q. Is the City's MWBE program ending?</i>	A. No, the program is being updated to reflect findings in the 2023 Disparity Study.
<i>Q. Will MBEs with no disparity remain certified?</i>	A. Yes, the MWSBE program will continue to certify and renew certifications for all eligible firms.
<i>Q. Is there a legal challenge to the current program?</i>	A. Small business owners assert in a 2023 case before a federal court that City of Houston's M/WBE program is unconstitutional – Houston Chronicle story: <a href="#">Disparity Study Houston Chronicle Article</a>
<i>Q. What happens if the new ordinance changes are adopted?</i>	A. The program could be struck down. If the program is struck down, there would be no enforcement mechanism on current City contracts; otherwise, the City would be in violation of the injunction.

<i>Q. Why should the City adopt the current disparity study?</i>	A. The likelihood of legal success with the court is significantly better under the recently completed disparity study due to the use of recent comprehensive data and enhanced race-neutral SBE opportunities.
<i>Q. What happens if the new ordinance is not adopted?</i>	A. If the new program does not reflect recent relevant spending data from City contracts, there will be no defensible program.
<i>Q. How long would it take to setup a new program if the courts struck the current program down?</i>	A. A new program would require a new study, which would take 2 to 3 years to reestablish.
<i>Q. What strengthens the new program?</i>	A. Expansion of the SBE program and retention of M/WBE program components preserve the City's ability to address disparities that maybe identified in the future.
<i>Q. Will the MBE or WBE of groups with no-disparity be removed?</i>	A. No, the presumptive groups will retain their MBE and WBE certifications. In the new program they will count toward goal participation as SBEs.
<i>Q. Will OBO continue to certify presumptive groups as MBEs and WBEs?</i>	A. Yes, OBO will continue to certify small businesses as MBE or WBE for reciprocity to other jurisdictions.

<p><i>Q. How will firms graduating from MBE become SBEs?</i></p>	<p>A. Firms will automatically migrate over to the SBE without need for an application unless they opt out.</p>
<p><i>Q. Does no disparity for Hispanic construction contractors mean that in each of the NAICS codes there was no disparity for any of those codes?</i></p>	<p>A. The disparity is based upon aggregate spending in a category for a presumptive group. Many firms have multiple NAICS codes and some cross categories. For instance, a firm can be certified as MBE and SBE n a NAICS code to provide carpentry which is “construction” scope; or the same firm can also be certified in a NAICS code to supply wood material. The firm could be counted for goal credit for construction as an SBE and toward supplier participation as MBE or SBE.</p>
<p><i>Q. What was the criteria that were used to determine utilization?</i></p>	<p>A. Examines the payments made to primes and subcontractors in the City’s geographic market area for each procurement category. The utilization data are presented as the dollars paid and the percentage of the total dollars by racial, ethnic, and gender classification.</p>
<p><i>Q. Does the anecdotal data size have implications for disparity or no disparity in the results?</i></p>	<p>A. No, the disparity is based solely on the amount of dollars spent on city contracts. Anecdotal data including results from surveys and interviews provide insight to the reasons for the disparity which was confirmed in this instance as discrimination.</p>
<p><i>Q. What was OBO ‘s follow up to its outreach efforts to</i></p>	<p>A. In addition to the initial presentation of the Disparity Study results in a public committee meeting where questions were addressed by council members and the public. OBO posted the</p>

<p><i>increase feedback participation?</i></p>	<p>findings and recommendations on the Disparity Study website and a link to the site on the OBO website. The department presented the study during the public session of the Advisory Board, answered questions and requested feedback. The department presented the study during the Contract Compliance Commission meeting and answered questions and requested feedback. The department and MGT hosted two public Zoom meetings to present the findings and recommendations, answer questions, and receive feedback. Announcements regarding each disparity study presentation was sent to all certified firms; regional government agencies, Prime contractors on OBOs listserv and eblasts which includes chambers of commerce, and professional groups that have worked with OBO. The meetings and results were covered by several media outlets. Conversations have begun with community leaders and community meetings are being arranged to get the message out more succinctly, so the stakeholders understand.</p>
<p><i>Q. Who made the specific recommended changes to the program?</i></p>	<p>A. Initially MGT made recommendations based on their knowledge and experience in the MWBE field. Once recommendations were reviewed and discussed between OBO, Legal, and SPD they were shared as viable options with the administration.</p>
<p><i>Q. Are there any race neutral measures underway now?</i></p>	<p>A. Currently the department certifies firms as SBE which is the City's race and gender-neutral program which is currently applied construction only. The SBE certification would be applicable for participation on contracts across all categories and the 4% cap on SBEs removed from construction.</p>

<p><i>Q. What steps does the administration intend to gain the support of council members and the public?</i></p>	<p>A. OBO, SPD, and the Mayor's Office will host additional engagement sessions with chambers of commerce, trade associations, certified firms, and other interested parties.</p>
<p><i>Q. How long will the migration take?</i></p>	<p>A. 5 to 10 days per category (Construction/Professional Services, Goods, Services). SBE will be applied to categories over 9 months in three phases. No goals will be assigned until the changes are complete to eliminate a gap in participation.</p>
<p><i>Q. How will the program guard against entry of mid to large firms into the market?</i></p>	<p>A. SBE size standards will follow the same rules as the existing MBE and WBE size standards.</p>
<p><i>Q. What suggestions from the community are under consideration for programming policies?</i></p>	<p>A. OBO, SPD, and the Mayor's Office will host additional engagement sessions with chambers of commerce, trade associations, certified firms, and other interested parties; enhanced data tracking and transparency; increased outreach and engagement with target markets where increased participation is needed; graduation support programs that will establish partnerships that allow for access to financing and access to larger contracting opportunities.</p>
<p><i>Q. What other approaches can help</i></p>	<p>A. Greater SBE capacity through program expansion means higher goal amounts and greater opportunities across</p>

<p><i>strengthen the program for MWSBEs?</i></p>	<p>procurement categories. Expansion of the small contract rotation program, developed in partnership with Houston Public Works, to other City Departments.</p>
<p><i>Q. Why is there an amendment to strike this part of the ordinance, “Any entity in which at least 51 percent of the assets of such entity is owned, controlled and managed by one or more minority persons and one or more women and such minority person”?</i></p>	<p>A. The 51% amendment to eliminate combining M and W, as combining two groups to achieve an inclusive status where each of the combined groups individually would not qualify may cause legal issues</p>