



## Travis County Commissioners Court Agenda Request

**Meeting Date:** November 19, 2013

**Prepared By/Phone Number:** Sylvia Lopez, HUB Coordinator,  
854-4561

**Elected/Appointed Official/Dept. Head:** Cyd Grimes, C.P.M, CPPO

**Commissioners Court Sponsor:** Judge Biscoe

**Agenda Language:** RECEIVE UPDATE ON DISPARITY STUDY FOR TRAVIS COUNTY AND TAKE APPROPRIATE ACTION

The County was approached in March 2012 to participate in the City of Austin's next Disparity Study through an Interlocal Agreement. In August 2012, \$200,000 was earmarked by the Commissioners Court for the County to potentially participate in the study. This amount does not include outside legal counsel which is estimated to be up to \$100,000. Since that time, staff has participated in a series of meetings to discuss scope and County participation, including a November 15, 2012 work session with the City of Austin and Bexar County both presenting. Also, community small business representatives expressed their support of the County participating in the study.

During a voting session on December 4, 2012, the Court directed staff to begin developing the County's scope of work for a disparity study, but did not authorize participation as of yet. On April 11, 2013 during a work session and April 23, 2013, during a voting session, Purchasing staff presented the draft of the scope.

The City of Austin issued an RFQ in late December 2012 and awarded the contract on June 20, 2013 to National Economic Research Associates, Inc. or NERA to conduct an availability and disparity study. Staff met with NERA twice to discuss the County's scope and cost estimate with NERA providing an "in budget" scope for an availability study only and a "full blown" scope for a disparity study which surpassed the initial earmarked amount of \$200,000 by \$139,552.38.

**The Purchasing Agent is requesting Court direction and approval of a Scope of Work, either for an “Availability Study” or the full blown “Disparity Study”, and authorize her to commence negotiations with the Consultant. Any resulting contract will be presented to the Court for approval. If Court approves Disparity Study, the Purchasing Agent request that Court direct PBO to find the additional funding.**

# DISPARITY STUDY FOR TRAVIS COUNTY HUB PROGRAM



## -UPDATE-

Voting Session: November 19, 2013

Presented by: Cyd V. Grimes, C.P.M., CPPO, Purchasing Agent

Marvin Brice, Purchasing Agent Assistant

Sylvia Lopez, HUB Program Coordinator/DBE Liaison

Betty Chapa, Lead HUB Program Specialist

Jerome Guerrero, HUB Program Specialist



# OVERVIEW

- Recap Timeline of Events
- Definitions of Studies
- Studies' Similarities
- Studies' Differences
- Recap of NERA's Recommendations
- Studies' Do Not Include
- Disparity Study Pros/Cons
- Possible Outcomes Moving Forward with a Disparity Study
- Q&A

# RECAP TIMELINE OF EVENTS

2012	2013
March - City of Austin invited County to participate (Cap. Metro, AISD invited)	April 11 <sup>th</sup> - Work Session Staff presented the first draft of the scope
November 15 <sup>th</sup> - Work Session (COA, Bexar Co.)	April 23 <sup>rd</sup> - Voting Session Court approved draft scope and gave permission to begin negotiations with consultant
December 4 <sup>th</sup> - Voting Session Court directed staff to begin developing County's scope	June 20 <sup>th</sup> - City of Austin approves contract with NERA
	August 28 <sup>th</sup> & October 23 <sup>rd</sup> – Purchasing Staff met with NERA
	September 20 <sup>th</sup> – NERA provided first cost estimate
	November 4 <sup>th</sup> – NERA provided revised cost estimate

# DEFINITIONS OF STUDIES

- **Disparity Study**: An independent, objective, comprehensive assessment conducted in accordance with accepted practices in social science research...assisting government entities to survive constitutional challenges to their M/WBE, DBE or HUB Programs. The principal goals of a legally defensible disparity study are to ensure compliance with constitutional mandates and equality of opportunity in the award and implementation of public contracts and purchase orders. (Some elements include case law, assessing geographic market, prime/subcontracting data earned by M/WBE/DBE/HUBs, public sector availability/utilization comparison, anecdotal evidence, qualitative/quantitative race-neutral measures, etc.)
- **Availability Study**: An availability study is a subset of a disparity study, focusing primarily on measuring the fraction of businesses in the relevant marketplace that are M/WBE, DBE or HUB.



Sources: NCHRP Report 644; NERA City of Austin RFQ SMW0051 Response



# **STUDIES' SCOPE COMPARISON**

## **-SIMILARITIES-**

**Disparity Study (\$339,552)**

**Availability Study (\$199,969)**

- Based on 3 years of prime and subcontracting data
- Provide analysis of Travis County HUB program and procurement policies
- Recent overview of current constitutional standards/case law
- Monthly progress reports
- Draft report
- Narrowly tailored recommendations

# STUDIES' SCOPE COMPARISON

## -DIFFERENCES-

### Disparity Study (\$339,552)

- Study legally defensible
- Will include subcontracting data collection to fill data collection gaps...accurate conclusions
- NERA will be required to testify on the constitutionality of the County's HUB program if challenged 6 years after study completion
- Submit one electronic copy and 25 copies of study

### Availability Study (\$199,969)

- Study not legally defensible
- Will not include any additional subcontracting data collection to supplement existing gaps...possible inaccurate conclusions
- NERA will not be required to testify on the constitutionality of the County's HUB program if challenged
- Submit only one electronic copy
- Reduced outreach in support of focus group and survey participation
- Reduced sample sizes for surveys





## **RECAP OF NERA'S** **RECOMMENDATIONS**

- Estimate of \$339,552 is firm for either 3 years or 5 years of contract data
- The most critical data to start study is prime contracts and purchase orders; more time would be given to collect subcontracting payment data
- Study would take up to 18 months



# **STUDIES DO NOT INCLUDE**

- Staffing Analysis
- Costs to implement recommendations
- Costs to conduct new study in 5-7 years
- Costs to defend study if challenged

# **DISPARITY STUDY PROS/CONS**

## **PROS**

- Establish County's program constitutionality
- Show if County has past history of discrimination
- Identify specific HUB program related issues/narrowly tailored recommendations
- Assist in establishing realistic or contract specific goals
- Establish a basis for reanalyzing the program in the future
- Cost reduction partnering with the City of Austin

## **CONS**

- Ongoing incurred costs for reanalyzing study (Every 5-7 yrs.)
- Enforcement/achievement of goals can still be an issue
- Other incurred costs for additional staff, budget, etc.
- Dissatisfaction from HUB community that enforceable goals are still not being met
- Dissatisfaction from non-HUB community on compliance of achieving goals
- Studies can take a year or more



## **POSSIBLE OUTCOMES OF MOVING FORWARD WITH A DISPARITY STUDY**

- Bid rejections if goals are not met and GFE is not made (May result in negative affect on project schedule and budget)
- HUB participation remains low even with a disparity study
- Increased internal education and accountability of County departments' support
- Prove “Statistically Significant” disparity in HUB participation
- Switch from voluntary Good Faith Effort (GFE) to an enforceable race-conscious project specific goal program



# **COURT DIRECTION?**

Authorize Purchasing Agent to Finalize Contract Negotiations for:

- 1) Availability Study (within budget), OR
- 2) Disparity Study (need additional funding)

THANK YOU FOR YOUR TIME  
AND CONTINUED SUPPORT.

QUESTIONS

