



NEWS RELEASE

CONNECTICUT ACADEMY OF SCIENCE AND ENGINEERING

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CASE Releases Disparity Study – Phase 1

Rocky Hill, CT – The Connecticut Academy of Science and Engineering (CASE) conducted a *Disparity Study* on behalf of the Connecticut General Assembly (CGA) to analyze whether the state’s current Small and Minority Business Enterprise Set-Aside Program (General Statute 4a-60g) achieves the goal of facilitating the participation in state contracts of small contractors and minority business enterprises.

The study briefing will be held Wednesday, September 18 from 2:00 to 5:00 p.m. at the Legislative Office Building in Hartford.

The CASE Study Committee found that the state’s executive branch agencies and the other branches of state government responsible for awarding state contracts and overseeing the Set-Aside Program do not uniformly collect subcontractor data, including payment information. A review of the legal issues and case law, including presentations to the CASE Study Committee by experts on matters of race-based and gender-based programs, identified that subcontractor data, including payment information, is a critical component of conducting a valid disparity study, and hence creating a legally defensible program. Additionally, it was noted that unless quality data are collected and available for analysis, the program, which is based on the results of the disparity study, could be challenged and deemed unconstitutional in court, which would negate the purpose of conducting the study.

As a result, CASE recommended and the CGA has authorized a phased approach for the Disparity Study to achieve its stated goals.

- **Phase 1:** Connecticut’s MBE Set-Aside Program Review and Analysis, Legal Issues, and Stakeholder Anecdotal Information/Analysis (COMPLETED)
- **Phase 2:** Diversity Data Management System Specification and Review of Agency Procedures and Practices Related to System Implementation, Best Practices Review and Analysis, and Establishing MBE/WBE Program Requirements (FY14)
- **Phase 3:** Diversity Data Management System Testing, Econometric Model Acquisition and Testing, Legal Issues Update, Agency Progress and Race-Neutral Measures Implementation Review, and MBE/WBE Company Survey. (FY15, Tentative)
- **Phase 4:** Data Analysis and Goal Setting, Anecdotal Information/Analysis, and Final Project Report (FY16, FY17, FY18, Tentative)

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The *CASE Disparity Study: Phase 1* report shows that although Connecticut's current program was intended to achieve the objective of eliminating discrimination in state contracting in its market area, it was not designed as a *narrowly tailored* program, and consequently does not meet the *strict scrutiny* judicial standard for justifying a race-based program. To meet this standard:

- The program's contracting goals need to be related to a current assessment of whether there are disparities in state contracting in the market area among different racial groups.
- The state must show, through inference by utilizing econometric modeling, that discrimination is present in state contracting in the market area to justify a program.
- The program must be *narrowly tailored* to eliminate the persistence of discrimination by specifically identifying which groups are experiencing discrimination, by ensuring program flexibility to achieve program goals, and separating the MBE program from the SBE program.
- Connecticut must collect data on contractors by acquiring and implementing a diversity data management system. Detailed contracting information including certified subcontractors that are utilized to meet program goals must be available for econometric analysis to establish, monitor, and modify program goals on an ongoing basis.

Also, MBE and WBE companies located outside of Connecticut that are *ready, able, and willing* to provide services to the state need to have the opportunity to apply for certification. These actions will set in place a program structure that will meet the requirements for having a legally defensible program. It is suggested that the new program be titled the Connecticut MBE/WBE Opportunities Program.

The *CASE Disparity Study: Phase 1* report recommends actions to be taken as soon as possible, as well as in the short and long-term that relate to these findings. To see the full report, executive summary or key points, visit the CASE website at www.ctcase.org.

The Connecticut Academy of Science and Engineering was chartered by the General Assembly in 1976 to provide expert guidance on science and technology to the people and to the state of Connecticut, and to promote the application of science and technology to human welfare and economic well-being. www.ctcase.org.

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