

Research Plan: State Contracting and African-American Owned Businesses— Senate Bill 1235 and House Bill 1593

Research Manager: David Lewis

Lead Research Associate: Bob Moreo

Support:

Deputy Executive Director Approval: Initial: Date:

Executive Director Approval: Initial: Date:

Purpose

Examine the state's procurement processes and determine whether disparities exist in the issuance of state contracts to businesses owned and operated by African Americans; study the effects of such disparities, if they exist, among the African-American business community; and recommend actions to reduce any disparities going forward.

Background

Following a 2003 review of the state's procurement and contracting processes, with the goal of expanding opportunities for minority-owned, woman-owned, and small businesses to compete successfully for state contracts, Governor Bredesen created the Governor's Office of Diversity Business Enterprise (GoDBE), which became the state's central point of contact for all minority-owned, woman-owned, and small-business contract initiatives. In 2007, the GoDBE hired a consulting firm to conduct a comprehensive disparity study of the state's procurement practices. The study, completed in 2009, found that "statistically significant disparities exist in all areas of state of Tennessee contracting," and listed 23 recommendations to address disparities it found.

In 2021, the House of Representatives passed House Bill 1593 by Representative Miller (Senate Bill 1235 by Senator Gilmore), which directs TACIR to

- conduct a study on disparities in the issuance or award of state contracts to businesses, companies, and firms owned and operated by African Americans;

- provide information on the impact of such disparities on the African-American business community;
- provide information on the manner in which other states and jurisdictions of the United States have addressed such disparities; and
- include in the study recommendations regarding the manner in which to reduce such disparities.

Minority Leader Camper, one of several co-sponsors of the bill, referred to the 2009 disparity study in committee discussions, questioning whether its recommendations had been acted upon and stating that funding for an additional study of the University of Tennessee and Tennessee Board of Regents systems had gone unused.

State spending with businesses certified by the GoDBE as small businesses or as owned by minorities, women, or persons with disabilities—certified businesses—has increased from \$12.4 million in fiscal year 2004-05 to nearly \$740 million in fiscal year 2019-20. GoDBE-certified businesses make up less than 1% of all vendors registered with the state but were awarded 15.7% of all spending in fiscal year 2019-20. Because House Bill 1593 directs TACIR to focus on disparities specifically for African American businesses, trends in contracts awarded to each type of certified business should be looked at separately. Commission staff analysis of available GoDBE annual reports since 2014 show the percentage of total spending on certified businesses that went to those owned by African Americans ranged from 15.4% to 28.2%, and the share of all state spending ranged from 2.0% to 4.7%.

Define the Problem

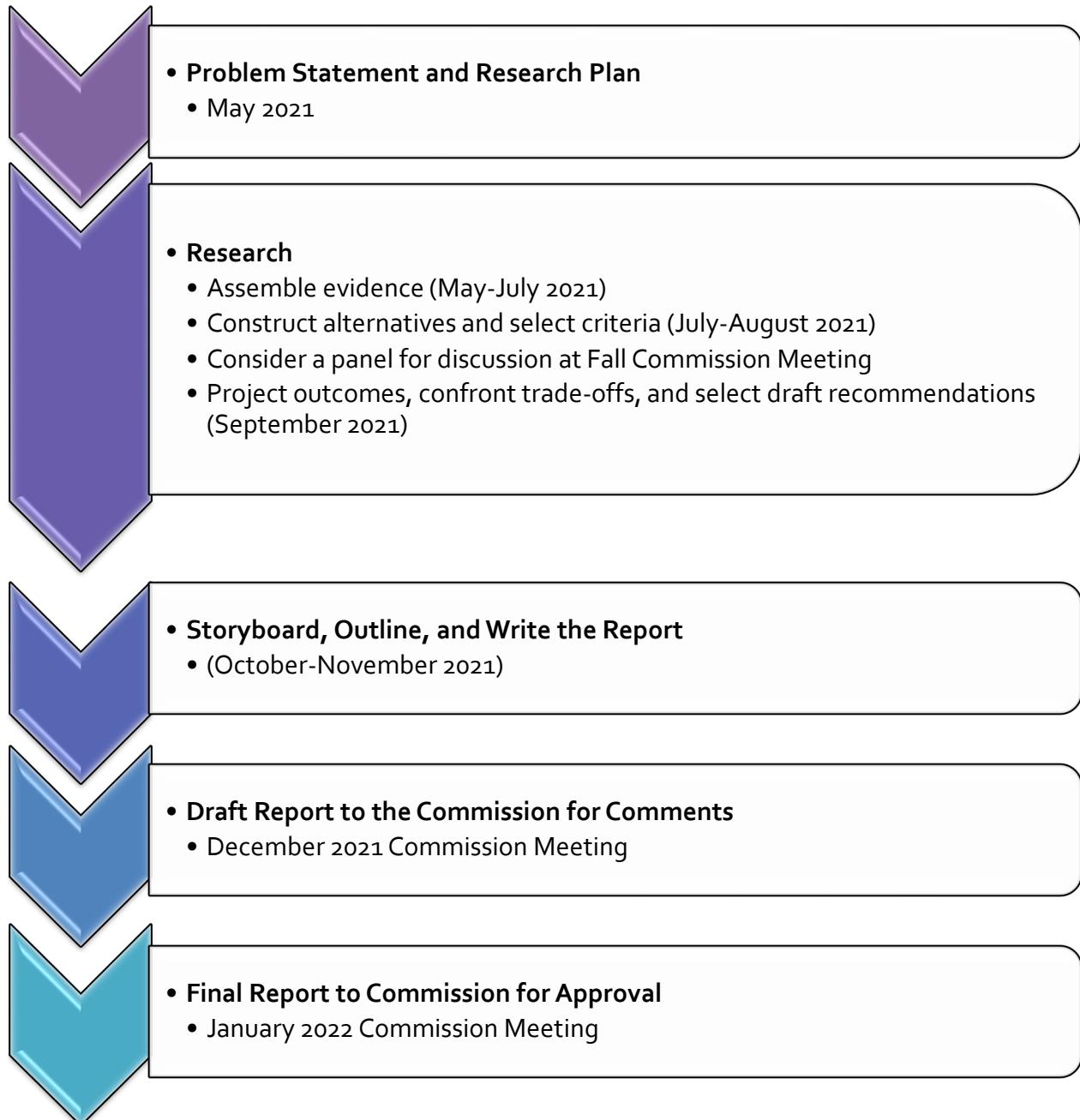
Discrimination and disparities in the issuance of state contracts to minority-owned businesses were documented in Tennessee’s 2009 study and might still exist, despite significant increases in the amount of state spending with these businesses in the intervening years. It is unknown whether that study’s recommendations for addressing disparities have been fully implemented or whether statistically significant disparities still exist for African American-owned businesses in particular.

Assemble Some Evidence

- Review referred legislation, House Bill 1593, to determine what it asks the commission to study.
 - Interview the sponsor of the legislation and any other members of the General Assembly who have an interest in the bill.

- Interview other stakeholders to determine what is driving this issue.
- Review Tennessee's statutes and regulations relevant to procurement and diversity business enterprises, along with other topics germane to the study.
- Review the findings of the 2009 disparity study, its recommendations, and whether those recommendations have been acted upon since.
- Review relevant federal statutes and regulations, and programs to include diverse businesses in federal procurement.
- Review similar laws, regulations, and programs in other states.
- Review relevant literature, including research on the effects of disparities in government contracts on the African American business community.
- Gather relevant data sets, including racial demographics and statistics related to the number of minority-owned businesses.

Proposed Research Timeline



SENATE BILL 1235
By Gilmore

HOUSE BILL 1593

By Miller

AN ACT to amend Tennessee Code Annotated, Title 12, Chapter 4, Part 1, relative to state contracts with businesses owned by African Americans.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, Part 1, is amended by adding the following as a new section:

- (a) The Tennessee advisory commission on intergovernmental relations (TACIR) shall conduct a study on disparities in the issuance or award of state contracts to businesses, companies, and firms owned and operated by African Americans. TACIR shall include in the study recommendations regarding the manner in which to reduce such disparities.
- (b) The study should strive to provide information on the impact of such disparities on the African-American business community, and the manner in which other states and jurisdictions of the United States have addressed such disparities.
- (c) All appropriate state departments and agencies shall provide assistance to TACIR upon request in connection with the study required under subsection (a).
- (d) On or before January 31, 2022, TACIR shall report its findings and recommendations, including any proposed legislation, to the governor, members of the state and local government committee of the senate, and members of the state government committee of the house of representatives.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.