

Our standard

In the 2003 case, *Concrete Works v. City and County of Denver*, the Tenth Circuit Court of Appeals found that a governmental entity may take measures to remedy its discriminatory practices or address its passive participation in a discriminatory marketplace. The court also found that to address the present effects of past discrimination, a governmental entity can assign participation goals for minority- and women-owned businesses that exceed actual availability in order to address the depressed availability caused by the historic discrimination. This standard was codified by the October 2006 amendments to 49 CFR Part 23, which is the basis for new federal disparity study requirements.

“In order to be effective, those who conduct disparity studies and design the remedies for past discrimination must both understand the relevant case law and provide a strong factual basis for it. CMC amply meets both these tests.”

—Deborah E. Collins, Esq.

*Small Business Development and Economic Opportunity Officer
County of Essex, New Jersey*

Our mission

CMC is committed to being a positive influence in correcting systemic disparities by rigorously analyzing access-to-market problems and providing clients with the empirical tools necessary to implement solutions using a process that has been legally sustained. CMC's disparity study programs help public entities eliminate artificial barriers to participation in the mainstream marketplace through a broad-based process that is founded on openness, fairness, and verifiable economic data.

Our consortium

CMC is built upon the:

- **legacy of fairness** exemplified by Minnesotans Roy Wilkins, who spent 46 years with the National Association for the Advancement of Colored People (NAACP), and civil rights leader and former Vice President Hubert H. Humphrey.
- **track record of cutting-edge quantitative and qualitative research** by Samuel L. Myers, Jr., director of the Roy Wilkins Center for Human Relations and Social Justice at the University of Minnesota, the nation's premier academic research center devoted to the study of inequality.
- **groundbreaking role** that Colorado courts have played in adjudicating 11 pivotal cases that established current standards for disparity studies. As a consequence of the seven Colorado *Adarand* cases and the four City of Denver *Concrete Works* cases, then Denver City Attorney Daniel E. Muse and his Colorado-based colleagues helped establish a constitutionally valid basis for the implementation of race-based affirmative action programs. Those standards have since been adopted by four Circuit Courts of Appeals and the United States Supreme Court. This body of case law has since been applied in federal regulatory standards for highway transportation and airport concession disadvantaged business enterprise programs.

Our recommendations. Your results.

- Legally sound
- Narrowly tailored
- Economically meaningful
- Data-driven
- Factually based

For more information

www.hhh.umn.edu/centers/wilkins/disparity.html

Samuel L. Myers, Jr., Ph.D.

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This publication/material is available in alternative formats upon request. Please contact the Roy Wilkins Center at 612-626-8264.

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COLORADO Minnesota
Disparity Study Consortium

Our specialty

CMC specializes in conducting rigorous, objective analyses of discrimination against minorities and women so that public agencies can meet both the letter and the spirit of the law.

Using pioneering tools and well-tested techniques, our experts and legal consultants help state and local entities achieve their goals in developing race- and ethnic-based affirmative action programs that comply with federal regulatory and constitutional requirements. If needed, CMC custom designs effective and lawful affirmative action programs that meet statutory mandates and improve the process for procuring goods and services from businesses owned by minorities and women.

“Dan Muse is the one who finally got it right. Prior to Concrete Works, numerous race-based affirmative action programs had been struck down by courts—even those developed by well-known management and economic consulting firms. Concrete Works was the first appellate court decision to uphold the constitutionality of a local government minority business enterprise program under the strict scrutiny standard. Dan Muse was the legal mind behind that decision.”

—Anthony W. Robinson, Esq.

President

Minority Business Enterprise
Legal Defense and Education Fund
(MBELDEF)

“Dr. Myers is a world-renowned economist who has developed the first empirically derived, econometrically valid, and legally sound method for computing federally mandated DBE goals. He continues to refine the methodology for disparity studies that keeps him ahead of the curve.”

—Jan Walden, Assistant Executive Director, New Jersey Transit, Diversity Programs

Our methodology

Our experts employ inventive quantitative and qualitative methods to identify whether disparities exist between the number of qualified and willing minority- and women-owned firms available for hire and those actually participating in your contracting process. This includes employing innovative econometric and statistical methods to:

- Study the local marketplace to provide an objective picture of the state of business discrimination in a particular city, county, state, or region.
- Analyze and interpret complex national and regional databases to precisely measure whether any existing disparities in contracting are the result of discrimination.
- Compare the number of women- and minority-owned firms qualified and willing to participate in contract projects with the number of firms actually used and the proportion of contract dollars awarded.
- Understand contractors’ qualitative experiences with your contracting policies and procedures.
- Develop effective strategies to engage minority- and women-owned firms in your contracting process and design comprehensive, legally defensible race- and gender-conscious programs.

CMC does not apply a “cookie cutter” or “one size fits all” approach. By applying the highest empirical standards and managing an inclusive, community-sensitive process, CMC helps clients achieve sound and sustainable policy solutions that precisely reflect their history, address their issues, and fit their needs. Our work does not end with the final report. Our commitment continues through implementation and evaluation.

Our expertise

Samuel L. Myers, Jr., Ph.D.

Director and Roy Wilkins Professor of Human Relations and Social Justice, Humphrey Institute of Public Affairs, University of Minnesota

- MIT-trained economist with vast experience developing methodologies to find and understand the nature of discrimination
- National authority on the methodology of conducting disparity studies
- Developed innovative statistical technique for computing race-neutral DBE goals
- Author of recent disparity studies for New Jersey Transit Authority and Essex County, among others

Oversees the development of the research models, conducts the regression analyses, designs and analyzes the contractor survey, evaluates all findings

Judge LaJune Thomas Lange (retired)

Senior Fellow with the Roy Wilkins Center for Human Relations and Social Justice, Humphrey Institute of Public Affairs, University of Minnesota

- Former State of Minnesota trial court judge and former co-vice chair of the Minnesota Supreme Court Task Force on Racial Bias in the Courts and member of the Minnesota Supreme Court Task Force on Gender Fairness in the Courts
- Adjunct professor of civil rights and human rights, William Mitchell College of Law
- Expert on legal and constitutional standard for discrimination in state and federal court

Organizes disparity study task forces and receives testimony

Our experience

Daniel E. Muse, Esq.

Attorney-at-law, Pendleton, Friedberg, Wilson & Hennessey, P.C.

- Denver City Attorney (1991–2000) and primary legal strategist in the defense of the City of Denver’s affirmative action program in *Concrete Works v. City and County of Denver*, 321 F.3d 950 (2003)
- Skilled public-sector attorney who oversaw favorable resolution of the Lowry Landfill Superfund litigation, dismissal of the Security and Exchange Commission’s 10(b)(5) securities fraud investigation of the City of Denver’s airport bonds, and dismissal of a class action securities bond suit against the City of Denver
- Experienced project manager, supervised the Birmingham, Alabama, disparity study completed in 2007

Legal consultant and project manager for CMC

Contact

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References available upon request.



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