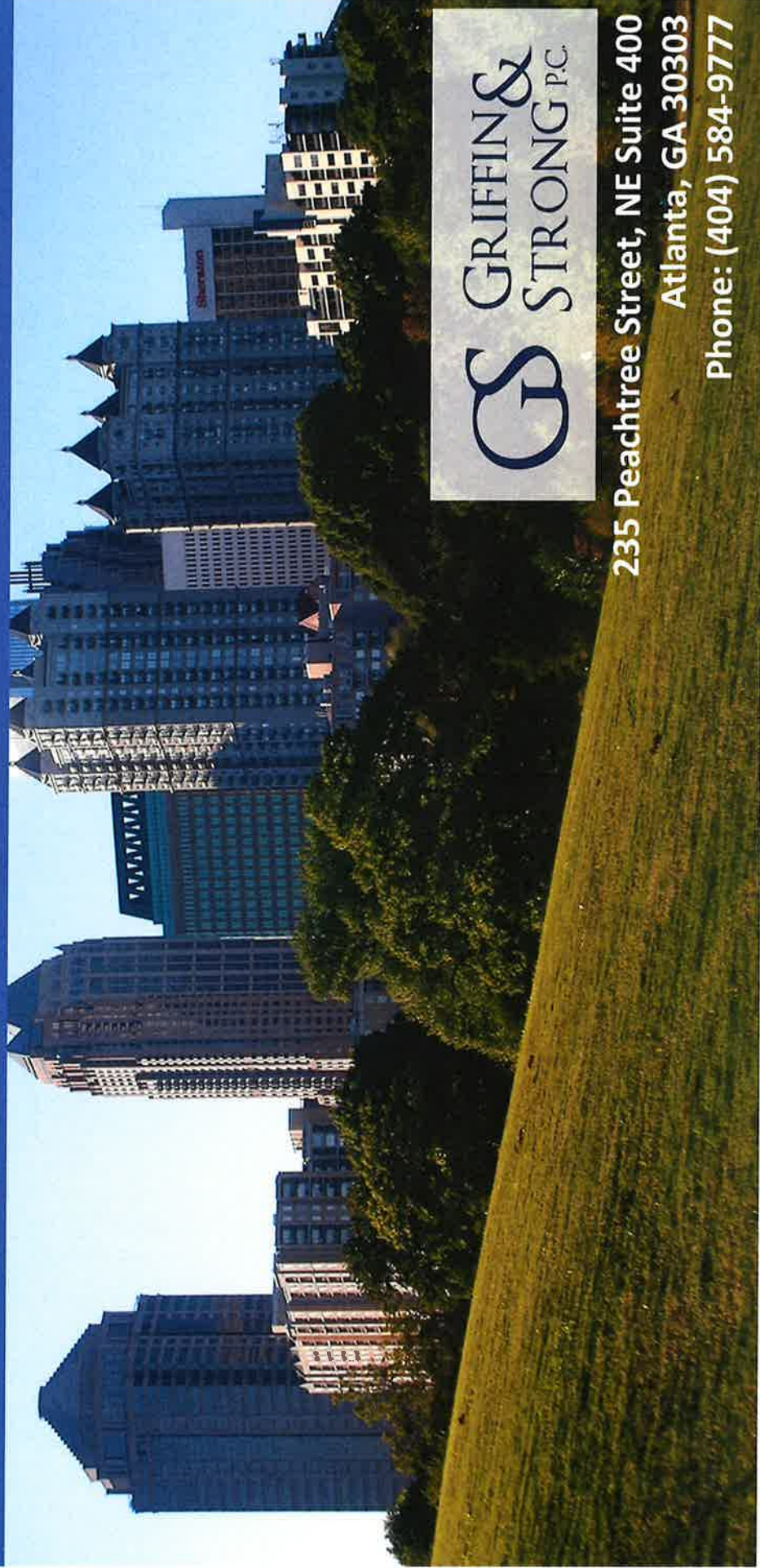


CITY OF GAINESVILLE, FLORIDA DISPARITY STUDY PRESENTATION

AGENDA ITEM # 190710

December 5, 2019



GS GRIFFIN &
STRONG P.C.

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ABOUT GRIFFIN & STRONG, P.C.

Firm Specializes in
disparity research,
contract
compliance,
program
development,
training & supplier
diversity consulting:

The most
qualified team in
the industry:

- 4 Juris Doctors
- 2 PhD Economists
- PhD Statistician
- PhD Candidate in Anthropology
- all with expertise in disparity research.

No study conducted
by Griffin & Strong,
P.C. has ever been
challenged or
overturned in court.

LEGAL FUNDAMENTALS



DRED SCOTT V. SANDFORD

- In Dred Scott v. Sandford, 60 U.S. 393 (1856), the U.S Supreme Court proclaimed that slaves of African descent were not citizens of the United States by birth and had no rights or benefits of citizenship under the U.S. Constitution.

The Citizenship Clause

- Provides a broad definition of citizenship, nullifying the Supreme Court's decision in Dred Scott v. Sandford (1857)

Privileges or Immunities Clause

- Prohibits states from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States.

Due Process Clause

- Guarantees due process of law for U.S. Citizens

Equal Protection Clause

- Guarantees equal protection of the laws.

14TH AMENDMENT CLAUSES

THE BIRTH OF AFFIRMATIVE ACTION

- "You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, "you are free to compete with all the others," and still justly believe that you have been completely fair... This is the next and the more profound stage of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result."

- - *President Lyndon Johnson, Howard University Commencement, (1965)*



THE PUBLIC WORKS EMPLOYMENT ACT OF 1977

- Congressman Parren Mitchell pushed for the passage of the Public Works Employment Act of 1977. The MBE provision requires that, absent an administrative waiver, at least 10% of federal funds granted for local public works projects must be used by the state or local grantee to procure services or supplies from businesses owned by minority group members.

FULLILOVE V. KLUTZNICK

- Following litigation in opposition to this attempt to enhance opportunities for people of color, Fullilove v. Klutznick, 448 U.S. 448 upheld the Federal programs.

SURFACE TRANSPORTATION ASSISTANCE ACT

- The Surface Transportation Assistance Act, which effectively established the federal DBE contracting program, all designed to give business owners identified as historically disadvantaged opportunities in government procurement and to increase diverse capital in the private sector.

PROVING DISCRIMINATION

City of Richmond v. J.A. Croson Co.

488 U.S. 469 (1989)

The strict scrutiny standard is applied to any race based program involving government procurement of goods and services.

Strict scrutiny, the most stringent standard of judicial review used by U. S. courts, is a two-pronged test:

A "compelling governmental interest"

A "narrowly tailored" remedy

THE CITY OF RICHMOND V. J.A. CROSON CO.

First, the City failed to demonstrate the compelling governmental interest by showing their minority set-aside program was “necessary” to remedy the effects of marketplace discrimination.

Second, The Court held that Richmond’s MBE program was not remedial because it provided preferential treatment to minority groups, such as Eskimos and Aleuts, for which there was no evidence of discrimination in Richmond.

Thus, the scope of the City’s program was overinclusive and therefore not narrowly tailored.



DISPARITY STUDIES AND THEIR UTILITY



WHAT IS A DISPARITY STUDY?

Disparity studies are a creation of the courts to determine whether there is a factual basis for a race- and/or gender-based program and whether any race- and/or gender-based program is narrowly tailored to that factual basis.

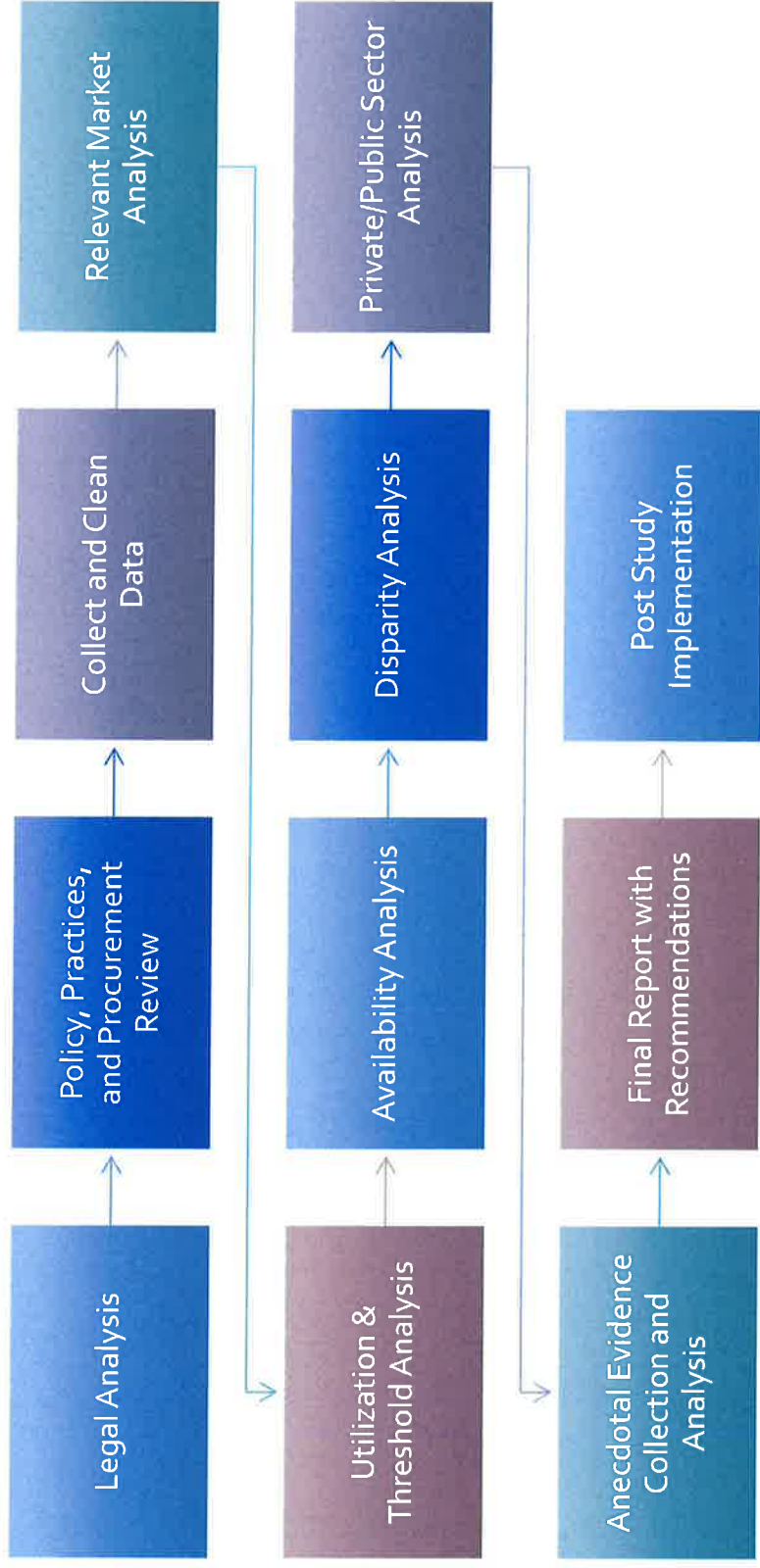
WHO ARE YOU STUDYING?

Race and Gender Conscious

- Minority owned Businesses (MBE) by ethnicity
- Women owned Businesses (WBE)
- Disadvantaged Business Enterprises (DBE)
- Airport Concessions DBEs
- Potential DBEs
- LGBTQ Businesses

Race and Gender Neutral

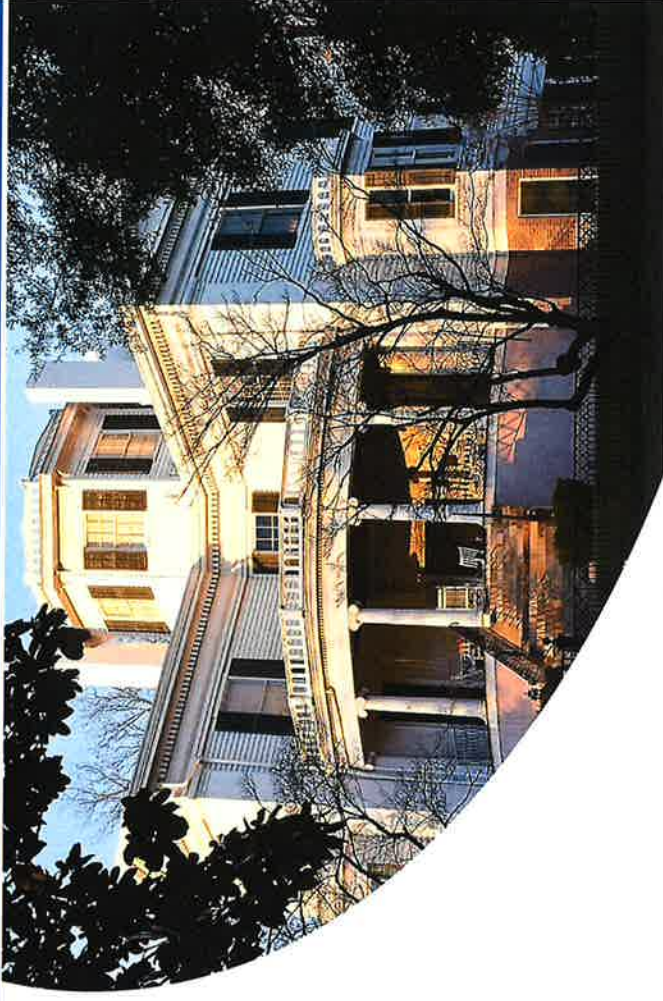
- Small Businesses (SBE)
- Local Businesses
- Disabled Businesses
- Veteran Owned Businesses
- Service Disabled Veteran Businesses



DISPARITY STUDY PROCESS

DATA IS THE KEY

- Use the Data that You Have
- Clean Data
- Have expert fill any Data Gaps (research, google, collect manual data, surveys)
- Relate data and build data files
- Maintain a chain of evidence
- Full disclosure of processes



STATISTICAL DATA NEEDED

Relevant Market Analysis

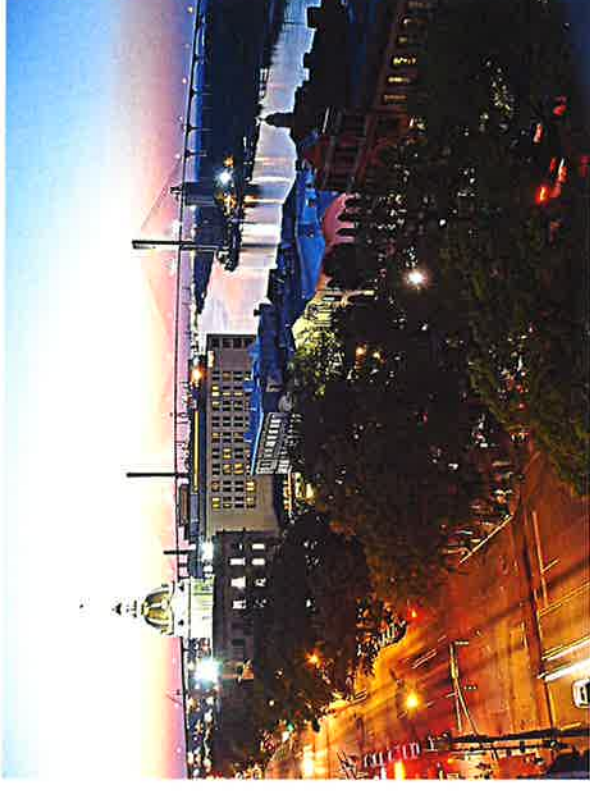
- Payment or Awards Data
- Work Categories

Prime and Subcontractor Availability/Anecdotal Samples

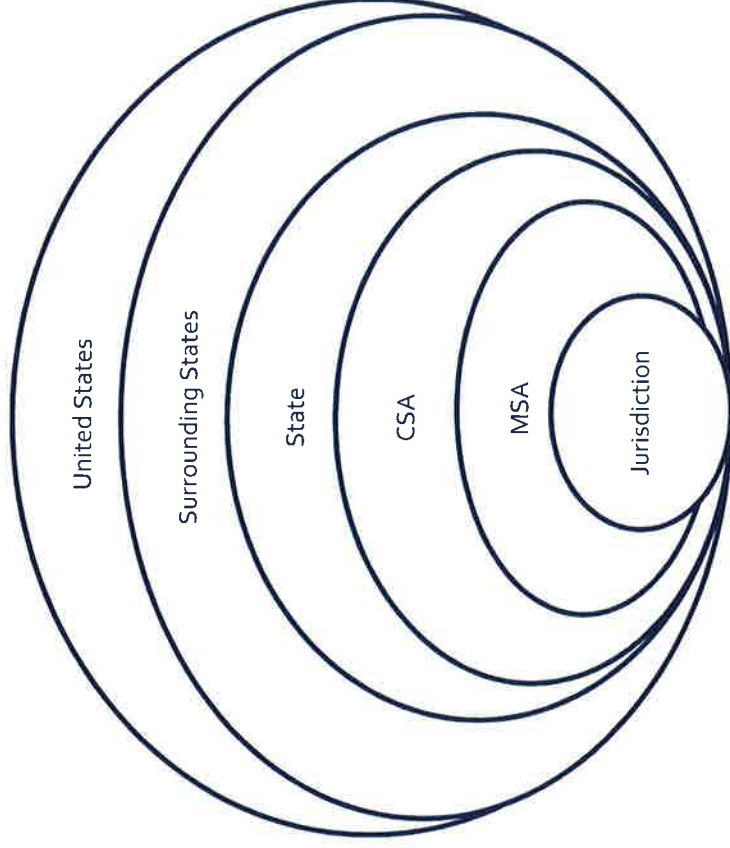
- Registered Vendor List
- Bidders
- Certified MWBE
- Awardees
- Outside Lists
- If Custom Census- Hoovers/D&B

Utilization

- Award/Payment Data – Prime and Subcontractors
- Prime Vendor Questionnaire - Subcontractors



GEOGRAPHIC RELEVANT MARKET



- Location of awardee dollars during study period.
- By major procurement category
- Radiate out from jurisdiction until at least 75% of awardee dollars.

RELEVANT PRODUCT MARKET

Determine the products and services procured by an organization or the organization's prime contractors, preferably by commodity code (NIGP, NAICS, etc.)

Only firms providing these products and services will be included in the Study analysis.



List Approach
Custom Census
Approach
Combined Approach

AVAILABILITY ANALYSIS



Prime Utilization determined by contract award, purchase order or payment records.



Subcontractor Utilization determined by:

Actual subcontractor awards or payments

If only actual MWBE subcontractor, then Total Utilization or Non-MWBE subcontractor estimates

Prime Vendor Questionnaire

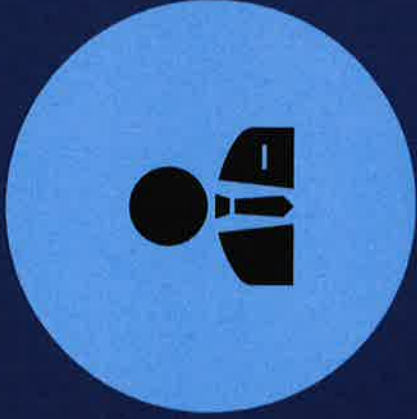


Utilization analysis is disaggregated by year and race/gender/ethnicity.

UTILIZATION ANALYSIS

DISPARITY ANALYSIS

- Compare Availability and Utilization and develop Disparity Index (DI) for each race/gender/ ethnicity group, disaggregated by procurement categories
- Perform Statistical Significance Tests



EVALUATES DISPARITIES IN
SELF-EMPLOYMENT



AND CREDIT MARKETS

PRIVATE SECTOR ANALYSIS

REGRESSION ANALYSIS

- Determines if disparities can be explained by factors other than race/ethnicity/gender status

ANECDOTAL ANALYSIS

Informational Meetings	Series of public engagements designed to bring awareness to study and educate on study process.
Anecdotal Interviews	In depth 1 on 1 interviews with business owners
Survey of Business Owners	Telephone & Online Survey to gather both quantitative and qualitative feedback .
Public Hearings	Strategically placed engagements across the metro area to gather public testimony on record.
Focus Group	Small group meetings for business owners selected by random sample
Organizational Meetings	Identify and engage all relevant stakeholders (including Civic, Social and Industry Groups)
Email Comments & Website	Ensures that everyone has an opportunity to be heard
Formal Complaints	Review of formal complaints in the form of bid protests, or other administrative or legal proceedings.

FINDINGS & RECOMMENDATIONS

Findings & Recommendations

- Every recommendation supported by study findings to guide narrow tailoring

ENSURING NARROW TAILORING

- In determining whether a race-conscious remedy is narrowly tailored, look at factors such as:
 - the **efficacy** of alternative remedies
 - the **flexibility** and duration of the race-conscious remedy
 - the **relationship** of the numerical goals to the relevant labor market, and
 - the **impact** of the remedy on third parties
- Narrow tailoring does not require exhaustion of every conceivable race-neutral alternative, but it does require serious, good faith consideration of workable race-neutral alternatives.

Race Conscious	Joint Venture, Teaming & Mentor-Protégé Relationships	Good Faith Efforts (race-conscious)	Contract Compliance and Monitoring
		Participation Goals	
		Evaluation Preferences	
		Minority Business Distributorship Programs	

	PRE-BID	CONTRACT PROCUREMENT	CONTRACT ADMINISTRATION
Race Neutral	Contract Procurement Forecasting	Non-Discrimination Reviews	Contract Monitoring
	Vendor Outreach & Matchmaking	Streamlining the Bidding Process	
	Assessing the Needs of Diverse Businesses	Breaking Up Large Contracts	
	Technical Assistance Programs	Prompt Payment Programs	
	Financial Supportive Services	Rethinking Low-Bid Procurement	
	Joint Venture, Teaming & Mentor-Protégé Relationships	Sheltered Markets or Other Small, Micro, and Local Business Programs	

CONTRACT COMPLIANCE 101



5 KEY STEPS TO COMPLIANCE



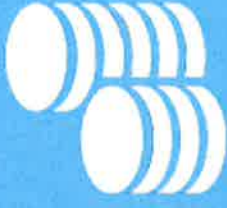
ASSESSMENT



OUTREACH



CERTIFICATION
& VERIFICATION



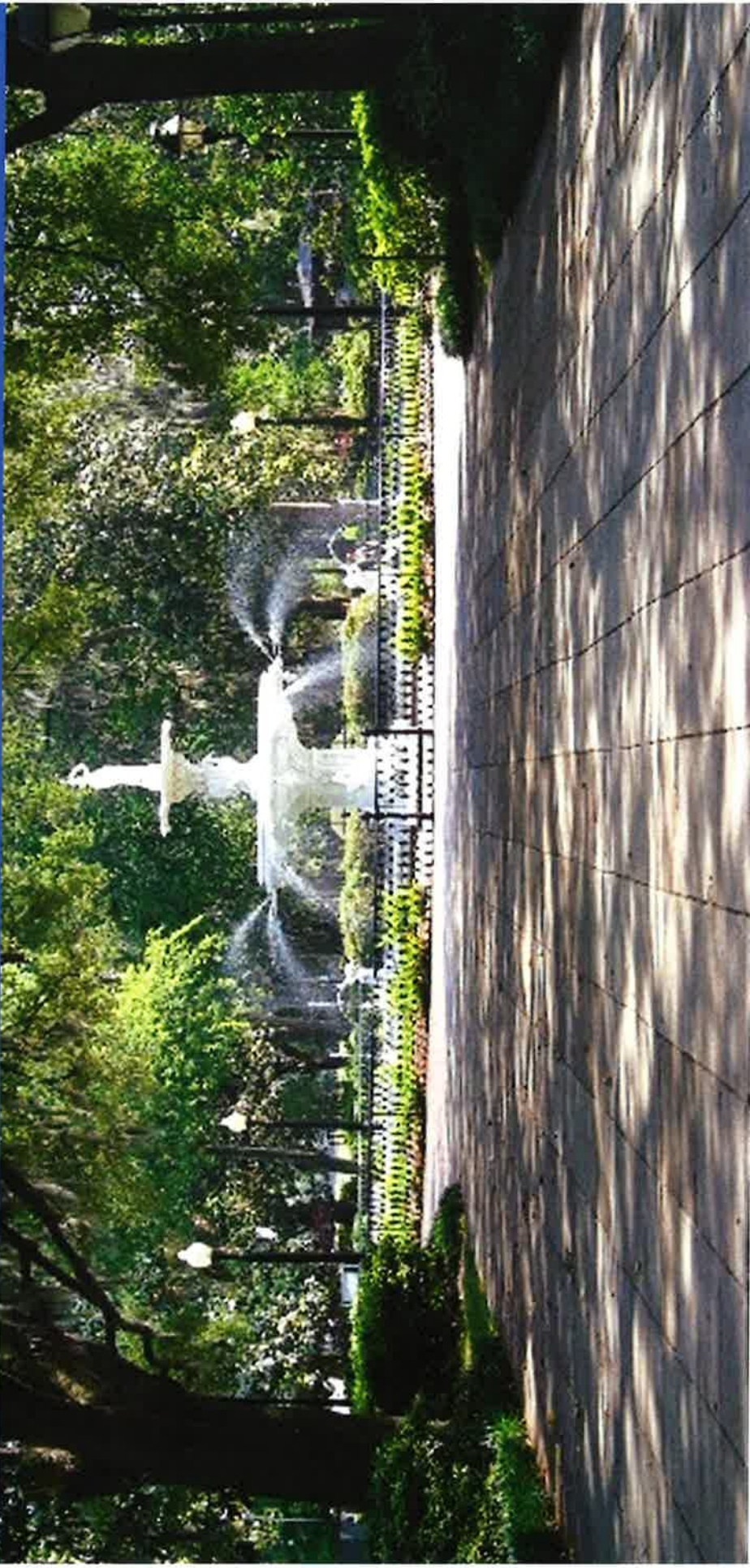
PROCUREMENT



MONITORING

ESSENTIAL COMPONENTS OF EFFECTIVE PROCUREMENT INCLUSION PROGRAMS

LEVERAGING PROCUREMENT FOR ECONOMIC EQUITY



THE POTENTIAL IMPACTS OF ADDRESSING THE RACIAL WEALTH GAP

The W.K. Kellogg Foundation

- Raising earnings would help address disparities in health, education, and opportunity.
- Would Generate an additional \$1 trillion in earnings leading to an additional \$800 billion in spending.
- The Congressional Budget Office projects a long term growth rate of about 2% per year. Closing the earnings gap by 2050 would increase GDP by 22%, equivalent to raising the growth rate to 2.5% per year.



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