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JACKSONVILLE SMALL & EMERGING BUSINESSES (JSEB)

annual report

FISCAL YEAR 2009 – 2010

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I. FROM THE BEGINNING

As stated in previous annual reports, the Jacksonville Small and Emerging Businesses ("JSEB") program began with Mayor John Peyton's Executive Order 04-02, which created the Commission on Small and Disadvantaged Businesses (the "Commission"). The Commission was designed to review and/or benchmark: (i) financial programs that provide operating and capital expenditures to small businesses; (ii) bonding programs, as well as existing city and state requirements relating to bonding; and (iii) the city's then existing Small Disadvantaged Business Enterprise and Small Business Enterprise ("SDBE/SBE") programs. On February 10, 2004, the Commission began soliciting testimony and gathering information regarding the past, present and future of small and minority businesses in Jacksonville. The Commission continued its information gathering and deliberative process through ten weekly meetings that concluded on April 21, 2004.¹

On April 28, 2004, the Commission submitted its final report to the mayor and to the City Council's Special Council Committee on Small and Disadvantaged Business (the "Special Committee"),² for review and legislative action. As part of its report, the Commission proposed various recommendations, the majority of which are discussed herein. On August 10, 2004, after a lengthy deliberative process conducted by each member of City Council, representatives of the Mayor's Office, the Office of General Counsel and the Department of Procurement, the majority of the Commission's recommendations were codified into City Ordinance 2004-602-E, Chapter 126, Parts 6A and 6B of which establish the JSEB program.³

II. REMOVING BARRIERS AND GROWING BUSINESSES

The information gathered during the enactment of the JSEB program resulted in the Commission concluding that Jacksonville's prior small and minority business programs "have been ineffective in ameliorating the effects of discrimination." In making this conclusion, the Commission reasoned that:

Jacksonville has had a race conscious program of affirmative action since 1984. It employed techniques similar to those used elsewhere in the country. Despite best intentions, there is little evidence that the minority and woman-owned business community is appreciably strengthened by the prior and existing MBE, EBO, SBE and SDBE programs. This experience is not unique to Jacksonville; the record of other programs around the country is similarly disappointing. The Commission believes that a central failing of the past and existing program is an inadequate focus on building capacity in the small and

¹ Each Commission meeting was properly advertised, open to the public and conducted in accordance with Florida Sunshine requirements.

² Concurrent with the creation of the Commission, the City Council created its Special Council Committee on Small and Disadvantaged Business, which was also responsible for soliciting testimony, gathering information and otherwise becoming apprised of issues related to the city's former small and minority business programs.

³ On September 13, 2005, City Ordinance 2005-994-E was enacted to slightly modify City Ordinance 2004-602-E, primarily to increase the gross receipts requirement for JSEB certification to a 3-year average of less than \$6,000,000.

disadvantaged businesses. The program sets participation goals but does not address structural barriers to success, most notably a lack of available financial and surety credit.

Mayor Peyton and the City Council have ensured that the JSEB program, unlike the city's previous programs, would include elements sufficient to remove "structural barriers to success." As such, the design of the JSEB program has resulted in several firsts in the city's history of small and minority business programs, including, but not limited to:

- (i) **Bonding assistance:** The first bonding program that has resulted in small and minority businesses becoming bond ready and actually receiving bonds;
- (ii) **Bonding legislation:** The first local small and minority business program to solicit and obtain legislation from the state to increase the discretionary bonding threshold for public projects;
- (iii) **Access to capital:** The first city-sponsored access to capital program that has resulted in many loans being issued to small and minority businesses;
- (iv) **Education:** The first city-sponsored education program that was designed to assess and train small and minority businesses in their particular area of need;
- (v) **Opportunities to showcase skills:** The first program that offers periodic small business summits to provide venues and opportunities for small and minority businesses to showcase their skills to local business and/or industry leaders;
- (vi) **Mentoring opportunities:** The first program to establish and to provide follow-up assistance with meaningful mentoring relationship opportunities;
- (vii) **Prompt payment:** The first program that incorporates prompt payment provisions that require semi-monthly payments to certified JSEBs, applications or invoices for which payments are required to be reviewed within four days and payments to be made within three business days thereafter (prime contractors are also required to pay their subcontractors within three days after receiving payment from the city); and
- (viii) **Ombudsman:** The first program to require the inclusion of an ombudsman or hearing officer for the expeditious resolution of issues regarding the performance, treatment and payment concerns of small and minority businesses.

As indicated by the above list of "firsts" and other highlights contained in this report, it is clear that the JSEB program is not only making efforts to increase levels of small and minority business participation in city contracting, but also is "building capacity" of JSEBs, such that they are able to become independent and successful local businesses.

The encouragement of cities, such as including Valdosta, GA. and Nashville, TN, is indicative of the fact that with continued community input and support, Jacksonville's JSEB program will one day be recognized as a national model of success for the small and minority businesses. Mayor Peyton's message is that the JSEB program will achieve and exceed its stated goals only when a "communal effort" is taken to ensure the JSEB program builds capacity, removes barriers and

remains a comprehensive small and minority business program that incorporates the collective wishes of the diverse community of Jacksonville.

III. REQUIREMENTS FOR CERTIFICATION INTO THE JSEB PROGRAM

While Part 6B of Chapter 126, Jacksonville Ordinance Code, outlines each requirement for JSEB certification, the following list of requirements represents a few of the highlights:

- 1) **Local residency** - The qualifying owner for a business applying for JSEB certification must be a citizen or legal resident of the United States with either: (i) Duval County residency for one or more years prior to applying for JSEB certification; or (ii) an established business headquartered in Jacksonville for three or more years prior to application, plus residency in either Duval, St. Johns, Nassau, Baker, or Clay County for one or more years prior to application.
- 2) **Net worth** - The qualifying owner's personal net worth may not exceed \$605,000. This amount excludes the owner's personal residence, but includes, without limitation, business value and assets (measured as book value).
- 3) **Gross receipts** - The business must have a three-year gross receipts average of less than \$6,000,000.
- 4) **Maximum participation** - Businesses may participate in the program for generally no more than fifteen years.
- 5) **Ownership** - The qualifying owner for a business applying for JSEB certification must own and control more than 51% of the business. The contributions for this ownership must be real, substantial and provided by the qualifying owner who must also own any license required by local, state, or federal law and have expertise normally required in the industry for the field(s) for which certification is sought. The business must perform a commercially useful function typical of the field for which certification is sought and must not operate as a front, broker or pass-through.

IV. SPECIFIC PROGRAM HIGHLIGHTS

A. Better Business through Bonding

As part of its final report, the Commission identified the inability to obtain surety credit or payment and performance bonds as one of several impediments to the success of small and minority businesses. Therefore, a "Bonding Enhancement" program was established pursuant to § 126.601 of the Jacksonville Ordinance Code (the "Code"), to assist certified JSEBs "in their efforts to secure performance and payment bonds for public and private contracts ..., [to] provide a refined basis for underwriting bonds, in-house bonding authority ..., small business support services and contractor monitoring necessary for such bond underwriting, as well as improvement plans for contractors who do not qualify." The city's Bonding Enhancement program is an encompassing bonding assistance service currently provided by P.A. Wallace & Associates.

The Commission identified that bonding for small businesses can often provide challenges as generally, the personal credit, assets and finances of the small business owner are inextricably linked to the small business itself. As such, this personal information is usually the basis for determining whether a small business is "bondable." Therefore, in an effort to provide a comprehensive assessment of each JSEB that applies for bonding assistance, P.A. Wallace & Associates conducts a detailed analysis of the company and personal information of its owner to provide specific counseling toward JSEBs receiving bonds or becoming bond ready.

P.A. Wallace & Associates has assisted 144 companies for fiscal year 2010. Several of these companies have had their bond portfolio and/or applications completed and forwarded to bonding agencies. To date, 82 JSEBs have obtained performance and/or payment bonds.

John Rios of Color Wave Painting and Décor, Inc., provided the following feedback regarding the bonding assistance received:

The classes that Ms. Wallace and her team provide are great. My wife and I have learned a lot. These classes are well presented with details and nice presentation of the real facts about what it takes to become bondable. P. A. Wallace & Associates overall are a great help in arranging and prequalifying small businesses for bonds for our projects. We appreciate their efforts.

Kevin K. Osafo-Twum, who is the president of KKOT Associates, LLC, provided the following comments about their JSEB bonding assistance experience:

As stated in our numerous conversations, KKOT Associates can handle anything pertaining to the scope of services we provide to our clients. However, when it came to bonding and the importance of having it, we needed help. Ms. Wallace and her team were a God-send. They were so willing to help us they actually spoke with our CPA about documents we needed to get our bonding in place. While speaking to our CPA does not sound like much, it was a great help. Thanks to Ms. Wallace and the city's JSEB program, KKOT Associates, LLC received professional bonding services from caring people that were available every time we had a question. Thanks for your help!

In addition to providing bonding assistance, P.A. Wallace & Associates assist many JSEBs in getting accounting and credit repair services. As an example of its commitment to the JSEB program, P.A. Wallace has also conducted several workshops to educate JSEBs on issues that pertain to becoming bond ready. Michael Lemieux of Convergence Builders, Inc., participated in P.A. Wallace's workshops and stated:

I have really enjoyed these workshops, especially the one on QuickBooks. The class was presented at a comfortable pace so that everyone could understand what was being taught. This class really helped my business greatly. The instructor was

very easy to follow, was not complicated at all, and helped me see that, in the process of getting bonding, the little things are just as important as the big things.

B. Financing the Dream

In addition to concerns about bonding, the Commission identified the lack of access to working capital as an impediment to the success of small and minority businesses. As such, an Access to Capital program was established pursuant to § 126.602 of the Code. To ensure the success of this program, Mayor Peyton solicited local lending institutions and requested their partnership with the city in order to: (i) create the program's initial loan pool; and (ii) assist in establishing the program's policies and procedures for the application, distribution, and management of the same. The city's Access to Capital program currently consists of approximately \$1,215,000.00 in loanable funds, for which certified JSEBs in direct contract with the city or its independent agencies may apply.⁴ This is possible due to the continued commitments of Mayor Peyton, City Council and the generous contributions to the Access to Capital loan pool by Bank of America, Centerbank, EverBank, First Guaranty, Prosperity Bank, Wachovia and by city independent authorities including Jacksonville Aviation Authority, JEA, Jacksonville Port Authority and the Jacksonville Transportation Authority.

The Access to Capital program is currently managed by Essential Capital, formerly the Jacksonville Economic Development Company, under the direction of Cleve Warren. Through Essential Capital, the city has provided more than \$2.4 million in loans to JSEBs. These loans have assisted JSEBs in securing nearly \$28 million in contracts and subcontracts.

The Access to Capital loans are repaid from payments or amounts due and owing under the JSEB's direct contract with the city or one of its independent agencies. These payments are delivered directly to Essential Capital via joint-checks payable to Essential Capital and the JSEB. Upon receiving these payments, Essential Capital deducts the installment amount due on the loan and forwards the remaining amount to the JSEB. As a result of this method of repayment, the Access to Capital program's loan pool is replenished and available for the next JSEB application. This repayment method also assists the JSEB in establishing a positive credit history that will result in the JSEB gaining access to conventional lending sources.

When asked about his experience with the Access to Capital program, Michael Jones of Dajis Construction stated:

⁴ The city has established policies and procedures such that the Access to Capital program will also be available to JSEBs that have subcontracts with prime contractors that are in direct contract with the city or its participating independent agencies.

The Access to Capital Program was a huge help for me, because it allowed my company to compete for, win and begin a city project. All of us with Dajis Construction are very grateful for this assistance. Singleton Park was my first project with the city and I was really unaware of the amount of capital needed to begin this project. I personally would like to thank the City of Jacksonville and Ms. Karen Rose of Essential Capital for assisting me and my company with the program.

David E. Touring of The Touring Company, Inc. said this about the program:

There are many things that I am pleased with when it comes to the Access to Capital Program. First off, I had a very satisfying experience dealing with the members and employees involved in the program, especially Karen Rose. Karen is very helpful because, with her expertise, the Access to Capital Program did exactly what it was supposed to do for small, growing businesses - it provided our company with the capital needed for growth over the last year. In these tough times, we were very fortunate to have the opportunity to grow our business, and we absolutely could not have done it without access to additional cash for payroll and other up-front project and operating expenses. We are extremely grateful for the Access to Capital Program. I would not hesitate to recommend the program to any small business that has an opportunity to grow and is looking for funding to do so.

C. Building Capacity through Training, Education and Mentoring

As part of its JSEB training and development efforts, the Mayor's office and the Equal Business Opportunity & Contract Compliance Division ("EBO") routinely solicit the local business community for their support and assistance in educating and mentoring local small and minority businesses. The city has partnered with local educational institutions to offer courses and training seminars for JSEBs at no cost. Thanks to education partners like Florida State College at Jacksonville ("FSCJ"), formerly Florida Community College at Jacksonville, the Small Business Development Center of the University of North Florida ("UNF" or "SBDC"), the Jacksonville Regional Chamber of Commerce's Small Business Center ("SBC") and the Beaver Street Enterprise Center ("BSEC"), the city's JSEBs are able to increase their business acumen.

SBDC offers counseling and training to potential and existing businesses in this region of the state. Recently, SBDC trained more than 2,600 workshop participants which, according to its regional director Janice Williams Donaldson, has resulted in access to \$9.8 million in business capital, 74 business start-ups, 682 jobs created or retained and \$11.2 million in increased sales opportunities. While Ms. Donaldson's statements are encouraging, the success of local training, education and mentoring programs are best told through the participants who have directly benefited from them. One beneficiary is Andy Harold, president of A. Harold & Associates, LLC, who was asked to comment on the utility and/or necessity of initiatives like the JSEB program, stated:

The Jacksonville Small and Emerging Businesses (JSEB) program has been an asset for A. Harold & Associates (AHA) for six years. AHA began with this program in 2004 and it has provided mentoring and direction for our company ever since. The advice and leadership from Annette Davis, Derrick Willoughby, Devin Reed and others has served AHA well and helped us grow over the time we have been involved with the JSEB program. The access to projects that a small business normally would not have the opportunity to bid on because of a project's sheer size, like the Duval County Unified Courthouse, makes the program invaluable to a growing diversified company like A. Harold & Associates.

The JSEB program fosters the team concept among its members that has allowed AHA to develop working partnerships with other successful companies both large and small. As we diversify our company, we are able to add certifications in additional business areas that allow AHA to build new strategic divisions within our company that have allowed us to prosper in a "down economy."

With the cooperation of city partners such as The Haskell Company, The Stellar Group, Elkins Constructors, Inc., Parsons, AJ Johns, Microsoft and England-Thims & Miller, the city's mentoring efforts have benefitted many of its JSEBs. Mary Tappouni, president of Breaking Ground Contracting, Inc., has benefitted from the city's mentoring efforts. When asked about her experience, Ms. Tappouni stated that her "mentoring relationship several years ago with The Haskell Company was a valuable learning experience; one that helped [her] gain a more comprehensive perspective of [her] business operations." Today, Ms. Tappouni is well respected in the construction community and beyond. She was recently named chair of Associated Builders and Contractors' local chapter.

Another example of a satisfied beneficiary of the city's JSEB mentoring efforts is Edward Colleton of Edward Colleton Cleaning Service. Mr. Colleton volunteered the following comments about his experience:

The JSEB program's Educational and Mentoring process has helped develop my business into a viable entity. Although there has been controversy in the program, it has only increased my belief in this wonderful program. Things that don't destroy you only make you stronger and I have applied that to my business ideals. Edward Colleton Cleaning Service was recently awarded a carpet cleaning contract for all public libraries, a staggering scope of work that exceeds 65,000 square feet of carpet in 21 different locations. At the same time, we were awarded the Mayfair Village Apartment Renovation project. With the training I received from the JSEB program, I was able to accomplish both of these projects in record time. Without JSEB training and assistance, my company would not have been able to accomplish so much in so short a time. Thank you for what you do to help small businesses like mine continue to dream big.

Other local partners that assist with training and education efforts manage a variety of small business programs for independent agencies. Two of these local partners provide their feedback regarding the importance of the JSEB program for their agency.

Yetunde Oyewole is the coordinator of the Jacksonville Port Authority's Small Emerging Business program and described the benefits of the JSEB Program as follows:

In 2006, JAXPORT adopted the City of Jacksonville's Small and Emerging Business Program (JSEB) to ensure consistency between agencies and to provide full and equitable opportunities for local, small and emerging businesses an opportunity to do business with JAXPORT. Listed below are some of the benefits of the program:

- *Utilization of City's certified JSEBs (local vendors) on JAXPORT's projects*
- *Utilization of the City's on-line JSEB Directory for verification of vendors status*
- *Ombudsman services*
- *Access to Capital*
- *Bonding and Technical assistance*

Ken Middleton is the manager of the Jacksonville Transportation Authority's (JTA) Contract Compliance & Civil Rights program. Mr. Middleton provided the following opinion of the JSEB program:

JTA is pleased to have as a partner the City of Jacksonville. As JTA celebrates fifty-five (55) years of providing service to the residents of Jacksonville, we realize that it would not be possible if not for our longstanding relationship with the City. We have been fortunate to work on many projects together and develop a good working relationship with the Jacksonville Small & Emerging Businesses (JSEB) program over the past five years.

Programs that support the growth of small businesses in the Jacksonville community are viable to the success of the City. JTA looks forward to a long lasting relationship with the City of Jacksonville's JSEB program.

D. Ombudsman Oversight

Since its establishment in 2005, the Office of the Ombudsman has effectively reviewed and resolved approximately 300 cases, with an average of 60 cases per year. Many of these cases involved issues of non-payment, the resolution of which resulted in payments to JSEBs of approximately \$2.8 million. In fiscal year 2010, the resolution of non-payment cases resulted in additional payments to JSEBs of approximately \$1.09 million. This increase is likely attributed to an increase in the ombudsman's outreach efforts.

The Office of Ombudsman has grown to become a significant element of the JSEB program, as well as contract compliance and oversight. More specifically, fiscal year 2010 saw ombudsman services springboard into uncharted territory, such as seminar speaking engagements, assistance in contract administration training and general contract oversight and transparency. As such, the Office of the Ombudsman is being engaged throughout the city to put "systems" and processes

in place that are capable of identifying problems and providing solutions in contractual relationships.

The creation of the Contractor Performance Compliance System, an electronic information system that assists in the evaluation and oversight of vendor performance, is another accomplishment. This effort was achieved with the assistance of the city's Administrative Services Division, in order to:

- Enhance the vendor performance review process;
- Provide transparency in city contracting through a fair and equitable process of alternative dispute resolution;
- Ensure that the city and its taxpayers receive what they pay for; and
- Cultivate long-term growth and successful relationships between the city and its vendor community.

Roy D. Morgan of The Jacksonville Bridge Work Release Center recently experienced the services of the Office of the Ombudsman and offered the following testimony:

We would like to take this opportunity to thank the Office of the Ombudsman for the diligence and tenacity shown during its investigation into this matter, which resulted in the contractor signing an affidavit agreeing to pay \$10,554.04 in back wages that were owed to our work release inmates. The professionalism shown by the Office of the Ombudsman is an attribute to the City of Jacksonville and its citizens. We would like to especially recognize the number of hours and hard work put forth by the Office of the Ombudsman in compiling all of the required documentation.

Rose and Barrett Paint Contractor, Inc. provided the following comments regarding ombudsman services:

I would like to take this opportunity to show my gratitude and appreciation for the assistance the Office of the Ombudsman's staff has rendered my company over the past year. ... I wish every local entity not only had an ombudsman office with employees like Ms. Dinah Mason, who is one of our few true leaders in Jacksonville. If so, my ten year story as an African American-owned business would read just a little differently. All I ask is that the Office of the Ombudsman keeps up the great work and please keep its passion for ensuring fairness!

As evidenced by a 33% year-over-year increase in its case load, the Office of the Ombudsman has been and will continue to be an integral part of the JSEB program. As the city and its citizens become increasingly aware of its value, ombudsman services will undoubtedly be inter-woven into other areas of local government.

V. FACTS AND FIGURES

A. The Pool of JSEBs

Prior to the JSEB program, Jacksonville's minority business programs were open to any minority business, regardless of the business' location or of its qualifying owner's residency.⁵ As such, a minority business headquartered anywhere in America could apply for certification into one of Jacksonville's previous programs. As a result, companies as far away as San Antonio, Texas; Windsor, Connecticut; and South Casco, Maine received certification under the city's prior small and/or minority business programs.

As a result of not having a local residency requirement, Jacksonville had very large pools of minority businesses, many of whom benefited from working on local projects but were not local residents. This was not popular with the local small and minority business community as indicated during their testimony before the Commission and the Special Committee. Therefore, a local residency requirement was included for certification under the JSEB program, which has resulted in a smaller pool of JSEBs.⁶ Despite the small pool, the local residency requirement guarantees that the JSEB program truly benefits the small and minority businesses of Jacksonville.

EBO is currently engaging in workshops and outreach efforts designed to increase interest and awareness in the JSEB program and to increase the size of the city's current pool of JSEBs. As awareness continues to increase regarding the various programs and opportunities available to JSEBs, interest in the program should also increase.

The pool of certified JSEBs as of October 2010 consisted of the following:

Total Pool of Certified JSEBs by Ethnicity & Gender	
African-American	172
Asian-American	23
Hispanic-American	30
Native-American	6
Women	91
Non-MBE	75
Total:	397

⁵ There were no residency requirements under the city's prior program and, if a small or minority business fell within a certain financial threshold, it would generally be granted certification.

⁶ In accordance with § 126.609(a), Jacksonville Ordinance Code, "[a]ll businesses certified as SBE[s], or SDBEs pursuant to the former Parts 6A and 6B [of] Chapter 126 as it existed on July 1, 2003, ... continue[d] to be certified [or were grand-fathered into the JSEB program] until March 31, 2005." As such, after March 31, 2005, the pool of small and minority businesses certified under the JSEB program was significantly decreased by approximately 61 percent. Again, this decrease was primarily attributed to the local residency requirement for certification under the JSEB program.

The reduction in the pool of certified JSEBs may be as a result of the EBO's more detailed review of applications for JSEB certifications to ensure those certified actually meet program requirements.

B. JSEB Participation and Contract Awards

New 2010 census data for the State of Florida will not be available until the Office of the Governor reviews the information and coordinates a release date with the U.S. Census Bureau. Estimated time of release could be mid to late 2011. Based upon 2002 U.S. Census data obtained concerning local demographics, there are approximately 51,503 established businesses in Jacksonville, Florida of which:

- 11.8% are African-American owned
- 3.6% are Asian-American owned
- 4.5% are Hispanic-American owned
- 0.3% are Native-American owned
- 31.5% are Women-owned

By comparison, the following represents the actual percentages and dollar amounts of total awards made to small and minority businesses under the JSEB program during fiscal year 2009-2010:

Summary of Percentages and Dollar Amounts of Total Awards Made to Certified JSEBs by Ethnicity & Gender (for prime contracts and subcontracts)		
African-American	\$ 4,153,312	1.23%
Asian-American	\$ 1,753,190	0.52%
Hispanic-American	\$ 2,331,575	0.69%
Native-American	\$ 508,676	0.15%
Women Business Owners	\$ 8,189,655	2.43%
Non-MBE	\$ 3,901,585	1.16%
Total JSEB Awards:	\$20,837,993 (6.18% of the city's total sourceable awards of \$337,237,307) ⁷	

The information regarding ethnic and gender local business ownership percentages is based on 2002 U.S. Census data and has not been reduced to reflect the number of businesses that: (i) provide the particular services and/or commodities that are normally procured by the City of Jacksonville; (ii) are "ready, willing and able" to provide the services and/or commodities that the city procures; and (iii) meet the threshold requirements or size standards for certification

⁷ To be considered "sourceable," an award or expenditure must generally result from a competitive solicitation for supplies, contractual services, professional services, or capital improvements and not from: (i) an "exceptional purchase," i.e., any purchase excepted by law or rule from the requirements for competitive solicitation, including without limitation purchases pursuant to §§ 126.107, 126.206, 126.207, 126.211, 126.307, 126.309, 126.311, 126.312, or 126.313 of the Procurement Code; or (ii) the solicitation or purchase of services and/or supplies for which there are no certified JSEBs that provide the same.

in the JSEB program (see <http://quickfacts.census.gov/qfd/states/12000.html>). Comparing JSEB award and expenditure percentages with local business ownership percentages is the “proper statistical evaluation,” as opposed to comparing JSEB award and expenditure percentages with local ethnic and gender population percentages. *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 471, 109 S.Ct. 706, 102 L.Ed.2d 854 (1989))

Similarly, the following represents the actual percentages and dollar amounts of total expenditures paid to small and minority businesses under the JSEB program during fiscal year 2009-2010:

Summary of Percentages and Dollar Amounts of Total <u>Expenditures</u> Paid to Certified JSEBs by Ethnicity & Gender (for prime contracts and subcontracts)		
African-American	\$ 15,125,386	3.67%
Asian-American	\$ 2,978,013	0.72%
Hispanic-American	\$ 3,355,591	0.81%
Native-American	\$ 831,046	0.20%
Women Business Owners	\$ 34,716,250	8.42%
Non-MBE	\$ 4,061,728	0.98%
Total JSEB Expenditures:	\$61,068,014 (14.81% of the city's total sourceable spend of \$412,453,464) ⁸	

VI. ASPIRATIONAL GOAL COMPARISON

While fiscal year 2010 saw a reduction in the percentage of JSEB awards, there was an increase in the percentage of JSEB expenditures. This modest increase in expenditures will result in the lowering of the women business owner category of the JSEB program's aspirational goals outlined in § 126.611, Jacksonville Ordinance Code, subsection 126.611(b) of which state:

The Director [of Central Operations] shall make an evaluation of the relevant contracting data to determine the performance of the program and whether the individual and specific goals set forth in section 126.611(a) have been achieved. ... The individual and specific goals set forth in subsection (a) shall not be adjusted as required in subsection (c) without a report to the Audit Committee, Council and the Mayor, that demonstrates the goals in section 126.611(a) have been met (emphasis added).

The current aspirational goals are: (i) African-Americans – 5.25% and 5.25% for construction-related professional services; (ii) Hispanic-Americans – 1.5% and 1.13% for construction-related professional services; (iii) Asian-Americans and/or Native Americans – 2% and 1.50% for construction-related professional services; and (iv)

⁸ See Note 7, *supra*.

Women Business Owners – 8% and 7% for construction-related professional services.⁹ As indicated by the JSEB expenditure summary, the aspirational goals were not met for any category except the women business owner category. However, this represents the first time that the aspirational goal were met for the women business owner category. Therefore, in accordance §126.611(c)(1)(iv), Jacksonville Ordinance Code, it is recommended that the aspirational goals for the women business owner category be reduced to: (i) 6% for construction, contractual services and commodities contracts or supplies; and (ii) 5.25% for construction related professional services. Section 126.611(b) of the Code precludes any adjustments to the aspirational goals for the remaining categories.

VII. CONCLUDING THOUGHTS

Since its enactment, the JSEB program has made significant strides toward building capacity and removing structural barriers to small and minority business success. Nevertheless, § 126.611(d), Jacksonville Ordinance Code, states that the JSEB program:

Shall sunset on September 30, 2009, provided, however, that Council shall, prior to the Sunset date, review the JSEB program and this Section 126.611, and determine whether City procurement with race and gender conscience goals have been achieved. If by September 30, 2009, the City has not achieved the goals outlined in Section 126.611(a), the City shall conduct a disparity study and complete an analysis of the Program. The goals outlined in Section 126.611(a) shall continue until the disparity study and analysis is completed. Then the City shall consider legislation to modify the goals as applicable.

Consistent with this provision, the city competitively solicited proposals for an independent analysis of the JSEB program. In June 2009, the city executed a contract with D. Wilson Consulting Group, LLC (“DWC”) to complete an analysis of the JSEB program and to provide recommendations. In February 2010, DWC provided a formal report of its independent analysis, findings and recommendations (the “JSEB Audit”). As part of its JSEB Audit, DWC provided a legal analysis of various federal, state and/or local laws that govern the legal sufficiency and permissibility of publicly established small and minority business programs. After evaluating the JSEB program against its legal analysis, DWC recommends that the city conduct a disparity study due to the changes in the marketplace since the enactment of the JSEB program.¹⁰

⁹ In the “Aspirational Goal Comparison” section of the Annual Report of the JSEB program for fiscal year 2007-2008, it is stated that, “[a]s indicated by the expenditure summary, the aspirational goals have been met and, therefore, § 126.611(b) of the Code requires that current aspirational goals be adjusted to reflect the reduced goals outlined in § 126.611(c)(1).” However, this statement was only accurate in relation to the African-American and Hispanic-American categories and, therefore, only these two categories were adjusted pursuant to § 126.611(c)(1) of the Code.

¹⁰ The city’s initial disparity study solicitation efforts concluded with a decision to reject all proposals. With the assistance of the city’s Office of General Counsel (“OGC”), the original disparity study solicitation documents have been revised to, amongst other things, eliminate the legal review and analysis scope of services, which will now be provided by OGC. The city’s disparity study efforts are scheduled to be re-solicited prior to the end of February, 2011.

In addition to its recommendation that a disparity study be conducted, DWC commends the city on its JSEB program and recommends the continuation of the program “with some modifications.” The following represents a few of the highlights of DWC’s JSEB program recommendations and EBO’s response to the same.

Summary of Independent Audit of JSEB Program and City’s Response		
JSEB Program Element	DWC Recommendation	City Response
Bonding Enhancement	(i) Revise outreach efforts such that they are more “conductive” to JSEB work schedules; and (ii) Improve reporting.	(i) EBO will continue its efforts to make all JSEBs aware of every element of the JSEB program and to provide convenient access to the same; and (ii) Every effort will be made to improve the frequency and accuracy of JSEB reporting.
Access to Capital	Develop means to better publicize the Access to Capital program, e.g. during “pre-bid conferences.”	Procurement, EBO and the Office of the Ombudsman have consistently provided notice of the Access to Capital program during pre-bid conferences. EBO will continue its efforts to make all JSEBs aware of every element of the JSEB program and to provide convenient access to the same.
Continuing Education	(i) Consider lowering points required for JSEB re-certification; and (ii) In lieu of using consultants, consider EBO’s education coordinator position to identify city subject matter experts for JSEB training purposes.	(i) EBO will consider lowering the point requirement. It will also consider the possibility of conducting classes electronically where applicable; and (ii) EBO’s education coordinator position has been eliminated; nevertheless, EBO’s remaining staff will continue to manage this element. In addition, EBO has utilized and will continue to utilize internal subject matter experts as part of its training efforts. To date, EBO has enlisted the training assistance of those within the city, including without limitation, the director of Central Operations, the chief of Procurement and the ombudsman.
Mentoring Program	(i) Follow-through on EBO’s commitments regarding mentors; and (ii) Expand this element to include successful JSEBs as mentors.	(i) An effort is made to match every interested JSEB with a suitable mentor. We are hopeful that as the economy begins to improve, we will see a proportional increase in companies that are willing to mentor interested JSEBs; and (ii) EBO will consider expanding this element to permit successful JSEBs to mentor other JSEBs.
Ombudsman	(i) Consider receiving informal or telephone complaints; and (ii) Use the city’s C.A.R.E. system to track complaint resolution.	(i) The request for a written complaint assists the ombudsman in understanding and articulating the concerns of the parties to eliminate any confusion from what is often a very difficult process; and (ii) The ombudsman and the manager of the city’s Call Center have discussed the possibility of incorporating ombudsman services into the C.A.R.E. system. This recommendation has been implemented.

Summary of Independent Audit of JSEB Program and City's Response

JSEB Program Element	DWC Recommendation	City Response
JSEB Monitoring Committee	EBO staff should review the purpose of the Committee and develop an action plan to get the Committee more involved.	Because the initial intent of City Council was that the Monitoring Committee provides autonomous oversight of the JSEB program, it is recommended that a request be made that the Office of General Counsel ("OGC") provides assistance in clarifying and outlining the role, expectations and accountability of the Committee. Nevertheless, the Committee is free to meet as often as it likes. EBO will act as staff to the Monitoring Committee and stands ready to reasonably serve at its pleasure, e.g., coordinating/securing meeting places, furnishing documents, etc. Notwithstanding OGC's counsel, the Monitoring Committee is encouraged to select a chairperson and to schedule meetings as frequently as it sees fit.
Data Collection	(i) City must track all contract awards and payments; (ii) City should maintain an "accurate Master Vendor Database" and identify "one tracking system" to collect and monitor all procurement activity; (iii) City should "ensure that all information provided in the JSEB Annual Reports is 100 percent accurate" through quality checks; and (iv) City should improve its consultant monitoring effort.	(i and iii) The city is currently considering a single integrated system. Until a new system is acquired, EBO must work with what it has, i.e., internally created spreadsheets. Quality checks are made with each report; however, the human element cannot be 100 percent removed from a manual system. The example given in support of DWC's statement regarding inaccuracies in annual JSEB reporting references the Annual JSEB Report for fiscal year 2004-2005, specifically as it relates to a \$6.09 difference in total JSEB expenditures of \$32,708,243.09, which represents a total deviation of 0.00002%. Nevertheless, every effort is made to further increase the accuracy of JSEB reporting; (ii) City vendors, including JSEBs, are currently available in the city's electronic system, JaxPRO; and (iv) In contemplation of the "sunset" of the JSEB program, EBO has evaluated all of its consultant agreements and will discuss its decision not to renew certain agreements with representatives of the Mayor's Office and City Council.
Contract Compliance	Empower the EBO staff with the authority to resolve contract compliance issues.	In an effort to balance the interests of its constituents, the city has structured the JSEB program such that the EBO specialist acts more as an advocate for JSEBs, while the ombudsman acts as a neutral hearing officer that assists in resolving contractual disputes. As such, an EBO specialist's responsibility for contract compliance was intentionally limited to ensuring that any commitments to utilize JSEBs are actually met. The ombudsman's responsibility for contract compliance was intended to focus on issues of post-award contractual performance and payment obligation.

While the JSEB Audit does not offer a opinion if the JSEB program achieved the aspirational goals outlined in § 126.611(a) of the Code, a review of the annual reports for each year of the JSEB program reveals that the city did not achieve the aspirational goals through the race-neutral elements of the JSEB program. Using total expenditures since the program's inception as the barometer, an ethnic or gender category was not met or exceeded the aspirational goals outlined in §

126.611(a) of the Code (see JSEB Expenditure Summary “Since Program Inception”).¹¹

Summary of Percentages and Dollar Amounts of Total Expenditures Paid to Certified JSEBs by Ethnicity & Gender <i>Since Program Inception</i> (for prime contracts and subcontracts)		
African-American	\$ 98,545,941	5.39%
Asian-American	\$ 9,193,927	0.50%
Hispanic-American	\$ 23,755,513	1.30%
Native-American	\$ 16,112,594	0.88%
Women Business Owners	\$ 116,918,285	6.39%
Non-MBE	\$ 36,378,730	1.99%
Total JSEB Expenditures:	\$300,904,990 (16.45% of the city's total sourceable spend of \$1,829,258,353) ¹²	

Despite the fact that its race-neutral elements did not achieve the aspirational goals, the JSEB program has resulted in many other noteworthy accomplishments, including, without limitation:

1. JSEB awards in excess of \$255 million;
2. JSEB expenditures in excess of \$300 million;
3. JSEBs obtaining 82 payment and/or performance bonds for the first time in the city's history;
4. JSEB Access to Capital loans totaling \$2.4 million from a loan pool in excess of \$1.2 million, enabling nearly \$28 million JSEB contracts and subcontracts;
5. Various educational programs being established with multiple institutions of higher education and small business advocates;
6. More than 300 non-performance and non-payment issues being resolved by the Office of the Ombudsman; and
7. EBO expanding its services to small and minority businesses to include Section-3 Housing and Urban Development certification.

These and other accomplishments of the JSEB program indicate that the “communal effort” approach to building capacity and removing structural barriers to small and minority business success is working. In an effort to perpetuate the benefits that flow from this “communal effort” approach, the process by which the

¹¹ See Exhibit 5A, *infra*.

¹² See Note 7, *supra*.

JSEB program sunsets should replicate the process by which it was enacted. In other words, a “communal” debriefing of the JSEB program should be conducted, whereby a commission – similar to the Commission or Special Committee referenced herein – is established in order to, at a minimum:

1. Review and compare the existing JSEB program with other successful small and/or minority business programs in an effort to identify possible areas of improvement;
2. Solicit and obtain information and guidance from representatives of the city's Office of General Counsel, other city departments and local independent authorities regarding any legal, reporting or practical concerns associated with the administration of the various elements of the JSEB program;
3. Solicit and obtain information and guidance from the local community regarding capacity building and any lingering impediments to small and minority businesses that the JSEB program may not have adequately addressed;
4. Issue findings and recommendations to the mayor and City Council regarding the past, present and future of small and minority businesses in Jacksonville; and
5. Provide general assistance in any city effort to conduct a disparity, statistical, anecdotal or related study of local contracting and purchasing practices – public sector and private sector – to determine the extent to which a remedial program for racial or gender discrimination is necessary and/or appropriate.

The JSEB program was established as a result of listening to witness testimony and reviewing documents received from historians, attorneys, public officials, leaders of local businesses and industry, bankers, insurance/surety professionals, the clergy, activists and, most importantly, owners of small and minority businesses. As such, the design and any success of the JSEB program can be attributed to the “communal effort” or the collective input of the citizens of Jacksonville. As deliberations begin as to the future of small and minority business in Jacksonville, a “communal effort” remains the key to success.

EXHIBITS

Summary of Percentages and Dollar Amounts
of Total EXPENDITURES Paid to Certified JSEBs for FY 10 Ex-1

Summary of Percentages and Dollar Amounts of Total
EXPENDITURES Paid to Certified JSEBs for FY 10 by Ethnicity & Gender Ex-2

Summary of Percentages and Dollar Amounts of
Total AWARDS Made to Certified JSEBs for FY10..... Ex-3

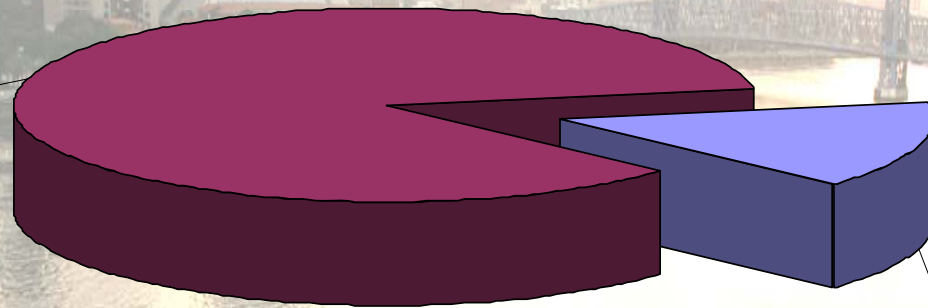
Summary of Percentages and Dollar Amounts of Total
AWARDS Made to Certified JSEBs for FY 10 by Ethnicity & Gender Ex-4

Year-to-Year Program Review; 2004 through 2010
Summary of JSEB Expenditures, Awards and Certification Ex-5

**Summary of Percentages and Dollar Amounts of Total
Expenditures Paid to Certified JSEBs for FY 10
(for prime contracts and subcontracts)**

City's Total Sourceable Expenditures: \$412,453,464

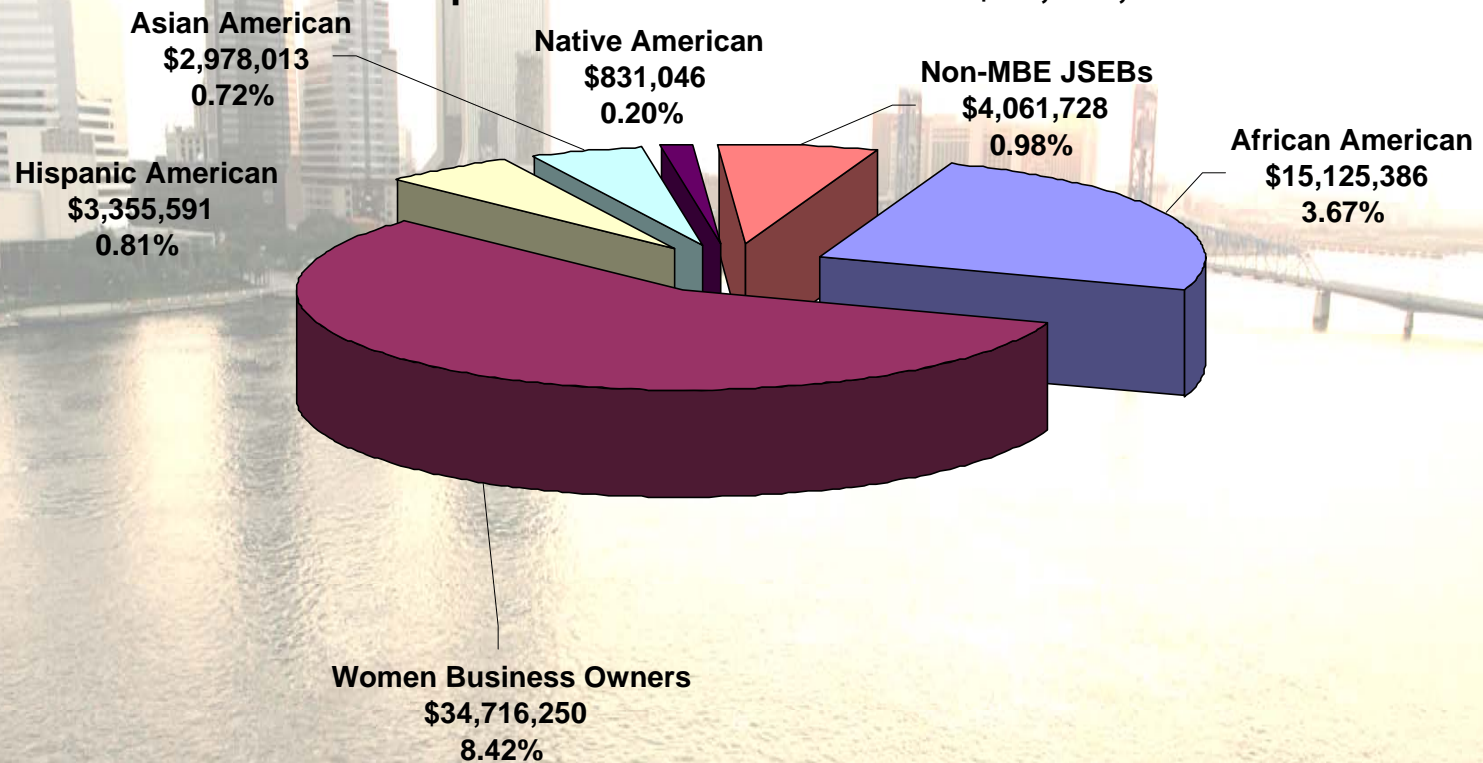
**Total Non-JSEB
\$351,385,450
85.19%**



**Total JSEB
\$61,068,014
14.81%**

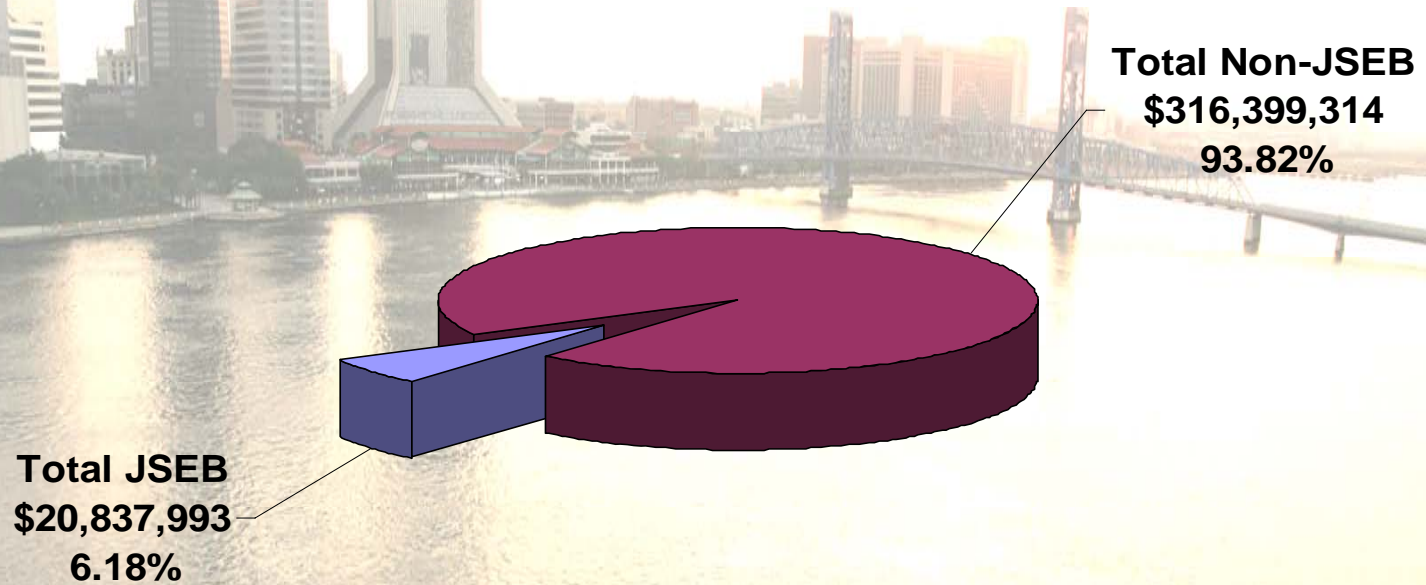
Summary of Percentages and Dollar Amounts of Total Expenditures Paid to Certified JSEBs for FY 10 by Ethnicity & Gender (for prime contracts and subcontracts)

Total Expenditures Paid to JSEBs: \$61,068,014



**Summary of Percentages and Dollar Amounts of Total
Awards Made to Certified JSEBs for FY 10
(for prime contracts and subcontracts)**

City's Total Sourceable Awards: \$337,237,307



**Summary of Percentages and Dollar Amounts of Total
Awards Made to Certified JSEBs by Ethnicity & Gender FY 10
(for prime contracts and subcontracts)**

Total Awards to JSEBs: \$20,837,993

Women Business Owners
\$8,189,655
2.43%

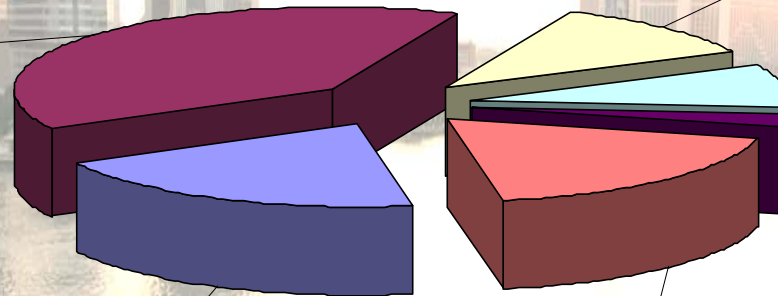
African American
\$4,153,312
1.23%

Non-MBE JSEBs
\$3,901,585
1.16%

Hispanic American
\$2,331,575
0.69%

Asian American
\$1,753,190
0.52%

Native American
\$508,676
0.15%



A photograph of the Jacksonville skyline at sunset. The sun is low on the horizon, creating a bright, hazy glow over the city. Several skyscrapers are visible, including the Modis building with its name on top. The city lights are reflected in the water in the foreground.

Jacksonville Small Emerging Businesses Program (JSEB)

Year-to-Year Program Review: Exhibits 5A – 5E

(Summary of JSEB Expenditures, Awards and Certification)

Expenditures Paid to JSEB Vendors

Expenditures	2004-05	%	2005-06	%	2006-07	%
African American	11,783,549	4.44	10,288,877	5.51	11,015,650	5.25
Asian American	1,370,414	0.52	1,744,650	0.93	1,555,597	0.74
Hispanic American	2,078,161	0.78	3,376,388	1.81	1,248,929	0.59
Native American	1,847,929	0.70	1,392,877	0.75	4,125,803	1.97
Women	10,876,581	4.10	12,339,199	6.61	11,706,500	5.57
Non MBE	4,751,609	1.79	4,546,289	2.44	6,315,880	3.00
Total JSEB	32,708,243	12.33	33,688,280	18.05	35,968,359	17.12
Total Non JSEB	232,494,598	87.67	152,922,204	81.95	174,027,633	82.88
Total Sourceable	265,202,841	100.00	186,610,484	100.00	209,995,992	100.00

Expenditures Paid to JSEB Vendors (Cont.)

Expenditures	2007-08	%	2008-09	%	2009-10	%
African American	37,886,216	9.94	12,446,263	3.33	15,125,386	3.67
Asian American	661,732	0.17	883,521	0.24	2,978,013	0.72
Hispanic American	11,779,401	3.09	1,917,044	0.51	3,355,591	0.81
Native American	4,795,374	1.26	3,119,565	0.83	831,046	0.20
Women	28,651,390	7.51	18,628,365	4.99	34,716,250	8.42
Non MBE	9,190,692	2.41	7,512,532	2.01	4,061,728	0.98
Total JSEB	92,964,805	24.38	44,507,290	11.91	61,068,014	14.81
Total Non JSEB	288,359,795	75.62	329,163,682	88.09	351,385,450	85.19
Total Sourceable	381,324,600	100.00	373,670,972	100.00	412,453,464	100.00

Awards Made to JSEB Vendors

**Historical awards data was not captured for the 2004-05 program year.*

Awards	2004-05	%	2005-06	%	2006-07	%
African American	*	*	19,165,682	8.89	11,713,162	6.54
Asian American	*	*	405,400	0.19	14,780	0.01
Hispanic American	*	*	2,977,035	1.38	2,274,707	1.27
Native American	*	*	39,000	0.02	781,837	0.44
Women	*	*	13,491,033	6.26	22,297,638	12.45
Non MBE	*	*	1,955,935	0.91	6,226,265	3.47
Total JSEB	*	*	38,034,085	17.65	43,308,389	24.19
Total Non JSEB	*	*	177,550,282	82.35	135,719,931	75.81
Total Sourceable	*	*	215,584,367	100.00	179,028,320	100.00

Awards Made to JSEB Vendors (Cont.)

Awards	2007-08	%	2008-09	%	2009-10	%
African American	30,402,998	7.78	23,588,585	11.76	4,153,312	1.23%
Asian American	2,257,433	0.58	1,013,490	0.51	1,753,190	0.52%
Hispanic American	9,428,343	2.41	5,437,836	2.71	2,331,575	0.69%
Native American	1,937,923	0.50	1,812,435	0.90	508,676	0.15%
Women	37,673,225	9.64	26,852,977	13.38	8,189,655	2.43%
Non MBE	2,036,629	0.52	10,784,506	5.37	3,901,585	1.16%
Total JSEB	83,736,551	21.43	69,489,829	34.63	20,837,993	6.18%
Total Non JSEB	306,964,748	78.57	131,175,259	65.37	316,399,314	93.82%
Total Sourceable	390,701,229	100.00	200,665,088	100.00	337,237,307	100.00%

Certified JSEB Vendors

JSEB Category	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
African-American	149	153	156	191	223	172
Women	69	73	77	93	113	91
Hispanic-American	18	39	44	50	40	30
Asian-American	19	22	22	20	23	23
Native-American	6	7	6	9	6	6
Non-MBE	33	42	55	50	76	75
Total JSEB Vendors	294	336	360	413	481	397

FY 09-10 JSEB Expenditures by Commodity Type

JSEB	Contractual Supplies	Capital Improvement	Professional Services	Contractual Services	Total
African American	476,338	10,027,535	171,695	4,449,818	15,125,386
Asian American	51,142	2,852,306	74,566	-	2,978,013
Hispanic American	197,902	1,995,979	364,308	797,402	3,355,591
Native American	1,013,168	(229,883)	40,571	7,191	831,046
Woman	19,487,667	14,611,991	591,933	24,657	34,716,250
Non - MBE	845,860	1,810,870	53,551	1,351,446	4,061,728
Total JSEB	22,072,078	31,068,797	1,296,624	6,630,514	61,068,014

The negative expense for Native American Capital Improvement is due to an adjustment during the fiscal year.

FY 09-10 JSEB Awards by Commodity Type

JSEB	Contractual Supplies	Capital Improvement	Professional Services	Contractual Services	Total
African American	144,393	3,306,268	639,863	62,788	4,153,312
Asian American	33,305	1,672,260	47,625	-	1,753,190
Hispanic American	67,893	2,263,682	-	-	2,331,575
Native American	341,800	166,667	209	-	508,676
Woman	185,087	7,681,368	301,750	21,450	8,189,655
Non - MBE	190,026	3,599,256	20,336	91,968	3,901,585
Total JSEB	962,504	18,689,501	1,009,783	176,205	20,837,993



DEPARTMENT OF CENTRAL OPERATIONS • EBO AND CONTRACT COMPLIANCE DIVISION

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