

EQUITABLE CONTRACTING & PURCHASING COMMISSION

Report to City Council September 14, 2016



**OFFICE of EQUITY
and HUMAN RIGHTS**
CITY OF PORTLAND

PREPARED FOR PORTLAND CITY COUNCIL

CHARLIE HALES, MAYOR, COMMISSIONER IN CHARGE

NICK FISH, COMMISSIONER

AMANDA FRITZ, COMMISSIONER

STEVE NOVICK, COMMISSIONER

DAN SALTZMAN, COMMISSIONER



Introduction

Overview of Ordinance 187030 (2/15/15)

To provide guidance to City Council to improve DMWESB utilization/participation in City of Portland construction projects by collaborating with the City of Portland Procurement Services and bureaus.



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Fair Contracting Forum Reporting



Overview of Resolution 36718 (7/29/09)

- Established to support and promote accountable, transparent, fair, effective and efficient contracting practices.
- Provide oversight and greater community input regarding the City's procurement practices.
- The City will conduct a disparity study over the next year. Another study to be done never was.
- The Fair Contracting forum will report to Council on an annual basis.

Conclusion

- This was created to look at this data, which hasn't been done.
- No conclusions have been made to address the disparities. The City has not moved in a positive direction and has been ineffective.

Minority Evaluation



Overview of Resolution 36757 (12/16/09)

- Making sure minorities and women are in the evaluation process.
- Bureaus to include at least one minority evaluator provided by the Alliance of Minority Chambers on all contractor evaluation and selection panels.
 - One minority panelist on a panel of five or fewer members
 - Three minority panelists for panels of 9 to 11 members

Overview of Resolution 36757 (12/16/09)

- The Alliance will work with other Portland based minority business associations including the Oregon and the National Association of Minority Entrepreneurs.

Workforce

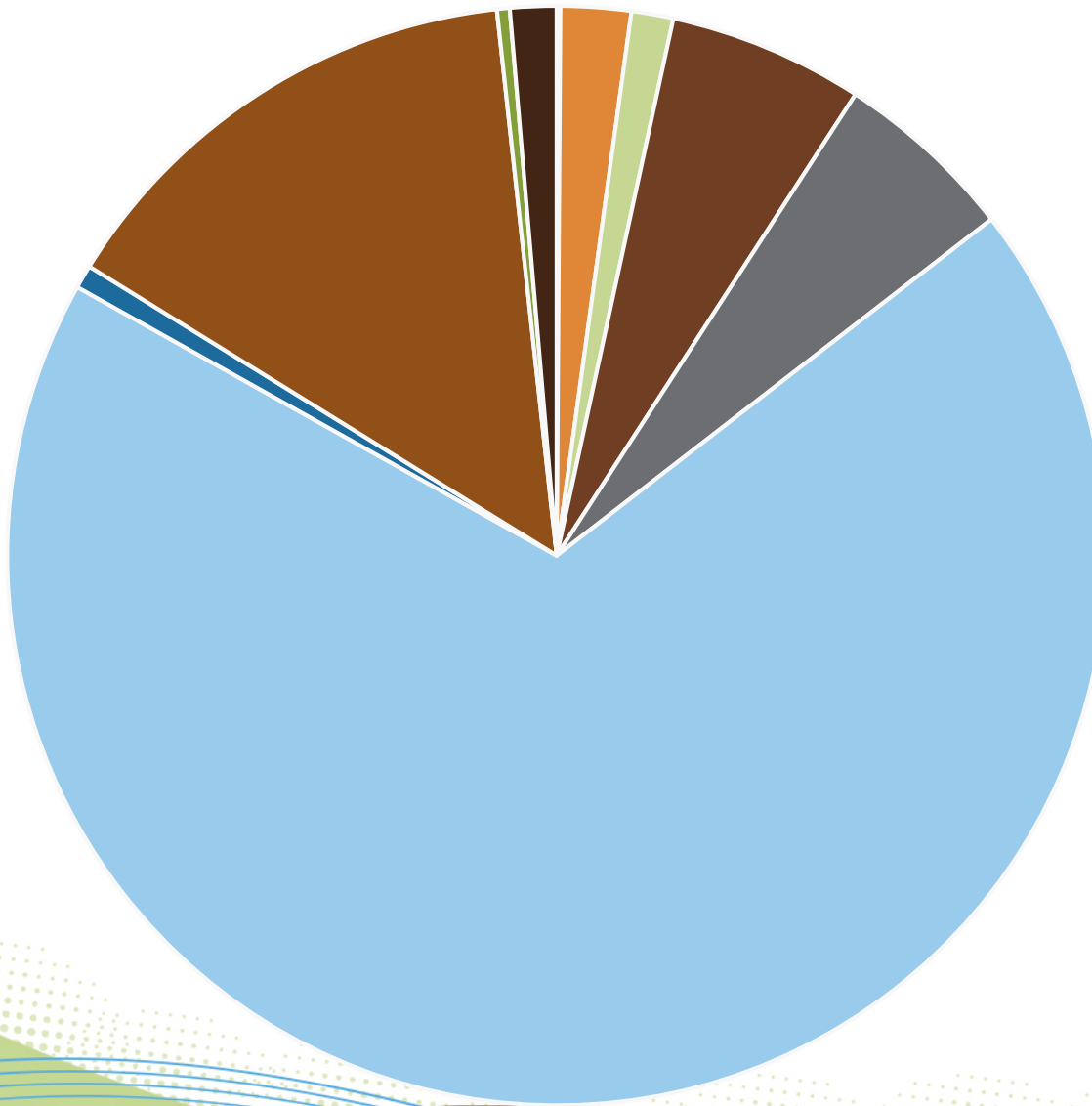


Overview of Resolution 36944 (7/19/12)

- Establish a 27% aspirational goal for minorities and women on City-funded construction projects for apprentices and journey-level workers.
- Require contractors to submit a workforce plan for subcontracts over \$100,000 and prime contracts over \$200,000.
- Establish a post-project contractor report that provides details of utilization of state certified firms, minority and women workforce participation, and construction manager project review.

ECPC Data Report: 2011-12

WORKERS



■ Asian Women 7

■ Asian Men 138

■ African American Women 82

■ African American Men 383

■ Caucasian Women 358

■ Caucasian Men 4,573

■ Latinas 46

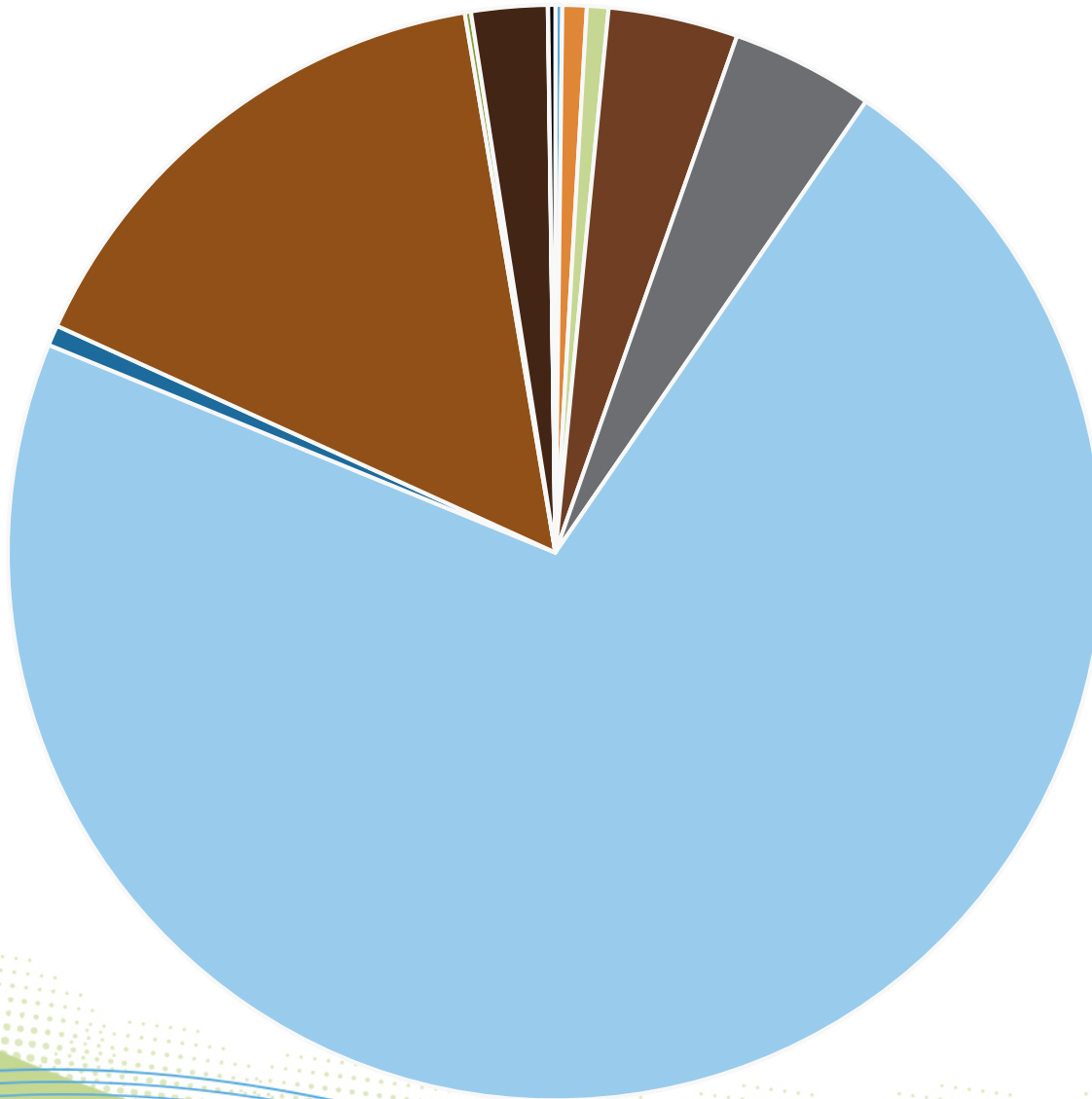
■ Latinos 963

■ Native American Women 25

■ Native American Men 91

■ Pacific Islander Women 0

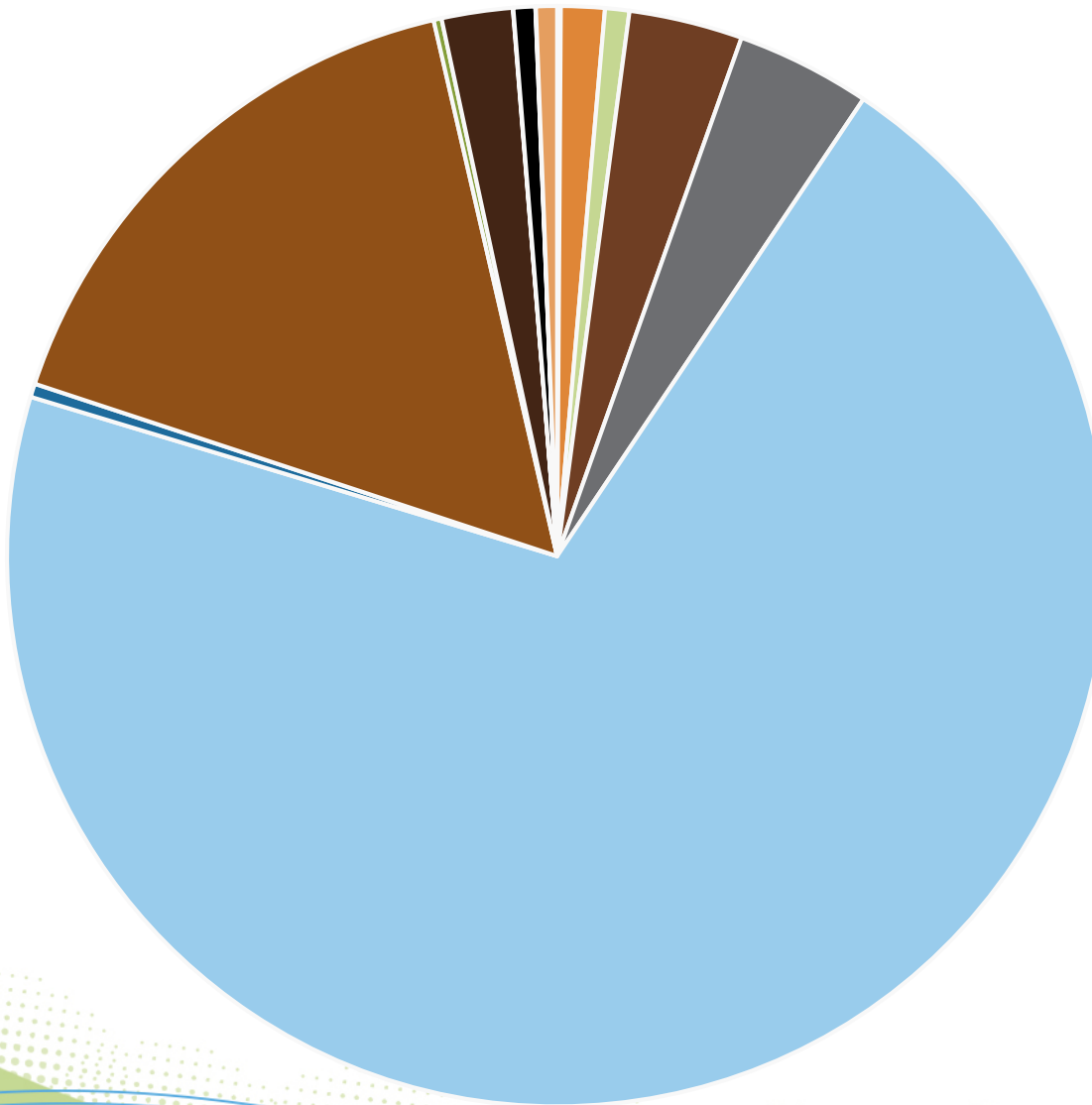
ECPC Data Report: 2012-13



WORKERS

- Asian Women 20
- Asian Men 71
- African American Women 63
- African American Men 380
- Caucasian Women 418
- Caucasian Men 7,102
- Latinas 60
- Latinos 1,543
- Native American Women 18
- Native American Men 223
- Pacific Islander Women 1
- Pacific Islander Men 21

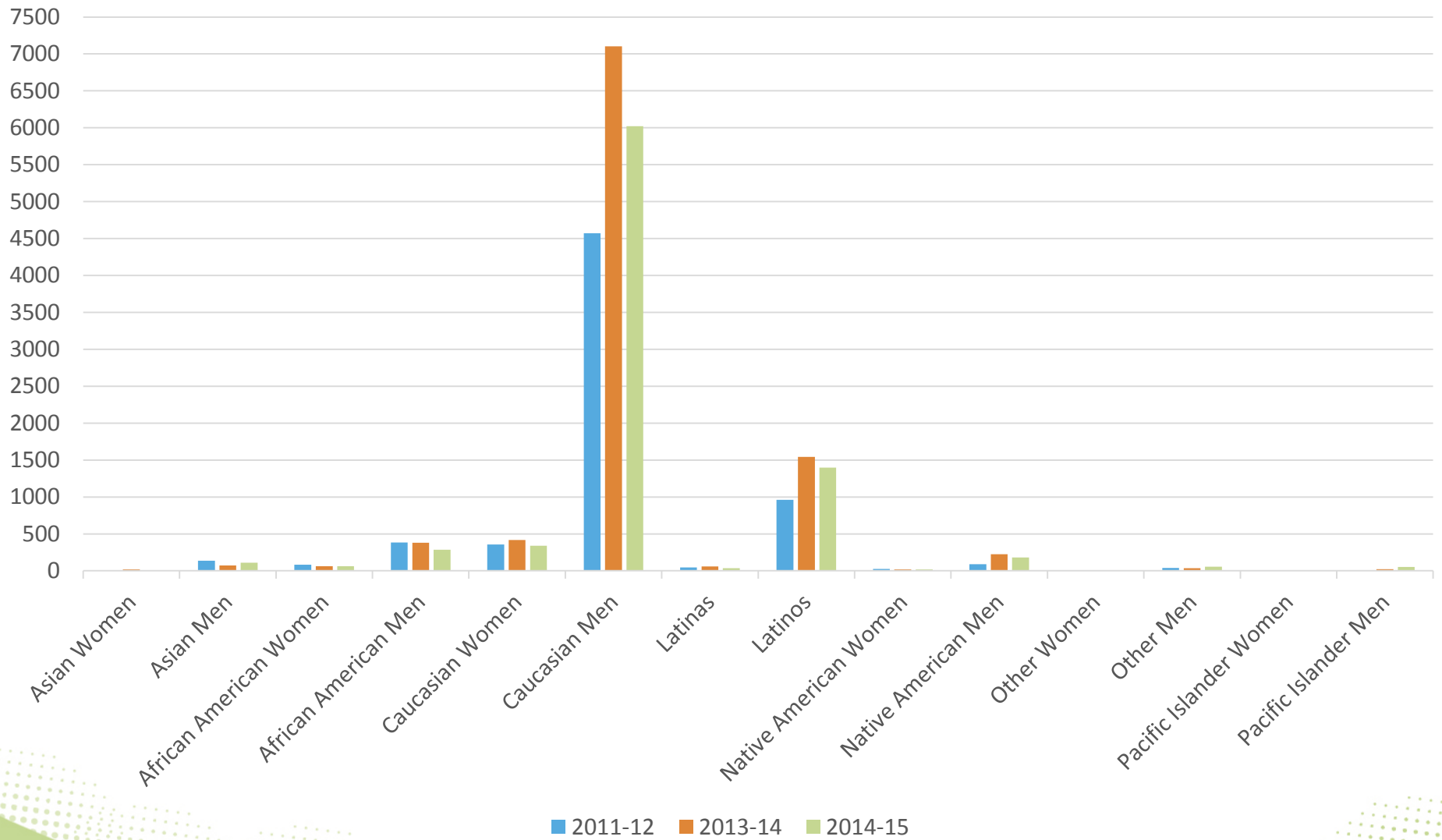
ECPC Data Report: 2014-15



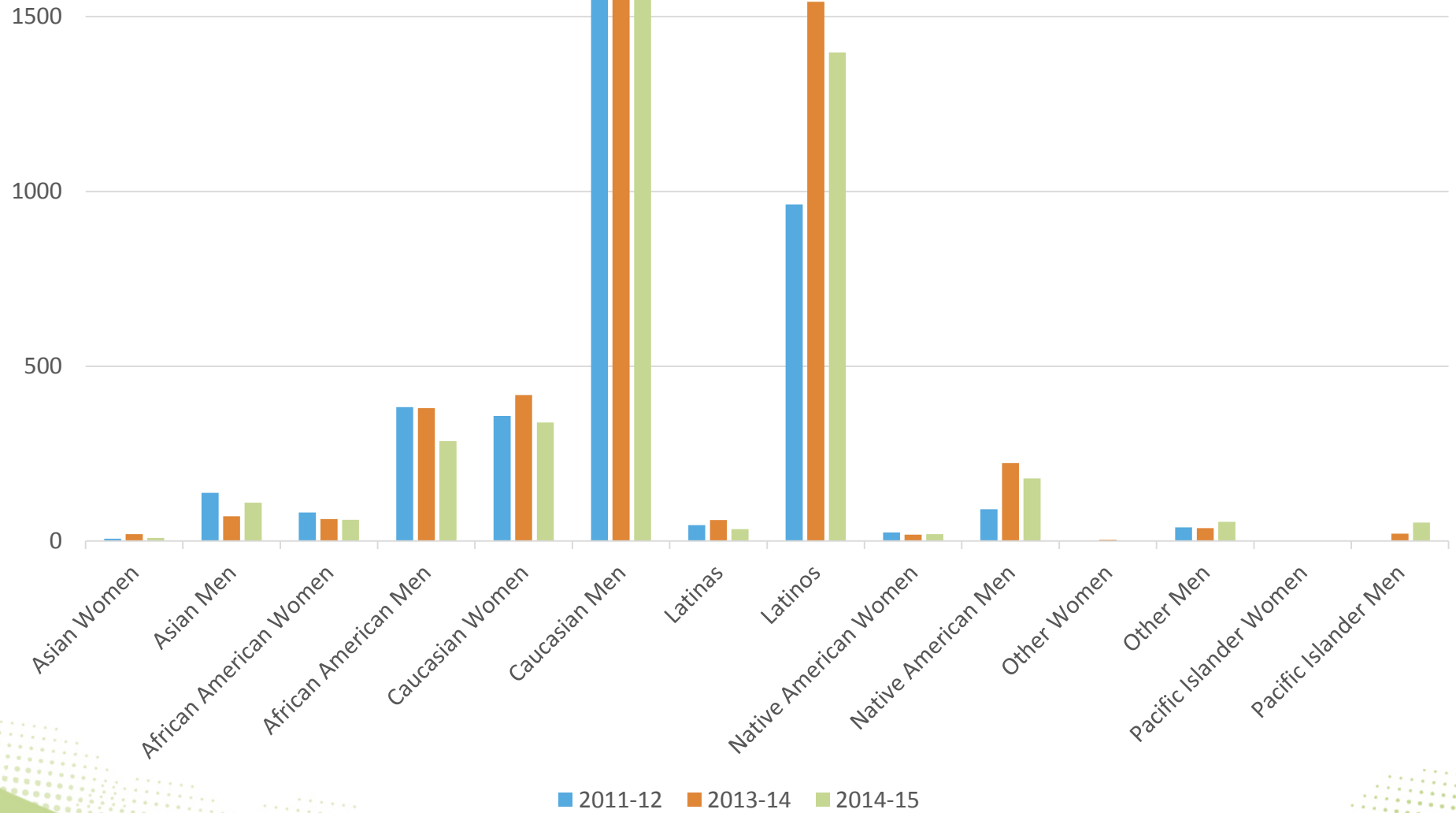
WORKERS

- Asian Women 9
- Asian Men 110
- African American Women 61
- African American Men 286
- Caucasian Women 339
- Caucasian Men 6,020
- Latinas 34
- Latinos 1,398
- Native American Women 20
- Native American Men 179
- Other Women 1
- Other Men 55
- Pacific Islander Women 1
- Pacific Islander Men 53

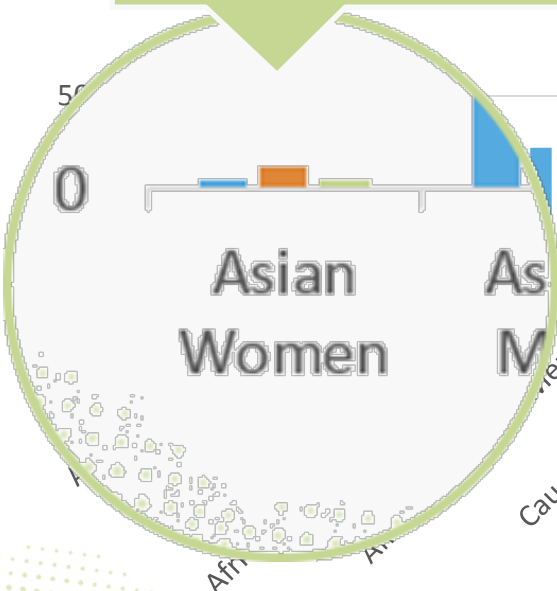
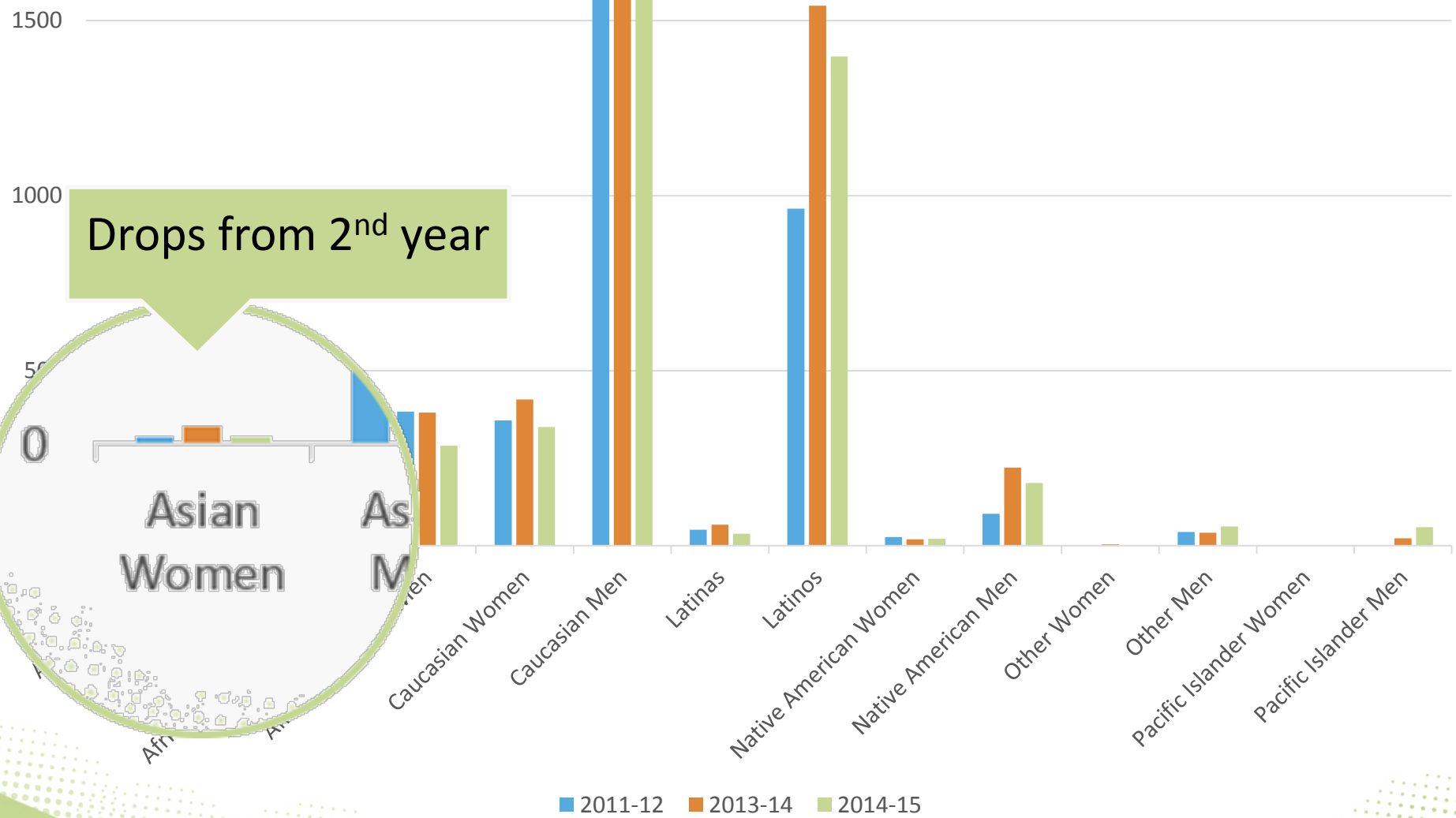
ECPC Data Report : 2011-2015



ECPC Data Report : 2014-15 (w/o Caucasian Men)

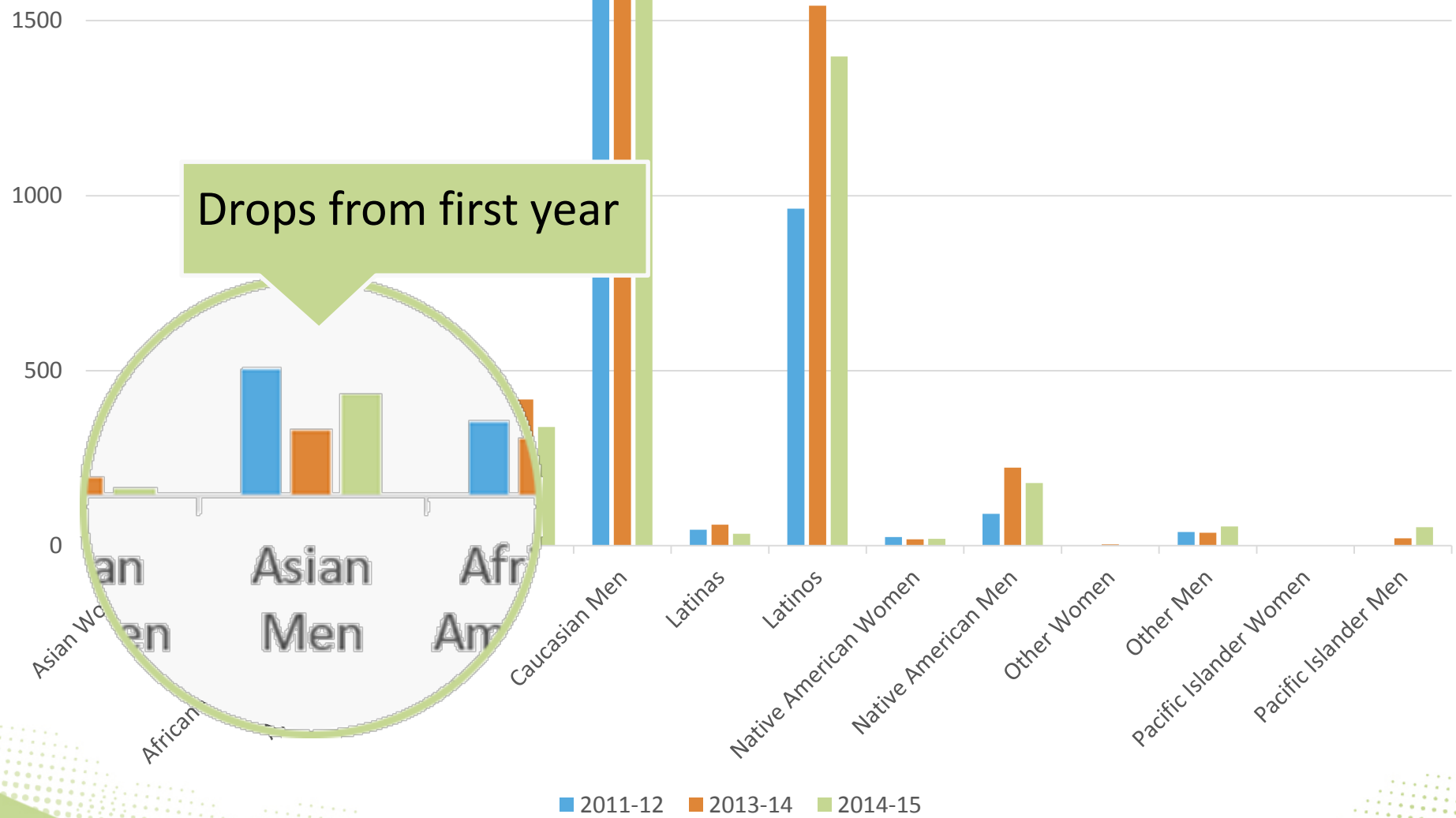


ECPC Data Report : 2014-15 (w/o Caucasian Men)

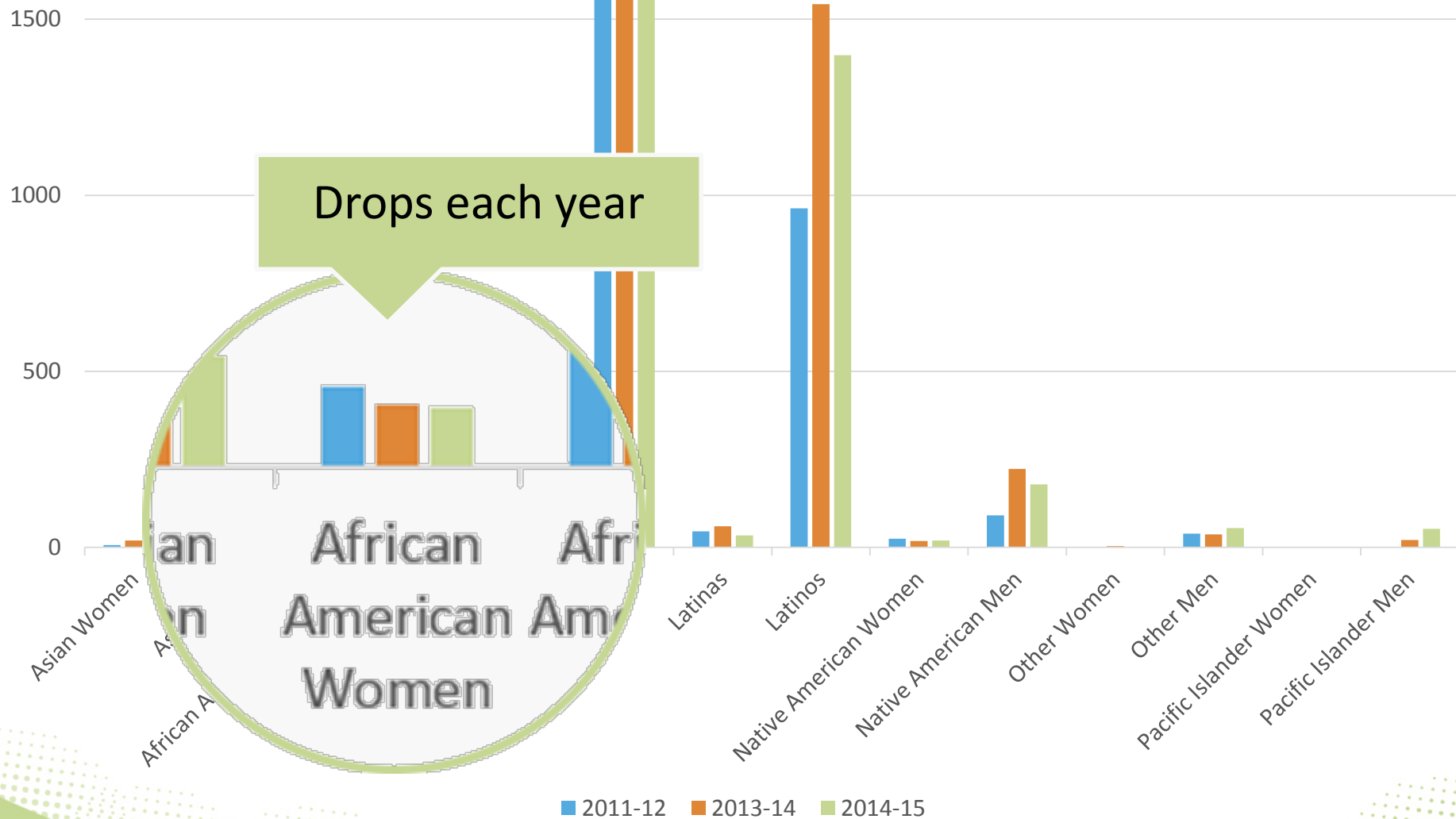


■ 2011-12 ■ 2013-14 ■ 2014-15

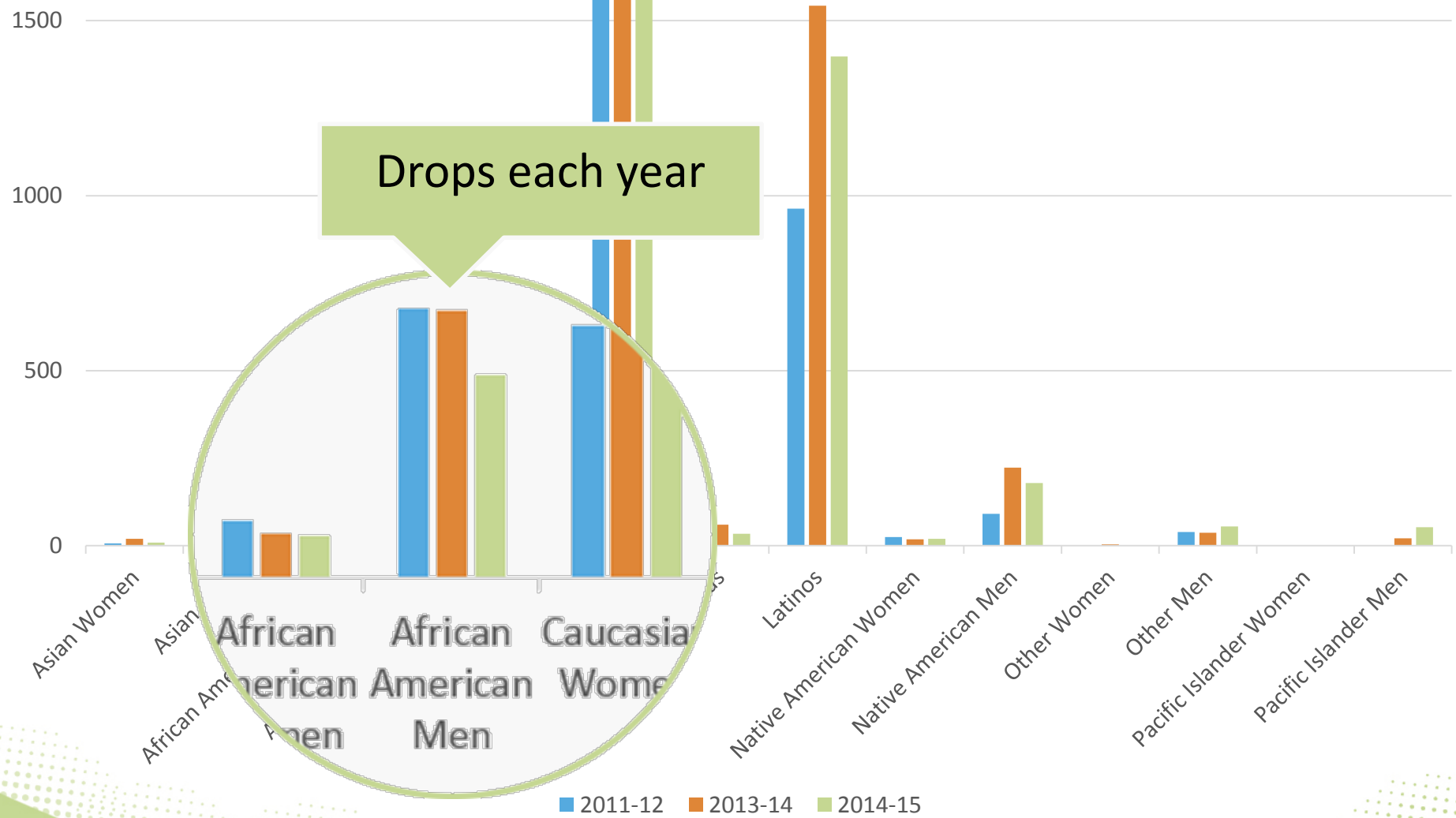
ECPC Data Report : 2014-15 (w/o Caucasian Men)



ECPC Data Report : 2014-15 (w/o Caucasian Men)



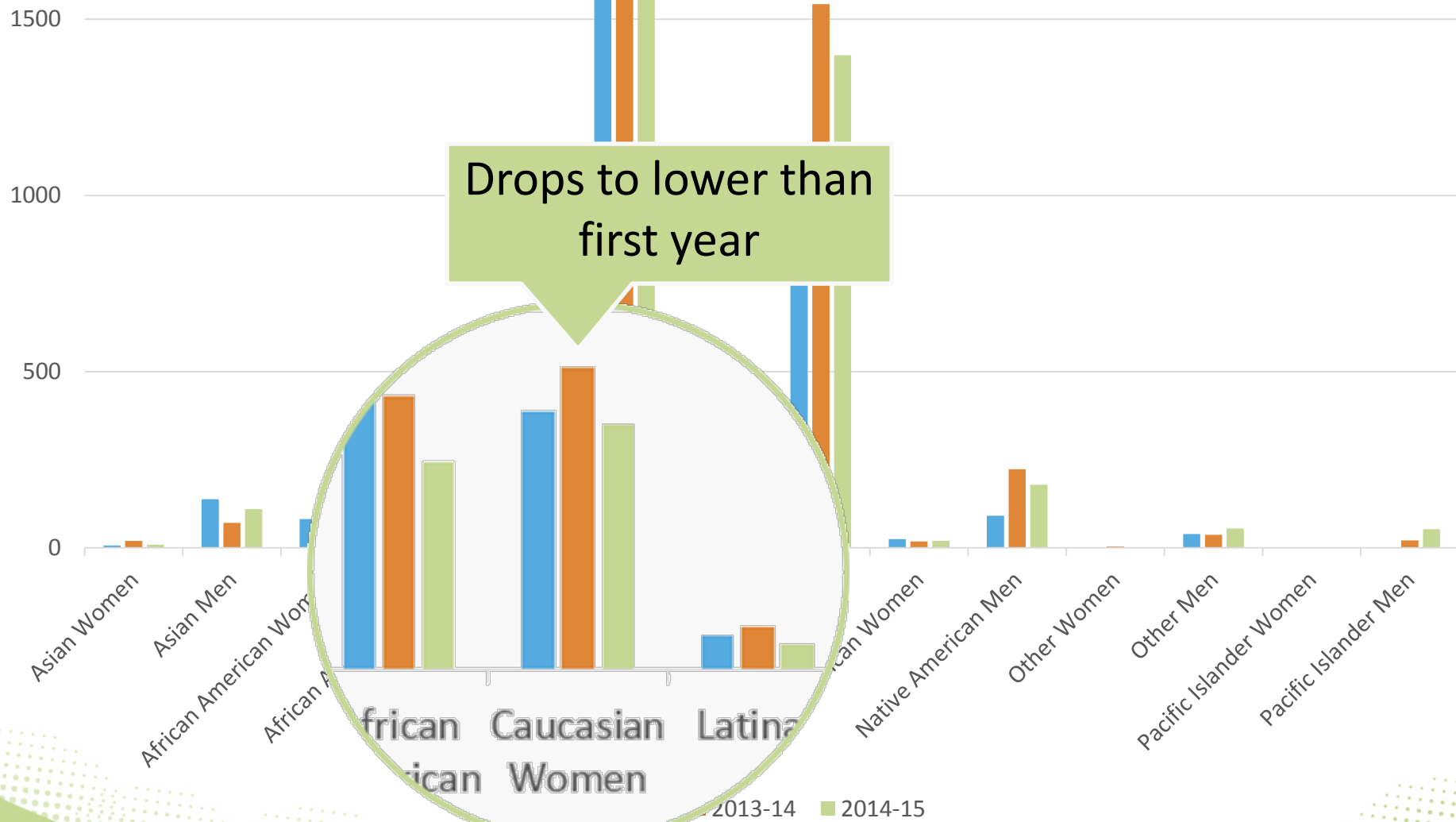
ECPC Data Report : 2014-15 (w/o Caucasian Men)



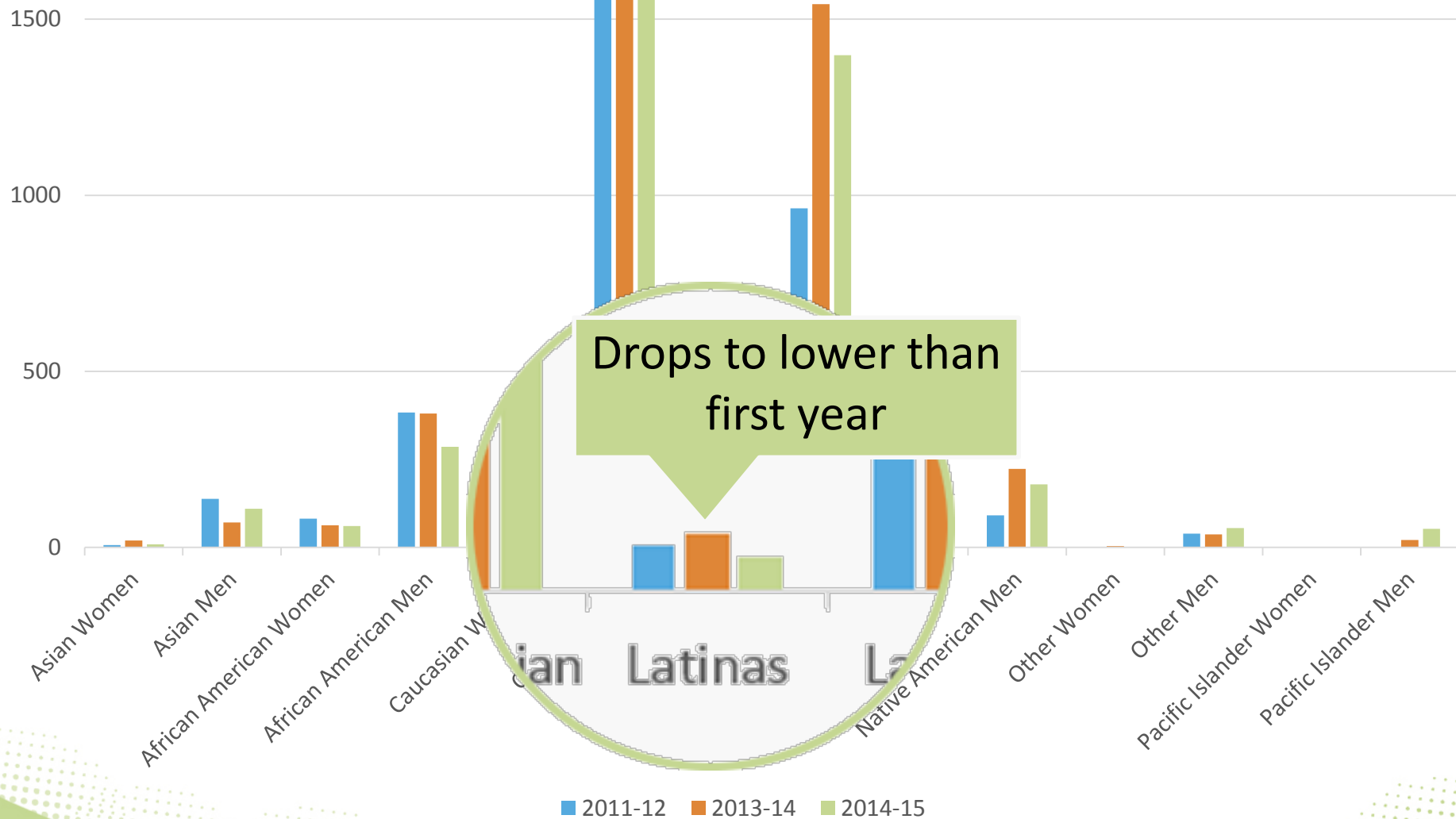
Drops each year

2011-12 2013-14 2014-15

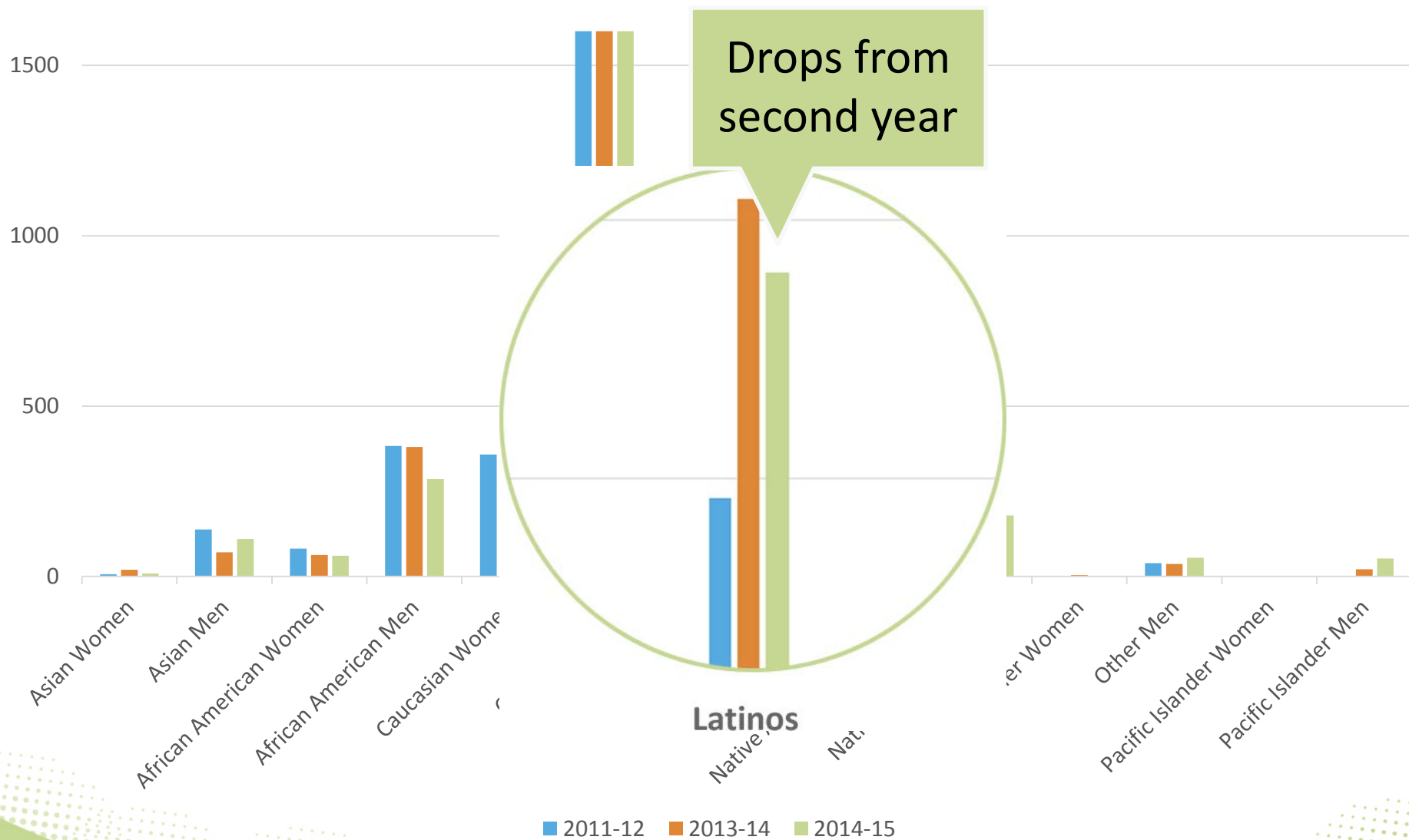
ECPC Data Report : 2014-15 (w/o Caucasian Men)



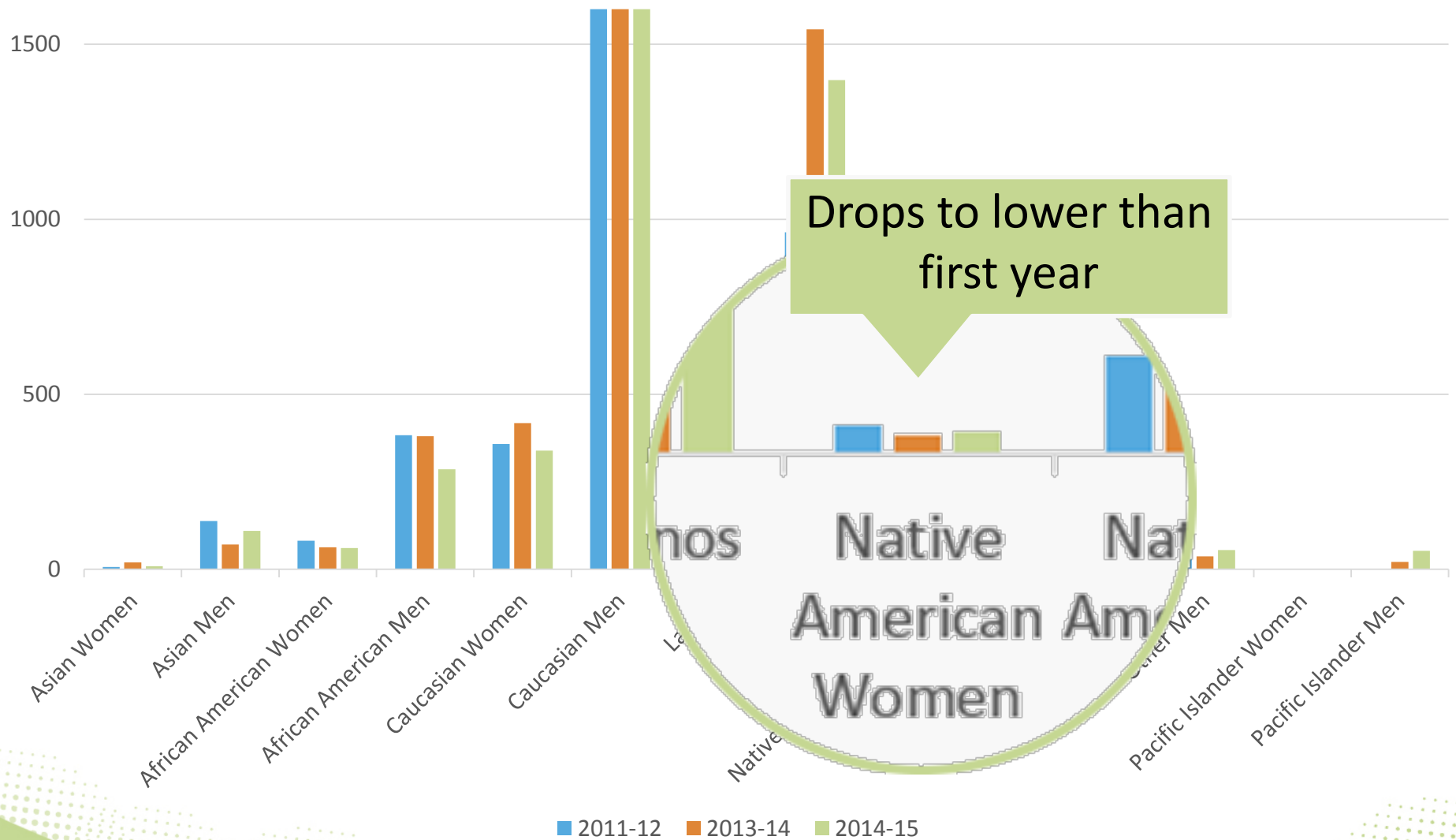
ECPC Data Report : 2014-15 (w/o Caucasian Men)



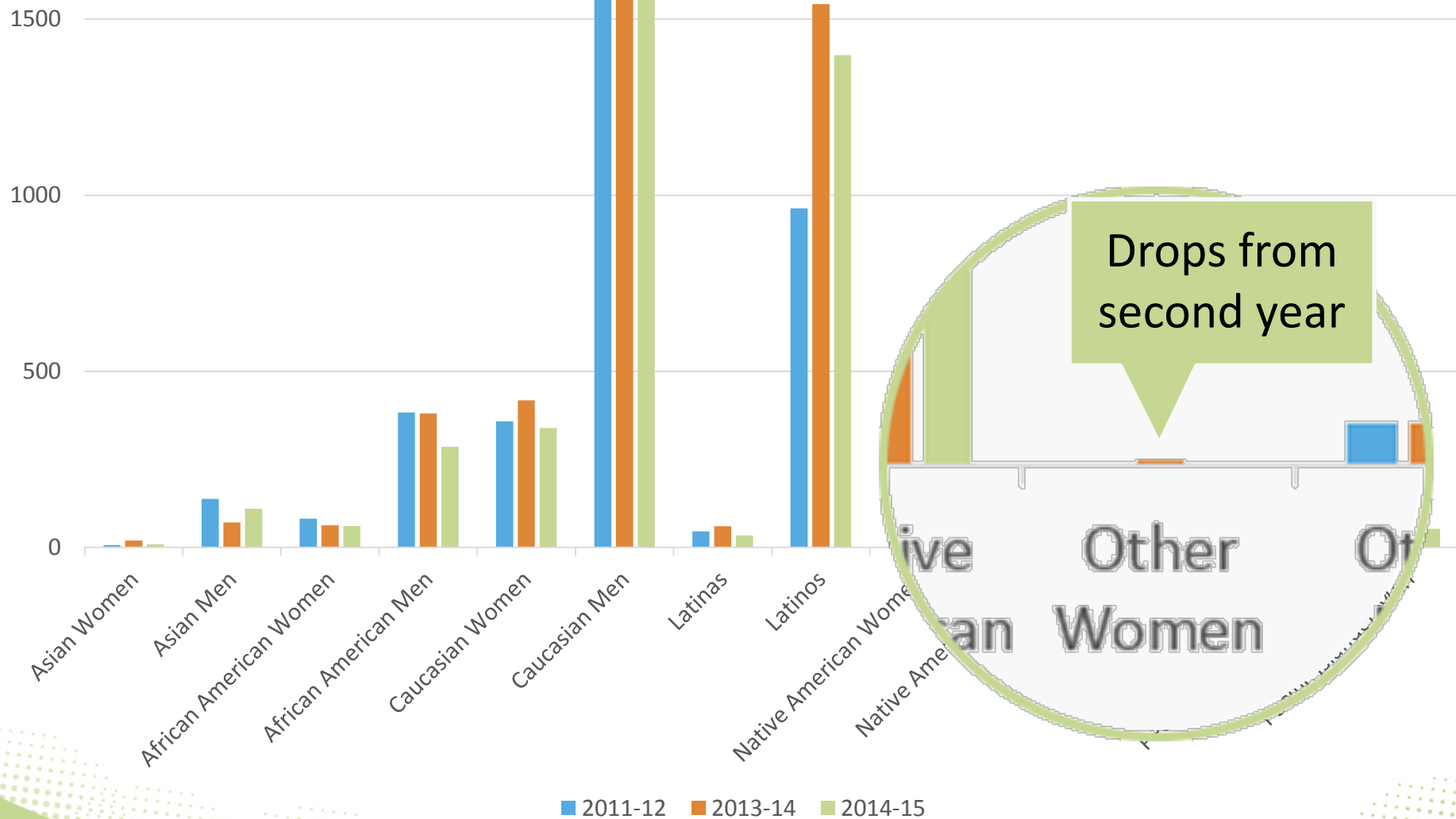
ECPC Data Report : 2014-15 (w/o Caucasian Men)



ECPC Data Report : 2014-15 (w/o Caucasian Men)



ECPC Data Report : 2014-15 (w/o Caucasian Men)



Conclusion

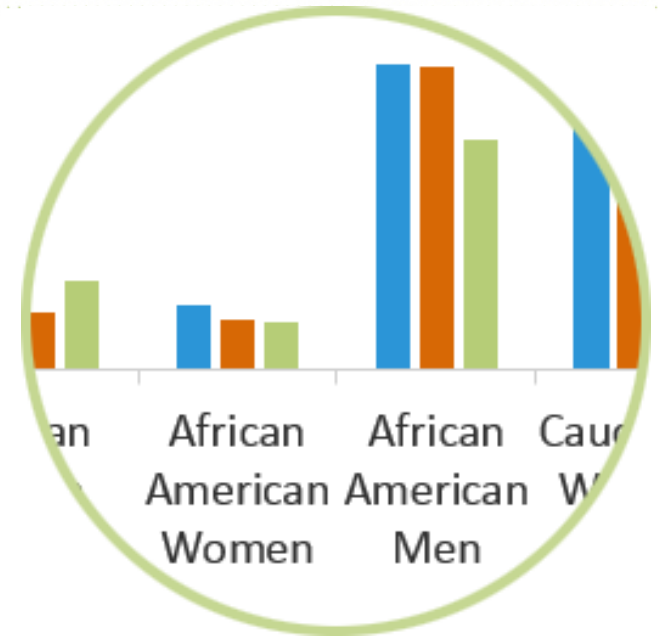
- Minority and women numbers went down between 2011 and 2015.
- A few categories increased in 2013-14 but most of them dropped significantly by the next year, mostly because the CBA was closed 2014-15.

Conclusion

- In 2012-13, there were **2.5x** more White men than all other categories combined.
- The only category that comes close are Latino men and there are still **5x** more White men than them.
- Altogether, there were **9,306 men** compared to **166 women**. That's more than **56x more men than women**.

Conclusion

- The category that consistently drops is African American men and women.



- CBA projects account for a large portion of the numbers. Without those projects, these numbers would be much more dismal.

Prime Contractor Development



Overview of Resolution 36944 (7/19/12)

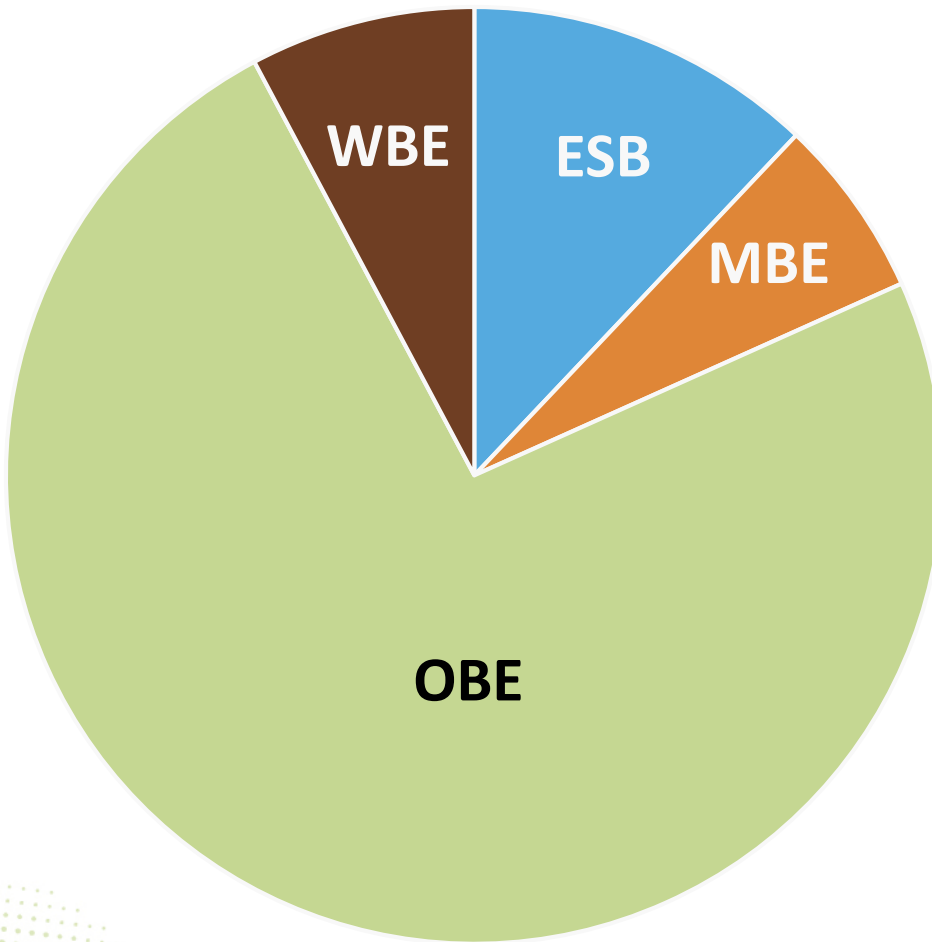
- Accept recommendations for a strategy to increase minority-owned, women-owned, and emerging small business utilization in City contracting.
- Establish a program for projects, \$1 million and less that creates access to contracting opportunities for certified firms.
- Set in place a business development course for program participants to enhance their business and contracting skills.

Overview of Resolution 36944 (7/19/12)

- Establish a mechanism to track the success of the program participants.
- Work with interested parties to set performance goals for MBE/WBE participation.
- Establish metrics for program performance and report results back to Council.

ECPC Data Report 2011-12

NUMBER OF CONTRACTS



Women-owned Business Enterprise

20 contracts; \$798,013

Emerging Small Business

31 contracts; \$1,713,318

Minority Business Enterprise

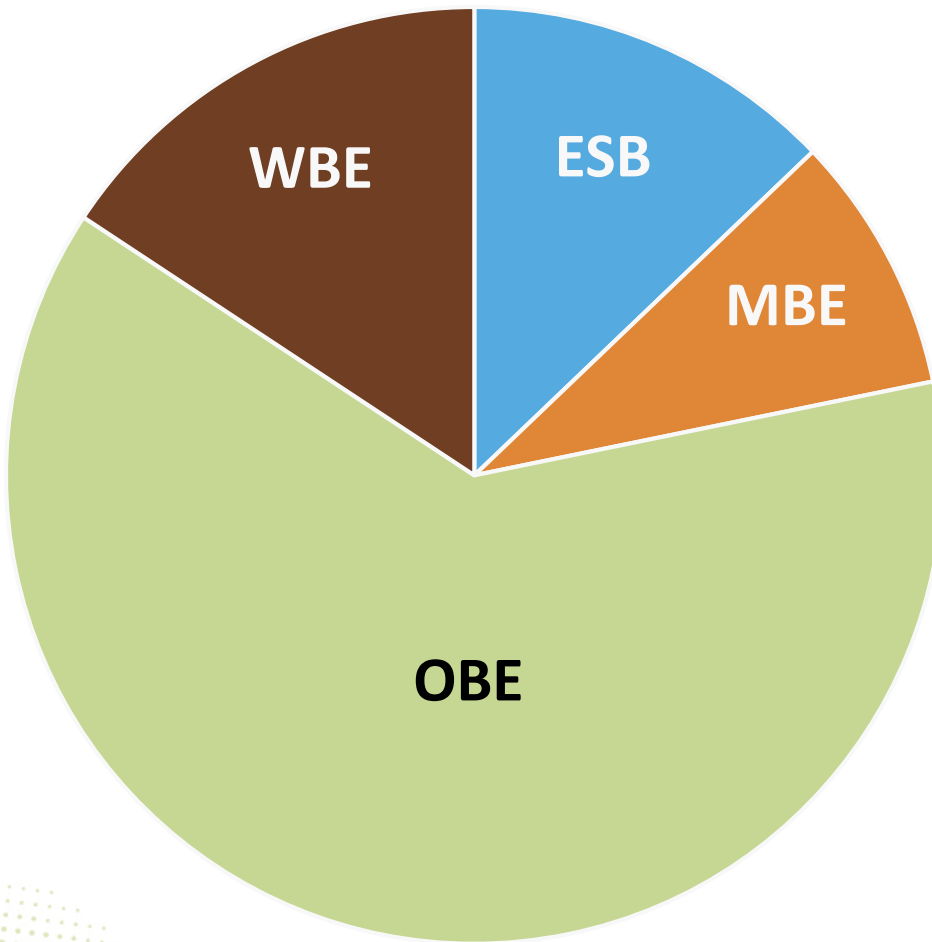
16 contracts; \$885,969

Other Business Enterprise

190 contracts; \$23,098,526

ECPC Data Report 2012-13

NUMBER OF CONTRACTS



Women-owned Business Enterprise

44 contracts; \$971,275

Emerging Small Business

36 contracts; \$1,385,648

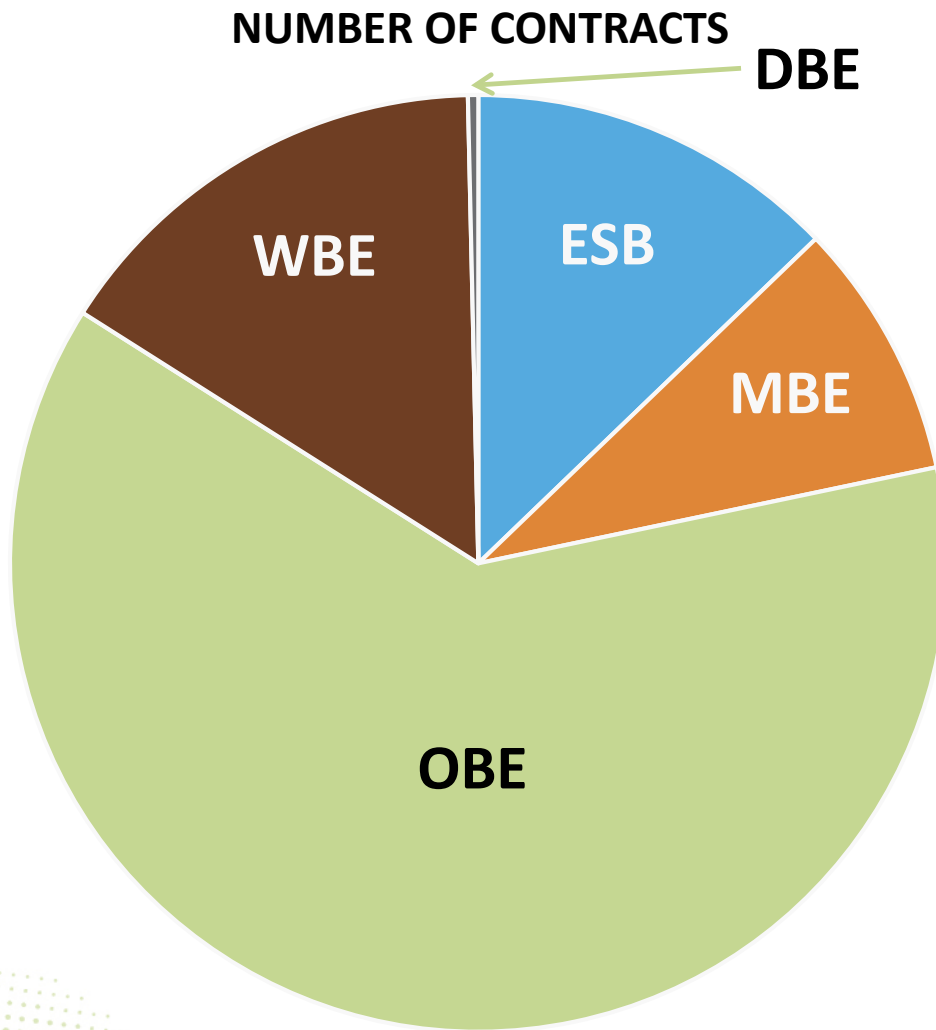
Minority Business Enterprise

25 contracts; \$1,117,827

Other Business Enterprise

175 contracts; \$34,391,365

ECPC Data Report 2014-15



Women-owned Business Enterprise

88 contracts; \$12,224,625

Disadvantaged Small Business

1 contract; \$150,000

Emerging Small Business

72 contracts; \$16,010,400

Minority Business Enterprise

57 contracts; \$22,419,464

Other Business Enterprise

942 contracts; \$177,821,897

Conclusion

- The gap between OBE and all others is significant and increases exponentially each year.
- WBE contracts doubled in size each year. By 2014-15, they're at 88. However, OBE had 942 contracts which is nearly 10x more than WBE.
- The previous year, OBE was only about 4x more than WBE.
- 2014-15 could just have had more contracts altogether and MBW and WBE actually fell behind in comparison to OBE.

Subcontractor Utilization



Overview of Resolution 36944 (7/19/12)

- Create an inclusion plan for certified firms to participate as subcontractors on City construction projects.
- Establish internal City criteria for construction projects that may lend themselves to utilize a procurement process other than low bid.
- Establish criteria to eliminate unnecessary contract bundling and reduce the effects of justified bundling to improve opportunities for certified firms.

Overview of Administrative Rule 1.23 (10/14/15)

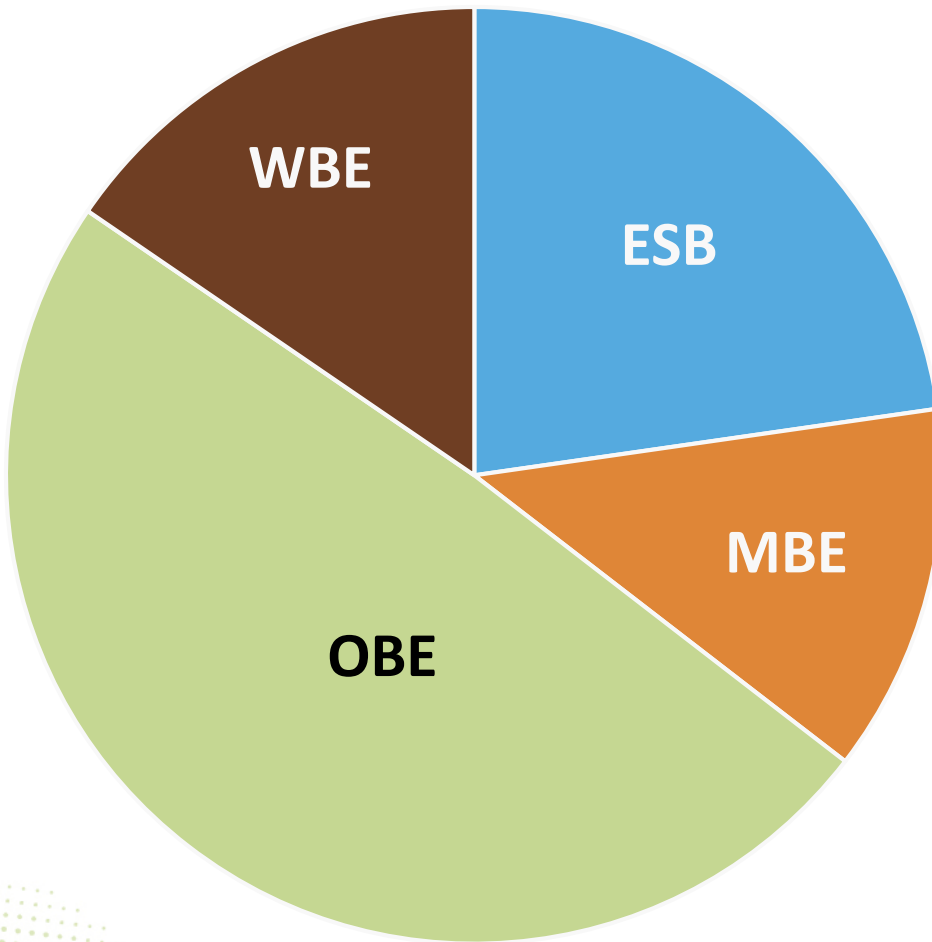
- Establish practices and procedures for implementing the **Subcontractor Equity Program** targeted toward providing employment opportunities for D/M/W/ESBS on City projects. SEP is meant to replace the Good Faith Effort program.
- Those bidding on City projects are required to comply with SEP and must submit documentation showing that efforts have been made to contract with D/M/W/ESB Subcontractors. This will apply to all City public works and improvement contracts that exceed \$150,000 with exceptions.

Overview of Administrative Rule 1.23 (10/14/15)

- Subcontractors and Suppliers, Procurement Services shall:
 - Set goals for D/M/W/ESB subcontractor and supplier utilization as a percentage of total Hard Construction Costs.
 - Require all Bidders to perform a Good Faith Effort on all subcontracting opportunities regardless of value.
 - Establish metrics for program performance.
 - Encourage contractors to diversify their D/M/W/ESB subcontractor utilization from all available types of work.
 - Determine whether the Bidder meets the requirements of the Program based upon submittal documents.

ECPC Data Report 2012-13

NUMBER OF CONTRACTS



Women-owned Business Enterprise

17 contracts; \$942,029

Emerging Small Business

25 contracts; \$2,017,094

Minority Business Enterprise

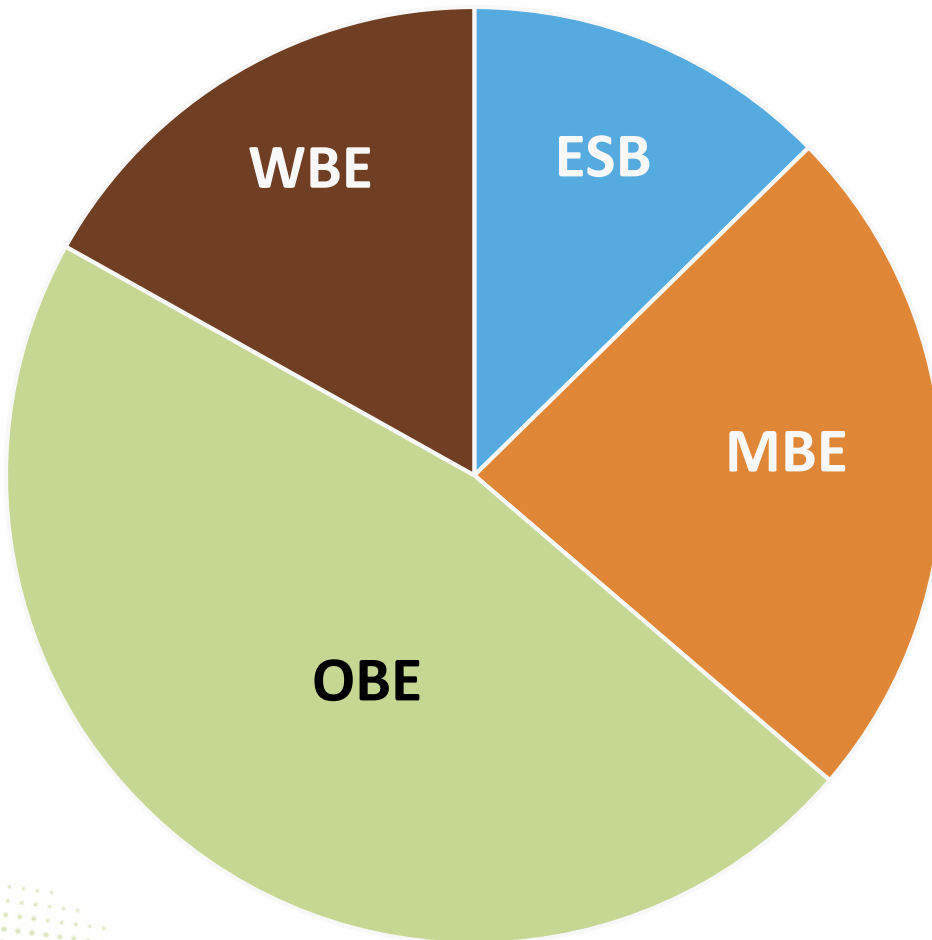
14 contracts; \$1,170,651

Other Business Enterprise

54 contracts; \$4,372,963

ECPC Data Report 2013-14

NUMBER OF CONTRACTS



Women-owned Business Enterprise

40 contracts; \$1,245,513

Emerging Small Business

30 contracts; \$1,940,835

Minority Business Enterprise

56 contracts; \$2,091,135

Other Business Enterprise

111 contracts; \$14,425,537

Conclusion

- The gap among OBE and WBE and MBE in their number-of is reduced between 2012-13 and 2014-15, though still more than double.
- OBE's overall amount is actually much higher in 2014-15, approximately between 7 and 11 times more, whereas in 2012-13, the overall dollar amount is only 3 to 4 times higher.

Professional Technical, Expert Services (PTE):



Overview of Resolution 36944 (7/19/12)

- Policy now states that bureaus must solicit from at least four qualified consultants and half of those must be from certified M/W/ESB firms.
- The aspirational goal for awarding PTE contracts to M/W/ESB firms was increased from 15% to 20%.

Conclusion

- Most of the consultants are outreach coordinators that are generally ineffective.

Contractor Prequalification



Overview of Resolution 36944 (7/19/12)

- The elimination of prequalification for construction projects under \$250,000 has occurred with the creation of a City-wide Prequalification Board.

Conclusion

- This issue has not been resolved.

Community Benefits Agreement (CBA)



Overview of Resolution 36954 (9/5/12)

- CBA was designed to minimize labor disruption on large scale public works projects and increase opportunities for minority, women and disadvantaged owned businesses.
- Portland Water Bureau piloted this program on the Kelly Butte Reservoir and Interstate Maintenance Facility Renovation projects.

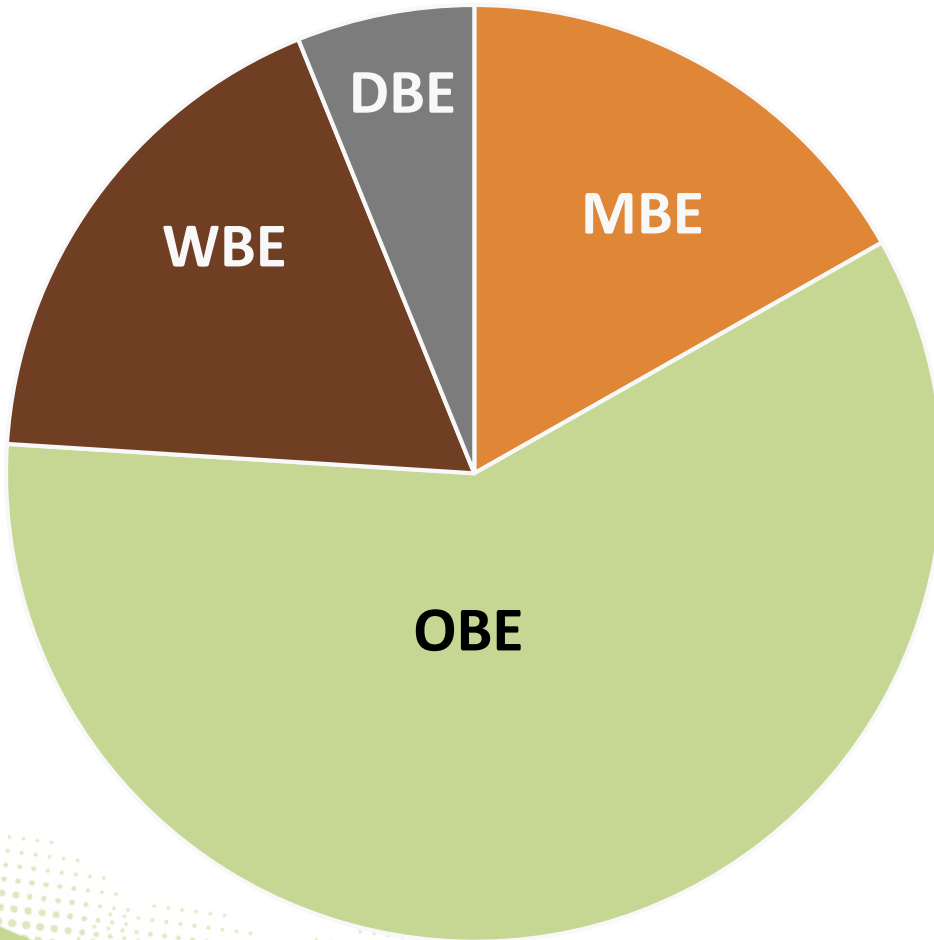
Overview of Resolution 36954 (9/5/12)

- A powerful tool in promoting the inclusion of under-represented people.
- The City's 2009 Disparity Study showed statistically significant underutilization of minority owned primed contractors on City projects.

ECPC Data Report 2012-13

CBA Subcontractor Comparison: CBA

NUMBER OF CONTRACTS



Women-owned Business Enterprise

67 contracts; \$4,959,906

Disadvantaged Small Business

23 contract; \$6,929,198

Minority Business Enterprise

63 contracts; \$6,525,599

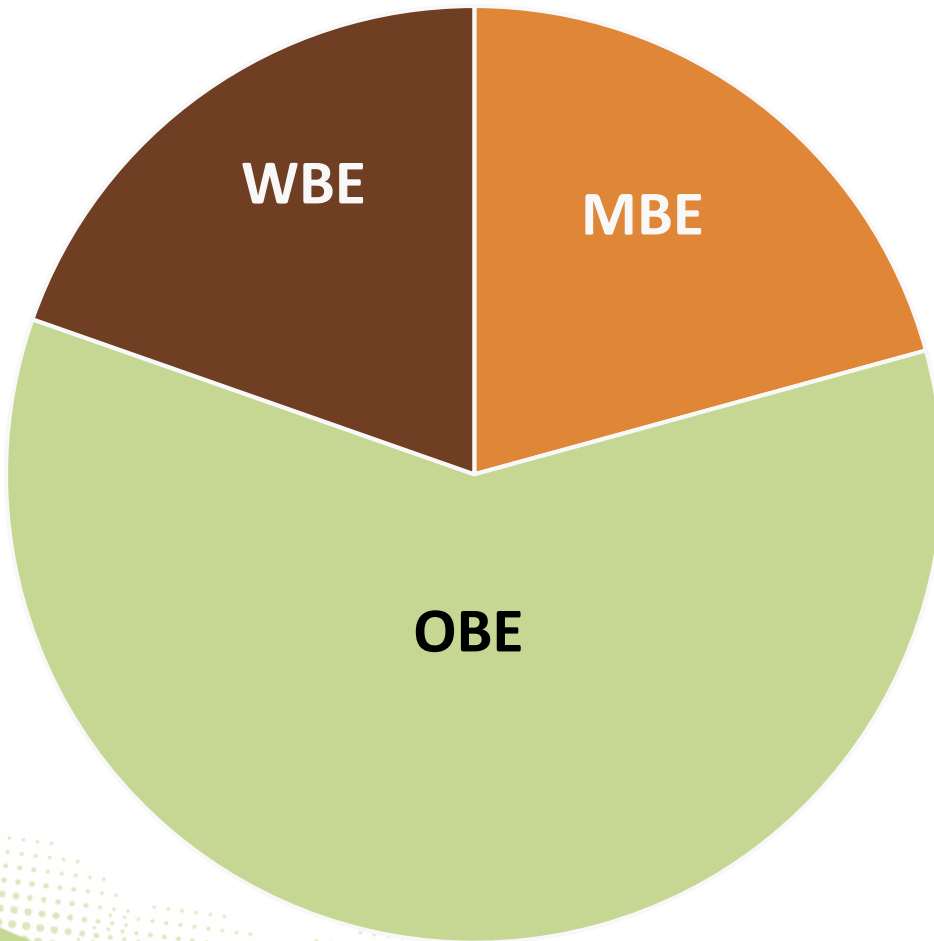
Other Business Enterprise

222 contracts; \$71,716,939

ECPC Data Report 2012-13

CBA Subcontractor Comparison: Non-CBA

NUMBER OF CONTRACTS



Women-owned Business Enterprise

53 contracts; \$2,759,558

Minority Business Enterprise

56 contracts; \$3,574,018

Other Business Enterprise

161 contracts; \$17,158,354

Conclusion

- More of the CBA contracts went to MBE, WBE and DBE than non-CBA.
- There's no data on DBE subcontractors for non-CBA.
- Most of the contracts awarded to MBE subcontractors for non-CBA were to flagging, trucking and landscaping companies. Very few contracts in fields that are generally better-paid.
- Reports list hours worked, not just how many people—the only report that gives a clear breakdown of the data.

Workforce Recommendations



ECPC Workforce Recommendations

1. Develop, implement, and readily share a consistent method to report workforce data on all City contracts, on a monthly basis. At minimum, the report should include:

- Race, gender, and age of all workers
- Address
- Veteran's status
- Craft/Occupation, including level (e.g., apprentice, journey level)
- Hours worked on the job
- Employer
- Starting Wage/Ending Wage
- Total earned on the job
- Dates worked on the job

ECPC Workforce Recommendations

2. Develop and implement a retention program to assist apprentices and others with limited work experience to transition from apprentice to journey level status.
3. When applicable, require contractors to recruit candidates from the public workforce system – WorkSource Portland Metro.

ECPC Workforce Recommendations

4. Support and invest in training for women and racial minorities in the construction trades by supporting qualified programs with a successful track record in training these populations.
5. Have all programs established by resolution go through the ECPC for monitoring and/or approval.

How to Attain Purpose



Recommendations

1. Set a hard a goal of minimum 15% MWESB goal for all City of Portland projects.
2. Revise or provide a better definition of “Qualifications” for small business in PTE contracts.
3. Disaggregate point system provided for minority participation.
4. Require Prompt Pay for M/WBE professional services firms.
5. Develop a contracting, utilization, and tracking system for small business participation and awards as prime and subcontractors.
6. Provide ECPC a City project list of future contracting opportunities.

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