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THE IMPACT OF MINORITY SET-ASIDE PROGRAMS ON BLACK BUSINESS SUCCESS IN CLEVELAND, OHIO: IMPLICATIONS FOR PUBLIC POLICY

DR. BESSIE HOUSE-SOREMEKUN*

INTRODUCTION

Over the past few decades, African American entrepreneurship has become an increasingly important focus for scholars, politicians, public policy analysts, and economic development practitioners, in terms of developing concrete strategies to assist entrepreneurs to achieve economic success. This increasing interest in minority entrepreneurship has been influenced by the tremendous growth that has taken place in the African American-owned business sector. According to the 2002 census data, there are approximately 1.2 million Black-owned businesses in the United States, which represents an increase of forty-five percent since 1997.¹

One strategy that developed in the political arena as a tool to enhance the survival of small, disadvantaged business enterprises, many of which were owned and operated by African American entrepreneurs, was the establishment of minority set-aside programs. This Essay will examine the interrelationship between politics and economics by studying the impact of minority set-aside programs (also known as disadvantaged business programs) on the economic outcomes of African American entrepreneurs. This study is particularly important because of challenges in recent decades that have emerged, both nationally and locally, against affirmative action pol-

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1. Press Release, U.S. Census Bureau, Revenues for Black-Owned Firms Near \$89 Billion, Number of Businesses Up 45 Percent (Apr. 18, 2006), *available at* http://www.census.gov/Press-Release/www/releases/archives/business_ownership/006711.html.

icies, and by extension, minority set-aside programs. This study will provide a historical and legal context to the current debate over the survival of minority set-aside programs and will analyze their empirical impacts on Black business owners in Cleveland, Ohio.

I. THE HISTORICAL AND LEGAL CONTEXT FOR SET-ASIDE PROGRAMS

The genesis for the development of minority set-aside programs can be traced back to the 1930s when President Franklin Delano Roosevelt first developed his New Deal programs to address economic problems that developed during the Great Depression.² Roosevelt's Unemployment Relief Act of 1933 forbade discrimination against individuals because of their "race, color, or creed."³ Other New Deal programs, enacted by President Roosevelt, also utilized this same language.⁴ Harold L. Ickes, the Secretary of the Interior, also ensured that, at least in theory, discrimination in Public Works Administration projects would also be forbidden.⁵ Requirements were set forth mandating that businesses receiving federal contracts in cities with large Black populations must hire a percentage of Black workers.⁶ In spite of all of these provisions, many employers and trade unions simply refused to abide by the regulations.⁷

In June of 1942, A. Phillip Randolph and his associates lobbied on behalf of the Brotherhood of Sleeping Car Porters.⁸ Others joined in to call for the end of Jim Crow segregation in the U.S. Armed Services units and in various defense plants across the country.⁹ In response, President Roosevelt issued an executive order that outlawed discrimination of workers in government or defense industries on the basis of their national origin, color, race, or creed.¹⁰ As Terry Anderson noted:

2. See Bruce Ackerman, *2006 Oliver Wendell Holmes Lectures: The Living Constitution*, 120 HARV. L. REV. 1737, 1739 (2007).

3. Unemployment Relief Act, ch. 17, § 1, 48 Stat. 22, 23 (1933) (repealed 1966).

4. Terry H. Anderson, *The Strange Career of Affirmative Action*, S. CENT. REV., Summer 2005, at 110, 110.

5. *Id.*

6. *Id.*

7. *Id.* at 110-11.

8. *Id.* at 111-12.

9. *Id.*

10. Exec. Order No. 8802, 3 C.F.R. 957 (1938-1943); Anderson, *supra* note 4, at 111-12.

[D]uring the Great Depression and two wars, race relations began to change in America. Many began to think that all taxpayers should have the opportunity to jobs supported by their taxes, in civilian or military life, and that concept was the foundation for a policy that eventually became known as affirmative action.¹¹

The civil rights movement, which began in Montgomery, Alabama, in 1955, drew national and international attention to the plight of African Americans in the United States.¹² “Numerous events of the civil rights era, the language it embodied, the politics of its broader implications, Rosa Parks becoming the Mother of the modern civil rights movement, rhetoric, and the information that gave meaning to the struggle served as symbols for the possibilities yet to come.”¹³ President John F. Kennedy was responsible for putting forth Executive Order 10,925, which mandated that government contractors utilize affirmative action to ensure that applicants were provided employment and were treated fairly during their employment periods without regard to their color, creed, race, or national origin.¹⁴ This was the very first time that the government used the term “affirmative action.”¹⁵

There was a great deal of resistance to these executive orders by various sectors of the American population. It was during the administration of President Lyndon Johnson that the Civil Rights Act of 1964¹⁶ and the Voting Rights Act of 1965¹⁷ were passed. The Civil Rights Act empowered the Attorney General’s Office to ensure that the basic provisions outlined in the Fourteenth Amendment to the Constitution were being adequately enforced. Ironically, even though a Civil Rights Act had been passed in 1866, it had not been adequately enforced; which is why the 1964 law was

11. Anderson, *supra* note 4, at 112.

12. Bessie House-Soremekun, *Lessons from Down Under: Reflections on Meanings of Literacy and Knowledge from an African-American Female Growing Up in Rural Alabama*, in READERS OF THE QUILT: ESSAYS ON BEING BLACK, FEMALE, AND LITERATE 57, 58-59 (Joanne Kilgour Dowdy ed., 2005).

13. *Id.*

14. Exec. Order No. 10,925, 3 C.F.R. 448 (1959-1963), *superseded by* Exec. Order No. 11,246, 3 C.F.R. 339 (1964-1965), *reprinted as amended in* 42 U.S.C. § 2000e (2000).

15. *Id.*; THOMAS D. BOSTON, AFFIRMATIVE ACTION AND BLACK ENTREPRENEURSHIP 84 (1999); Anderson, *supra* note 4, at 114.

16. Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. § 2000e).

17. Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437 (codified as amended in scattered sections of 42 U.S.C.).

necessary.¹⁸ In particular, Titles II and III of the 1964 law¹⁹ gave the Attorney General's Office the power needed to enforce the desegregation provisions mandated by the Supreme Court in *Brown v. Board of Education*.²⁰ This case successfully decimated the premise behind the "separate but equal" arguments in America.²¹ Thus, from this point on, African Americans would be able to attend educational institutions that had previously been denied to them because of their race.²²

Executive Order 11,246, which was put forth by President Johnson and subsequently implemented in 1965, provided more equality in the area of employment discrimination.²³ This Order, and its subsequent amendments, mandated that any entity that received federal dollars for contracts in excess of fifty thousand dollars had to develop written affirmative action plans and utilize principles of affirmative action in its recruitment and hiring practices.²⁴ All of these programs helped to provide a climate conducive to the development of programs to assist African American entrepreneurs.²⁵

When the Small Business Administration (SBA) was established in 1953, its initial focus was not on minority businesses per se.²⁶ Instead, its primary interest was on small businesses in the United States, most of which were owned by White entrepreneurs at that time.²⁷ The SBA continued to grow and it became a permanent federal agency in 1958.²⁸ During this time period, one of the main areas of focus for the Administration was on providing economic assistance in the form of loans to small businesses, as well as assisting them in receiving federal contract dollars.²⁹

18. Civil Rights Act of 1868, 42 U.S.C. § 1981.

19. Civil Rights Act of 1964 §§ 201-307.

20. *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

21. *Id.* at 495.

22. See BESSIE HOUSE-SOREMEKUN, *CONFRONTING THE ODDS: AFRICAN AMERICAN ENTREPRENEURSHIP IN CLEVELAND, OHIO* 46 (2002). See generally LUCIUS J. BARKER & MACK H. JONES, *AFRICAN-AMERICANS AND THE AMERICAN POLITICAL SYSTEM* 107-08 (3d ed. 1994).

23. See Exec. Order No. 11,246, 3 C.F.R. 386 (1964-1965), *reprinted as amended in* 42 U.S.C. § 2000e.

24. *Id.*; BOSTON, *supra* note 15, at 85.

25. See BOSTON, *supra* note 15, at 85.

26. Small Bus. Admin., About SBA, <http://www.sba.gov/aboutsba/index.html> (last visited Nov. 17, 2007).

27. *Id.*

28. *Id.*

29. *Id.*

President Richard Nixon introduced Executive Order 11,458 in March of 1969, which provided the foundation for the establishment of a national program to help minority-owned businesses.³⁰ The Secretary of Commerce was charged with monitoring this program in order to develop processes at the federal, state, and local levels to assist in the long-term development of minority firms.³¹ Thus, several leaders of federal departments had to provide reports to the Secretary of Commerce to explain their plans to achieve positive outcomes.³² The end result was the establishment of the Office of Minority Business Enterprise.³³

The Small Business Act created the famous 8(a) program in 1969, which provided for the use of federal contracts to companies owned by “economically disadvantaged individuals.”³⁴ While it is true that this law was not specifically designed for African Americans at this time, as Timothy Bates has so eloquently argued, “the language of ‘socially or economically disadvantaged’ entrepreneurs being eligible for 8(a) program assistance, however, opened the door to participation by minority entrepreneurs, whose incomes actually exceeded those associated with a poverty level of existence.”³⁵

Billions of dollars have been awarded to minority entrepreneurs over the years.³⁶ The passage of the Public Works Employment Act of 1977,³⁷ as well as the Omnibus Small Business Act of 1978,³⁸ helped to establish realistic goals with regard to procurement dollars and contracts for minority businesses. This legislation mandated that about ten percent of all federal contracts awarded for local public works projects had to be given to minority business enterprises.³⁹

30. Exec. Order No. 11,458, 3 C.F.R. 779 (1966-1970), *reprinted as amended in* 15 U.S.C. § 631 (2000).

31. BOSTON, *supra* note 15, at 11.

32. *See id.*

33. *Id.*

34. Business Development/Small Disadvantaged Business Status Determinations, 13 C.F.R. § 124.101 (2007); *see* Small Business Act of 1953, Pub. L. No. 83-163, § 8(a), 67 Stat. 232 (codified as amended at 15 U.S.C. § 637).

35. Timothy Bates, *The Impact of Preferential Procurement Policies on Minority-Owned Businesses*, 14 REV. OF BLACK POL. ECON. 51, 53 (1985).

36. BOSTON, *supra* note 15, at 11.

37. Public Works Employment Act of 1977, Pub. L. No. 95-28, 91 Stat. 116 (codified as amended at 42 U.S.C. §§ 6701-6708, 6710).

38. Small Business Act of 1978, Pub. L. No. 95-507, 92 Stat. 1757 (codified as amended at 15 U.S.C. §§ 631-633, 636, 637, 644).

39. BOSTON, *supra* note 15, at 11, 33.

A. *The State and Local Level of Analysis*

Ohio House Bill 584 created minority set-aside programs in 1980.⁴⁰ This bill “stipulated that ‘5% of the aggregate value of all state construction contracts and 15% of the aggregate value of state procurement contracts each fiscal year had to be set aside for bidding upon by minority business enterprises only.’”⁴¹ The law also required that state construction contracts provided for about seven percent of the overall value of the contract to be awarded to minority subcontractors, service providers, and material men unless the Set Aside Review Board modified or changed the requirement.⁴² Ohio’s definition of “minority business enterprises” was business entities in which a minimum of fifty-one percent of the company was “owned and controlled” by Ohioans who were from “economically disadvantaged groups.”⁴³ This included Latinos, Asian Americans, African Americans, and Native Americans.⁴⁴ In order to participate, the owner had to demonstrate ownership of the firm for at least one year before the participation application was filed.⁴⁵

B. *The Impact of the Fullilove and Croson Cases*

Minority set-asides have increasingly come under attack over the past few years in the wake of bigger challenges to the basic principles of affirmative action.⁴⁶ A number of court cases were launched on the basis of “reverse discrimination” claims. In *Fullilove v. Klutznick*,⁴⁷ the Supreme Court clearly articulated its continuing support of earlier legislation passed by the U.S. Congress, which stipulated that state and local governments that applied for grant awards under the category of the Public Works Act of 1977 must demonstrate that at least ten percent of the grants would be used for contracts with minority enterprises.⁴⁸ Thus, *Fullilove* continued the government’s trend of using past discriminatory behavior

40. H.R. 584, 113th Gen. Assem., Reg. Sess. (Ohio 1980).

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. See, e.g., Tamar Lewin, *Campaign to End Race Preferences Splits Michigan*, N.Y. TIMES, Oct. 31, 2006, at A1 (discussing controversy over Michigan’s ballot initiative to limit affirmative action and set-aside programs).

47. *Fullilove v. Klutznick*, 448 U.S. 448 (1980) (the majority’s position was receded from in *Adarand v. Peña*, 515 U.S. 200 (1995), and considered overruled in *Doe v. University of Illinois*, 138 F.3d 653 (7th Cir. 1998)).

48. *Id.* at 448; BOSTON, *supra* note 15.

as a basis for continuing to support minority set-asides as a remedy in the minority-owned business sector. As the Supreme Court upheld the ten percent set-aside program, it focused on the rather broad power of Congress to redress the societal impacts of past discriminatory behavior.⁴⁹

The famous *City of Richmond v. Croson*⁵⁰ case, however, opened the door for the introduction of numerous lawsuits against minority set-aside and procurement programs all over the country. Much of the progress that had resulted from the implementation of *Fullilove* was negated by the *Croson* case. In particular, *Croson* attacked the minority set-aside program that had been established by Richmond, Virginia. Richmond's program required thirty percent of contracts awarded by the city to be set aside for bids from minority contractors in response to a record of past discrimination in terms of the number of contracts that had been awarded to minorities.⁵¹ White contractors challenged the basis for having such a program and were able to receive support from the Reagan administration,⁵² which favored the use of a strict scrutiny test. As Thomas Boston has noted, when discussing the *Croson*'s majority decision:

All classifications based on race, Justice Sandra Day O'Connor argued, whether benefiting or burdening minorities or non-minorities will be subject to strict scrutiny. . . .

. . . On this issue Justice Marshall dissented. He argued that this standard should be applied to those classifications that discriminate against minorities but not those designed to eliminate past discrimination

. . . .

[Following *Croson*, the] distinction between the powers of federal, state and local agencies to implement racial mandates was dissolved in the June 1995 Supreme Court decision in the case of *Adarand Constructors v. Peña and the U.S. Department of Transportation*. The Supreme Court ruled in a five-to-four vote that strict scrutiny must be the standard of review for race-based programs of the federal government as well. In making this shift, the Court voided all previous rulings that interpreted the

49. BOSTON, *supra* note 15.

50. *City of Richmond v. Croson*, 488 U.S. 469 (1989).

51. BOSTON, *supra* note 15, at 34-35.

52. Brief for the United States as Amicus Curiae Supporting Appellee, *Croson*, 488 U.S. 469 (No. 87-998), available at 1988 WL 1025715 (Westlaw).

equal protection clause of the constitution as having a different application at different levels of government.⁵³

As a result of the *Croson* case and various other factors, minority set-aside programs were overturned in several American cities, including Cleveland, Columbus, Atlanta, Miami, and Philadelphia.⁵⁴ Ballot initiatives were also passed in Washington and California, which eliminated several programs that provided assistance to racial, ethnic, and gender groups.⁵⁵

Federal courts in Ohio have also been ambivalent towards their treatment of affirmative action and set-aside programs in the past few decades. In 1982, Judge Kinneary was responsible for striking down the Minority Business Enterprise Act of 1980 in response to a case brought by a White contractor.⁵⁶ The Sixth Circuit, however, reversed this decision one year later, arguing that minorities had been affected by discriminatory behavior that existed in the procedure used in Ohio's purchasing and contract policies.⁵⁷

In 1996, Ohio governor, George Voinovich, established a "Socially and Economically Disadvantaged Business Policy."⁵⁸ Economic disadvantage focuses on analyzing the relative and personal wealth of the business owner. Social disadvantage, on the other hand, includes traditional minority groups, as well as individuals who are disadvantaged because of physical disability, color, gender, ethnicity, or because they live in an area with a high unemployment rate.

State Magistrate Rita Bash Eaton ruled in October 1996 that Ohio should provide affirmative action awards using economic need as a criterion, rather than only race.⁵⁹ She stressed that Ohio's Minority Business Enterprise program was unconstitutional when race-based criterion excluded individuals who had experienced eco-

53. BOSTON, *supra* note 15, at 36, 38.

54. Mitchell F. Rice, *State and Local Government Set-Aside Programs, Disparity Studies, and Minority Business Development in Post-Croson Era*, 15 J. URB. AFF. 529, 534 (1993).

55. *Id.*

56. *Ohio Contractor's Ass'n v. Keip*, No. C-2-82-446 (S.D. Ohio Dec. 15, 1982) (striking down Ohio's Minority Business Enterprise Act of 1980, OHIO REV. CODE ANN. § 123.151 (West 1980)), *rev'd*, 713 F.2d 167 (6th Cir. 1983), *abrogated by* *Associated Gen. Contractors of Ohio v. Drabnik*, 214 F.3d 730 (6th Cir. 2000).

57. *Ohio Contractor's Ass'n*, 713 F.2d at 173; *see* Joe Hallet, *Ohio's Race-Based Contracts 'Unlawful': Need Should Count for More than Ethnicity, Says, Magistrate*, CLEVELAND PLAIN DEALER, Oct. 31, 1996, at 1A.

58. Rice, *supra* note 54, at 534.

59. Hallet, *supra* note 57.

conomic hardship or disadvantage.⁶⁰ The Ohio Supreme Court voted unanimously in April 1999 that a certain portion of Ohio's state set-aside programs for minority contractors was constitutional.⁶¹ Currently, the set-asides for construction are considered invalid, while programs for goods and services are still allowed. The data indicate that minorities and women received between \$15 and \$18 million in contracts from Cuyahoga County in 1999 under the aegis of its Equal Economic Opportunity Program.⁶²

The Cuyahoga County Equal Economic Opportunity Program was finally repealed by the Cuyahoga County Commissioners in January of 2000.⁶³ This program had been made possible by a 1993 resolution that required contractors and suppliers to use minority subcontractors when making bids.⁶⁴ One of the most noticeable effects of this repeal is that women and minorities are still eligible to bid for county contracts, but the previous requirement that majority-owned firms were compelled to do business with minority-owned firms is no longer in place. An interim program was put in place as several organizations in Ohio commissioned other corporations to perform disparity studies for particular industries.⁶⁵ The data from these studies will be important in future discussions on minority set-aside programs.⁶⁶

60. *Id.*

61. *Ritchey Produce Co. v. Ohio Dep't of Admin. Servs.*, 707 N.E.2d 871 (Ohio 1999).

62. Albert C. Jones, *Commissioners Shut Out Minority Bidders, Repeal 1993 Equal Opportunity Program*, CALL & POST (Cleveland), Jan. 26, 2000, at 1A.

63. *Id.*

64. *Id.*

65. *Id.*

66. John Nolan, *Appeals Court Rejects Ohio's Contract Program for Minorities*, CALL & POST (Cleveland), June 8, 2000, at 6B. According to Mitchell Rice, disparity studies are also known as predicate studies or discrimination studies. One major purpose of these studies is to provide information on the extent to which a previous locale has discriminated against minorities, with particular emphasis on business and economic discrimination. Rice, *supra* note 54, at 536. In the case of Cleveland, a consortium of various entities in the city, including the Cleveland Municipal School District, the Board of Cuyahoga County Commissioners, the Cuyahoga Community College District, the Greater Cleveland Regional Transit Authority, and the Cleveland-Cuyahoga County Port Authority, have announced that they were uniting their efforts to have a disparity study performed by Mason Tillman Associates Ltd. and W.S. Williams Ph.D. Inc. See 4 MASON TILLMAN ASSOCS., MULTI-JURISDICTIONAL DISPARITY STUDIES: CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY DISPARITY STUDY (2003). According to material advanced by the various organizations involved in the study, "[i]ndustries considered were construction, architecture and engineering, professional services, and goods and other services for fiscal years January 1, 1998, to December 31, 2000. Mason Tillman performed the disparity studies to assess whether requisite

II. AFRICAN AMERICAN BUSINESSES IN CLEVELAND, OHIO, RESEARCH STUDY

A. *Research Design and Methodology*

Research was performed by studying African American entrepreneurs in Cleveland, Ohio, and its eastern suburbs from the spring of 1998 to the summer 2000. Ohio Board of Regents funded this study with a two-year grant of \$64,000. Cleveland was selected for the location of the study because it is a large urban area with a sizable African American population. The study focused on small businesses, which can generally be defined as enterprises that are not dominant entities in their areas of concentration. Small businesses are also characterized as entities in which the owners usually invested relatively small amounts of capital at the onset of the business, usually hired less than 500 employees to work in their firms, and although there was a considerable variation in the sample, usually earned less than \$100,000 per year in profits. Four major types of businesses were included: manufacturing, construction, retail or trade, and services. Businesses that did not fit into these areas were placed in an "unclassified category," which included promotion (i.e., marketing), real estate, distribution, and finance.

The main focus of the data-collection process centered on developing a database of African American entrepreneurs who resided in the geographically-targeted areas identified above. This process proved to be a major challenge because no definitive list currently exists in northeast Ohio that includes the names, addresses, and phone numbers of all African American entrepreneurs. Hence, several different strategies were utilized. One strategy was to develop a list of the names of all of the Black-owned businesses, which were included in *The Cleveland Black Pages* that were located in our geographically specified area of focus. There were some challenges to using this strategy such as the fact that participation in this publication is voluntary, and therefore, some entrepreneurs were not included.

A second strategy was to compile a list of the entrepreneurs that were included in the Certified Minority Business lists from the Ohio Department of Development and the City of Cleveland. These lists included names of businesses in which fifty-one percent or more of the company was owned by African Americans, Native

factual conditions exist pursuant to *Croson v. Richmond* guidelines to justify MBE/FBE [minority business enterprise and female business enterprise] Programs." *Id.* at i.

American, Latinos, or Asian Americans. The major barrier to using this approach was that there was no scientific way to determine the ethnicities of the entrepreneurs. Hence, letters were sent out to all everyone included on the list, which included the owners of 544 firms. Phone calls were made to the owners to encourage them to participate in the study as well as to explain the purpose of the study. Efforts were made to determine the probable universe of African American entrepreneurs on the broader "minority business list." Statistical census data was used to determine the probable number of African Americans residing in the target area. Because African Americans constitute about forty percent of the population in the geographical area of focus for this study, forty percent of the total number of owners on the minority business list was taken, which included about 217 owners. One hundred thirty-six entrepreneurs participated in this study, which was a response rate of sixty-three percent. Of these, five owners were a part of the pretest, one entrepreneur's response was used for narrative purpose only, and statistical analysis was performed on the remaining 130 business owners. The study included data on both successful and unsuccessful businesses. To test the hypotheses advanced in this study, answers to specific questions on the survey were used relating to the independent and dependent variables identified in the hypotheses selected for analysis, which are discussed later in this Essay.

B. *Hypotheses Selected for Analysis*

1. **Entrepreneurs Who Have Participated in, or Benefited from, Minority Set-Aside Programs Are More Successful than Their Nonparticipating Counterparts**

The hypothesis—that entrepreneurs participating in minority set-aside programs should experience greater levels of success than their nonparticipating counterparts—was based on previous studies performed by Timothy Bates and Thomas Boston. These studies argue that receipt of minority set-aside contracts led to business success for Black business owners.⁶⁷ This hypothesis tested that proposition. To measure the independent variable, data was taken from the questionnaire regarding whether the entrepreneurs had participated in minority set-aside programs. The dependent variable was measured by using the number of years the business had been in operation and profits. In determining how success would

67. BOSTON, *supra* note 15, at 92; Bates, *supra* note 35, at 61.

be measured, previous works of other scholars in the field were utilized. However, the number of years in operation was the main dependent variable because more independent variables in the larger study on Black-owned businesses were correlated to longevity than to any of the other dependent variables.

2. Entrepreneurs Who Are in Certain Types of Industry Areas Would Participate More in Minority Set-Aside Programs

The rationale for the hypothesis, that entrepreneurs who are in specific types of industry areas would participate more in minority set-aside programs than those in other vocations, is that earlier studies performed by Timothy Bates indicated that owners of construction companies were some of the major benefactors of minority set-aside programs.⁶⁸ Here, this proposition is examined by looking at African American entrepreneurs in Cleveland, Ohio. The independent variables were the industry areas of service, construction, retail or trade, and manufacturing. The dependent variable was whether owners participated in minority set-aside programs.

3. Owners Who Have Higher Levels of Education Should Participate More in Minority Set-Aside Programs

The rationale for the hypothesis—that owners who have higher levels of education should participate more in minority set-aside programs—is that Timothy Bates's previous studies demonstrated that the entrepreneurs' education affected their ability to achieve economic success.⁶⁹ Here, we examined the impact of education on an entrepreneur's ability to participate in, or benefit from minority set-aside programs. The independent variable was the level of education of Black business owners who participated in minority set-aside programs.

4. Older Business Owners Should Participate More in Minority Set-Aside Programs

The rationale for the hypothesis, that older business owners should participate more in minority set-aside programs, is that Timothy Bates's earlier studies found that economic success was

68. BOSTON, *supra* note 15, at 29; Bates, *supra* note 35, at 58.

69. Bates, *supra* note 35, at 57.

positively correlated with the age of the business owners.⁷⁰ Here, we looked at the impact of the age of the entrepreneur on participating in, or benefiting from minority set-aside programs. The independent variable was the age of Black business owners. The dependent variable was whether the owners participated in minority set-aside programs.

C. *Demographic Data on the Entrepreneurs*

In order to be eligible to participate in Ohio's set-aside programs, entrepreneurs had to be certified with the State of Ohio, the City of Cleveland, or other agencies that provided certification services. Although 67% of the African American business owners in this study felt that the impact of the minority set-aside programs had been positive, only 31% of them were actually certified. Hence, 69% of the entrepreneurs were ineligible to participate in these programs even though the data from this study demonstrates that participating in set-aside programs offered positive and measurable benefits to the business owners.

When cross tabulations were performed to compare the demographic characteristics of the Black entrepreneurs who participated in minority set-aside programs versus those who did not, the following results emerged. Seventy-three percent of the participants in the set-aside programs had businesses that were located in the city of Cleveland, rather than its suburbs, and most (75%) of them were men, rather than women.⁷¹ About 77% of the participants were married and about 80% owned corporations.⁷²

Twenty-five percent of the participants were between the ages of 31 and 40; 27% were between 41 and 50; and 34% were between 51 and 60, with very small percentages in other age categories. About 48% of the entrepreneurs who participated had earned undergraduate degrees or higher, while another 32% had attended some university classes.⁷³ Fifty-nine percent of the businesses earned less than \$100,000 per year in profits, while 24% earned between \$100,000 and \$249,999. The largest number of participants owned service-related businesses. The number of years that participants' businesses had been in operation varied considerably, with 21% having been in business for 1-5 years; around 32% for 6-10

70. *Id.* at 60 tbl.2.

71. *See infra* tbls.1-2.

72. *See infra* tbls.3-4.

73. *See infra* tbl.6.

years; 14% for 11-20 years; 11.35% for 21-25 years; and 11.35% for 26-30 years.⁷⁴

D. *Testing the Hypotheses*

Ordinary Least Squares (OLS) Regressions and Logistical Regressions were used to test the hypotheses advanced in this Essay. In performing the OLS Regressions for this Essay, the following methodology was followed. The author examined the predictive ability of the independent variable with the dependent variables to ascertain if multi-collinearity existed between the independent variable on the dependent variables in Table 10.⁷⁵ OLS Regressions analyze causation rather than correlation. Because the author indicated which variables were independent and which were dependent, the following results emerged:

For the hypothesis set forth in Part II.B.1, the results of the OLS Regressions indicate a positive and significant relationship between participating in, or benefiting from, minority set-aside programs and economic success, when success is measured by years in operation and total profits per year. Therefore, this hypothesis was supported by the data.⁷⁶

The hypothesis detailed in Part II.B.2 postulated that entrepreneurs in certain industry areas participate more in minority set-aside programs. This hypothesis was supported because the data from Table 11 indicate that there was a positive and significant relationship between having a construction business and participating in, or benefiting from, minority set-aside programs.⁷⁷

However, the hypothesis announced in Part II.B.3 was not supported by the data. This hypothesis posited that entrepreneurs with higher levels of education participate more in minority set-aside programs.⁷⁸ Finally, the hypothesis discussed in Part II.B.4 argued that older entrepreneurs should participate more in minority set-aside programs. This hypothesis was also not supported by the data.⁷⁹

74. *See infra* tbl.9.

75. *See infra* tbl.10.

76. *See infra* tbl.10.

77. *See infra* tbl.11.

78. *See infra* tbl.11.

79. *See infra* tbl.11.

CONCLUSION

In conclusion, the findings presented here demonstrate that affirmative action programs, and by extension minority set-aside programs, appear to have a positive and empirical impact on the success of Black business owners. The data from this study indicate that the relationship between participation in minority set-aside programs and economic success is positive and significant, regardless of how success is measured. In other words, when other variables in the study are controlled, entrepreneurs who received minority set-asides were more successful than those who did not. Two measures of success were used: the number of years the businesses had been in operation and the total profits per year. The results of this research project thus validate the importance of keeping these types of programs in place. However, the results presented here should also be examined in the context of other issues that emerged from this study. For example, a larger number of African American entrepreneurs need to understand the importance of becoming certified minority and female business owners and need to complete the certification process. The data indicate that only a small minority of Black-owned businesses in Cleveland are certified even though the data from the study overwhelmingly demonstrate that entrepreneurs who did participate in these programs are more successful than those who do not.

TABLE 1. GEOGRAPHIC LOCATION OF BLACK RESPONDENTS WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Geographic Location	Percentage
Shaker Heights	7.0
Cleveland	73.0
Maple Heights	2.0
Cleveland Heights	5.0
East Cleveland	2.0
Euclid	2.0
Warrensville	2.0
Beachwood	2.0
South Euclid	5.0

TABLE 2. GENDER OF BLACK RESPONDENT WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Gender	Percentage
Male	75.0
Female	25.0

TABLE 3. MARITAL STATUS OF BLACK RESPONDENTS WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Marital Status	Percentage
Single	11.35
Married	77.3
Separated	—
Divorced	11.35
Widowed	—

TABLE 4. CLASSIFICATION OF BLACK-OWNED BUSINESSES WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Classification	Percentage
Sole Proprietorship	20.5
Partnership	—
Corporation	79.5

TABLE 5. AGE OF BLACK RESPONDENTS WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Age	Percentage
20-30 Years	4.6
31-40 Years	25.0
41-50 Years	27.1
51-60 Years	34.1
61-70 Years	4.6
71-80 Years	2.3
Over 80 Years	2.3

TABLE 6. LEVEL OF EDUCATION OF BLACK RESPONDENTS WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Education	Percentage
Less than High School	2.3
High School	9.1
Some College or University	31.8
Associate or Vocational Degree	9.1
College Degree	34.1
Post Graduate Degree	13.6

TABLE 7. TOTAL PROFITS IN DOLLAR TERMS PER YEAR OF BLACK RESPONDENTS WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Profits	Percentage
Less than \$40,000	38.1
\$40,000-\$99,000	21.4
\$100,000-\$249,000	23.8
\$250,000-\$499,000	7.1
\$500,000-\$749,000	4.8
\$750,000-\$999,999	—
\$1,000,000-\$4,999,999	4.8
\$5,000,000-\$9,999,999	—
Over \$10,000,000	—

TABLE 8. TYPE OF BLACK-OWNED BUSINESSES WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Type of Businesses	Number of Businesses
Construction	11
Manufacturing	2
Services	25
Retail	5
Other Businesses	5

TABLE 9. YEARS IN OPERATION FOR BLACK RESPONDENTS WHO HAVE BEEN A PART OF, OR BENEFITED FROM, MINORITY SET-ASIDE PROGRAMS

Years in Operation	Percentage
Less than 1 Year	2.3
1-5 Years	20.5
6-10 Years	31.8
11-20 Years	13.6
21-25 Years	11.35
26-30 Years	11.35
More than 30 Years	9.1

TABLE 10. OLS REGRESSIONS

Variable (Independent Variables)	Years in Operation (Dependent Variable)	Total Profits Per Year (Dependent Variable)
Whether They Had Been Part of, or Benefited from, a Minority Set-Aside Program	0.606** (0.235)	0.473* (0.248)
Age of the Business Owner	0.612*** (0.104)	0.131 (0.109)
Gender of the Business Owner	0.168 (0.249)	0.255 (0.267)
Highest Level of Education Attained	0.221** (0.075)	0.106 (0.079)
Constant (a)	0.358 (0.461)	1.017* (0.487)
Adjusted R ²	0.299	0.045
Standard Error	1.2912	1.3099
F	14.520***	2.387*
N	127.0	117.0

Sources: Original telephone interview schedule, spring 1998 through summer 2000.

Note: Entries are unstandardized regression coefficients, standard errors in parenthesis.⁸⁰

*P<0.05 **P<0.01 ***P<0.001

*Years in operation is the main dependent variable model.

***Although 136 entrepreneurs participated in the study, the size of the Ns in Table 1 vary for each dependent variable based on how many of the entrepreneurs answered the question on the questionnaire regarding the number of years their business had been in operation and the amount of their business profits in U.S. dollars per year.

80. In this Essay, the author reports nonstandardized regression coefficients rather than standardized values. Here, she adopts the methodological approach advocated in Gary King, *How Not to Lie with Statistics: Avoiding Common Mistakes in Quantitative Political Science*, 30 AM. J. POL. SCI. 672 (1985). King argues that standardized coefficients are harder to interpret and do not necessarily provide information that could help to compare the effects from different explanatory variables. Moreover, standardized coefficients may provide unreliable or misleading information.

TABLE 11. LOGISTICAL REGRESSIONS

Independent Variables	Dependent Variable (Whether They Had Been a Part of, or Benefited from, Minority Set-Aside Programs)
Gender of Business Owner	0.02181 (0.097)
Age of the Business Owner	0.0232 (0.039)
Level of Education Attained by the Owner	0.02076 (0.028)
Type of Business	
Services	-0.0169 (0.131)
Construction	0.380** (0.149)
Manufacturing	0.08442 (0.192)
Retail	0.02169 (0.131)
Constant (a)	-1.62 (0.200)
Adjusted R ²	0.022
Standard Error	0.4838
F	1.404
N	128.0

Sources: Original telephone interview schedule, spring 1998 through summer 2000.

Note: Entries are nonstandardized regression coefficients, standard errors in parenthesis.

*P<0.05 **P<0.01 ***P<0.001