**JSEB Special Committee – Legal Perspective**

(Prepared by OGC - 8/28/2020)

Court Cases

1. **January 1989** - City of Richmond v. J.A. Croson Company (U.S. Supreme Court Case) (Croson Requirements)
2. **Complaint Filed April 1989/**Decided June 1993 - Northeastern Florida Chapter of Associated General Contractors of America v. City of Jacksonville (U.S. Supreme Court Case) (challenged COJ 1984 Minority Business Enterprise Participation Program)
* 1990-1991 - Disparity Study/Council Committee/Procurement Study
* 1992 - City Council enacts Equal Business Opportunity Program (race conscious program set to expire after 10 years in 2002)
1. **February 2002** - Utility Contractors Association of North Florida, Inc. v. City of Jacksonville (U.S. District Court Case) (challenged COJ 1992 “Equal Business Opportunity Program”)
* 2003 – City Council enacts Small Business Enterprise (SBE)/Small Disadvantaged Business Enterprise (SDBE) (race conscious program)
* 2004 - City Council enacts “Jacksonville Small Emerging Business Program (JSEB)” (race and gender neutral program)

**Legal Challenge:** Equal Protection Clause of the Fourteenth Amendment (U.S. Constitution)

**RACE CONSCIOUS PROGRAM =**

**STRICT SCRUTINY STANDARD**

**(2)** Local government must prove that the action is narrowly tailored to achieve the interest

**(1)** Local government must prove a compelling government interest

*Croson* Requirements:

* Strong basis in evidence is needed to support remedial action to rectify past discrimination by the government
* Significant statistical disparity between proportion of minorities awarded contracts and the proportion of minorities willing and able to do the work must exist
* Consideration given to using alternatives to race-conscious programs
* Proper findings are necessary to define both the scope of the injury and the extent of the remedy necessary to cure its effects