

Inclusive Procurement And Contracting: Building a Field of Policy and Practice

PolicyLink



Denise Fairchild, Kalima Rose, and Brian Tell
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Gary Cunningham
Jim McConnell
Rick Moore
Judith Dangerfield
Mark Fehlberg
Alex Paxton
Radhika Fox
Bernida Reagan
Don Gilligan
Roslyn Johnson
Mara Rosales
Steve Lamar
Larry Scott
Tim Lohrentz
Rodney Strong

Please see Appendix A for affiliations.

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Executive Summary

If equity is the superior growth model, then the planned and proposed investments for strengthening America's built environment—its transportation, energy, water systems, and building stock—provide a unique opportunity to advance equitable development. Trillions of dollars in public and private investments are planned to fix our aging infrastructure, to strengthen its resilience against extreme weather and climate impacts, and to retrofit and expand our building stock to accommodate population and economic growth. The construction industry (including architecture and engineering), currently accounts for 4 to 6 percent of the American economy,¹ and is poised to see around 3 percent annual growth through 2020.² The distributive benefits of these investments, however, are not assured without intentional and effective strategies to connect historically disenfranchised communities to the impending infrastructure boom.

This study, commissioned by the Annie E. Casey Foundation, surveys the current landscape on inclusive procurement and contracting policies and practices in the infrastructure and construction industries. The goal is to specifically determine how to best position minority-owned, women-owned, and disadvantaged businesses (MWDDBEs) to effectively compete for large-scale construction projects in these industries. A successful inclusive procurement program of action is key not only to providing jobs, but also to closing the wealth gap needed to secure the well-being and future of children, families, and the regions in which they live.

This report details the rationale for inclusive practices in this industry and includes historical and current equitable development policies and trends. It also identifies challenges and best practices and sets forth recommendations for strengthening the field of practice. The content of this report is based on an extensive review of the literature, over a dozen interviews, as well as a focus group session sponsored by the Casey Foundation and the Richmond Federal Reserve Bank. The interviews and focus group included subject matter experts involved in supplier diversity in the construction/infrastructure sector representing the public sector, private sector, and nonprofit organizations. The report provides insight into inclusive procurement and contracting policies within the energy, water, transportation, health, education, and public housing sectors. It also considers the field of practice in different geographic regions of the United States.

Key Findings

This report and its key findings are delineated into four sections related to inclusive procurement and contracting: 1) rationale and background of the field, 2) policies, 3) practices, and 4) field building. Highlights from the policies, practices, and field building sections follow.

Inclusive Procurement and Contracting Policies

- Inclusive procurement and contracting policies, part of a larger MWDDBE field of practice, evolved over a 60-year history into today's complex maze of standards and requirements that differ by the procurement agency, the level of government, and the local and state political environment.
- These policies have emerged in bipartisan contexts that are being reclaimed in many cities, and some regions and states.
- The U.S. Department of Transportation is the best performing among federal agencies regarding inclusive procurement and contracting policies and has withstood numerous legal

challenges. Other federal agencies have weaker programs or none at all, reflecting the absence of consistent federal standards or guidelines.

- The current federal administration (Trump administration) is moving to weaken or dismantle key pillars of inclusive procurement and contracting provisions, including the Minority Business Development Agency, and federal policies that encourage local hiring and local procurement on federal contracts.
- State and local governments are the most important venues for advancing inclusive procurement and contracting policies in the infrastructure sector. Federal infrastructure investments are blended with local public funds, and a great deal of infrastructure investment is exclusively derived from state and local revenue.
- Political and legal context matters more than geography. Many progressive states and legislatures—such as California and Washington—have race-neutral procurement policies. While many southern and mid-western cities have effective inclusive procurement policies despite conservative state-level politics; example cities include Atlanta, Dallas-Fort Worth, Memphis, Minneapolis, and New Orleans. The threat of state preemptions by conservative state legislators, however, can undermine the ability of local governments to implement inclusive policies.
- The growth of race-neutral policies has clearly benefitted women over racial minorities. The move to race-neutral policies, however, does not necessarily mean that MWDBE procurement practices will become ineffective. Many metropolitan areas within states with race-neutral policies are developing innovative, flexible ways to implement inclusive procurement standards. The key strategies include, for example, engaging prime contractors at the bidding phase to identify their inclusive procurement plans and then locking them in at the award stage. It is easier to influence MWDBE policies at the local level than at the state level, particularly in urban areas with large ethnically diverse populations; however, scrutiny and advocacy can similarly influence equity inclusion in state infrastructure investments of more racially diverse states.
- There is no “one-size-fits-all” inclusion policy. The policy levers, revenue streams, business motives, historical precedents, and strategies to strengthen inclusive procurement differ for transportation, water, energy, public housing, health, educational institutions, and other sectors.
- Significant new investments in the water and energy sectors lack a commensurate history of equitable inclusion, but a new generation of these primarily ratepayer-funded investments offer important leverage for community advocates to realize goals of equitable inclusion.
- Political will and MWDBE advocacy are key ingredients to creating effective public policies. The advocacy and constituency for MWDBE policies and programs, however, have waned significantly. An increasing number of large private-sector employers are committed to, and demanding that prime contractors increase, contractor diversity and support the inclusion of people-of-color firms and workers in their construction projects.

Best Practices/Recommendations

1. **Strengthen the community constituency for and advocacy efforts around MWDBEs**, with a special focus on defending existing federal programs, preventing and fighting state

preemption efforts, and strengthening accountability around the use of public funds for proactive economic inclusion.

2. **Increase the capacity of local elected officials and agency staff to implement legal (race-neutral and race-conscious) and effective inclusive procurement policies.** Strengthen the political will at the local level by training and engaging local politicians on the legal and economic issues to support inclusive procurement policies.
3. **Develop inclusive procurement policy toolkits by sector** (water, energy, public housing, transportation, health, and education) that account for different business cases, regulatory environments, and sources of revenue (federal, local bonds, ratepayer, self-funded, and privately funded). Align cross-sector policy environments as much as possible to reduce duplicative qualifications, diminish systems hurdles, lessen bureaucracy, and achieve and expand goals.
4. **Proactively engage the private sector**, including project sponsors and developers, financial institutions, and large prime contractors in an initiative to increase and showcase effective inclusive procurement strategies.
5. **Use triggers in tax credits and Community Reinvestment Act requirements** to build regional capital pools that can provide lines of credit and bonding capacity to help grow participating MWDBEs.
6. **Strengthen accountability mechanisms to ensure policy goals are met, including assigning 1 percent of project costs to support capacity building of MWDBEs.** This fee would represent a dedicated revenue stream to support data collection and reporting, proactive compliance, contractor training and coaching, etc.

Inclusive Procurement and Contracting Practices

- Inclusive procurement policies and their realization in practice are disconnected. The adoption of the best policies does not guarantee that the policies will be enforced or effectively implemented. Challenges exist on both the demand side and supply side of the MWDBE industry.
- MWDBE public-sector practitioners operate in silos across different workforces, small businesses, and economic development and sector-specific agencies; this separation creates inefficiencies and suboptimal outcomes.
- A hodgepodge of certification programs, agency disparity studies, procurement goals and standards, and contractor databases result in duplicative, inefficient, and burdensome MWDBE processes and infrastructure.
- The field suffers from underdeveloped tools and processes for proactively monitoring the compliance and enforcement of economic inclusion policies, as well as a scarcity of human and financial resources within procurement offices to apply toward researching and implementing these tools and processes. As a result, data collection has become a low priority.
- Large-scale infrastructure projects are using sophisticated project delivery methods to address risk and capital needs, thereby increasing the size and time horizon of the projects. This complicates the leverage communities and contractors have to influence how projects are designed, bid, and awarded.

- Although inclusive procurement can work under different project delivery methods, each method presents different opportunities and barriers for small contractors. Best-value contracts are more amendable to inclusive requirements in that they are negotiated agreements between project sponsors/owners and contractors in which inclusion, as opposed to ‘low cost’, is an essential value proposition. It requires, however, strong advocacy for inclusion standards from both public leadership and community demand. Public-private partnerships and job-order contracting are perhaps most difficult for different reasons.
- Access to bonding, insurance, and capital remains a legacy supply-side problem for MWDBEs and requires more hands-on coaching and pooling of capital in innovative ways.
- The size and structure of infrastructure projects exceed most MWDBEs’ bid capacity as subcontractors, much less as primes. These are multibillion dollar projects, requiring subcontractors to manage projects in excess of \$10 million.
- Some community development financial institutions have stepped up to provide MWDBE firms with technical assistance in business planning, tax compliance, licensing, and certification, and with lines of credit and capital investment, but they are also undercapitalized for large infrastructure projects.
- Large infrastructure projects tend to favor large prime contractors and unions, which have historically excluded MWDBEs.
- The construction industry is changing. Large-scale public- and private-sector projects increasingly require more sophisticated, automated business systems to handle estimating, project management, and project data for larger projects.
- The construction sector is also going “green” and adopting high-end building standards, materials, and technologies. Large-scale building projects, for example, are trending toward modular construction, which is changing labor demand from on-site construction to manufacturing and factory pre-assembly. There are few MWDBEs in the prefabricated construction supply chain, or that can otherwise acquire the knowledge, technologies, and materials for this changing industry.
- A legacy of discrimination—in lending, contracting, and business ownership—produced the wealth gap that renders minority firms non-competitive with respect to track record, credit scores, business networks, accumulated wealth, and other qualities needed to be competitive.
- There is no “transmission line” connecting first-generation MWDBE contractors and practitioners to the next generation. While first-generation MWDBE contractors and procurement professionals have gained knowledge and expertise and have benefitted substantially from the practices and policies of the 1970s, they are aging out and there is no succession plan or pipeline to continue to build contractor capacity and community wealth. Notwithstanding past and current discrimination, at the end of the day, MWDBEs must pre-qualify for work by demonstrating, among other things, past performance necessary to execute the projects and must aggressively network to stay in the rapidly changing construction industry.

Best Practices/Recommendations

Systems Reform

1. **Establish MWDBE regional ecosystems through networked and/or “multijurisdictional” planning bodies.**

- Connect and leverage infrastructure contracting opportunities, knowledge, and assets across public, private, and nonprofit sectors, including small business development, contracting, finance, insurance, workforce, and economic development organizations.
 - Coordinate and align disparity studies across agencies and jurisdictions to lower costs and to improve assessment of contractor availability.
 - Share contractor databases.
 - Identify and mitigate gaps in the local contractor community.
 - Align/coordinate certification protocols and processes to reduce burdens on small firms and to streamline costs.
 - Streamline contractor access to project opportunities and support services.
2. **Scale large public infrastructure projects to meet inclusive procurement/contracting goals.**
 - Provide more granular data on projects with long-term horizons including the timing and range of opportunities over the arc of the development.
 - Assess and adopt project delivery methods that provide the best access for small contractors in all phases/stages of project planning, design, and implementation.
 - Structure and match right-size projects with right-size contractors so that MWDBEs compete with other contractors with the same level of capacity instead of competing with larger contractors.
 3. **Develop real-time reporting and proactive compliance protocols and systems to improve MWDBE participation rates.**
 - Adequately fund and staff monitoring and compliance programs.
 - Use online data-reporting systems to ensure progress against goals in real time.
 - Train contractors on the use of online data-reporting systems.
 - Establish enforcement policies with consequences for non-compliance.
 - Engage community organizations to align community and business networks and resources to assist contractors in reaching their MWDBE goals.
 4. **Establish a 1 percent project fee to fund local MWDBE support services infrastructure.**
 - Include contractor support services, monitoring and compliance, workforce support services, and financing pools in the infrastructure created.

Contractor Capacity Development

1. **Increase and enhance capital access to undertake large-scale infrastructure projects.**
 - Pool sources of capital, such as community development financial institution funds, to underwrite larger projects.
 - Establish contractor collateral pool(s) to ease access to working capital, bonding, and insurance.
2. **Expand and strengthen the pipeline of tier 2 contractors to compete.**

- Create a succession strategy for first-generation MWDBE contractors and practitioners to provide the following.
 - Mentoring incentives and support between tier 1 and tier 2 contractors
 - Partnership arrangements between first- and second-generation MWDBEs; for example, target the capacity of tier 1 contractors to bid on large infrastructure projects, while also building in requirements and capacity to operate as feeders for smaller tier 2 and tier 3 contractors
 - Bidding priority (points) given to new generation contractors
 - Facilitate joint venture projects between large and small firms to create a performance record of increasing size and complexity. A third-party facilitator or best-practices guide might assist in ensuring non-exploitative practices.
 - Increase the capacity of MWDBEs to build relationships to drive business development.
 - Use community economic development financing tools—Low-Income Housing Tax Credit, New Markets Tax Credits, Community Reinvestment Act resources—and projects to build the capacity and track record of MWDBE contractors.
3. **Foster alternative community wealth-building strategies to increase community benefits and self-reliance.**
- Include strategies such as contractor cooperatives, community investment pools, and group purchasing arrangements.
4. **Increase MWDBEs' access to new construction standards, skills, and materials.**
- Provide information and training on green construction policies, practices, technologies, and skills to meet new industry standards.
 - Support the use of organizational and project management software.
 - Focus on pre-fabrication and other new construction technologies.
 - Provide support for bidding and managing projects with different delivery methods, such as indefinite quality contracts, project labor agreements, and public-sector projects.
 - Create a group purchasing organization to lower the cost of green construction and high-end equipment and materials.

Inclusive Procurement and Contracting Field Building

- A large number of actors are involved in helping to increase inclusive procurement, including ethnic chambers of commerce, minority and women business organizations, public agencies, private contractors, large employers, financing organizations, and more.
- These stakeholders participate in a disparate number of trade and peer-exchange organizations.
- Perspectives differ as to whether or not there is a defined field of practice and whether a community of practice is needed.
- There is also no clear perspective of whether this field should be sector specific or foster cross-sector fertilization.

- Messaging and communicating the value of inclusive procurement differs according to the audience, and ranges from making the economic and social case to emphasizing market imperatives.
- Community-based organizations that care about expanding economic opportunity may not understand how to work with large employers or may not know what to ask for.
- A weak advocacy community makes it difficult to keep public officials accountable for use of public funds for private gains.

Best Practices/Recommendations

1. **Develop a nationwide capacity-building initiative** to train supply chains of effective economic inclusion leaders and ecosystems, including:
 - mayors and elected officials;
 - economic development and public works leaders;
 - procurement and compliance officers;
 - people-of-color chambers of commerce;
 - community development financial institutions;
 - community-based organizations; and
 - local, regional, and elected state representatives.
2. **Develop a community of practice** to facilitate cross-sector training and sharing of best practices on a geographic basis. For example, a local transportation agency with strong inclusive procurement policies can help teach local water agencies how to implement such efforts.
3. **Invest in strengthening MWDBE advocacy**, including a coordinated communications and messaging campaign.

Why Inclusive Procurement Matters

Growth and Impact of Minority-Owned and Women-Owned Business Enterprises

The U.S. Small Business Administration defines a small business as any business with fewer than 500 employees. If it is not common knowledge by now, it should be—nearly half of the nation's private sector workforce (49.2 percent) is employed at a small business, and small businesses are responsible for two out of three net new jobs created in the United States.³

The impact of small businesses on the economic health and sustainability of communities cannot be overstated, nor can the importance of supporting, nurturing, and growing them. They employ us (and our families and neighbors), they feed us, they provide us with social status, and they are a key part of what makes our neighborhoods unique and enables our communities to thrive. More importantly, The Urban Institute offers some evidence that business ownership, as opposed to jobs or workforce development, creates wealth. Entrepreneurship is especially critical for closing the wealth gap suffered by those with the least access historically to entrepreneurial opportunities. Increasingly, small business ownership in the United States reflects the diversity of our communities. More than 8 million businesses are minority-owned businesses enterprises (MBEs) with nearly \$1.4 trillion in annual revenues, and 9.9 million are women-owned business enterprises (WBEs), also with \$1.4 trillion in annual revenues.⁴ Black- and Hispanic-owned businesses represent the vast majority of MBEs and also have experienced the largest growth; however, in raw numbers, Asian-owned businesses have booked significantly higher revenues because of their higher representation in ownership of technology and patent-filing firms.⁵ Despite this positive growth, significant disparities still exist between MBEs and other firms—compared to non-MBEs, MBEs are smaller in size and have lower capitalization rates and lower revenues, which result from an uneven playing field.

Ownership	Total Firms	% Growth (2007-2012)	Annual Revenues	Firms with < 100 Employees
Black or African	2.6 million	34%	\$150 billion	0.6 million (66%)
Hispanic	3.3 million	46%	\$474 billion	1.7 million (71%)
Asian	1.9 million	24%	\$700 billion	2.8 million (75%)
Amer. Indian or Alaska Native	0.3 million	15%	\$39 billion	0.15 million (72%)
Native Hawaiian or Pacific-Islander	0.05 million	45%	\$8 billion	0.03 million (71%)
TOTAL	8.15 million	—	\$1.37 trillion	5.28 million

Source: U.S. Small Business Association

Our country continues to grow in population and transition in its demographic composition. Between the 2000 and 2010 census, the U.S. population grew from 281 million to 308 million and the percentage of individuals of color increased from 30.9 to 36.3 percent.⁷ By 2050, the country is expected to have a total population of nearly 440 million people and the percentage of individuals of color is expected to increase to 54 percent, making the United States a minority-majority country.⁸ As our population grows and transforms, so too will the fabric of the businesses that provide the economic foundations of our urban, suburban, and rural communities. Recently, numerous economic studies have found that regional economies that embrace their diversity are economically better off. Ensuring that

ethnically diverse businesses grow and thrive over the next several decades will require active investment, technical support, and improved access to procurement opportunities. One area with great potential for economic prosperity for communities of color is in the growing construction industry, as America rebuilds its major infrastructure, including water/sewer systems, renewable energy, energy efficiency, and transit.

The Demand: Enormous Market Opportunities

A number of factors are converging to make rebuilding America’s infrastructure a high priority across party lines. A 100-year-old, aging infrastructure—manifest in sinkholes, congested roadways, antiquated ports and airports, leaking water pipes, and toxic schools—is increasingly dysfunctional and dangerous. The American Association of Civil Engineers rates our infrastructure as a D+.⁹

The impact of a changing climate has created a new imperative to rebuild our infrastructure to be resilient against the frequency and ferocity of hurricanes, floods, fires, rising sea levels, and other extreme weather events. Many cities have capital improvement plans on their drawing boards to strengthen levees, build new sea walls, and invest in green infrastructure projects to control flooding and coastal erosion. Utility and water districts are raising bond revenues and ratepayer fees to convert centralized, contaminated, and corroded grid infrastructure to decentralized clean energy and water systems to improve energy and water quality and to create system redundancy as a basic resilience strategy. Such new investments constitute more than \$5 trillion; specific market opportunities are identified in Figure 1.

Added to these large re-engineering and reconstruction projects is a growing body of work emanating from anchor-institution investments. These include emerging private- and public-sector projects to renovate our public housing and schools and to expand health institutions and universities. Nonprofit health institutions operating under the Affordable Care Act (ACA) community benefits requirements alone are estimated to represent \$1 trillion in purchasing power. For example, Kaiser Permanente just launched a \$4 billion green bond fund, with \$1 billion allocated for green construction. The growth of the tech and telecommunication sectors, including Apple, Google, Sony, Amazon, Facebook, and more, are driving new large-scale campuses and infrastructure demands throughout the United States.

Figure 1. Infrastructure Market Opportunities

Water-Sewer/Green Infrastructure

- Market value estimate range is \$44–\$120 billion annually.
- Regulations and environmental mandates are forcing infrastructure upgrades.
- Public-private partnerships (PPPs) are gaining traction because of the inability of the public sector to finance; already 2,000+ PPP community water/wastewater facilities exist.

Renewable Energy

- Average growth is 2.4% annually (2011-2017); estimated value is \$50–\$100 billion.
- Onshore wind, solar PV, and bioenergy are strongest.
- 29 states + DC have renewable energy standards; 8 have voluntary targets.

Energy Efficiency

- Total energy efficiency market potential is \$71–\$133 billion.
- Ratepayer-funded spending is estimated at \$4.5–\$16 billion annually by 2025.
- Energy service companies aggregate revenues are estimated to be \$11–\$15 billion by 2020 (85% from “MUSH” *).

Transit

- Market size was estimated at \$64 billion in 2015 with projected 1–2% growth.
- 70% of spend is on operations; 30% is on capital investments.
- Heavy rail and bus, including guideways, are largest capital expenditure areas.

**MUSH: municipal and state governments, universities and colleges, K-12 schools, and hospitals*

Source: 2015 market research conducted by Emerald Cities Collaborative

These public- and private-sector infrastructure investments also involve new “green” building standards, materials, processes, and construction technologies. Building codes and sustainable construction standards have changed to ensure that the new infrastructure can withstand extreme weather and that it is toxin-free; uses less energy than historic infrastructure; conserves water; and properly disposes of, recycles, and uses materials that protect the natural environment. Statista 2016 data shows that green construction is the fastest growing sector of the U.S. economy, representing 50 percent of the market today with 11 percent growth per year.¹⁰

The Supply: Labor Shortages

There is a mismatch between the demand for construction production and the available labor force. The construction industry is one of the largest sectors of the U.S. economy. Annual revenue of \$1.8 trillion is generated by 730,000 construction companies, which employ over 7 million workers with average annual earnings of \$45,000. Specialty trades and building construction represent the largest share of firms, with firms in the infrastructure sector—heavy and civil engineering construction—constituting the smallest number.¹¹ With a shortage of construction firms in the general market that are ready and able to take on the large-scale infrastructure investments that are being planned, the 477,950 specialty trade contractors in smaller minority, women, and disadvantaged business enterprise (MWDBE) firms could be groomed to grow into this demand.

Despite the power of the construction industry in the economy, it is now breaking under its own weight. It is widely affirmed that a huge shortage of skilled workers and subcontractors are stifling the infrastructure agenda in the overall economy—skilled workers with electrical, heating/ventilation/air conditioning, and plumbing expertise are among the hardest to find. This is complicated even further with major rebuilding efforts needed in the recent hurricane- and fire-impacted communities in California, Florida, Puerto Rico, Texas, and the Virgin Islands.¹²

The labor demand is even more challenged by the new green building standards. According to McGraw-Hill, green building is currently 50 percent of the construction market and is expected to get stronger.¹³ Yet 86 percent of architecture and engineering firms report a shortage of construction and project managers and firms with skills to pursue these projects.¹⁴ Sustainable construction represents a new area of growth.

Closing the Gap: An Equity-Based Solution

How can we address this mismatch between labor demand and supply to meet the country’s infrastructure needs? America’s population and workplace is increasingly young and ethnically diverse, while the skilled-trades workforce is largely White, aging, and male. This diversity gap presents a unique opportunity to tackle both the legacy of racial and gender discrimination and exclusion in the construction industry, with the new market imperative to align major economic opportunities with demographic changes already underway.

MWDBE firms can help to bridge the diverse labor workforce with this burgeoning economic sector. Given the legacy of hiring discrimination within the construction industry and the well-documented isolation and less than welcoming environment for women and minorities within the industry, MWDBE firms more likely offer an organizational culture that both attracts and retains a diverse workforce. For this reason, the expansion of MWDBE contracting opportunities not only address equitable development and community wealth building goals, but also the labor force challenges of the industry as a whole.

Central to an equitable infrastructure development strategy is a suite of government initiatives and tools to increase business opportunities for small, minority- and women-owned business enterprises (MWBEs) and disadvantaged business enterprises (DBEs). The starting point is a \$400 to \$500 billion per year federal procurement marketplace in which the U.S. government has led the charge to increase participation of MWBEs and DBEs. As shown in Figure 2, the number of federal agencies achieving small-business prime-contracting goals increased in all categories between 2011 and 2015.

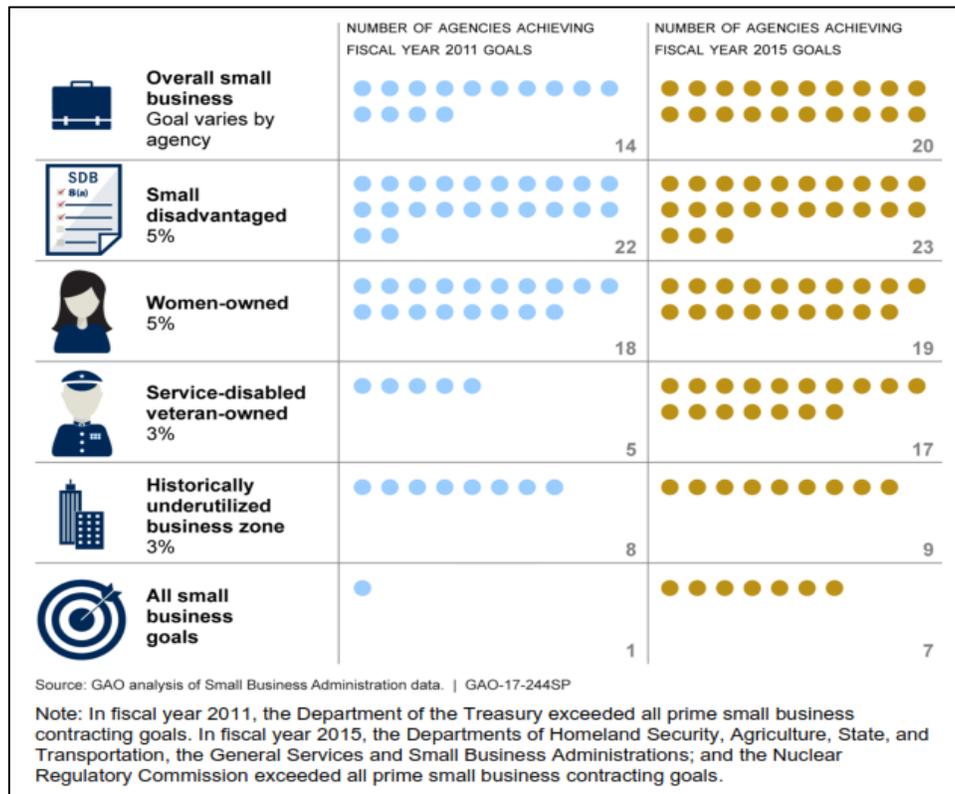


Figure 2: Number of Agencies Achieving Small-Business Prime-Contracting Goals
Source: Contracting Data Analysis, Assessment of Government-Wide Trends, GAO, March 2017

While these procurement policies and standards are important portals to advance equitable development, they have been uneven in realizing their inclusion goals. A *Washington Post* article by Martine Powers on April 12, 2017, documented transit agencies' underperformance. All told, 19 of the country's 50 largest transit agencies fell below their goals for diversity in women and minority contractors. While transit agencies in Buffalo, Chicago, Honolulu, Las Vegas, Miami, Oakland, Oregon, Portland, Puerto Rico, made the top-10 list, transit agencies in Boston, Charlotte, Long Beach, Los Angeles, New York City, Sacramento, St. Louis, and Washington, DC, were among the 10 worst, meeting only a small fraction of their contracting participation goals for women and minorities.¹⁵

Given these uneven results, more needs to be done to make inclusive procurement a consistent and broadly accomplished reality across agencies. Congress responded to these findings by strengthening the requirements for transit agencies to increase and document the participation of women and minorities in contract work as part of the 2015 Fixing America's Surface Transportation (FAST) Act. While important in intent, these requirements did not get at the full range of demand- and supply-side barriers to inclusive procurement that could be overcome to realize better results.

The American Recovery and Reinvestment Act (ARRA) economic stimulus program under the Obama administration offers a cautionary tale for any federal infrastructure investment proposed by the current U.S. Congress or administration. ARRA fell short in its effort to stimulate the economy quickly through infrastructure projects. With such a large proportion of ARRA funds going to construction, minorities were already at a disadvantage given their underrepresentation;¹⁶ that disadvantage was exacerbated by ARRA's "reliance on existing pipelines and shovel-ready projects designed to get money into the economy quickly."¹⁷ MWBEs were left behind, thereby the ARRA investments failed to help the communities

hit hardest by the recession and created a smaller recovery than would have been possible if all businesses had benefited by contracts. One of the main failings for economic inclusion outcomes in ARRA stemmed from a nearsighted understanding of the scope of the severity of the disparities in firms' access, and what is needed to create equity. For example, the Florida Department of Transportation set its DBE contracting goal to the number of DBEs that applied for contracts in previous years, "under the assumption that this figure represents the amount of available DBE participants."¹⁸ The goal may be a practical place to start, but the assumption that all DBEs capable of providing quality construction contracting or subcontracting work are only those who have applied for contracts in the past speaks to the lack of policy support for comprehensive data collection and effective outreach to new firms. As a result, as shown in Figure 3, DBE construction firm participation in Florida's ARRA-funded infrastructure projects fell significantly short of the department's goals in five of seven statewide districts.¹⁹

This briefing report goes further to identify other challenges, opportunities, and best practices to inclusive procurement and contracting along the emerging infrastructure landscape, including policies and actions that can be taken at the state, local, and institutional levels.

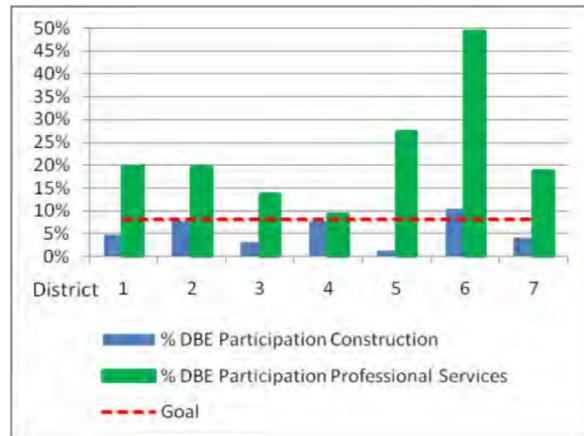


Figure 3: Percent Disadvantage Business Enterprise participation in Florida DOT ARRA funded contracts

Source: Washington Post (see footnote 12)

"There is a need for inclusion. People who are not tainted by racism see the value. We are always looking for a way. These programs will change as we fight back with force but won't go away. As we refine our methodologies... we learn something new every day."

— Subject-matter expert interviewee

Inclusive Procurement and Contracting Policy Primer

Bipartisan History of Federal Policies

Economic inclusion policies and strategies are not new. Government bi-partisan efforts to level the playing field have been around, in fact, since the late 1950s. The Small Business Act §8(a), created in 1958, required assistance to “socially and economically disadvantaged” small businesses. In the 1960s, President John F. Kennedy established affirmative action policies to ensure non-discrimination and inclusion in federal jobs and contracting opportunities (Executive Order No. 10925, 1961), and then President Lyndon Johnson signed the Civil Rights Act of 1964, which he later reinforced through tighter affirmative action compliance rules in 1965 (Executive Order No. 11246-19).

Republicans also advocated for greater racial, ethnic, and gender inclusion in the American free-enterprise system. President Richard Nixon promoted a program of Black capitalism and was the first U.S. president to set specific hiring and contracting goals for federal construction projects under the Philadelphia Plan—specially to ensure minority inclusion in construction trade unions—and his establishment of the Office of Minority Business Enterprises resulted in the birth of the MBE/WBE/DBE industry.

In 1976, Senator Parren Mitchell, who was the first Black person elected to the U.S. Congress from Maryland, in his capacity as chairman of the Small Business Committee, attached an amendment to a \$4 billion public works bill that compelled state and local governments seeking federal grants to set aside 10 percent of the funds to retain minority firms as contractors and subcontractors. He also sponsored a bill requiring contractors to document their goals in contracting with minority-owned companies. In 1980, he again added an amendment requiring a 10 percent set-aside, this time to the Surface Transportation Assistance Act. All of these measures passed and became law.²⁰

In 1978, an amendment to §8(d) was added to the Small Business Act (SBA). This amended section authorized the Minority Small Business Contracting Program, which codified a presumption of disadvantage and was the first time that recipients of major federal contracts were required to negotiate subcontracting plans with procuring agencies, including specific percentage goals for subcontracting to MBEs.

In the 1980s, affirmative-action goals expanded to include geographic targeting of jobs and business opportunities in distressed communities, and Asian Americans and Pacific Islander Americans were added to the list of disadvantaged individuals qualifying under SBA §8(a) and §8(d). Congressman and U.S. Housing and Urban Development (USHUD) Secretary Jack Kemp championed Urban Enterprise Zones, a supply-side (or “trickle-down”) strategy that incentivized businesses to relocate to economically depressed areas. This was expected to improve the economy of these communities, but did not include local hire or contracting provisions. The Clinton administration’s Community Enterprise Zones differed only in that business loans and investments were specifically tied to local job creation: one local job for every \$35,000 in investments.

Most significantly, in 1983, President Ronald Reagan issued Executive Order 12432. This directed each federal agency with substantial procurement or grant-making authority to develop a Disadvantaged Business Enterprise Development Plan. Within this framework, the U.S. Department of Transportation (USDOT) developed a plan to ensure that at least 10 percent of the funds authorized for highway and transit federal financial assistance programs would be expended with DBEs. The provision was re-authorized in 1987 and amended to include women-owned businesses as DBEs. The DBE program

covers the Federal Highway Administration, the Federal Aviation Administration, and the Federal Transit Administration. It is carried out by state and local transportation agencies under the rules and guidelines in the Code of Federal Regulations (CFR) (Title 49, Part 26). The Federal Aviation Administration also maintains a separate DBE program for concessions in airports (CFR, Title 49, Part 23). To this day, the USDOT is considered to have the highest-performing inclusive procurement policy.²¹

In the 1990s, the Clean Air Act was amended to require a 10 percent “fair-share” participation of MBEs and WBEs in contracts made by sub-recipients (states, counties, etc.) of funding from the Environmental Protection Agency (EPA). In 2003, to be more consistent with the USDOT’s program, the EPA changed its MBE/WBE program to a DBE program and began accepting DBE certifications.²²

The 21st Century Federal Policy Landscape

Industry specialists differ about whether today’s policy environment is worse or no different from past federal administrations. On the one hand, there is a recognition that the field has always been embattled. The last 60 years of federal efforts have resulted in anti-affirmative action laws and court battles; gifts of public subsidies to major corporations; lax reporting, monitoring, and enforcement of existing hiring and contracting goals; and, ultimately, policies that failed to materially improve the lives of disadvantaged workers, businesses, and communities.

"Things in the long run won't change too much.... If federal policies change... less progressive states may be impacted. But progressive states and localities won't be impacted as much."

— Subject-matter expert interviewee

On the other hand, there is some trepidation around what will happen under the 45th presidential administration. The Trump administration has proposed eliminating the Minority Business Development Agency (MBDA) altogether, as well as the Equal Employment Opportunity Commission. Also, while the USDOT program continues to be the most robust of federal programs, it has been somewhat weakened by the recent withdrawal of support for the Obama-era proposed rule revision that would have strengthened local hiring provisions. Clearly, the fight against dismantling USDOT’s DBE program and strengthening other federal programs—such as EPA and USHUD’s inclusion standards—requires rigorous legal and advocacy efforts.

Table 2 lists a summary of federal policies and changes or proposed changes under the Trump administration. Some programs have experienced changes, whereas others have not (or have not yet), reinforcing the sense of uncertainty about policy direction at the federal level.

Table 2: Summary of Federal Contractor Inclusion Policies and Goals	
Federal Contractor Inclusion Policies and Goals	Changes Under Trump Administration
<p>Small Disadvantaged Business (SDB) Program 5% of procurement and contracting across all federal agencies</p>	<p>Contract opportunities over \$700,000 or \$1.5 million (for construction) awarded to other-than-small businesses (OTSBs) must have small business subcontracting plans, to the extent there are subcontracting opportunities, which establishes subcontracting goals for small businesses, small disadvantaged businesses, HUB Zone, veteran-owned businesses, SDVOBs, and WOSBs.</p> <p>Contracting officers must now log-on to https://certify.sba.gov/ and check to verify legitimate certification status of SDB/WOSB/HUB/SDVOB/8a firms that are awarded (won) contracts.</p>
<p>Women-Owned Small Business (WOSB) Program 5% of procurement and contracting across all federal agencies</p>	
<p>Historically Underutilized Business (HUB) Zone Program 3% of procurement and contracting across all federal agencies</p>	
<p>Service-Disabled Veteran-Owned Business (SDVOB) Program 3% of procurement and contracting across all federal agencies</p>	
<p>Federal SBA 8(a) Firms owned and controlled at least 51% by socially and economically disadvantaged individuals can get sole-source contracts for up to \$4 million for goods and services or \$6.5 million for manufacturing.</p>	None
<p>Federal SBA 8(d) Ensures prime contracting opportunities are available to small business concerns, WOSB, SDVOB, HUB Zone, and other disadvantaged businesses.</p>	None
<p>USDOT Disadvantaged Business Enterprise (DBE) Program A minimum of 10% of funds are authorized for highway and transit financial assistance programs; includes firms owned by women and minority group members.</p>	<p>To meet the objectives of the DBE Program Regulation, recipients of USDOT funds must develop and implement a DBE program that conforms to USDOT standards set forth in 49 CFR Part 23 and 49 CFR Part 26. The integrity of USDOT's DBE program depends upon systematic procedures to ensure that only bona fide small firms, owned and controlled by a socially and economically disadvantaged individual(s), are certified to participate as DBEs in USDOT federally assisted programs. USDOT DBE Regulations 49 CFR Part 23 and 49 CFR Part 26 place primary responsibility for the certification process upon state transportation agencies.</p>
<p>USDOT Local Hiring Contracting Initiative A one-year pilot program (May 2015–April 2016) evaluates the impact of allowing state and local entities that receive USDOT funds to include local hiring requirements.</p>	<p>Effective August 25, 2017, USDOT will no longer support local-hire programs in cities that receive federal grants and is withdrawing a proposed revision of a rule that—since 1988—has prohibited the use of geographic preferences in the expenditure of federal grant funds.</p>
<p>USDoD Women-Owned Small Business Program All Department of Defense subcontracting plans are required to have a separate goal for awards to WOSBs; \$4.4 billion awarded to WOSBs annually.</p>	None

<p>USHUD Local Hiring Policy USHUD-funded projects must try to utilize contractors with 30%+ of full-time employees who are low income and living in the same area as the project.</p>	Unclear
<p>US Department of Education Office of Small and Disadvantaged Business Utilization (OSDBU) Implements Small Business Act with various review mechanisms in place based on size of contract.</p>	Any contractor receiving a contract for more than the simplified acquisition threshold must agree—as a good faith effort—that MWOBs will have the maximum practical opportunity to participate in contract performance consistent with its efficient performance.
<p>EPA Office of Small Business Programs Disadvantaged Business Enterprise (DBE) Program An 8% MBE/WBE minimum participation goal contained in EPA’s FY 1993 Appropriations Act, Pub. L. No. 102-389, and 10% MBE/WBE goal contained in the Clean Air Act Amendments of 1990 now serve as overall, national goals for agency assistance programs. Those goals are negotiated between EPA and states and/or recipients of EPA financial assistance awards based on documented good-faith efforts.</p>	None
<p>Securities and Exchange Commission Office of Minority and Women Inclusion (OMWI) Section 342 of the Dodd-Frank Act directs OMWI to determine if contractors have failed to make good-faith efforts to include minorities and women in their workforce, and requires the agency administrator to take appropriate action if the OMWI Director makes such a determination.</p>	None

While the core architecture of federal programs still exists, if in a somewhat weakened form, the battleground for inclusive procurement and equitable development has shifted to state and local markets. These battles are now driven by new imperatives and a host of private sector actors. In fact, some optimism is warranted and some important opportunities, such as labor shortages and demographic shifts, can work in favor of the MWDBE community and industry.

The State and Local Policy Landscape

It is at the state and local levels where the real litmus test of economic inclusion resides—in the multitude of cities and communities where major government-funded infrastructure and energy projects are typically designed, engineered, contracted, and implemented. Each year, state and local governments spend at least \$250 billion on public infrastructure including transit, energy, and water/sewer system upgrades. The federal government has tried to set the tone for state and local policies, typically through mandated utilization goals for inclusion of small business enterprises (SBEs), MBEs, WBEs, and DBEs in subcontractor procurement, local hiring, or both. The *Adarand* decisions (see next section) in the 1990s specifically resulted in federal programs having to conform to state standards, but the courts are generally lenient with the federal government in implementing programs.

The state and local policy landscape, however, is fragmented, uncoordinated, and dictated by which way the state and national political winds are blowing. In general, minority and women contractors are faced with a myriad of federal, state, and local programs to navigate. Across the country, almost 100 individual state programs exist, most of which are required by federal agencies to be administered at the state level, such as each state department of transportation’s DBE program. Typically, the state program will administer the certification process and provide some support and technical assistance to

businesses going through the application process. At the local level, cities and counties integrate the federal and state rules and requirements as part of their bidding and tendering processes for specific contract opportunities. Sometime the state and federal policies are in conflict, such as in states that preempt local hiring and procurement laws that are in line with the federal policy.

Appendix B shows a matrix of features of state certification agencies and certification programs obtained from a high-level scan of agency websites. Thirty-seven agencies offer and support WBE and MBE certification, while slightly fewer, 34, offer and support DBE certification. Eligibility thresholds typically follow federal SBA or USDOT standards. Many agencies indicate they have inclusion goals on their websites, but details about those goals were not easily found on all websites.

Navigating the Political Landscape: Race-Averse versus Race-Conscious Policies

The MWDBE industry is a litigious enterprise. Many state and local inclusive-procurement policies have had to refrain from using race as a decision factor in contract awards. In 1989, the *City of Richmond [Virginia] v. J.A. Croson Co.*, 488 U.S. 469, was heard by the U.S. Supreme Court. The court ruled that the City of Richmond's minority set-aside program was unconstitutional under the Equal Protection Clause. In a city with a Black population of over 50 percent, the city had determined that years of procurement discrimination had prohibited access to construction contracting opportunities for MBEs, and therefore set a goal of 30 percent for city construction contract set-aside preference to MBEs. The Supreme Court determined that the city did not adequately identify the need for remedial action regarding procurement, and that other non-discriminatory remedies would be insufficient.²³

In that same year, another case, *Adarand Constructors v. Peña*, further challenged the constitutionality of race-conscious preferences in USDOT subcontracting compensation clauses, which awarded incentive payments to prime contractors with subcontracts to DBEs that exceeded the minimum 10 percent total contract-value threshold. Adarand Constructors submitted the lowest-price bid and claimed it should have won the contract, which instead was awarded to another firm because that firm was a certified MBE and the prime contractor wanted to receive the USDOT incentive award. Adarand's case was finally heard by the U.S. Supreme Court in 1995, which ruled that Congress had a compelling interest in redressing discrimination, but concluded that the USDOT incentive program was not narrowly tailored because benefits were available to all minorities regardless of disadvantage and would exclude disadvantaged Whites. Adarand Constructors next sued the State of Colorado, challenging its use of DBE programs altogether. As a result, the state modified its regulations to allow Adarand to apply for and receive DBE certification.

The decisions in these two cases set the policy tone through the 2000s and set the stage for the challenges to inclusive policies that we were still seeing in 2017. The *Croson* and *Adarand* cases resulted in changes to USDOT procurement regulations focused on achieving a "level playing field" and requiring states and state transit authorities to:

- base their DBE participation goals on demonstrable evidence instead of "presumed disadvantage,"
- meet maximum feasible portions of their DBE goals using race-averse measures,
- submit DBE participation goals to the USDOT for approval on an annual basis, and
- create and maintain bidders lists and develop statewide unified certification programs.²⁴

One effective strategy that has developed in response to these legal challenges is the use of disparity studies, which use local and regional data to document availability and utilization rates of MWBEs. The

MBDA divides the causes of disparity at the procurement level into three useful categories: discriminatory behavior, non-discriminatory behavior, and the sometimes-overlapping category of network access. The MBDA also emphasizes that the financial strain on agencies is also a large barrier, and that many helpful practices are prohibitive given lack of resources. Ideally, agencies will have the financial resources and the political will to engage a high-quality disparity research firm to collect baseline data and to conduct a new disparity study at least every five years to monitor changes. Minneapolis does this well, with its high MWBE goal of 22 percent and frequent disparity studies.

More broadly, the debate over and move toward race-conscious rather than race-averse programs has led to some states barring race- and gender-conscious policies by public entities. This has occurred in Arizona, California, Michigan, Nebraska, Oklahoma, and Washington.²⁵ In these states, public entities at both state and local levels can have no policies that set hiring, contracting, or college admission goals based on race or gender. Many advocates have sounded the alarm about these developments. However, a 2014 report by the Insight Center for Community Economic Development may be cause for optimism. The center studied 40 large and geographically diverse cities and counties across the country and found that 18 percent have race-averse policies and 40 percent have race-conscious policies, yet 90 percent have either SBE, M/WBE, or both types of procurement programs and more than half are actively trying to use these programs to increase opportunities for women and people of color. In other words, the move to race-averse policies does not necessarily mean that MWBE procurement practices will become ineffective.²⁶

"The state-level climate is polarized when it comes to race issues. Chances are slim that we will have any impact there, except maybe with new state infrastructure legislation. Otherwise, it's best to focus on local policies."

—Subject-matter expert interviewee

The Geographic Landscape

Industry specialists indicate that political will matters more than geographic location. Yet the evidence shows that a nuanced understanding and approach to MWDBE contracting is required to navigate your local environment. Of particular concern is the type and level of work needed in places with strong conservative state representatives. Specifically, many state governments with conservative governors and/or legislatures are poised to try and stifle equitable development policies by passing state-level preemption laws prohibiting local authorities from enacting local procurement and hiring policies. This will require proactive and concerted advocacy to prevent and to fight these policies from undermining local procurement standards. Other geographic context also is worth noting:

- While many states west of the Rockies do not have race-neutral policies, they are not aggressively pursuing MBE/WBE standards.
- Conversely, local governments in states with race-neutral policies have inclusive procurement programs that creatively get around restrictions against goals. For example, Washington State has a race-neutral policy, but the City of Seattle still requires prime contractors to make a commitment to a percentage of MWBE subcontractors, which then gets locked into contracts; however, the percentage is derived by the bidder, not mandated by the city.
- The policy climate in Northern and Midwestern states fluctuates based on who is in the governor's or mayors' offices. New York State and New York City have had strong programs

over the last five years. Philadelphia and Minneapolis both have had strong, consistent programs. The bigger the state, the harder it is to reconcile rural and urban political agendas, warranting a stronger focus on local versus state policies.

- Large metropolitan areas with diverse ethnic populations are most proactive, even in conservative states. For example, Atlanta, Austin, Dallas-Fort Worth, Houston, Memphis, and many Florida cities have strong local programs.
- Maryland has among the strongest policies in the country at both the state and local government levels because it has staff at all levels who are educated in best practices and they take the time to advocate for implementing those practices at the local levels.

Sector-Specific Inclusive Policy Levers

The federal, state, local, and private-sector contexts and trends play out differently within various sectors of the economy. Understanding the unique opportunities and challenges within transportation, energy, water, public housing, schools and universities, hospitals/health care, and the private sectors is important to effectively advocate for inclusive procurement.

Transportation

The focal point of most infrastructure investment will be on deploying trillions of dollars to improve our country's infrastructure for mass transit, seaports, airports, bridges, and highways. These investments will largely be federally subsidized and inclusive procurement policies will be dictated by the USDOT, which has the strongest policies at the federal level. These policies are mediated when blended with state and local funds and thus can be stronger or weaker, depending on the local laws. Transportation policies in race-neutral states, for example, have to find innovative ways to meet USDOT goals. In the state of Washington, the Washington State Department of Transportation (WSDOT) has established a race-neutral Small Business Program with race-neutral measures that include “unbundling” contracts to assist small firms in bidding as prime contractors; abbreviated procedures to prequalify contractors for contracts under \$100,000; a Small Works Roster program for contracts under \$300,000; and a SBE goal of 10 percent participation by SBEs certified by the Office of Minority and Women's Business Enterprises on federally funded design-bid-build contracts without DBE contract goals. WSDOT also has a Community Engagement Plan to guide the agency's interactions with stakeholders about all aspects of its operations, which includes a DBE Advisory Group, and it provides training to employees and contractors on program-compliance elements and procedures. It also convenes networking events to facilitate relationships between DBEs and prime contractors on specific projects, and offers general and firm-specific training and technical assistance to help DBEs become more competitive in the heavy highway-construction industry.²⁷

Energy

The U.S. energy infrastructure needs \$1 trillion in major investments to upgrade and transform its antiquated D+ systems (rated by the American Society of Civil Engineers). The particular emphasis is on building a new grid—utility scale and decentralized systems—that also generates energy from renewable sources. The regulatory mandates and revenue streams for this work reside at the state and local levels. Illinois, for example, just established the 2017 Future Clean Energy Act using a state bond to increase renewable energy in the state, and made \$750 million available for community solar, energy efficiency, and green jobs for low-income communities.²⁸ Most new energy projects, however, will be self-funded from ratepayer funds. This means that procurement policies are not subject to the vagaries

of government regulations. Thus, the levers for inclusive policies are with the local utilities. Ratepayers have influence over utilities through various local governing structures that are not subject to federal, state, or local policies.

The inclusive procurement landscape in energy is also differentiated by the type of utility.

- **Investor-owned utilities (IOUs):** There are approximately 200 IOUs in the United States. IOUs are privately owned monopolies with a focus on earning dividends for their shareholders, which often makes it more challenging to insert an equity agenda. IOUs are regulated by state public service commissions with members appointed by the governor/state legislator. These commissions are mandated to protect ratepayers against the abuses of monopolies, but are often aligned with the IOUs. For example, the California Public Utilities Commission (CPUC) issued a regulatory ruling, adopted by other states, that ratepayer funds cannot be used to pay for non-energy benefits, such as jobs and public health. The ruling is being challenged in California and elsewhere and is anticipated to change. However, inclusive procurement for subcontractors is still quite strong at CPUC, which through General Order 156 requires supplier diversity for MBEs (19.0 percent) and WBEs (9.5 percent).
- **Municipal utilities:** In the United States, over 2,000 utilities are publicly owned, representing more than 60 percent of the industry total. They are typically quasi-governmental entities that have a public purpose and are regulated by local elected officials as opposed to public service commissions. They are more service driven than profit driven and are more oriented around triple bottom line (environment, economy, and equity) objectives than are IOUs. For example, the San Francisco Public Utilities Commission (SFPUC) advanced one of the most progressive community benefits policy (and supportive programs) in the United States. Launched in 2011, the policy grew out of a desire to help the communities that have historically faced environmental injustice as a result of SFPUC operations, specifically the disadvantaged neighborhood where the main sewage treatment plant is located. The program includes community investment commitments from SFPUC's private contractors in all requests for proposals worth over \$5 million. These investments have included training for disadvantaged workers, internships for local residents, and other initiatives for economic and sustainable development. Community benefits staff monitor the process and provide support to ensure that the investments successfully benefit the community.²⁹
- **Electric co-ops:** There are 900 co-ops in 47 states, providing electric service to more than three-fourths of the U.S. land mass. Most of these co-ops were established in the 1930s as part of the initiative to electrify rural America. These co-ops are "in theory" community owned with decision making by and dividends paid to community residents. Again, they are "theoretically" able to reinvest dividends to serve community needs. The potential to advance inclusive procurement policies in these co-ops is significant. But, they have become ossified over the years and most operate like an IOU without community input or benefit. One Voice is an organizing effort underway to train local residents about energy co-ops in rural Mississippi to reclaim these utilities to serve community needs, including economic development.
- **Community-choice aggregators (CCAs):** Enabling legislation in seven states (California, Illinois, New Jersey, New York, Ohio, and Rhode Island) allows local governments to establish their own energy service companies to give communities a choice over their energy providers and source of energy. While initially an energy service enterprise, many of these community-choice programs will also be building new distributive energy infrastructure, such as community grids, community solar gardens, rooftop solar/battery storage, etc. However, most of the emerging

community-choice programs fail to look any different from IOU programs, with the exception of the source of energy and the pricing. To leverage these opportunities, communities must actively advocate for greater community participation and community benefit. Because these CCAs typically service a regional energy market (e.g., multicounty, multicity), they are governed by a joint-powers agreement that establishes governing structures across local jurisdictions and can be motivated to be responsive to public pressure. For example, Marin County, California, is home to the state's first CCA, MCE Clean Energy. A nonprofit governed by a joint-powers agreement, MCE has successfully created over 2,800 California jobs and saved 185,000 metric tons of greenhouse gases as of December 2015. Residents are automatically enrolled in MCE, with a choice to opt out, as per California's 2002 CCA law. Profits are returned to the community through local projects, including building solar farms in the Bay Area with half of all fees for the 100 percent renewable energy option.³⁰

Water

America's water infrastructure is in total disarray and it is a highly fragmented system. The country has more than 55,000 water districts and 18,000 sewer districts. Through 2025, \$532 billion in investments are projected³¹ to be made to build new water infrastructure to fix corroding and leaking pipes; de-link combined water and wastewater systems; unclog sewer systems to reduce flooding; and build green infrastructure to capture rain water, prevent erosion, and build-up resilient coastal resources. Some cities are mandated by an EPA consent decree to clean up their water/wastewater pipes and are thus regulated by the EPA federal procurement rules that, as mentioned previously, are relatively weak compared to other federal agencies.

Milwaukee leads on inclusive procurement in water infrastructure

The Milwaukee Metropolitan Sewerage District (MMSD) is leading the way in progressive policies for water infrastructure procurement. Firmly committed to increasing inclusion of minorities, women, local businesses, and small businesses, the MMSD does more than simply setting participation goals. Its Office of Business and Community Engagement goes above and beyond to address disparity at its roots, including training, apprenticeship, and internship programs. The MMSD designs these programs to align with its triple bottom-line goals as well, strengthening communities by organizing volunteers or using job-training programs to build small green infrastructure projects. One reason the MMSD works so well is because of its well-designed online monitoring system. The system streamlines communications with automated emails and ensures success by automatically monitoring contract goals and participation.

State and local voter-approved revenue bonds are important sources of water infrastructure projects, along with ratepayer funds. Taxpayers' and ratepayers' community voices are critical to advocating for inclusive procurement as one of many strategies for increased community benefits. The U.S. Water Alliance is working to change the culture of the water sector by inserting an equity agenda into this trade association and has included new standards for local hire and procurement.³²

In addition to ratepayer funds, public-private partnerships are emerging as a common way of financing major projects. According to the National Association of Water Companies, more than 2,000 municipalities have entered public-private partnerships for all or part of their water supply systems. Private firms such as Veolia North America and American Water are partnering with Akron, San Antonio, and Washington, DC, among other cities, to finance and implement major projects.³³

Public Housing

More than 1.1 million units of public housing served by 3,100 local public housing agencies dot America's residential building stock. These typically large developments have been around since the 1930s and suffer greatly from obsolescence and a huge capital improvement backlog. HUD and public

housing agencies across the country are challenged with improving the living conditions of America's poorest housing class with the constraints of diminishing operating and capital improvement budgets.

Public housing agencies are involved in two types of strategies.

- 1) **Asset management:** This includes upgrading and greening of public housing—including energy efficiency measures such as installing new heating/venting/air conditioning, electrical, and water saving systems—and developing community grids, which has become a critical asset management strategy for these developments. The goal is to save money on utilities, which can then be used for other capital improvement needs.
- 2) **New mixed-income/mixed-use development:** Many public housing agencies are engaged in large-scale public housing transformations. For example, the USHUD's CHOICE Neighborhoods program supports development for mixed-use and mixed-income projects, such as the \$1.5 billion Jordan Downs project in Los Angeles.

USHUD's Section 3 requires that 30 percent of all development investments must use disadvantaged businesses and local residents. This regulatory requirement provides powerful levers for inclusive procurement, but the Section 3 ruling is poorly enforced and implemented. Most public housing agencies use energy service companies (ESCOs) to retrofit buildings. But ESCOs do not have the capacity to implement Section 3 requirements, and are interested in working with capable community organizations that can help them satisfy these requirements.

Schools and Universities

Schools and Universities represent a ripe sector for navigating inclusive procurement policies, including the following.

- The cost of deferred capital improvements and maintenance at schools and universities nationwide is estimated at \$250 billion.
- Many public schools and universities have a long history of independence from state construction requirements, and they are fighting to maintain their independence to set inclusive procurement policies, often in spite of state preemption policies.
- Universities in large urban areas are starting to shift from a “town and gown” approach to community relations/engagement, to a “community reinvestment and development model” that reflects their commitment to a diverse student and community base.

Chicago Anchors for a Stronger Economy network firms, workers, resources and neighborhoods for success

CASE (Chicago Anchors for a Stronger Economy) is a network of sixteen prominent public, private, nonprofit, and cultural Chicago-land institutions that are committed to collectively impacting neighborhood economic development through the following.

- *Procurement:* Matchmaking vetted businesses with the contract needs of anchor institutions
- *Workforce development:* Preparing candidates for employment opportunities within anchors and their suppliers
- *Business development:* Assessing businesses' capacity to fulfill anchor contracts and providing advisory services and/or recommending resources
- *Neighborhood development:* Creating anchor action plans based on priorities within their geographic area of focus, and developing projects targeting distressed neighborhoods

Since inception, CASE has facilitated \$51.8 million in revenues to small businesses and 180 new jobs, through contracts with anchors.

Hospitals and Health-Care Systems

Hospitals and health-care systems are another large niche market requiring specialized attention and capacities to navigate. Some of the promising opportunities and trends are noted below.

- The community benefits requirement in the Affordable Care Act (ACA) is estimated at \$1 trillion in purchasing power. Hospitals must show impact within the communities they serve, including procurement of goods and services from local businesses to grow local economies.
- Despite the threats of repeal and reform to ACA out of Washington, DC, around 40 health-care systems have committed to staying the course on impacting wellness in their communities, including developing and implementing progressive and inclusive procurement policies.
- Hospitals vary by type of hospital. They can be public, private/independent, or part of a university system. Obviously, public hospitals will be impacted by the political climate more so than others.
- Hospitals that are under the leadership of minorities and women may be more likely to commit for the long term to inclusive procurement. For example, Kaiser Permanente's commitment to inclusive procurement has accelerated under the leadership of an African American CEO.

Kaiser Permanente makes universal facilities commitment to contractor and supplier diversity

Kaiser Permanente is a nonprofit integrated health-care system based in Oakland, California, with facilities in eight states and Washington, DC. A member of the billionaire roundtable, it is the nation's leading health institution committed to diversity inclusion as a core business practice. This cultural change is a result of its findings that a person's zip code determines a person's health more than life choice does.

Bernard J. Tyson, chairman and CEO of Kaiser Foundation Health Plan, Inc. and Hospital, is guiding his national team to ensure that its \$20 billion in annual procurement spending will be spent the right way, in the right places, to make people healthy. They recently established a \$4 billion green bond fund, with \$1 billion allocated for green construction. As a regular part of their procurement metrics, they continuously review whether their purchasing practices are making communities healthy, and resulting in better housing, better jobs, better diet, and less stress. In addition to their ongoing core business purchases, Kaiser's current \$30 billion, 10-year construction campaign also falls under this test.

Large Private-Sector Employers

Google, Apple, Sony, Amazon, and Facebook are among several major private-sector employers that are making significant investments in large capital improvements and in green construction projects to serve the needs of their employees and customers *and* are requiring inclusive procurement standards for contractors. This is increasingly motivated by corporate responsibility to a customer/client base that is increasingly diverse, and by aligning their standards with strong municipal goal-setting in the jurisdictions where they seek entitlements and permitting.

While these projects are a cause for optimism, there are many challenges, including the following.

- Non-disclosure agreements and long pre-construction periods can limit widespread communication about bidding opportunities. Often bidders cannot know who the owner is, what the project is, or what the guidelines are until the contract is awarded and made public.
- Private-sector performance measures are often more stringent than federal programs. They want to know details about contractor and subcontractor past performance, and are not necessarily looking for good-faith efforts.

- Procurement of construction materials and equipment is an area that can either act as a barrier to work on private-sector projects, or that could also hold promise for increased inclusive procurement, such as from MWBE manufacturers and distributors.

Prime Contractors

Major prime contractors, such as construction, civil engineering, and ESCO firms, are in many ways ideally positioned to advance acceptance and utilization of inclusive procurement. They have the capacity and track record to manage and deliver large multimillion- and multibillion-dollar public and private infrastructure projects. They have the pulse on the opportunity pipeline to proceed, from project design to feasibility and budgeting to pre-construction to bidding and award/notice, which means they have market intelligence into which smaller subcontractors in their networks can tap. And, most importantly, many of the largest firms are familiar with inclusive procurement, actively promote it, and have the staff and resources to support it.

In 2014, Emerald Cities conducted a survey of local contracting and supplier diversity practices at 28 of the largest construction, civil engineering, and ESCO (energy service company) firms in the United States—firms such as Gilbane, SKANSKA, AECOM, and NAESCO, which have significant track records with major utility wind and solar, water/sewer, electrical power grid, and public transit projects. The survey response rate was just under 20 percent. Regarding local contracting, 80 percent of the respondents reported that they have their own internal local contracting policies; half of those are “informal” and half are “formal” written and enforced policies. The average share of respondents’ skilled trade subcontractors that satisfy local contracting requirements is 32 percent. Regarding supplier diversity, 80 percent of respondents reported having internal “formal” supplier diversity policies in place, and that the average share of their subcontractors that are certified SBE/MBE is 50 percent. Although this is just a small sample, the responses suggest that prime contractors may be an untapped set of key partners and advocates in the inclusive procurement conversation.

Policy Conclusions

Inclusive procurement and contracting policies, part of a larger MWDBE field of practice, evolved over a 60-year history into today’s complex maze of standards and requirements that differ by the procurement agency, the level of government, and the local and state political environment. These policies have emerged in bipartisan contexts that are being reclaimed in many cities, and in some regions and states.

The USDOT remains the best performing among federal agencies regarding inclusive procurement and contracting policies and has withstood numerous legal challenges. Other federal agencies have weaker programs or none at all, reflecting the absence of consistent federal standards or guidelines.

The current federal administration (Trump administration) is moving to weaken or dismantle key pillars of inclusive procurement and contracting provisions, including the MBDA, and federal policies that encourage local employment and local procurement on federal contracts.

Yet, state and local governments are the most important venues for advancing inclusive procurement and contracting policies in the infrastructure sector. Federal infrastructure investments are blended with local public funds and a great deal of infrastructure investments is exclusively derived from state and local revenue.

At this level, however, political and legal context matters more than geography. Many progressive states and legislatures—such as those in California and Washington—have race-neutral procurement

policies. While many Southern and Mid-western cities have effective inclusive procurement policies despite conservative state-level politics, such as Atlanta, Dallas-Fort Worth, Memphis, Minneapolis, and New Orleans. The threat of state preemptions by conservative state legislators, however, can undermine the ability of local governments to implement inclusion policies.

Over the decades, states have moved toward race-neutral policies. This does not necessarily mean, however, that MWDBE procurement practices will become ineffective. Many metropolitan areas within states with race-neutral policies are developing innovative, flexible ways to implement inclusive procurement standards. The key strategies include, for example, engaging prime contractors at the bidding phase to identify their equitable development plans and then locking them in at the award stage.

The good news is that it is easier to influence MWDBE policies at the local level than at the state level, particularly in urban areas with large ethnically diverse populations. Scrutiny and advocacy is critical for influencing equity inclusion in state infrastructure bonds of more racially diverse states.

Generally, however, there is no “one-size-fits-all” inclusion policy. The policy levers, revenue streams, business motives, historical precedents, and strategies to strengthen inclusive procurement differ for transportation, water, energy, public housing, health, and educational institutions. For example, significant new investments in the water and energy sectors lack a commensurate history of equitable inclusion, but a new generation of these primarily ratepayer-funded investments offer important leverage for community advocacy to realize the goals of equitable inclusion.

Another area of opportunity is within the private sector. An increasing number of large private-sector employers are also committed to, and demanding that prime contractors increase, contractor diversity and support the growth of people-of-color firms and labor-force participation in construction.

The success of inclusive procurement and contracting comes down to political will and MWDBE advocacy. They are the “secret sauce” to effective public policies, but these policies have been substantially diminished in the last decades.

“Wherever you are, it requires moving the ball with courage and fortitude because it’s about economics.”
—Subject-matter expert interviewee

Policy Recommendations

The following recommendations and best practices come from interviews and focus group of practitioners and subject matter experts.

1. Rebuild the constituency for and advocacy efforts around MWDBEs, with a special focus on defending existing federal policies, preventing and fighting state preemption efforts, and increasing accountability of local officials to ensure that public dollars are used proactively for economic inclusion.
2. Train elected officials on legal and effective (race-neutral and race-conscious) inclusive procurement and contracting policies. Strengthen the political will at the local level by training and engaging local politicians on the legal and economic issues to support inclusive procurement policies.
3. Develop “sector-specific”—water, energy, transportation, public housing, education, and health—policy tools kits that consider the unique business case, as well as the regulatory

environment and revenue streams. Align cross-sector policy environments as much as possible to reduce duplicative qualifications, diminish systems hurdles, lessen bureaucracy, and achieve and expand goals.

4. Proactively engage the private sector in an inclusive procurement initiative to strengthen its emerging role in large-scale infrastructure and development projects, including addressing barriers to participation of private-sector employers, financial institutions, and private-sector firms.
5. Use triggers in tax credits and Community Reinvestment Act requirements to build regional capital pools that can provide lines of credit and bonding capacity to help grow participating MWDBEs.
6. Strengthen accountability mechanisms to ensure policy goals are met, including assigning 1 percent of project costs to support capacity building of MWDBEs. This fee would represent a dedicated revenue stream to support data collection and reporting, proactive compliance, contractor training, coaching, and other supports. **(See next section on “Inclusive Procurement Practices.”)**

Inclusive Procurement and Contracting Practices

Given the myriad policies and market opportunities, what is needed to move from policies to successful outcomes? What needs to happen to improve what is widely recognized as underperformance in the MWDBE community? What does good inclusive procurement practice actually look like? What are the best practices? We posed these questions to the group of practitioner experts we interviewed for this report. Their ideas are summarized in two areas: demand- and supply-side strategies.

Strengthening Demand-Side Factors

Demand-side factors include improving how projects are designed, bid, delivered, and monitored to ensure the best outcomes for MWDBEs. Key issues are discussed below.

1. **Scope the project appropriately to meet inclusive procurement goals**, considering the following.
 - **Time horizon:** Water infrastructure, transportation, and other infrastructure projects are multibillion projects and they have long, 10- to 20-year time horizons. Detailed data are needed on the scope of opportunities and time frames. This long-term planning facilitates identifying and preparing MWDBEs for project opportunities.
 - **Sizing projects:** Infrastructure projects are multibillion, multilayered projects requiring a range of skills, experience, and capital. These projects must be unbundled to make them accessible to contractors with different capacities. Projects must be sized to match the capacity of the available contractor pool.
 - **Bidding projects:** How projects are bid will also determine the success rates or barriers to inclusive procurement. Consider the following.
 - Structure bids to allow small contractors to compete with each other rather than with large contractors.
 - Project delivery methods should include success and competitiveness of MWDBEs in addition to project size, speed, and risk. As integrated project delivery and public-private-partnership contracts have become a prominent staple of major infrastructure projects, they have also become more complicated and less accessible for MWDBE bidders. The general consensus among practitioners is that inclusive procurement policies can work on any type of delivery method as long as political will and resources are available. The project delivery methods, however, can determine the level of difficulty or point of intervention to ensure the inclusion of DBE/MBE/WBE contractors. The most common contracting methods include the following.
 - **Design-bid-build:** This is the traditional U.S. project delivery method, which customarily involves three sequential project phases: design, procurement, and construction. There is a point of intervention at all phases, allowing for adherence to public policy goals.
 - **Construction management at risk:** The Construction Manager acts as a consultant to the owner in the development and design phases, working with the architect/engineer, but assuming the risk for construction performance as the equivalent of a general contractor holding all trade subcontracts during the construction phase, including insurance and bonding. This delivery method is also

known as construction manager/general contractor. This delivery method requires intercepting the project owner before a construction manager is hired to ensure that MWDBE standards are included. Owners have limited involvement after the consultant has been hired.

- *Design-build*: This method combines architectural and engineering design services with construction performance under one contract. This one-stop-shop approach to construction makes it difficult for contractors to bid a project once it has been awarded to the design firm.
- *Integrated project delivery*: Contractually, this requires collaboration among the primary parties—owner, designer, and builder—so that the risk, responsibility, and liability for project delivery are collectively managed and appropriately shared. This collaborative project is perhaps most open to innovation and creativity but also requires a high level of sophistication to participate on the team.
- *Public-private partnerships*: These partnerships are typically used in large, high-risk projects where private-partner funds, often from foreign investors, are blended with public-sector funds. For example, the Los Angeles World Airport Project is a \$5 billion expansion that includes three to four projects, but will have one winning team to design, build, finance, operate, and maintain the project over 20 years. Similarly designed projects include toll roads and bridges. These huge long-term contracts are difficult to unbundle given the size and time horizon.
- *Best-value contracts*: These are negotiated contracts between a contractor and the owner and include a range of considerations beyond just price, such as quality and expertise, financing, and past performance. Typically, best-value contracts are negotiated—providing the opening to establish inclusive procurement as a value proposition. While not traditionally considered a project delivery method, energy service performance contracts used widely in the utility sector, as well as project labor agreements used in larger building and infrastructure projects with union labor can be considered best value contracts in that they are “open-ended” and price is not the driving factor. The challenge is getting to the table to ensure that inclusion is part of the formula for contract awards. Community workforce agreements, for example, are often included in project labor agreements, but only if there is a demand from the community or public officials for community benefits. The same is true for inclusive contracting and procurement.

2. **Prioritize data collection, monitoring, and compliance.** There is general consensus that data collection, monitoring, and enforcement are not taking place in a meaningful way. Goals are set, sometimes data are collected, but rarely are the data used to assess progress, enact penalties, or to otherwise improve project or program performance. Are the targets too high or too low? What size contracts were awarded to the MWDBE community? How many jobs were created? Where do the suppliers live? How much did they earn?

Regulatory agencies do not consistently incorporate past performance of prime contractors into determining future contract awards. Also, very little money is set-aside for these purposes. And, community groups do not have data to either hold contractors accountable or to otherwise help prime success by connecting them to the contracting community. Yet, most interviewees agree that this is one of the most important factors in effective inclusive procurement and contracting practice.

More rigor is needed around data collection for performance monitoring and compliance. The goal is to ensure the integrity of what practitioners are reporting both for internal and external audiences. The key elements of monitoring and compliance include the following.

- **Require project staffing utilization plans in bids.** The bid/solicitation package should require the bidding contractor to identify the project schedule and to identify the trades and contractors needed for each phase of the project. Community partners can assist contractors with identifying subcontractors and workers when advance information regarding the trades/crafts that are needed is given.
- Bay Area Rapid Transit Provides Availability Data to Primes:** Bay Area Rapid Transit (BART) in San Francisco, provides contractors with data on the “availability percentage” for a particular contract. A bidder is required to meet that percentage and, if not, to show how it is not discriminatory. The proof of burden is on the contractor. It is not a goal, but it is an availability that must be addressed by the prime bidder. Although it does not have the “teeth” of a typical DBE program, it is still proving effective.
- **Properly staff or outsource monitoring and compliance.** Dedicated staff is needed to perform ongoing, rigorous, and accurate contract monitoring and compliance, as well as community engagement with contractors and community groups. Compliance staff must be competent in construction and good communication and coordination across agencies must be in place. If in-house staffing resources are not sufficient, this work can be done through third-party consultants or community-based organizations.
 - **Use an online data-reporting system.** More and more state and federal agencies are demanding good data collection and reporting. An increasing number of general contractors and construction managers are moving to the use of online data-reporting systems such as LCP Tracker or B2G Now. Under-resourced local agencies may need to consider hiring a third-party contractor to provide this as a back-office service. Small contractors may need to be trained to help them use these systems.
 - **Require data consistency and transparency.** Contractors of all tiers should report out all subcontracts and the dollar amount and MWDBE status of subcontractors that perform the work. Contractors of all tiers should report out race and gender data and hours worked for all employees. These requirements help identify specific instances of discrimination that the public entity can address; data may provide the legal and political basis for stronger race-and gender-specific inclusion efforts; and establish an expectation of real inclusion among contractors and awarding departments.
 - **Enforce the policies.** Inclusive procurement policies must be implemented and enforced; noncompliance must have real consequences, not just small fees. For example, if a contractor violates contracting goals, they should not get to bid on the next project.

Strengthening Supply-Side Factors

Supply-side factors consider the solutions that would increase the competitiveness of contractors. A range of best practices emerged from practitioner interviews that fall into two categories: 1) improving the efficiency and effectiveness of the MWDBE system and ecosystem of practitioners, and 2) increasing the capacity of contractors to be competitive.

Systems Reform

The MWDBE system has been around a long time, but is generally recognized as being inefficient and marginally effective. As one interviewee noted, *“This is a little system that works in silos and cannot be expected to scale disadvantaged business participation without more alignment and leveraging.”* The key issues and recommendations include the following.

1. **Strengthen the ecosystem of MWDBE stakeholders.** No recognizable and effective ecosystem of actors is working coherently to implement MWDBE goals at the federal, state, or local levels. Everyone works in silos. The sponsoring agencies—USDOT, USHUD, and EPA—are disconnected from the owners of small businesses and economic development and labor agencies, which are not working with local government agencies or local practitioners and advocates. The specialized knowledge of each agency is not shared, which sub-optimizes the potential impact of the MWDBE programs.

MEDA builds ecosystem of support

MEDA in Minneapolis pulled together all the business support organizations to create an ecosystem model—building one platform for one point of entry and one system of standards with a technical assistance support and referral system. In the past, the groups all operated as “frenemies” but it was not working for anyone. Aggregating all the 990s of groups working with MWDBE added up to only \$25 million and all the financing via community-development financial institutions for minority firms only added up to \$25 million in capital. “This is a little system and that cannot be expected to scale minority business participation without leveraging each other’s assets,” reflected one subject-matter expert familiar with the effort.

2. **Take a regional, multijurisdictional approach to MWDBE programming.** Too many standards differ by agencies and the level of local, federal, and state resources and policies involved. Several practitioners suggested that having one regulator and one procurement goal/standard would be the ideal scenario. Establishing one goal might best be facilitated by innovating regional—multijurisdictional—disparity studies used by every agency, because most agencies are pulling on the same local pool of contractors. These studies could be adjusted for the unique trade skills or equipment needs of specific sectors as addendums to the core disparity study. Once completed, progress toward goals should be tracked annually, and as initial goals are met, they should be adjusted upward until equity is achieved. The State of Minnesota and the City of Minneapolis-St. Paul, for example, are conducting a joint disparity study involving all state and local agencies.

San Francisco PUC provides contractor support

The San Francisco Public Utilities Commission (SFPUC) established a contractor assistance center for its \$2 billion sewer system project. This is a physical, one-stop shop where contractors can come in to learn about contract opportunities and the scheduled build-out of the project, as well as receive technical support and mentoring on various aspects of bidding on related subcontracts.

3. **Develop regional strategies to simplify certification programs required by contractors.** Regional approaches will also help to optimize the development of contractor databases and interagency alliances. Some cities, such as Memphis and Los Angeles, are developing reciprocal certification agreements so that a contractor needs to go through only one portal to qualify as a MWDBE. In Memphis, while in the early stages, all agencies are coordinating and consolidating into one procurement interface. This could be a model for other local partnerships.
4. **Establish one-stop shop service centers or an ecosystem model to improve interagency coordination.** This service would make it easier for contractors to access support services. The

MWDBE programs have been around a long time, but programs are fragmented and not working for anyone. Contractors want just one place to go for efficient service and support, whether to become certified or to access contract opportunities. Firms need a broad range of technical assistance, such as applying for certifications to accessing cash flow (bank lines of credit, letters of credit, loans), bidding and project planning (estimating, quoting), understanding and negotiating payment terms, maturing their back-office functions (payroll, human resources, legal, etc.), obtaining bonding and insurance policies, and many other areas of support.

5. **Develop proactive compliance infrastructure.** Developing community partnerships with contractors will help them meet their contracting (and hiring) goals using real-time online data-reporting systems, regular construction draw meetings, and a contractor/worker pipeline.
6. **Capitalize systems infrastructure services with a 1 percent project fee.** This fee would represent a dedicated revenue stream to support data collection and reporting, proactive compliance, contractor training and coaching, and other data needs.

Contractor Capacity Building

1. **Strengthen the capacity of large firms to compete for large contracts.** Projects are increasingly larger in scope and contract value, and are awarded on a past-performance basis. This means that firms must be able to demonstrate three to five years of comparable experience and robust financials to effectively compete. Most contractors have limited capacity—\$500,000 to \$2 million on average—but they need to be at a minimum of \$5 million capacity as it relates to large infrastructure projects, and be able to manage and deliver on multiple jobs to keep cash flow strong and to mitigate risk. Thus, there is a need to find and grow the capacity of tier 1 contractors to successfully bid these contracts and to also serve as feeders or pipelines for smaller contractors to grow over time. Too many of the same contractors are feeding at the trough, however, with little attention being paid to how they might serve to grow the capacity of smaller contractors.

Growing minority firms to meet demand in Minnesota

Meda, in Minnesota, provides business consulting, access to capital, and market opportunities for minority entrepreneurs. Meda also operates a business development center under cooperative agreement with the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce; the center connects Minnesota MBEs with business opportunities. In 2016, Meda served 676 customers and helped minority businesses secure \$165 million in contracts. Since its beginning in 1971, Meda has helped more than 20,000 entrepreneurs of color and assisted in the start-up of more than 550 businesses. They provide access to markets and a range of technical assistance, including help with financial projections and mergers/acquisitions, and they offer debt capital and some patient-equity capital financing. They only work with minority businesses that are at or above \$1 million in revenue in order to focus on companies that can scale and create good paying jobs.

2. **Build regional collateral pools and technical assistance programs to increase MWDBE access to capital, bonding, and insurance.** A history of lending and business discrimination has created a wealth gap such that MWDBEs fall short of the capital, credit, and past experience to be bankable, bondable, or insurable. Tackling this problem requires a two-step process. First is to provide strong coaching and technical support to help firms pull together their financing, to develop a prequalification package, and to effectively bid on appropriately sized projects. Second is to establish a collateral pool to mitigate perceived risks in getting loan, bonds, or insurance.

California pooled funds secure MWDBE lines of credit

Merriweather and Williams is a woman- and minority-owned business with over 20 years' experience in the insurance industry. They offer customized insurance solutions to minimize risk, facilitate infrastructure development, and align risk management with MBE/WBE/DBE goals with various clients in California. They have helped over 300 contractors qualify for bonding by coaching them through certification and prequalification processes, and shadow underwriting to position firms for financing, bonding, and insurance. They assembled collateral pools of sponsors to cover up to \$750,000 or 40 percent of a MWDBE's contract. It helps the MWDBE secure a bond, as well as a loan or line of credit. The personalized coaching and support has been successful. Merriweather and Williams have only had two draws against a contractor's line of credit against \$22 million worth of collateral.

- 3. Grow small firms through joint-venture partnerships.** An effective way to scale small-contractor capacity is through joint ventures with larger firms that have greater capacity and can cover the cost of insurance, bonding, and other requirements for the job. This is an especially common partnership structure for jointly bidding on large multiyear infrastructure projects. But, it takes time and requires a savvy understanding of what goes into successful joint ventures as well as the pitfalls. Also, earning trust with large firms, whether construction management firms, civil engineering firms, or ESCOs, also takes time. New subcontractors might get handed a small job or two and be evaluated on performance; if they do well, they will be given the opportunity to engage in larger, longer-term contracts. Joint ventures can sometimes be exploitative and thus require effective facilitation and best-practice standards to realize a mutual-gain approach.

Large firms play critical role in growing subcontractors

Swinerton, Inc (part of parent company, Swinerton Builders) is a \$4 billion-a-year general contractor with a track record in construction and construction management. Founded in 1888 as an employee-owned company, it is headquartered in California but recently expanded into North Carolina, Georgia, Tennessee, Washington, Colorado, Texas, and Hawaii. Their mission is to be the preferred builder in every market. Swinerton is a conservative general contractor in that they treat risk management very carefully and with high respect. They work predominately with repeat clients in the private sector as well as some federal contracting work. But, they have a strong commitment to making sure that jobs are getting into the communities in which the projects are being built. They have strong internal policies about transparency and support of contractors that have taken years to cultivate. They tell their subcontractors to open up their books so that they can help them. If needed, they assist with money advances, or they will write a joint check to get materials and do it off the books. Swinerton uses LCP Tracker for contract monitoring and compliance, with Swinerton providing training so that the contractors learn how to use it. The bottom line is that Swinerton does not let their contractors "swim alone" but rather are highly committed to mentoring them into success.

- 4. Build a "transmission line" from the inside out.** The MWDBE field is dying from the lack of a pipeline of strong next-generation contractors. Many first-generation MWDBE contractors prospered under the early days of federal legislation and funding. They are aging out, however, without a succession plan to transfer knowledge, expertise, and contracts to a newer, younger generation of contractors. The gains of the early heyday will be lost without a concerted strategy to connect tier 2 and tier 3 contractors into the pipeline.
- 5. Incubate and accelerate new/innovative community economic and community-scale infrastructure development.** Another inside-out pipeline strategy is to organize, nestle, and grow contractor capacity within a community economic-development, cooperative, and wealth-building framework. There is a strong need and growing market demand for alternative community wealth-building models. This tactic considers traditional community economic-development strategies that target specific city neighborhoods that have had histories of structural discrimination, redlining, and market failures, and adds community wealth building through cooperative models of purchasing, labor, and ownership. These areas are ripe for

redevelopment with viable retail, manufacturing, faith-based, and cultural projects that create opportunities for new anchor businesses as well as local suppliers of goods and services. New models are needed, however, to create dynamic and effective networks for MWDBEs to do business and partner with each other, support and mentor each other, and access a range of financial options for growing their businesses. Group purchasing, pooling of capital, cash-flow assistance, and underwriting of bonding are just a few examples of areas where community economic-development innovation is needed.

6. **Increase MWDBE capacity to undertake green construction/sustainable development projects.** Green construction is a new business standard. MWDBEs need knowledge and access to green construction requirements, materials, technologies, and skills. This will ensure their competitiveness for major projects and can become an important market niche.
7. **Help MWDBEs to adopt new technologies and construction standards and methods.** The construction industry is changing fast, and new capacities are especially needed to win large-scale infrastructure and development projects. Firms need to have their business infrastructure automated and updated to be able to handle larger projects, and they need to recognize that new technologies are also impacting how jobs are delivered and the number of people/jobs needed. The new construction mantra is “faster, better, cheaper.” An example is modular construction, which is prefabricated in a factory. Kaiser Permanente just entered into an agreement with two pre-fab contractors. Their supply chain is not set up for MWDBEs, and Kaiser Permanente is now trying to change that by having conversations with their supply chain. As with LEED in 2004—it’s new; anyone can try to jump in right now and, if they have a good business plan, they can grow. But, MWDBE’s have to receive this information in order to do so.
8. **Establish a MWDBE group purchasing organization.** Private firms, such as Google, Apple, and Facebook, are building campuses across the country; they are acting as socially responsible employers by requiring MWDBE and disadvantaged worker involvement from their prime contractors. But they also are demanding green and high-end technologies and products. The ability to bid projects cost effectively will require a way to lower the cost of these high-end materials. This is a market niche that can be lucrative, but how can small firms compete at the same level and get the same pricing and financing? To do so requires a group-purchasing strategy to help contractors operate confidently in this space.

Conclusions and Practice Recommendations

Inclusive development policies and their realization in practice are disconnected. Adopting the best policies does not guarantee that they will be enforced or effectively implemented. Challenges exist to both demand-side and supply-side strategies to achieving inclusive procurement.

On the demand side, the MWDBE system has evolved into a fragmented industry with disparate goals, standards, certifications, and support services. MWDBE public sector and nonprofit practitioners operate in silos at different levels of government, and across different workforces, small businesses, economic development areas, and sector-specific agencies—these silos create inefficiencies, undue burdens on small contractors, and sub-optimization of outcomes. The overall performance of the MWDBE sector is not monitored and standards are not enforced. This is further complicated by infrastructure projects that are using more sophisticated project delivery methods. Access to bonding, insurance, and capital remains a legacy supply-side problem for MWDBEs and requires more hands-on coaching and pooling of capital in innovative ways.

If the demand-side system is broken, so too is the supply-side infrastructure. MWDBE contractors are not able to effectively compete for large-scale infrastructure projects that are operating within a rapidly changing construction industry best characterized as “bigger, better, faster, cheaper.” The legacy of discrimination in lending and contracting also continues to plague MWDBE contractors. They lack access to capital, bonding, insurance, business networks, and the experience or past performance needed to effectively compete for large-scale infrastructure projects. Growing a pipeline of responsible contractors requires creative solutions to capital, training, material acquisition, and contract experience.

A summary of the major recommendations to address these issues is provided below.

Systems Reform

1. **Establish MWDBE regional ecosystems through networked and/or “multijurisdictional” planning bodies.**
 - Connect and leverage infrastructure contracting opportunities, knowledge, and assets across public, private, and nonprofit sectors, including small business development, contracting, finance, insurance, workforce, and economic development organizations.
 - Coordinate and align disparity studies across agencies and jurisdictions to lower costs and to improve assessment of contractor availability.
 - Share contractor databases.
 - Identify and mitigate gaps in the local contractor community.
 - Align/coordinate certification protocols and processes to reduce burdens on small firms and to streamline costs.
 - Streamline contractor access to project opportunities and support services.
2. **Scale large public infrastructure projects to meet inclusive procurement/contracting goals.**
 - Provide more granular data on projects with long-term horizons including the timing and range of opportunities over the arc of the development.
 - Assess and adopt project delivery methods that provide the best access for small contractors in all phases/stages of project planning, design, and implementation.
 - Structure and match right-size projects with right-size contractors so that MWDBEs compete with other contractors with the same level of capacity instead of competing with larger contractors.
3. **Develop real-time reporting and proactive compliance protocols and systems to improve MWDBE participation rates.**
 - Adequately fund and staff monitoring and compliance programs.
 - Use online data-reporting systems to ensure progress against goals in real time.
 - Train contractors on the use of online data-reporting systems.
 - Establish enforcement policies with consequences for non-compliance.
 - Engage community organizations to assist contractors in reaching their MWDBE goals.

4. **Establish a 1 percent project fee to fund local MWDBE support services infrastructure.**

- Include contractor support services, monitoring and compliance, workforce support services, and financing pools in the infrastructure created.

Contractor Capacity Development

1. **Increase and enhance capital access to undertake large-scale infrastructure projects.**

- Pool sources of capital, such as community development financial institution funds, to underwrite larger projects.
- Establish contractor collateral pool(s) to ease access to working capital, bonding, and insurance.

2. **Expand and strengthen the pipeline of tier 2 contractors to compete.**

- Create a succession strategy for first-generation MWDBE contractors and practitioners to provide the following.
 - Mentoring incentives and support between tier 1 and tier 2 contractors
 - Partnership arrangements between first- and second-generation MWDBEs; for example, target the capacity of tier 1 contractors to bid on large infrastructure projects, while also building in requirements and capacity to operate as feeders for smaller tier 2 and tier 3 contractors
 - Bidding priority (points) given to new generation contractors
- Facilitate joint venture projects between large and small firms to create a performance record of increasing size and complexity. A third-party facilitator or best-practices guide might assist in ensuring non-exploitative practices.
- Increase the capacity of MWDBEs to build relationships to drive business development.
- Use community economic development financing tools—Low-Income Housing Tax Credit, New Markets Tax Credits, Community Reinvestment Act resources—and projects to build the capacity and track record of MWDBE contractors.

3. **Foster alternative community wealth-building strategies to increase community benefits and self-reliance.**

- Include strategies such as contractor cooperatives, community investment pools, and group purchasing arrangements.

4. **Increase MWDBEs' access to new construction standards, skills, and materials.**

- Provide information and training on green construction policies, practices, technologies, and skills to meet new industry standards.
- Support the use of organizational and project management software.
- Focus on pre-fabrication and other new construction technologies.
- Provide support for bidding and managing different types of projects with different delivery methods, such as indefinite quantity contracts, project labor agreements, and public-sector projects.
- Create a group purchasing organization to lower the cost of green construction and high-end equipment and materials.

Inclusive Procurement and Contracting Field Building

Mapping the Field

The inclusive procurement field is robust with multiple stakeholders working to position MWDBEs for procurement opportunities. Practitioners and experts interviewed for this report communicated several points of view about the current status of the inclusive procurement field.

- The inclusive procurement field does not have a sense of a shared field or sense of best practices. Practitioners are “practicing” in isolation from other staff and from each other. Those working in the field have a dire need for a forum for networking and shared learning.
- Many practitioners and experts shared a sense of “field-building fatigue,” and believed that perhaps a community of practice is what is needed instead, which requires different levels of nurturing.
- Whether it is a field or a community of practice, the inclusive procurement efforts should be organized around smaller industry- and sector-focused groups, and not as a “big tent.”
- There is no forum where prime contractors and subcontractors, particularly MBE/DBE/WBEs, are participating and co-creating the solutions. Many trade groups* are working to advance inclusive procurement policies, but none provide crosscutting, sector-focused networks that emphasize procurement in major transit, energy, water, public housing, and green infrastructure opportunities.

Table 3 suggests that inclusive procurement for major infrastructure projects involves the following sets of actors playing a range of roles that fall into one of five categories: certification, procurement, enforcement/monitoring, bidding/project delivery, and technical support. The actors include the following.

- **Government:** Federal departments and agencies, state agencies (both certifying and non-certifying), and city and county government departments
- **Anchor institutions:** Utilities and water authorities, universities, schools and hospitals, and large employers
- **Bidding firms and partners:** Prime contractors, subcontractors, and unions (note that subcontractors are here identified as local or regional MBE/WBE/DBEs offering construction-related services or supplied goods to prime contractors as part of infrastructure project bids)
- **Services and systems vendors:** Banks, financiers, insurance brokers, and cloud/software vendors
- **Assistance and support:** Community-based organizations and small-business intermediaries providing technical assistance to contractors, agencies, and other actors

* For example, U.S. Department of Defense education advocacy group; American Contractors Compliance Association; National Association of Minority Contractors; National Forum for Black Public Administrators; National Forum for Diversity in Construction; National Minority Supplier Diversity Council; Ethnic Chambers of Commerce; Airport Minority Advisory Council; Committee of Transit Officials; NAACP; Urban League; Association of Enterprise Opportunity; Black CDFI consortium; Women Construction Owners and Executives; Conference of Minority Transit Administrators; Association of General Contractors; and many others.

	Entity Type	Examples	Role(s)				
			Certification	Procurement	Enforcement/ Monitoring	Bidding/ Project Delivery	Technical Support
Government	Federal Departments & Agencies	e.g., USDOT, USDoD, USDOD, etc.	•	•	•		
	State Agencies – Certifying	–	•		•		•
	State Agencies – Non-Certifying	–		•	•		•
	City & County Govt Departments	–	•	•	•		•
Anchors	Utilities & Water Authorities	IDUs, co-ops, municipals	•	•			
	Universities, Schools & Hospitals	–		•			
	Large Employers	e.g., Google, Apple, Sony		•			
Building Firms	Prime Contractors	General contractors & construction mgmt (e.g., Turner, SKANSK, Gilbane, AECOM, ESCOs)		•	•	•	•
	Sub-Contractors (MBE/WBE/DBEs)	Site works contractors (excavation, surveying) Electrical and lighting contractors Plumbing contractors HVAC contractors Solar/wind installers				•	
	Specifiers	Architectural firms Civil engineering firms				•	
	Unions	–				•	
Service & Systems Vendors	Banks and CDFIs	Traditional loans Lines of credit 3 rd party project and equipment financing					•
	Insurance Brokers	Bonding and insurance					•
	Cloud Software Vendors	Contractor/hiring compliance management Vendor pool management					•
Assistance & Support	Small Business Intermediaries	e.g., Minority business development agencies, National Association of Minority Contractors, Minority chambers of commerce, etc.					•
	Community-Based Organizations	CBOs that do ... Disparity studies Procurement process support Community input facilitation Contractor training Workforce development/training		•	•		•

Table 3 is only a preliminary mapping of the field, one that will be improved upon through ongoing and evolving conversations.

Source: Authors' compilation.

Role of Community Organizations

A key consideration in mapping or developing the field (or community of practice) is the role of community-based organizations (CBOs). CBOs are among the best-positioned organizations to advocate for stronger policies and effective programs; to build capacity among MBE/WBE/DBEs in business planning, licensing, tax compliance, and debt readiness; and to provide mentoring and accountability. However, interviewees for this report indicated that at nearly every level of project development and procurement, there has been a declining interest and presence of CBOs in demanding the participation of MWDBEs.

Below are thoughts about the roles of CBOs that were communicated by the interviewees.

- CBOs must learn and understand how the certification and procurement programs work; the programs are very complicated and require specialized expertise that CBOs do not typically possess.
- CBOs need to find out what the projects are, what the needs are, and what their city should be doing. They need to insert themselves into the projects long before the projects get to the bidding stage.

- CBOs need to understand what private-company employers really need versus what the communities want or think they need. CBOs that understand enough to know they want to meet with general contractors must also know what to ask for and must know how to do their homework and assess what to ask for.
- CBOs need to understand the pipeline. Key projects typically have a 10-year horizon. CBOs should understand what that means from a contracting perspective.
- The field needs to learn to work with large infrastructure employers, which know their capital plan. CBOs can help these employers take their plan to the next level over the arc of their investment by building the contractor pipeline.
- CBOs can also help large employers understand the nuts and bolts of strategies that are working.
- CBOs need to pay attention to legislation as it develops, how the money is divided, and what the criteria are.
- The most effective CBOs are strategic, find ways to constructively engage agency staff to provide back-and-forth feedback, and support agencies by organizing the community to help push things, because it cannot be done internally alone, without community demand.

Messaging and Communication

Another important part of building the field is communicating the value proposition to different audiences and stakeholders. Practitioners interviewed for this report had several thoughts about this.

- Messaging varies from place to place. There is no single approach.
- Fairness is important. Economic development should be shared so no one is left behind. Job creation can benefit an industry with a shortage of skilled workers. Public resources can be used for public benefit.
- Access to good detailed data can lead to finer levels of messaging.
- It is often hard to make a strong case for inclusive procurement practices in local transportation initiatives. Some projects are funded through multicounty bonds and have to pull companies and workers from multiple counties; on the other hand, in Hawaii, many projects are designed to keep mainland U.S. businesses from coming to the islands.
- Selling local procurement depends on whom you are selling to. Convincing a hospital is different from convincing a local government about the importance of inclusive procurement.
- An atmosphere of opportunity attracts businesses and workers that will grow the local economy. It is good for business, and there is a market imperative to expand the pipeline of contractors for large-scale infrastructure work that is on the horizon.
- Communications should show positive images and tell success stories. Businesses that started out small and have now grown to create jobs and economic activity should be highlighted.

Field Building Recommendations

1. **Develop a nationwide capacity-building initiative** to train supply chains of effective economic inclusion leaders and ecosystems, including:
 - mayors and elected officials;

- economic development and public works leaders;
 - procurement and compliance officers;
 - people-of-color chambers of commerce;
 - community development financial institutions;
 - community-based organizations; and
 - local, regional, and elected state representatives.
2. **Develop a community of practice** to facilitate cross-sector training and sharing of best practices on a geographic basis. For example, a local transportation agency with strong inclusive procurement policies can help teach local water agencies how to implement such efforts.
 3. **Invest in strengthening MWDBE advocacy**, including a coordinated communications and messaging campaign.

Appendixes

Appendix A: List of Interview Participants

A diverse group of stakeholders shared their insights through in-depth interviews for this report. Their experience and knowledge greatly enriched this document. We thank and appreciate the following leaders for their time and expertise.

Gary Cunningham

President and CEO
MEDA (Metropolitan Economic Development Association)

Jim McConnell

University of Chicago
Associate Vice President of Facilities Services

Rick Moore

Vice President, Director Community Relations
Swinerton Construction

Judith Dangerfield

Acting Director of Supplier Diversity
City of New Orleans

Alex Paxton

Program Manager
California Water Foundation

Mark Fehlberg

Executive Director of Procurement Services
University of Chicago

Radhika Fox

Executive Director
U.S. Water Alliance

Bernida Reagan

Director of Community and Client Relations
Merriwether & Williams Insurance Services

Don Gilligan

Executive Director
National Association of Energy Service Companies

Mara Rosales

Owner and Managing Partner
Rosales Business Partners, LLC

Roslyn Johnson

Director of FS Procurement & Economic Impact
University of Chicago

Steve Lamar

Director of Diversity Services, NFS
Kaiser Permanente

Larry Scott

Director
Mayor's Office of Contract Compliance (Atlanta)

Tim Lohrentz

Senior Administrative Analyst
Bay Area Rapid Transit, Office of Civil Rights

Rodney Strong

Attorney
Griffin and Strong, PC

Appendix B: State Agency Overview Matrix

The table on the following pages provides an overview of state agencies involved with economic inclusion. Some certify businesses as MWBEs, SBEs, or DBEs for state procurement (shaded orange), and others simply provide resources for minority-owned businesses (shaded green). This is not meant to be comprehensive or reflective of all 50 states, and does not necessarily include all state agencies within the states listed. The information comes from the websites of the agencies listed by the Minority Business Development Agency,³⁴ National Association of Minority Contractors,³⁵ Office of Minority and Women Inclusion,³⁶ and National Conference of State Legislature.³⁷

	Location	12 cities*	Alabama	Alaska	Arizona	Arizona	Arkansas	California	California	California	California	Colorado	Connecticut	Connecticut	D.C.	D.C.
	Administering Agency	Securities and Exchange Commission	Dept. of Economic and Community Service	Private Org.	Arizona Dept. of Transportation	Private Org. (MBDA)	Arkansas Economic Development Commission	California Dept. of Transportation	Southern California Minority Supplier Development Council	Dept. of General Services	California Public Utilities Commission	Colorado Office of Economic Development and International Trade	Dept. of Administrative Services	Dept. of Transportation	Private Org. (National Community Reinvestment Coalition + MBDA)	District DOT
	Program	Office of Minority and Women Inclusion	Office of Minority Business Enterprise	MBDA Business Center	DBE Program	The MBDA Business Center	Small and Minority Business Division	California United Certification Program	Minority Business Enterprise Certification	Business Development Program	Utility Supplier Diversity Program	Minority Business Office	Office of Supplier Diversity	DBE Program	DC Minority Business Enterprise Center	Disadvantaged Business Enterprise System
Certification Offered /Worked With	WBE	x	x			x	x		x		x	x	x			
	MBE	x	x	x		x	x		x		x	x	x		x	
	DBE				x			x				x		x		X
	SBE									x		x	x			
Certification Policies	application fee								\$350 - \$1250 depending on revenue							
	out-of-state certifications		x					x			x		?	x		X
	gross income eligibility threshold	"regardless of size"			net worth \$1.32m and construction: income < \$22.41m	"target" over \$1m	\$10m	net worth \$1.32m and income based on industry	no	\$15m or under 100 employees			\$15m	net worth \$1.32m and income \$23.98m	none	net worth \$1.32m and income \$22.41m
	inclusion goals	x			x		strongly encouraged				x					
Services	access to contracting opportunities	x	x	x	x	x	x			x		x	x			X
	directory		x				x	x	x		x	x	x	x		
	business consulting			x	x	x						x	links	x		X
	access to training opportunities	x	x		x		x		x			x				X
	networking, edu events	x	x		x	x	x		x	x	x	x		x	x	x
	matchmaking					x							x			
	certification assistance			x		x						x				
	bonding			x		x								x		
	insurance													x		
	legal															
Other	publishes reports			x	x		x				x		x		x	
	advocacy					x							x			

*OMWI cities: Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, San Francisco, St. Louis

KEY: orange = certifying agencies, green = non-certifying agencies

	Location	Delaware	Florida	Georgia	Georgia	Georgia	Georgia	Hawaii	Illinois	Indiana	Iowa	Kansas	Kentucky	Maine	Maryland
	Administering Agency	Office of Management and Budget	Dept. of Service Management	Georgia Minority Supplier Diversity Council	Administrative Services + DOT	Georgia Tech Enterprise Innovation Institute	University of Georgia Small Business Development Center	DOT: Office of Civil Rights	Dept. of Central Management Services	Dept. of Admin.	Iowa Economic Development Authority	Dept. of Commerce	Finance and Admin. Cabinet, Office of EEO and Contract Compliance	DOT	DOT
	Program	Office of Supplier Diversity	Office of Supplier Diversity	Minority Business Enterprise Certification	Minority Business Enterprise Certification	MBDA Center Atlanta	Office of Minority Business Development	Disadvantaged Business Enterprise Program	Business Enterprise Program	Minority and Women's Business Enterprises Division	Iowa Economic Development Authority	Minority and Women Business Development	Minority and Women Certification Program	Disadvantaged Business Enterprise	Office of Minority Business Enterprise
Certification Offered /Worked With	WBE	x	x (CBE)	x					x (FBE)	x	x (TSB)	x	x		x
	MBE	x	x (CBE)	x	x	x	x		x	x	x (TSB)	x	x		x
	DBE				x			x				x		x	x
	SBE														x
Certification Policies	application fee		no?	\$500		\$300+	?				\$25				
	out-of-state certifications	x	no	x	x			x	no?	x	no	x	x	x	x
	gross income eligibility threshold	3.5m - none, depends on industry	net worth < \$5m	none	net worth \$1.32m and income \$23.98m	focus on ABOVE \$1m		net worth \$1.32m and income \$23.89m	\$15m			SBA standards	SBA standards	\$23.98m and net worth \$1.32m	net worth MBE \$1.7m, DBE \$1.3m
	inclusion goals				x							NO			x
Services	access to contracting opportunities	x				x	x		x	x				x	x
	directory	x	x		x		x	x	x	x	x	x	x	x	x
	business consulting					x	x							x	
	access to training opportunities			x	x			x		x				x	
	networking, edu events		x	x	x	x	x	x	x	x				x	x
	matchmaking														
	certification assistance		x	x					x						x
	bonding				x										
	insurance														
Other	legal														
	financial assistance					x	x								
	publishes reports													x	
	advocacy		x	x											

KEY: orange = certifying agencies, green = non-certifying agencies

	Location	Massachusetts	Minnesota	Minnesota	Minnesota	Mississippi	Missouri	Montana	Montana	Nevada	New Hampshire	New Jersey	New Mexico	New York
	Administering Agency	Executive Office for Admin. and Finance	Dept. of Admin.: Materials Management Division	Minnesota Unified Certification Program	DOT Office of Civil Rights	Mississippi Development Authority	Missouri Office of Equal Opportunity	DOT	Private Org.	DOT	DOT	DOT	DOT	Empire State Development
	Program	Supplier Diversity Office	Target Group/Economically Disadvantaged/Veteran-Owned Small Business Procurement Program	Disadvantaged Business Enterprise System	Disadvantaged Business Enterprise System	Minority and Small Business Development Division	Office of Supplier and Workforce Diversity	Disadvantaged Business Enterprise Program	Montana Indian Business Alliance	DBE Program	DBE Program	DBE Program Unit	DBE Program	Division of Minority and Women's Business Development
Certification Offered /Worked With	WBE	x	x (TG)			x	x							x
	MBE	x	x (TG)			x	x		(Nat. Am.)					x
	DBE		x	x	x			x		x	x	x	x	
	SBE											x		
Certification Policies	application fee													
	out-of-state certifications	x	no			no	16 states	x	no		x	x	x	x
	gross income eligibility threshold		varies by industry	\$23.98m and net worth \$1.32m	\$23.98m and net worth \$1.32m	SBA standards		\$23.98m and net worth \$1.32m		\$23.98m and net worth \$1.32m	net worth \$1.32m and SBA standards	net worth \$1.32m	net worth \$1.32m and SBA standards	personal net worth < \$3.5m
	inclusion goals		"strongly encouraged"	x	x		x	x		x	race-neutral		x	
Services	access to contracting opportunities	x			x	x				x				x
	directory	x	x	x	x	x	x	x	x	x		x	x	x
	business consulting				x									
	access to training opportunities				x	x	x		x					x
	networking, edu events				x		x		x					x
	matchmaking													
	certification assistance	x					x							
	bonding													
	insurance													
	legal													
Other	financial assistance					x			x					x
	publishes reports advocacy	x			x			x	x					x

KEY: orange = certifying agencies, green = non-certifying agencies

	Location	North Carolina	North Carolina	North Carolina	North Dakota	Ohio	Oklahoma	Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina	South Carolina	South Carolina	South Dakota
	Administering Agency	Dept. of Admin.	DOT	Private Org. (The Institute)	DOT	Dept. of Administrative Services, Equal Opportunity Division	DOT	Oklahoma Small Business Development Center	Business Oregon	Dept. of General Services	Dept. of Admin.	Dept. of Admin.	DOT	Private Org.	DOT
	Program	Historically Underutilized Businesses	MBE/WBE Program	MBDA Center Raleigh	DBE Program	MBE and EDGE Program	DBE Program	Minority Owned Business Services	Certification Office for Business Inclusion and Diversity	Small Diverse Business Program	Office of Diversity, Equity, and Opportunity	Division of Small and Minority Business Contracting and Certification	United Certification Program	MBDA Business Center Columbia	DBE Program
Certification Offered /Worked With	WBE	x (HUB)		x		*		x	x	x (SDB)	x	x		(SGI)	
	MBE	x (HUB)		x		x		x	x	x (SDB)	x	x		(SGI)	
	DBE	x (HUB)	x		x	x (EDGE)	x		x		x		x		x
	SBE							x	x	x					
Certification Policies	application fee							free business counseling							
	out-of-state certifications		x		x	x	x			x	x	no	x		x
	gross income eligibility threshold		net worth \$1.32m		\$23.98m and net worth \$1.32m and SBA standards		\$23.98m and SBA standards		\$23.98m	\$7m - \$25m depending on industry	SBA standards	SBA standards	\$.75m net worth (old?) and SBA standards	ABOVE \$500,000	\$23.98m and net worth \$1.32m
	inclusion goals		x		x	x	x				x		x		x
Services	access to contracting opportunities	x				x			x		x			x	
	directory	x	x		x	x	x		x	x	x	x	x		x
	business consulting	x	x	x		x		x	x					x	
	access to training opportunities	x	x	x	x	x	x	x	x			x			
	networking, edu events	x		x		x	x	x				x		x	
	matchmaking														
	certification assistance	x			x		x				x				
	bonding insurance					x				x				x	
	legal financial assistance	* partnerships		x		x		x	x	x				x	
Other	publishes reports				x		x			x	x	x			
	advocacy										x				

KEY: orange = certifying agencies, green = non-certifying agencies

	Location	Tennessee	Tennessee	Texas	Texas	Utah	Vermont	Virginia	Washington	West Virginia	West Virginia	Wisconsin	Wyoming	Puerto Rico	Puerto Rico	19 state/regional locations †
	Administering Agency	Dept of General Services	Dept of the Treasury	Texas Comptroller of Public Accounts	DOT	DOT	Agency of Transportation	Dept of Small Business and Supplier Diversity	Washington State Office of Minority and Women's Business Enterprises	West Virginia Dept. of Commerce	DOT	Dept. of Admin., Division of Enterprise Operations	DOT	Private Org. (National Minority Supplier Diversity Council)	Private Org.	National Assoc. of Minority Contractors
	Program	Governor's Office of Diversity Business Enterprises	Small and Minority Owned Business Assistance Program	Statewide Procurement Division	DBE Program	DBE Program	DBE Program	Certification Division	Office of Minority and Women's Business Enterprises	Small Business Development Center	DBE Program	Supplier Diversity Program	DBE Program - little info, but assume same as all DBE programs	Puerto Rico Minority Supplier Diversity Council	MBDA Business Center Puerto Rico	NAMC Chapters
Certification Offered /Worked With	WBE	x		x (HUB)				x	x			x		NO	x	usually open to all
	MBE	x	x	x (HUB)				x	x			x		x	x	
	DBE				x	x	x	x	x		x		x			
	SBE	x	x	x				x	x							
Certification Policies	application fee			CMBL: \$70						free business counseling				yes		
	out-of-state certifications	x	no	no		x	x	some states	x		x	x	x	x		
	gross income eligibility threshold	\$10m	\$4m	SBA standards	\$23.98m and net worth \$1.32m and SBA standards	\$23.98m and SBA standards	\$23.98m and net worth \$1.32m and SBA standards				\$23.98m and net worth \$1.32m and SBA standards					
	inclusion goals	x		x	x	x	x	x								
Services	access to contracting opportunities	x	x						x		x				x	x
	directory	x		x	x	x	x	x	x		x	x	x	x		some
	business consulting		x				x			x					x	
	access to training opportunities		x	x	x		x	x	x	x	x			x		x
	networking, edu events	x		x	x		x	x	x	x	x			x	x	x
	matchmaking															some
	certification assistance		x											x	x	some
	bonding														x	some
	insurance															some
	legal															some
Other	financial assistance		x												x	some
	publishes reports			x				x	x			x				some
	advocacy													x		x

† NAMC chapters: New York Tri-State, New York State, Philadelphia, DC, Central Florida, Northeast Florida, Greater Atlanta, North Carolina, South Carolina, Greater Houston, Dallas/Ft. Worth, Upper Midwest, Wisconsin, Mid California, Northern California, Southern California, Nevada, Oregon, Washington

KEY: orange = certifying agencies, green = non-certifying agencies

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