

***Appendix M:
Selected Policies of other M/W/DBE
Programs***

APPENDIX M: SELECTED POLICIES OF OTHER M/W/DBE PROGRAMS

This chapter provides an overview of the program design and practices of federal, state and local government minority, women, and disadvantaged business enterprise (M/W/DBE) programs. The chapter covers M/W/DBE program design, small business size standards, and policies and practices that agencies used to stimulate M/W/DBE utilization.

Most state and local government agencies have some policy promoting local small business development. Such assistance may include direct subsidies to businesses, funds for management and technical assistance to small and new entrepreneurs, mentor-protégé programs, and bonding assistance, as well as collaboration with and support for organizations that provide management and technical assistance to businesses.

A substantial number of these agencies also have procurement preference programs for small business. Some S/MWBE programs are nominal and some seem to have substantial resources devoted to S/MWBE program design and implementation. In general, the demand by some courts and some legislation for race-neutral business development policies has increased the resources devoted to race-neutral S/MWBE programs.

This chapter provides a menu of policies. Some policies that have worked in some localities have not been effective in others. Some policies have been discontinued for budget reasons. In many instances, it is difficult to determine whether a particular policy is directly responsible for the success of a program.

The structure of the chapter is:

- Small Business Aspirational Goals
- Small Business Prime Contracting Programs
- Small Business Program for Subcontracts
- S/MWBE Inclusion in Financial and Professional Services
- Economic Development Programs
- HUBZones
- MWBE Project Goal Setting
- Combined Race-Neutral and Race-Conscious Programs
- Disadvantaged Business Enterprise (DBE) Programs
- Two Tier Certification Management and Technical Assistance Programs
- Management and Technical Assistance
- Mentor-Protégé Programs
- Financial Assistance
- Bonding
- Insurance
- Outreach
- S/MWBE Web Site
- Evaluation of Race-Neutral Alternatives

- Performance Measures
- MWBE Program Data Management

M.1 Small Business Aspirational Goals

Commitment from the top leadership is a core element of most summaries of policies in other S/MWBE programs.¹ One starting point for such commitment is setting overall aspirational goals separate from project goals. Some agencies use fairly straightforward methods to calculate aspirational goals and other agencies use more involved methodologies.

Federal Government. The federal government has a 23 percent small business goal. The federal government achieved approximately 22 percent small business utilization in FY 2009. Some other small business aspirational goals include:

- New Jersey—25 percent goal (up from 15 percent)
- Connecticut—25 percent SBE goal
- California—25 percent SBE goal

M.2 Small Business Prime Contracting Programs

M.2.1 Bidder Rotation

Some political jurisdictions use bidder rotation schemes to limit habit purchases from majority firms and to ensure that S/MWBEs have an opportunity to bid along with majority firms. A number of agencies, including the City of Indianapolis, Indiana; Fairfax County, Virginia; the Port Authority of New York and New Jersey; and Miami-Dade County, Florida, use bid rotation to encourage S/MWBE utilization, particularly in architecture and engineering. Some examples of bidder rotation from these agencies include:

Miami-Dade County, Florida. Miami-Dade County uses small purchase orders for the Community Business Enterprise program and rotates on that basis. In addition, Miami-Dade County utilizes an Equitable Distribution Program, whereby a pool of qualified architecture and engineering professionals are rotated awards of county miscellaneous architecture and engineering services as prime contractors and subcontractors.

DeKalb County, Georgia. DeKalb County has used a form of bidder rotation called a bidder box system to promote S/MWBE utilization. This system selects a group of bidders from the list of county registered vendors to participate in open market procurements. Under the bidder rotation system, the buyer identifies the commodity or service by entering an item box number. Using this item box, the computer selects five to six firms. The lowest responsible bidder is awarded the contract. S/MWBEs were

¹ See, e.g., National Women's Business Council, *1999 NWBC Best Practices Guide: Contracting with Women* (July 1999); R. Auskalnis, C. Ketchum and C. Carter, *Purchasing From Minority Business Enterprise: Best Practices*, Center For Strategic Supply Research 1995).

afforded an increased number of bid opportunities than would ordinarily be the case with a sequential selection process.

M.2.2 Small Business Set-Asides

North Carolina Department of Transportation (NCDOT). In the NCDOT program, small contractors are defined as firms with less than \$1.5 million in revenue. There is a small contractor goal of \$2 million for each of the 14 NCDOT divisions. The current cap on project size for small contractors is \$500,000. For contracts less than \$500,000, NCDOT can solicit three informal bids from small business enterprises.² North Carolina law permits the waiving of bonds and licensing requirements for these small contracts let to SBEs.³ From FY 2004-08, MWBEs won \$29.4 million (20.3 percent) in prime contracts under the North Carolina program.⁴

Other small business set-asides include:

- The City of Denver Defined Selection Pool program puts contracts up to \$1 million in a selection pool that can only be bid on by certified SBEs. This program applies to construction and professional service contracts. A SBE is defined as a firm that has revenue less than or equal to 50 percent of the SBA small business standard and the owner has a personal net worth of less than \$1.3 million. In the most recent annual report MWBEs won 73.7 percent of selection pool contracts.⁵
- Under its Small Business Set Aside Program, the State of Illinois sets aside all procurements under \$50,000 to small business. All state procurements are considered for the set-aside program. Illinois awarded \$81 million through the set-aside program in FY 2008, 17 percent of which went to firms owned by women and minorities.⁶
- The City of Tampa, Florida, SBE program is a set-aside program for firms with less than 25 employees and less than \$2 million in revenue.⁷
- The City of San Diego, California, set aside all construction contracts up to \$250,000.
- Sacramento Municipal Utility District (SMUD) set aside contracts up to \$50,000.
- Hillsborough County, Florida, set aside construction contracts up to \$200,000.

² NCGS § 136-28.10(a).

³ NCGS § 136-28.10(b).

⁴ Equant, *Measuring Business Opportunity—A Disparity Study of NCDOT's State and Federal Programs*, 2009, at 138.

⁵ City of Denver, Office of Economic Development, Division of Small Business Opportunities, *2010 Annual Report*, at 3. <http://www.denvergov.org/Portals/690/documents/DSBO/DSBO%20Annual%20Report-FINAL-2010.pdf>.

⁶ State of Illinois Small Business Set-Aside Program—Fiscal Year 2008 Report.

⁷ Small Business Enterprise (SBE) Program Executive Order No. 2002-48 (December 18, 2002).

M.2.3 SBE Bid Preferences

A number of agencies have bid preferences for SBEs (Dade County, Florida; Port Authority of New York and New Jersey SBE Program; Sacramento Municipal Utility District (SMUD); City of Sacramento; City of Oakland; East Bay Municipal Utility District). SBE bid preferences operate along similar lines as MWBE bid preferences. A typical example is a bid preference of 5 percent on contracts under \$100,000 (Sacramento, SMUD, and Los Angeles County).

Colorado Department of Transportation. Prime consultants receive up to five evaluation points if the consultant is either a small business or will use a small business as a subconsultant.

Port of Portland Bid Preferences for Small Business. The Port of Portland found that a bid preference of 5 percent had no impact on contract outcomes, but a bid preference of 10 percent did impact contract outcomes.

M.2.4 Race-Neutral Joint Ventures

Atlanta, Georgia. The City of Atlanta requires establishment of joint ventures on large projects of over \$10 million.⁸ Primes are required to create a joint venture with a firm from a different ethnic/gender group in order to ensure prime contracting opportunities for all businesses. This rule applies to women- and minority-owned firms as well as nonminority firms. This rule has resulted in tens of millions of dollars in contract awards to women- and minority-owned firms.

Washington Suburban Sanitation Commission (WSSC). The WSSC Competitive Business Demonstration Project requires joint ventures between a local SBE and an established firm in procurement areas that do not generate enough SBE bids.

M.2.5 Construction Management, Request for Proposals, and Design-Build

One method of debundling in construction is through the use of multi-prime construction contracts in which a construction project is divided into several prime contracts that are then managed by a construction manager at risk. For example, this approach has been used on projects where each prime contractor is responsible for installation and repair in particular areas. The construction manager is responsible for obtaining materials at volume discounts based upon total agency purchases. If one contractor defaults, a change order is issued to another prime contractor working in an adjacent area. The construction manager at risk is responsible for cost overruns that result from prime contractor default.

Construction management also facilitates the rotation of contracts within an area of work. For example, if several subcontractors have the capacity of bidding on an extended work activity (e.g., concrete flat work, traffic control, hauling), the construction manager can rotate contracting opportunities over the duration of the activity.

⁸ City of Atlanta Ordinance Sec. 2-1450 and Sec. 2-1451.

Using a request for proposal process can provide the flexibility for including MWBE participation in prime contractor requirements and selection. One of the nonfinancial criteria can be the proposer's approach and past history with MWBE subcontractor utilization as well as women and minority workforce participation.

A number of agencies around the country, the Charlotte-Mecklenburg School System, the Tri-County Metropolitan Transportation District of Oregon, and the City of Columbia, have had some success with this approach.⁹

The Colorado DOT has required DBE and Emerging Small Business (ESB) performance plans for bidders on design-build projects. Colorado DOT achieved \$187 million in DBE utilization on the \$1.2 billion T-REX project using this approach.¹⁰

M.2.6 State Contracts

The use of state contracts can impede S/MWBE utilization, even when S/MWBEs are the low bidder. Purchase off of state contracts is particularly an issue with car purchases, a procurement where there can be a significant number of S/MWBE vendors. Fulton County, Georgia, addressed this problem by removing car purchases from the category of purchases from state contracts.

M.2.7 Contract Sizing

The United States' Office of Management and Budget (OMB) Contract Bundling Report advocates limiting the use of contract bundling to those instances where there are considerable and measurable benefits such as decreased time in acquisition, at least 10 percent in cost savings, or improved contract terms and conditions.¹¹

M.2.8 Purchasing Cards

A number of agencies promote the utilization of MWBEs on purchasing cards. The Commonwealth of Virginia and the City of Hampton, Virginia, for example, require the purchasing card vendor to report on MWBE utilization by agency staff. A number of universities, including the University of Wisconsin at Madison target MWBE vendors for purchasing card transactions for travel.

M.2.9 Other SBE Prime Contractors Assistance

North Carolina Department of Transportation (NCDOT) Fully Operated Rental Agreements. Under these arrangements, a firm may bid an hourly rate for using certain equipment and the necessary staff. In these field-let contracts, engineers select the firm with the appropriate equipment and the lowest bid rate. If that firm is not available, the engineers select the next lowest hourly rate. This rental agreement technique is used primarily to supplement NCDOT equipment in the event of NCDOT equipment failure or

⁹ Federal Transit Administration, *Lessons Learned #45* (May 2002).
www.fta.dot.gov/library/program/ll/man/ll45.html.

¹⁰ D. Wilson, *Colorado Department of Transportation Statewide Transportation Disparity Study*, 2009, at 3-20.

¹¹ Office of Management and Budget, "Contract Bundling—A Strategy for Increasing Federal Contracting Opportunities for Small Business" (October 2002).

peak demand for NCDOT services. The rental agreement technique is attractive to small contractors because the typical small firm has much better knowledge of its own hourly costs than it does of the costs to complete an entire project.

Los Angeles Unified School District, California. With 763 SBE certified firms, the Los Angeles School District achieved 39 percent SBE utilization (\$321 million) and 19 percent MBE utilization in FY 2003-04.¹²

Florida Department of Transportation (Florida DOT) Business Development Initiative. The Florida DOT has just undertaken a stepped-up small business initiative with the following principle components:

- Reserving certain construction, maintenance, and professional services contracts for small businesses.
- Providing bid preference points to small businesses, and to firms offering subcontracts to small businesses on professional services contracts.
- Waiving performance and bid bond requirements for contracts under \$250,000.
- Using a modified pre-qualification process for certain construction and maintenance projects.

M.3 Small Business Program for Subcontracts

M.3.1 Small Business Project Goals

Charlotte. The City of Charlotte has a comprehensive SBE program including SBE set asides and business assistance.¹³ In addition, the City of Charlotte sets department goals for SBE utilization, sets SBE goals on formal and informal contracts and makes SBE utilization part of department performance review utilization numbers. The City has a waiver provisions for bidders, but has rejected bids for bidder noncompliance with the SBE program. Charlotte achieved 28.9 percent MWBE subcontractor utilization in construction and 33.1 percent MWBE subcontractor utilization in A&E through small business subcontracting goals.¹⁴

Other SBE goal programs include:

- Oakland – 50 percent local SBE goal
- San Antonio 50 percent SBE goal
- Sacramento County–25 percent SBE goal

¹² Los Angeles Unified School District, Facilities Services Division, *Small Business Program, Fourth Quarter and Fiscal Year-End Report: 2003-2004*.

¹³ A description of the Charlotte SBE program can be found at www.charmeck.org/Departments/Economic+Development/Small+Business/Home.htm.

¹⁴ MGT, *The City of Charlotte Update Disparity Study*, 2011, Exhibit 7-1.

M.3.2 Mandatory Subcontracting

As part of their SBE subcontracting program some agencies impose mandatory subcontracting clauses which would promote SBE utilization and be consistent with industry practice

City of Columbia. The City of Columbia Subcontractor Outreach Program established in 2003 applies to City contracts of \$200,000 or more. A prime must subcontract a minimum percentage of its bid. The minimums are set out in **Exhibit M-1** below:

**EXHIBIT M-1
MINIMUM SUBCONTRACTING REQUIREMENTS FOR
COLUMBIA SUBCONTRACTOR OUTREACH PROGRAM**

Projects	Minimum subcontracting
Parks	20%
Pipelines (water & sewer)	20%
Pump Stations	20%
Street Improvements	20%
Traffic Signals/Street Lighting	20%
Buildings Project by Project	Not to exceed 49%
Miscellaneous projects	20%

Source: City of Columbia, Subcontracting Outreach Program (March 2003)

Bidders must make affirmative efforts in outreach to Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs) and Other Business Enterprises (OBEs) (defined as a business that does not qualify as either a DBE or a DVBE). A bidder will be deemed non-responsive for failure to meet the subcontractor goal, failure to document their outreach efforts, or failure to meet 80 out of 100 points for good faith efforts. Points are granted on a pass/fail basis, i.e., either zero or full points.

San Diego. As part of its Subcontractor Outreach Program (SCOPE) San Diego requires mandatory outreach, mandatory use of subcontractors, and mandatory submission of an outreach document. Whether a contract has mandatory subcontracting is determined by the engineer on the project.

Contra Costa. The Contra Costa County (California) Outreach Program sets mandatory subcontracting minimums on a contract by contract basis.¹⁵ The Contra Costa Outreach Program requires that women and minority owned firms be considered by contractors as possible sources of supply and subcontracting opportunities.

¹⁵ Contra Costa County, Outreach Program, Ordinance Section 3-2 et seq.

M.3.3 Payments for Using Subcontractors.

Colorado Department of Transportation (Colorado DOT). The Colorado DOT Emerging Small Business (ESB) Program¹⁶ provides the following incentives for primes to use S/MWBEs:

- Payments of up to \$5,000 to a prime contractor who hires an S/MWBE subcontractor that has never held a contract or subcontract on a Colorado DOT project.
- Payment of up to \$7,500 to a prime contractor or consultant who trains one or more S/MWBEs as a subcontractor on a Colorado DOT project.

M.3.4 Subcontractor Disclosure and Substitution

State of Oregon. Under Oregon law, bidders are required to disclose first-tier subcontractors that will be furnishing labor for the project and have a contract value greater than or equal to 5 percent of the bid or \$15,000 (whichever is greater), or \$350,000 regardless of the percentage of the total project.¹⁷ First-tier subcontractor disclosure does not apply to contracts below \$100,000, or contracts exempt from competitive bidding requirements.¹⁸ Bidders are not required to disclose the race or gender of the first-tier subcontractors.

Bidders are allowed to substitute subcontractors.¹⁹ The subcontractor substitution statute provides standards sufficient for cause regarding subcontractor substitution, including subcontractor bankruptcy, poor performance, inability to meet bonding requirement, licensing deficiencies, ineligibility to work based upon applicable statutes, and for “good cause” as defined by the Construction Contractors Board.²⁰ The statute provides a process by which subcontractors can issue complaints about substitutions. Violation of subcontractor substitution rules may result in civil penalties.²¹

M.4 S/MWBE Inclusion in Financial and Professional Services

Brokerage and Investment Management Services – The State of Maryland in its new Use of Minority Enterprises law require several publicly funded entities—the State Treasurer, the Maryland Automobile Insurance Fund (MAIF), the Injured Workers’ Insurance Fund (IWFI), and the State Retirement and Pensions System (SRPS)—to utilize MWBES for investment management and brokerage services for a percentage of their \$40 billion in assets.

Port Authority of New York and New Jersey. The Port Authority has encouraged the use of S/MWBEs in finance through its financial advisory call-in program which targets small firms to serve as a pool of advisors for the Port Authority Chief Financial Officer.

¹⁶ The Colorado ESB program was established by statute, Colorado Rev Stat Sec 43-1-106.

¹⁷ ORS § 279C.370(1)(a)(A),(B).

¹⁸ ORS § 279C.370(1)(c),(d).

¹⁹ ORS § 279C.370(5), ORS § 279C.585.

²⁰ ORS § 279C.585.

²¹ ORS § 279C.590.

The financial advisors address debt issuance, financial advisory services, real estate transactions, and green initiatives. There are three to four firms in each of these categories in the financial advisory call-in program.

The Port Authority of New York and New Jersey's Specialty Insurance Program sets aside five sets of insurance policies to small brokers, and the Port's Financial Advisors Call In program pre-qualifies small firms for task orders in financial advisory services, real estate transactions, debt issuance, and green initiatives.

State of New York Task Force. Some of the proposals for MWBE inclusion in financial and professional services from the State of New York Task Force include:

- Remove barriers to entry from the RFP process that state authorities use to initiate a competitive procurement for financial services;
- Encourage joint ventures and partnering relationships between MWBE financial services firms and majority financial services firms;
- Include a Diversity Questionnaire in every RFP process to better ascertain the diversity policies and practices of financial services firms competing for public authority contracts;
- Increase access to state contracting opportunities by shortening the RFP cycle which can run as long as five years, to a shorter cycle;
- Unbundle services to create opportunities for qualified smaller firms to compete for discrete blocks of a larger project;
- Conduct regular performance evaluations of financial services firms by authorities;
- Track fees paid to financial services firms by each state public authority to assess whether work is being equitably allocated; and,
- Enlist the services of professional organizations that serve women and/or minority financial services professionals to provide notice of RFP opportunities with state authorities."²²

Following the issuance of the Task Force report M.R. Beal, a minority-owned investment firm, became senior manager on Dormitory Authority of the State of New York's \$1.3 billion Personal Income Tax (PIT) bond issuance.²³ Overall MWBE underwriters increased their participation in the State of New York debt issuance from 4 percent to twenty percent from 2007 to 2009.

²² See Gov. Paterson MWBE Task Force Adopts Guidelines to Boost Opportunity for Minority and Women-owned Financial Services Firms. www.dasny.org/dasny/news/2009/11232009.php. See also Executive Order No. 10 Task Force. www.dasny.org/finance/mwbe_taskforce/E_O_10_report/index.php.

²³ DASNY Makes Largest Assignment to MWBE Firm In State History. <http://www.dasny.org/dasny/news/2010/06012010.php>

M.5 Economic Development Projects

A number of cities (including Atlanta, Georgia; Jersey City, New Jersey; and Saint Paul, Minnesota) have encouraged private sector MWBE utilization by one of two methods: (1) asking prospective bidders to report their private sector MWBE utilization, and (2) setting aspirational goals for private sector projects with significant city tax incentives, such as tax allocation districts and community improvement districts. The City of Oakland, California, Local Small Business Enterprise Program also provides bid preferences to SBEs on tax-assisted projects. Saint Paul and Jersey City have separate offices negotiating, tracking, and managing MWBE participation on development projects.

Bexar County Tax Phase-In Agreements. S/MWBE participation was added to the county tax incentive policy in 2004. The county currently considers tax abatements of up to 40 percent on qualified real property improvements and new personal property investment.²⁴ Property taxes are 80 percent of county revenue. The county considers an increased property tax abatement of up to 80 percent based on other project criteria. This criteria includes hiring 25 percent of positions created with county residents, hiring 25 percent economically disadvantaged or dislocated individuals, practicing sound environmental practices, and dividing work to the extent practical to assist S/MWBEs in obtaining contracts. Applicants are encouraged to award 20 percent of projects to MWBEs and 30 percent to certified small businesses.²⁵ Currently, there are no similar S/MWBE policies for Tax Increment Financing (TIF).²⁶

In the Tax Phase-In Agreement for Lowe's Home Centers, Lowe's agreed to:

- Use good faith efforts to include certified MWBEs.
- Work in good faith to set construction and operational services goals for MWBEs based on MWBE availability.
- Establish a mutually agreed upon MWBE reporting format.

The agreement acknowledged that although Lowe's still has national contracts it must comply with, and retained the right to choose any vendor, they have agreed to explore subcontracting opportunities.²⁷

In the HEB Grocery Tax Phase-In Agreement, HEB Grocery committed to 20 percent MWBE participation and 10 percent SBE participation.²⁸ This was in addition to agreeing to hire 25 percent from Bexar County and 25 percent from economically disadvantaged or dislocated workers.

²⁴ The County Tax Phase-In Policy is currently being revised.

²⁵ Bexar County Economic Development & Special Programs Office, Tax Phase-In Guidelines for Bexar County and the City of San Antonio, Effective June 15, 2006 through June 14, 2008, adopted February 28, 2006. Not all agreements include S/MWBE objectives. For examples, the Kautex Tax Phase In Agreement did not address S/MWBE policy. See Bexar County, Tax Phase-In Agreement (Kautex), December 20, 2005.

²⁶ Bexar County, Texas, Tax Increment Financing and Reinvestment Zone (TIF/TIRZ), Guidelines and Criteria, Commissioner's Court Amended and Approved: August 23, 2005.

²⁷ Bexar County, Tax Phase-In Agreement (Lowe's), June 27, 2006, Exhibit E.

²⁸ Bexar County, Tax Phase-In Agreement (HEB Grocery), March 11, 2003, Section 5.01(c).

Bexar County, Texas Public Improvement Districts. County policies allow for the county to enter into an economic development agreement for Public Improvement Districts (PIDs).²⁹ PIDs are projected to be used in conjunction with TIFs for housing and infrastructure development.³⁰ As a condition of the economic development agreement, the firm seeking such an agreement has to meet, at a minimum, certain criteria involving employment, health care benefits, environmental practices, and S/MWBE policy. S/MWBE policy was added to PIDs in 2006.

In the Marriott agreement, which has been labeled a “super PID,” the agreement provided that Marriott would “use reasonable efforts to comply with the S/MWBE policies and procedures attached.”³¹ The Marriott agreement noted that the project owner had established 20 percent S/MWBE goals in construction. Marriott retained the right to accept the lowest qualified bid. The agreement also provided for the hotel to develop MWBE goals in operational services, to work with the S/MWBE office in implementing the Marriott supplier diversity program, to use certified firms, and semi-annual S/MWBE reporting. “The sole remedy for noncompliance with this provision shall be the obligation of Marriott to prepare and implement plan that provide for reasonable efforts to achieve the goals set forth.”

M.6 HUBZones

Another variant of an SBE program provides incentives for SBEs located in distressed areas. For example, under the 1997 Small Business Reauthorization Act, the federal government started the federal HUBZone program. A HUBZone firm is a small business that is: (1) owned and controlled by U.S. citizens; (2) has at least 35 percent of its employees who reside in a HUBZone; and (3) has its principal place of business located in a HUBZone.³² HUBZone programs can serve as a vehicle for encouraging MWBE contract utilization. Nationally, there are 5,357 female and minority HUBZone firms, representing 56.2 percent of total HUBZone firms.³³

New York. The City of New York has a HUBZone type program providing subcontracting preferences to small construction firms (with less than \$2 million in average revenue) that either perform 25 percent of their work in economically distressed areas or for which 25 percent of their employees are economically disadvantaged individuals.³⁴

Miami-Dade. Miami-Dade has a Community Workforce Program that requires all Capital Construction Projects contractors to hire 10 percent of their workforce from Designated Target Areas (which include Empowerment Zones, Community Development block grant

²⁹ Such an agreement is allowed for under Chapter 372 of the Texas Local Government Code.

³⁰ Bexar County, Texas, 2005 – 2009 Consolidated Plan, Executive Summary, at 61.

³¹ Senior Priority Economic Development Agreement By and Between Cibolo Canyons Special Improvement District, Marriott International, Inc and Bexar County, Texas, January 12, 2006, Exhibit B.

³² 13 C.F.R. 126.200 (1999).

³³ Based on the SBA pro-net database located at <http://pro-net.sba.gov/pro-net/search.html>.

³⁴ New York Administrative Code § 6-108.1. For a description of the New York local business enterprise program see <http://www.nyc.gov/html/sbs/html/lbe.html>.

Eligible Block Groups, Enterprise Zones, and Target Urban Areas) in which the Capital Project is located.³⁵

California. The State of California provides a 5 percent preference for a business work site located in state enterprise zones and an additional 1 to 4 percent preference (not to exceed \$50,000 on goods and services contracts in excess of \$100,000) for hiring from within the enterprise zone.³⁶

Minnesota. The State of Minnesota's bid preferences are limited to small businesses operating in high unemployment areas.

State of Ohio. Ohio has a venture capital tax credit of 30 percent for investments of up to \$150,000 in MBEs located in economically disadvantaged counties.

It is worth noting that some agencies have implanted HUBZone type program and then terminated them, including New Jersey in the 1980s and Seattle's BOOST program in 2001.

M.7 MWBE Project Goal Setting

North Carolina DOT. The NCDOT regulations emphasize that goals should be set on projects "determined appropriate by the Department [of Transportation]."³⁷ Individual goals are set based on a project's geographic location, characteristics of the project, the percentage of that type of work that is typically performed by MWBEs, the areas in which MWBEs are known to provide services, and the goals set by the North Carolina General Assembly.³⁸ The NCDOT MWBE regulations specify (although they do not limit to) particular areas for MWBE goals: clearing and grubbing, hauling and trucking, storm drainage, concrete and masonry construction, guardrail, landscaping, erosion control, reinforcing steel, utility construction, and pavement marking.

The NCDOT goal setting process begins with an engineering estimate of the project to determine what items might reasonably be subcontracted out. Next estimates of the percentage of work that could be potentially performed by DBEs and MWBEs are developed.³⁹ These estimates are confidential and made available only to the Estimator (and staff), the Provisions Engineer in the Proposals and Contracts Section (and staff), and members of the DBE/MWBE Committee at the DBE/MWBE Committee meetings. Next NCDOT looks at whether there are MWBEs available based on the NCDOT DBE/MWBE directory and the location of the project. The NCDOT Directory is a searchable database that classifies firms by location, prime contractor/subcontractor status and six-digit work type.⁴⁰ The Goal Setting Committee is assisted in this process by EEO Compliance staff in the Office of Civil Rights. .

³⁵ Miami Ordinance 03-237.

³⁶ Cal Code Sec 4530 *et seq.*

³⁷ 19A NCAC 02D.1108(a).

³⁸ 19A NCAC 02D.1108(a).

³⁹ NCDOT, Division of Highways, Roadway Design and Design Services Unit, *Policy and Procedure Manual*, Chapter 10, at 4.

⁴⁰ <http://apps.dot.state.nc.us/constructionunit/directory/>.

Prime contractors then submit documentation of good faith efforts to achieve the individual project goal. A statement of how they will make efforts to achieve the goal satisfies the good faith effort requirements.

The NCDOT Goal Setting Committee (in collaboration with the EEO Compliance staff) seeks to set goals relative to where there is interest, availability and capacity, beyond mere looking at the certification lists. NCDOT relies on the EEO Compliance staff to provide input on whether existing businesses are fully occupied. However, if EEO Compliance says MWBES are not fully occupied, but prime contractors submit evidence that MWBEs are fully occupied (for example, with invoices), then NCDOT accepts those explanations.

As part of goal setting NCDOT regulations provide that:

- A documented excessive subcontractor bid constitutes a basis for not subcontracting with an MWBE.
- A documented record of poor experience constitutes a basis for not subcontracting with an MWBE.⁴¹

In addition, a review of NCDOT DBE and MWBE goals has been a regular topic at the Associated General Contractors (AGC)-DOT Joint Cooperative Committee meetings.⁴²

M.8 Combined Race Neutral and Race Conscious Programs

A number of agencies (Tampa, FL; Hillsborough County, FL; Jacksonville, FL; Port Authority of New York and New Jersey and Connecticut) combine race neutral and race conscious program features.

Saint Paul. The City of Saint Paul Vendor Outreach program requires that contractors document their solicitation of bids from SBEs, MBEs and WBEs, in addition to listing subcontracting opportunities, attending pre-bid conferences and seeking assistance from MWBE organizations.⁴³ St Paul achieved 10.4 percent SBE spending (out of \$113.2 million in total spending). In the SBE program, 62.5 percent of SBE spending went to WBEs, 21.2 percent to nonminority males and 16.3 percent to MBEs.⁴⁴

Jacksonville. The City of Jacksonville recently implemented a hybrid program by establishing a declining schedule of race conscious targets.⁴⁵ In the first program year Jacksonville proposes to meet 70 percent of its MWBE goal with race conscious means, the second year, 50 percent, and the third year 25 percent. At the end of the three year period the program is to be evaluated.

Connecticut. The State of Connecticut reserves 25% of its SBE contracts for MWBEs.

⁴¹ The last two elements are adopted by the North Carolina DOT. 19A NCAC 02D.1110(7).

⁴² AGC-DOT Joint Cooperative Committee Meeting Minutes, February 2001 through August 2003.

⁴³ City of St. Paul, Vendor Outreach Program, Ordinance 84.08, .09

⁴⁴ City of St. Paul, *Vendor Outreach Program Detailed Report*, FY 2004, at 6.

⁴⁵ City of Jacksonville, Executive Order No. 04-02.

Memphis Light, Gas, & Water. One or a combination of several MWBE/Local Small Businesses (LSBs) may be utilized to meet the MWBE/LSB project goal. Thus, for example, the goal may be met entirely by the utilization of LSBs. Because a bidder can use a LSB to satisfy the entire project goal the MLGW program in a sense is a small business goals program. If the bidder is a certified MWBE/LSB, then the project goal is satisfied; that is, MWBE/LSB prime contractors do not have to meet MWBE/LSB project goals.

M.9 DBE Programs

Following the federal model, some agencies have added DBE programs.⁴⁶ SBE programs focus on the disadvantage of the business, HUBZone programs focus on the disadvantage of the business location, and DBE programs focus on the disadvantage of the individual operating the business.

State of North Carolina. The State of North Carolina changed the definition of minority used in the state minority construction program to include socially and economically disadvantaged individuals, as defined in the federal rules.⁴⁷ Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.⁴⁸ Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area that are not socially disadvantaged.⁴⁹ This rule permits firms certified under the federal 8(a), DBE, and small disadvantaged business enterprise (S/DBE) programs to be certified as a minority firm in North Carolina. This rule also implies that firms owned by majority males are eligible for the program as there are firms owned by majority males that qualify for the 8(a), DBE, and S/DBE programs by making an individual showing of their social and economic disadvantage.

Milwaukee Emerging Business Enterprise Program. The City of Milwaukee, Wisconsin, defines disadvantage along six dimensions:

- Disadvantage with respect to education.
- Disadvantage with respect to location.
- Disadvantage with respect to employment.
- Social disadvantage (lack of traditional family structure, impoverished background, and related issues).
- Lack of business training.

⁴⁶ DBE programs and Airport Concession Disadvantaged Enterprise (ACDBE) programs are required to be developed and implemented as a part of the federal funding process.

⁴⁷ NC GS § 143-128.2(g).

⁴⁸ 15 USC 637(a)(5).

⁴⁹ 15 USC 637(a)(6)(A).

- Economic disadvantage (credit issues, inability to win contracts, and related issues).

The City of Milwaukee defines an emerging business as a business owned by an individual satisfying the sixth dimension of disadvantage and three out of the five other dimensions of disadvantage.⁵⁰ The City of Milwaukee has set a goal of 18 percent spending with emerging businesses, including both prime contracting and subcontracting.

M.10 Two Tier Certification

State of Oregon. The State of Oregon has a two-tier system for small business certification. Under the 2009 definitions of emerging small business tiers a Tier One firm employs fewer than 20 full-time equivalent employees and has average annual gross receipts for the last three years that do not exceed \$1,633,110 (for construction), or \$653,244 (for non-construction). A Tier Two firm employs fewer than 30 full-time equivalent employees and has average annual gross receipts for the last three years that do not exceed \$3,266,219 (for construction) or \$1,088,744 (for non-construction).⁵¹ An ESB cannot be a subsidiary or a franchise. In 2006, small business program participation was extended from seven to 12 years.⁵²

State of New Jersey. For the State of New Jersey there are separate size standards for small businesses and emerging small businesses. For large projects, the State of New Jersey carves out portions of the contract for both tiers of small business. Thus, a single solicitation requires that the prime spend a certain percentage of the contract with small firms and another percentage with emerging small firms. Along related lines, the federal government sets aside contracts for bidding only amongst small firms, and other contracts may be set aside for bidding only by emerging small firms.

Federal Government. The federal government has the additional categories:

- “Emerging Small Business,” defined as being 50 percent of the SBA size standards, and
- “Very Small Business,” defined as fewer than 15 employees and less than \$1million in revenue.

M.11 Management and Technical Assistance

A number of agencies hire an outside management and technical assistance provider to provide needed technical services related to business development and performance. Such a contract can be structured to include providing incentives to produce results, such as the number of S/MWBEs being registered as qualified vendors with the city, the

⁵⁰ Milwaukee Ordinance, Emerging Business Enterprise Program, 360-01 (12).

⁵¹ OAR 445-050-0115. The ESB size standards are adjusted annually to reflect changes in the Consumer price Index.

⁵² OAR 445-050-0135.

number of MWBEs graduating from subcontract work to prime contracting, and rewarding firms that utilize MWBEs in their private sector business activities.

Port Authority. The Port Authority of New York and New Jersey has a three-year fee-for-service contract with the Regional Alliance for Small Contractors capped at \$275,000.⁵³ Previously, the contract was a flat grant, but it was changed to a fee-for-service arrangement to reward creative uses of financial resources.

Austin. The City of Austin has a Development Assistance Services (DAS) Program. The program targeted African American contractors due to the city's underachievement of the 2.6 percent African American construction participation goal. Training and assistance is provided by Business Resource Consultants, a for-profit firm that serves as the program manager and overseer of the day-to-day operations of the delivery of program services. A team of professional firms specializing in construction management, business and contract law provides consulting services to DAS clientele. Local trade associations and construction networks partner, collaborate and provide oversight and advocacy for the program. The City of Austin Department of Small and Minority Business Resources serves as the Contract Administrator.

DAS is funded by City of Austin General Fund Budget, along with in kind services and contributions from professionals in construction, engineering, architecture, business law and marketing and volunteer services from major construction companies, trade associations, and the general public.

DAS developed seven prime contractors from 1998 to 2004, generated \$14.5 million in prime contract awards, \$16.2 million in subcontract awards, created 131 new jobs (full- and part-time), maintained 50 jobs and served over 350 small, minority, and women business enterprises on a monthly basis through the delivery of interactive group training sessions, one-on-one technical assistance, and weekly "Bid Briefs."

City of Phoenix, Arizona. The First Point Information Center (Center) is designed to provide coordinated assistance to Phoenix area businesses through the Phoenix Small Business Assistance Program (SBAP). The Center is located within CED and professionals provide intake, referral, and follow-up services to small business owners. Specifically, the Center provides information regarding city licensing and tax requirements, the certification process for women- and minority-owned businesses, ombudsman services for all City of Phoenix offices, assistance in securing business with the city, referrals to other community support programs, and assistance with the city's Enterprise Community. In addition to the above services, the Center provides a hotline to assist callers with various business needs. During one calendar year, over 5,000 small businesses phoned or visited the Center for assistance.

SBAP also provides small businesses with several forms of technical assistance. First, the program contracts with professionals to counsel in general business administration and marketing to assist businesses in developing business plans, human resource

⁵³ The Regional Alliance was started in 1989. For general background on the founding of the Regional Alliance see Timothy Bates, "Case Studies of City Minority Business Assistance Programs," report for the U.S. MBDA, September 1993.

plans, and business risk assessment plans. The business counselors also provide assistance in preparing financial reports and any other necessary business reports.

The program provides finance counselors who offer detailed financial assistance to support businesses' external financing requirements, as well as bond packaging assistance. Bond packaging assistance involves preparing detailed information to support a construction company's performance payment, and other business-related bonding requirements. The final form of technical assistance provided is a business needs assessment. This assessment evaluates the adequacy of a company's accounting system, management capabilities, and marketing plan.

SBAP has a consulting program that was developed through a joint partnership with Maricopa Community College's Small Business Development Center. Business consultants are available by appointment to assist with business planning, marketing strategies, financial management, inventory management, and other business-related issues. During one calendar year, consultants met with approximately 300 businesses.

M.12 Mentor-Protégé Programs

Indiana Construction Roundtable (ICR). ICR started a mentor-protégé program modeled on the Stempel plan from the Port of Portland. Protégés must have two years of business experience and a business plan. There are two mentors per protégé (one lead and one advisor) who meet monthly. Subcontracting is allowed, recognizing that this may cause a conflict of interest. A point system tracks completion of the program. Mentor-protégé arrangements are designed to last between one and three years, followed by an exit strategy with ICR guidance.

Port Authority. The Port Authority started a mentor-protégé program in March 2002 and hired a program manager in September 2002. Protégés use mentors to prepare estimates and bids, and mentors may help successfully complete a project awarded to a protégé. No credit is given by the Port Authority to the mentor towards S/MWBE goals for participation in the mentor-protégé program.

At the time of this review, there were seven major firms and several small firms that are matched. However, the Port Authority projects program expansion to include 10 mentors and 20 protégés. The criteria for participation as a protégé is: past work experience with the Port Authority; a "good corporate citizen," as indicated by Dun & Bradstreet reports; a written application; and size standards less than \$2 million in revenue. The program operates only in construction at this point. Seven firms recently graduated from the three year program. Ten large firms have acted as mentors.

Texas DOT. Texas DOT (TxDOT) developed a mentoring program called LINC (Learning, Information, Networking and Collaboration) in which the TxDOT's Business Opportunity Program Section serves as the mentor to selected S/MWBE firms. The focus of the program is to prepare the LINC Protégé firms to bid and perform on TxDOT contracts. The Business Opportunity Program section introduces the protégés to key TxDOT staff and to prime contractors. LINC mentors, TxDOT staff, business providers, bonding agents, and trainers meet with LINC protégés in scheduled meetings and work individually with the LINC protégés. The selected LINC protégés sign an agreement

committing to the time and effort needed for a successful mentor-protégé relationship. The duration of the LINC mentorship arrangement is one year.

Florida Business Round Table. An interesting variant of mentor-protégé program is the Business Roundtable. The Florida Black Business Investment Fund (BBIF) Roundtable Technical and Financial Assistance Program helps build management capacity within firms through an interactive management group that allows for firms to benefit from consulting with qualified advisors and to interface with their peers. The BBIF Roundtable is funded by governmental and quasi-governmental entities.

The Roundtable is a management development tool that utilizes the results of a gap assessment and recommendations from the plan established with the business to develop the management capacity of business owners and the growth capacity of their businesses. In the Roundtable, business owners meet once a month and function as resources to one another. They develop creative solutions by collaborating on common obstacles. The Roundtable is an interactive management development tool, not a training course. In Roundtable sessions, principals present the real issues that they are dealing with in their businesses and work with paid consultant advisors and their peers to develop action plans to resolve those issues.

An additional sub-group of the program is the Construction Roundtable. Construction specialists provide technical and operations guidance to construction firms. Members of the construction industry participate in Roundtable sessions, as mentors, with clients. The purpose of this group is to expose Roundtable participants to business techniques, business opportunities and professional relationships in the construction industry

Business challenges are then monitored on a month-to-month basis by advisors; accountability that is encouraged by developing work plans; and tracking and sharing progress toward established goals. Financial ratios are used as baseline measures of business performance. Firms are graduated from the Roundtable when their ratio performance has met pre-determined standards and the firms have become “bankable.”

Illinois DOT. The Illinois DOT provides separate mentor-protégé programs for construction and engineering services. Illinois DOT offers a 5 percent reduction on a project’s DBE goals as an incentive for primes to mentor DBE protégés.

California DOT. Associated Council of Engineering Companies of California (ACEC) and the California Department of Transportation created CALMENTOR, a mentor-protégé program for the architectural and engineering.⁵⁴

After reviewing a number of mentor-protégé programs one study found that project-specific mentor-protégé agreements should be preferred because: (1) S/MWBEs “earn while they learn,” (2) the agreements provide specific assistance, and (3) the agreements require less assistance from attorneys than all-encompassing agreements stretching over several years.⁵⁵

⁵⁴ <http://www.dot.ca.gov/dist11/calmentor/files/Calmentor%20Program.pdf>.

⁵⁵ CTC & Associates, *Disadvantaged Business Enterprise Programs: A Survey of State Practice in Operating Mentor/Protégé Programs and Increasing DBE Participation*, October 2010.

M.13 Financial Assistance

Maryland. The Maryland Small Business Development Finance Authority (MSBDFA) offers financing for S/MWBEs through the following programs:

- The Contract Financing Program, which provides loan guarantees and direct working capital and equipment loans to socially or economically disadvantaged businesses that have been awarded public contracts.
- The Equity Participation Investment Program, which provides direct loans, equity investments, and loan guarantees to socially or economically disadvantaged-owned businesses in franchising, in technology-based industries, and for business acquisition.
- The Long-Term Guaranty Program, which provides loan guarantees and interest rate subsidies.

M.13.1 Collateral Enhancement

Phoenix. Other agencies offer collateral enhancement. For example, since 1992, the City of Phoenix Expansion Assistance and Development Program (EXPAND) program has allowed businesses to secure financing from traditional lending institutions with collateral offered by EXPAND. EXPAND is not a substitute for conventional loans. The city does not loan funds directly to businesses; rather, it places a collateral reserve account at a bank. The business is then required to secure financing from a lending institution, which may be conditioned on receipt of additional collateral supplied by EXPAND. EXPAND maintains a collateral reserve account, and offers businesses collateral enhancement, which is generally 25 percent of the loan amount (up to \$150,000). EXPAND funds may be used for new construction, to purchase existing buildings (including land), to remodel an existing building, revolving lines of credit, for working capital, equipment and machinery, and leasehold improvements.

In order to be eligible for the program, a business must be located within the City of Phoenix, owned by a citizen or lawful permanent resident of the United States, have a net worth of less than \$7.5 million, and profits (after federal income tax) of less than \$2.5 million (averaged over the last two-year period). It also must have at least two years of operating history and be a for-profit retail, manufacturing, wholesale, or service company. Priority is given to businesses in the city's redevelopment areas and for economic development projects.

M.13.2 Linked Deposit

Another example of lending assistance programs is linked deposit programs. Agencies use linked deposit programs to subsidize lower rates for business and housing loans by accepting a lower rate on their deposits with participating financial institutions.

New York. A number of local agencies participate in the New York State Linked Deposit program. The program uses the leverage of public agency deposits to encourage participating banks to loan money to small, female, and minority firms at favorable rates. The benefit to lenders is that they have a new loan product resulting from public agency deposits at a reduced rate. The Linked Deposit program makes loans of up to \$10

million to certified S/MWBEs that have been awarded Port Authority of New York contracts. The program provides two-year financing at reduced rates to small and minority businesses. Businesses in economic development zones, highly distressed areas, defense, and certified S/MWBEs are eligible for a 3 percent interest rate reduction. Manufacturing businesses must have fewer than 500 employees, and service businesses must have fewer than 100 employees and not be dominant in their field of operation. The program started in 1993.

M.13.3 Loan Mobilization

Orlando Airport. The Greater Orlando Airport Authority has a Designated Mobilization Program (DMP), a loan mobilization program. The Authority makes available certain retainers and/or designated mobilization payments to Local Developing Businesses (LDB), professional services, construction, and procurement firms of up to 5 percent of contract price. This percentage may be increased to 10 percent, subject to the approval of the Executive Director. The LDB program is race- and gender-neutral.

City of Chicago, Illinois. In 2000, the City of Chicago revised its MWBE ordinance to allow the city to make advance payments of 10 percent of the total contract value, up to a maximum of \$200,000.

M.13.4 Prompt Payment

MWBE vendors still often report problems with prompt payment, particularly payments from prime contractors to subcontractors. Certain subcontractors that work on an early phase in a project, such as grading, can suffer from retainage withheld on long-lasting projects. There are several prompt payment policies that respond to this problem:

Retainage. North Carolina DOT requires that retainage be released when the tasks/activities for the subcontractors' phase of work is accepted rather than at the end of the project.⁵⁶

Two-Party Check Program. To improve access to financing, the Port Authority has a Two-Party Check Program in which the Port Authority writes checks out to the lender and the contractor. This program has not been frequently used according to staff interviews.

M.14 Bonding

Some examples of bonding programs from other agencies include:

North Carolina DOT. The North Carolina DOT, through its supportive services contract, has funded a DBE Pilot Bonding Assistance Program since 2000. The bonding program is open to any DBE that holds or is in the process of obtaining a NCDOT contract. The program is for bid, payment, and performance bonds of up to \$1 million. The program is administered through the U.S. DOT Office of Small and Disadvantaged Business Utilization, the Minority Business Resource Center, and participating sureties.

⁵⁶ 49 CFR, Part 26.29(b).

Colorado DOT. Colorado DOT reimburses up to 5 percent of the SBE subcontractor's contract award (limited to \$5,000) to a prime contractor for costs incurred if the prime waived its bonding requirements for an SBE and the SBE subcontractor failed to perform. Colorado DOT also pays up to \$5,000 for the bonding costs of bonds for SBE prime and subcontractors.⁵⁷

Maryland. The State of Maryland, through its Surety Bonding Program, assists small contractors in bonding with government and public utility contracts that require bid, performance, and payment bonds. MSBDFA has the authority to directly issue bid, performance, or payment bonds up to \$750,000. MSBDFA can also guarantee up to 90 percent of a surety's losses on bid, performance, or payment bonds up to \$900,000. This assistance is available to firms that have been denied bonds, but have not defaulted on loans or financial assistance from MSBDFA.

M.15 Insurance

A number of agencies use wrap-up insurance on construction projects to lower insurance costs for contractors.

Port Authority. The Port Authority of New York and New Jersey uses a Contractor Insurance Program (CIP), a form of wrap-up insurance under which the Port Authority provides various insurance coverages to approved onsite contractors and subcontractors for construction contracts. In particular, the Port Authority buys and pays the premiums on public liability insurance (\$25 million per occurrence), builders' risk insurance, and workers' compensation and employers' liability insurance. In general, the CIP can reduce an owner's project costs by an average of 1 to 2 percent compared to traditional contractor procured insurance programs. The Port Authority CIP does help alleviate barriers from insurance costs to MWBE participation on Port Authority construction projects.

Columbia. In Columbia, the Richland School District implemented a CIP program at several school sites.

San Diego. The City of San Diego Minor Construction Program also provides access to low cost insurance on small projects.

Port of Portland. The Port of Portland has made noteworthy efforts to address barriers to small firms from insurance requirements. A Port Process Management sub group met on insurance barriers and issued a white paper in August of 2003. The sub group identified insurance barriers in the areas of insurance in excess of associated risk, complex language, difficulties in small firms obtaining blanket insurance certificates, and additional costs for on-call contractors. The sub group identified low risk consultant areas that did not require insurance, simplified insurance language, altered some blanket insurance coverage requirements, clarified what could be met with primary and excess insurance, proposed simplifying the Port indemnity, and proposed sending appropriate insurance requirements in sample contracts attached to RFPs and Requests

⁵⁷ <http://www.coloradodot.info/business/emerging-small-business-program>.

for Quotations (RFQs). The Port also looked at a cooperative insurance program for small business although there was not much success with this initiative.

M.16 Outreach

Most agencies have extensive outreach, including match-making with procurement officials, workshops and seminars, featuring S/MWBEs in agency newsletters, and providing procurement forecasts. The Federal government classifies businesses for outreach purposes into three categories:

- Category A: Firms that are new to government contracting. These firms should be directed to the Procurement Technical Assistance Center (PTAC), the Small Business Development Center (SBDC), and the Minority Business Development Center (MBDC). In this manner the agency avoids duplicating PTAC, SBDC, or MBDC services.
- Category B: Firms that are familiar with government contracting in general but not with the particular agency. These firms are handled via an enhanced Web site that answers routine questions and quarterly group seminars.
- Category C: Firms that already have government contracts and are looking for more specific assistance. Some agencies allow for new businesses to have 15-minute presentations of corporate capabilities to program managers. The agency also provides unsuccessful bidders with feedback and briefs S/MWBEs on quality assurance standards.

Bexar County, Texas Small, Minority, and Women Business Owners Conference.

Bexar County in conjunction with the City of San Antonio has sponsored annual Small, Minority, and Women Business Owners conferences since 2001. The conferences have been co-sponsored by the Central and South Texas Minority Business Council in conjunction with a number of major corporations, including Dell, Toyota, and AT&T. Typically conference workshops have addressed the following:

- Doing business with federal, state, and local agencies, and the private sector.
- Access to capital.
- Human resources.
- Franchising.
- Management.
- Veterans.
- Responding to bids and RFPs.

Registered attendees grew from 1,200 in 2001 to 2,400 in 2006; estimated total attendance grew from 1,800 in 2001 to 5,000 in 2006. The number of exhibitors grew from 75 in 2001 to 180 in 2006.⁵⁸ Virtually all the major local agencies, loan providers, business development providers, and chambers of commerce participate in the

⁵⁸ Small, Minority, and Women Business Owners (S/M/WBO) Conference, Frequently Asked Questions, at 6.

conference along with a number of major corporations. The conference budget for 2007 was \$250,000.

M.17 S/MWBE Web Site

A survey of agencies has found the following information on their MWBE Web sites: bid opportunities; vendor application and information on the loan programs; directory of certified firms; uniform certification application; MWBE program description; SBE program description; comprehensive contracting guides; MWBE ordinance; how to do business information; bid tabulations; status of certification applications; links to management and technical assistance providers; newsletters; data on SBE and MWBE utilization; annual MWBE program reports; direct links to online purchasing manuals; capacity, bonding, qualifications, and experience data on certified firms; and 90-day forecasts of business opportunities.

Regional Alliance. The Regional Alliance of Small Contractors Opportunities Clearinghouse in New York provides a Web-based forum for small contractors to interact with large construction firms and public development agencies.

M.18 Evaluation of Race-Neutral Alternatives

Port of Portland, Oregon. The Port has evaluated the effectiveness of its race-neutral efforts. The Port produced an analysis of 67 firms that had graduated from its mentor-protégé program. Of the 67 mentor-protégé program graduates studied in the Port data from 2001 to 2006, seven were out of business and 23 had Port experience. Most firms had between five and 40 employees and one had greater than \$1 million in revenue. One firm was greater than \$50 million in revenue, another greater than \$15 million, and three others were above \$5 million in revenue. The data was incomplete on all firms.

M.19 Performance Measures

Florida Department of Transportation. The Evaluation Plan for the Florida DOT Small Business Initiative has the following performance measures:

1. What specific action(s) were identified that the Florida DOT could implement or continue to help small businesses increase their capacity to bid as a prime?
2. Which of the identified strategies resulted in new businesses becoming interested in a long-term partnership with the Florida DOT as a prime?
3. What are the success stories?
4. How many businesses that were identified have the desire and ability to grow from a subcontractor to a prime?
5. How many businesses are bidding on reserved contracts compared to those that are not reserved?
6. How many businesses that have never bid as primes are now bidding on reserved contracts as primes?

7. How many businesses that were subcontractors or subconsultants have been awarded contracts as a prime?
8. How many businesses that were awarded a reserved contract bid on contracts that were not reserved?
9. How many businesses were able to take advantage of the waiver of the bonding requirements? What is the size of the businesses that took advantage of the waiver?
10. How many contracts resulted in a default? What was the dispute?
11. How many “problem” contracts adversely affected the end product? What was the issue, (such as product, time, or cost)?
12. How many protests were filed? What was the protest issue?

M.20 MWBE Program Data Management

It is imperative for the City to closely monitor the utilization of all businesses by race, ethnicity, and gender over time to determine program effectiveness. Many agencies issues MWBE annual utilization reports. Some important additional elements of program data management employed by other agencies include:

- **Separate Reporting of MWBE Prime Contractor and Subcontractor Utilization.** Orange County, FL; Charlotte, NC; Port Authority and New York and New Jersey.
- **Tracking MWBE and Non-MWBE Subcontractor Utilization.** City of Charlotte, NC.
- **Tracking MWBE Utilization in the SBE Program.** Charlotte, NC; Port Authority and New York and New Jersey, LA Unified School District, Phoenix, AZ.

Oregon DOT. The Oregon Department of Transportation has a very complete reporting system for DBEs in construction, with 105 tables, and includes coverage of DBE utilization at the subcontract and prime contract levels, bidders, small business utilization, prompt payment, commercially useful function review, complaints against prime contractors, on-the-job training, and labor compliance. The system is updated daily.