INCLUSIVE CONTRACTING TOOLKIT

Southern California Association of Governments

NOVEMBER 2023



SCAG™

INNOVATING FOR A BETTER TOMORROW

About Southern California Association of Governments (SCAG)

Southern California Association of Governments (SCAG) serves as a catalyst for a brighter future for Southern California by leading a vision to elevate the region and creating the holistic plan to achieve our unified goals.

SCAG empowers Southern California jurisdictions to work toward regional solutions by creating collaborative resources that help to level the playing field through improved access to data, best practices and tools.

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HR&A is an employee-owned company advising public, private, non-profit, and philanthropic clients on how to increase opportunity and advance quality of life in cities. We believe in creating vital places, building more equitable and resilient communities, and improving people's lives.

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Acknowledgements

We extend our sincere gratitude to the individuals and organizations who played a pivotal role in the realization of the Inclusive Economic Recovery Strategy (IERS) and its associated initiatives. Their unwavering support and commitment have been instrumental in advancing equitable regional economic recovery and growth.

We would like to express our heartfelt thanks to **Senator Susan Rubio** for her invaluable support. Her dedication and efforts were pivotal in securing the one-time grant funding from the State of $3.5 million, which will enable us to implement several core recommendations outlined in the IERS.

Additionally, we would like to acknowledge the essential contributions of SCAG staff, who tirelessly worked to bring these strategies to fruition. Their dedication to the vision of IERS has been a driving force in our progress.

Furthermore, we want to extend our appreciation to **HR&A Advisors Inc.** for their expertise and support in the development of the Inclusive Contracting Toolkit, a significant project stemming from the IERS. Their collaboration has been pivotal in shaping this essential resource.

We are grateful for the collective efforts of these partners and stakeholders, without whom the realization of our goals would not have been possible. Together, we are working towards a more inclusive and resilient economic future for our region.

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Introduction

Toolkit Overview

Background

In July 2020, the Southern California Association of Governments (SCAG) adopted Resolution No. 20-623-2, which recognized systemic racism as a human rights and public health crisis that results in a multitude of disparities in Southern California.

With this adoption, SCAG announced that it stands in solidarity with those working toward a fair and just society and calling for systemic change to eliminate all barriers that reduce opportunity and undermine Southern California's shared values and ability to thrive. As a part of this resolution, SCAG acknowledged its unique position as the nation's largest metropolitan planning organization with stewardship over the 15th largest economy in the world—an area that includes 191 cities and 16 Federally-recognized Tribal governments across Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties (the SCAG region).[1] Subsequently, SCAG published the Inclusive Economic Recovery Strategy (IERS), a multi-pronged agenda which defined the need for an industry growth plan focused on supporting entrepreneurship and small businesses for women and people of color.

Business ownership is a pathway to wealth building. However, in Southern California, small businesses that are woman-, minority-, and/or veteran-owned (historically disadvantaged businesses) face more challenges to grow and sustain their businesses compared to male- and/or White-owned businesses. Further, these historically disadvantaged businesses are more vulnerable during periods of economic hardship as demonstrated during the Covid-19 pandemic when historically disadvantaged businesses in California and Greater Los Angeles were hit harder by declines in revenue and size.[2] This disparity is rooted in systemic obstacles, such as less access to capital and inequitable lending practices, which further exacerbate their challenges.

Purpose

Inclusive contracting increases opportunities for historically disadvantaged businesses to contract with public agencies (e.g. cities and counties) and anchor institutions (e.g. colleges, universities, museums, hospitals and more) - together, contracting agencies and organizations. As a result, inclusive contracting can reduce disparities between historically disadvantaged businesses and other businesses, and generate positive impacts for the SCAG region. By reducing barriers to growing and sustaining

1 Southern California Association of Governments (SCAG). "An Inclusive Economic Recovery Strategy for the SCAG region." July 2021.

2 Paul Ong, Andre Comandom, Nicholas DiRago, and Lauren Harper. "COVID-19 Impacts on Minority Businesses and Systemic Inequality". UCLA Center for Neighborhood Knowledge. 2020. https://www.aasc.ucla.edu/resources/policyreports/covidimpactsonminoritybusiness.pdf.

businesses, inclusive contracting advances economic equity and supports regional wealth building, particularly among communities that have historically and continue to be marginalized and under resourced. Further, small businesses strengthen local economies by providing employment opportunities and recirculating spending within the local community.[3,4] In addition, increased competition for contracts lowers costs, supporting the financial health of contracting agencies and organizations, and thus the fiscal health of local governments.[5] Finally, inclusive contracting can strengthen economic resilience by diversifying supply chains, particularly through contracts with local and small businesses as was demonstrated during the COVID-19 pandemic.[6] Inclusive contracting is an opportunity to bolster the SCAG region's economic health and resilience while benefitting contracting agencies and organizations financially.

Audience

This Inclusive Contracting Toolkit is intended to be used by procurement professionals at contracting agencies and organizations to support a shift to inclusive contracting policies, programs, and practices. This toolkit can also be used to evaluate and adapt existing inclusive contracting efforts that have not yielded the desired outcomes.

Organization

This toolkit summarizes relevant context for inclusive contracting, recommends immediate actions for organizations to take, and presents tactics that have been proven to or show potential to support inclusive contracting. Overviews of each tactic include a description of the policy, program, or practice; accompanied by an articulation of the challenges that they address in the current contracting environment, steps and considerations for implementation, and relevant examples from the SCAG region. Throughout the toolkit, case studies from successful initiatives across the country are provided to demonstrate the potential impact of inclusive contracting when implemented effectively.

3 Joseph Parilla and Sifan Liu. "From Relief to Recovery: The Four Types of Small Businesses." July 7, 2021. The Brookings Institution. https://www.brookings.edu/articles/from-relief-to-recovery-four-types-of-small-businesses

4 American Express. "2022 Small Business Economic Impact Study." 2022.

5 Heather Boushey and Helen Knudsen. "The Importance of Competition for the American Economy." The White House. July 9, 2021. https://www.whitehouse.gov/cea/written-materials/2021/07/09/the-importance-of-competition-for-the-american-economy/

6 Alexis Bateman, Ashley Barrington, and Katie Date. "Why You Need a Supplier Diversity Program." August 17, 2020. Harvard Business Review. https://hbr.org/2020/08/why-you-need-a-supplier-diversity-program

Approach

HR&A Advisors led a phased approach to develop the Inclusive Contracting Toolkit to ensure that recommendations and tactics are rooted in promising emerging practices that are relevant to the SCAG region.

A literature review and engagement with stakeholders and experts were critical to development of this toolkit. As a result, the final toolkit reflects the range of emerging and promising inclusive contracting efforts underway today and provides recommendations that are grounded in the specific constraints and opportunities that procurement professionals in the SCAG region face.

Literature Review

HR&A Advisors conducted a comprehensive review of literature to establish a baseline understanding of the common barriers to equitable procurement in the region, including the challenges historically disadvantaged businesses face, constraints among contracting agencies and organizations (also referred to as 'buyers') and inclusive contracting tactics – programs, policies, and practices. The literature review summarized the history of relevant policies that effect procurement practices in the SCAG region, including setbacks to affirmative action. A thorough review of literature also highlighted the most pressing barriers to inclusive contracting, which are summarized in this toolkit. Finally, the literature review identified emerging practices employed by contracting agencies and organizations across the United States to pursue equitable procurement for consideration in the toolkit.

Engagement: Technical Advisory Committee, Stakeholder Focus Groups, and Interviews with Subject Matter Experts

HR&A Advisors and SCAG engaged stakeholders throughout the development of this toolkit. To ensure ongoing input and guidance from procurement professionals and the business community, HR&A Advisors and SCAG convened a Technical Advisory Committee (TAC). The TAC members were geographically representative of the SCAG region, and included representation from cities, counties, hospitals, colleges and universities, business support organizations, lenders, and other organizations that network, lend to, train, and otherwise serve small and historically disadvantaged businesses. In addition, HR&A Advisors and SCAG facilitated stakeholder focus groups with procurement professionals from contracting agencies and organizations, as well as small business support organizations and lenders. These focus groups investigated the challenges and opportunities to inclusive contracting. Finally, HR&A Advisors conducted interviews with subject matter experts from across the country who have led or are leading inclusive contracting initiatives.

Context

Context

Inclusive contracting can support economic mobility among historically disadvantaged businesses, ultimately generating wealth for historically marginalized populations, strengthening the regional economy, and lowering costs for contracting agencies and organizations.

Historically, systemic racial discrimination and exclusion has fueled significant gaps in income, wealth, and community well-being, creating disparities between communities of color and their White counterparts. The region's historically disadvantaged businesses face long-standing barriers that have kept them smaller and more vulnerable to shocks and stresses. According to a report focused on Los Angeles County specifically, Black residents comprised 8% of the county yet only owned 2% of small businesses; Latinos comprised 49% of the population yet only owned 11% of small businesses.[7] And all minority-owned businesses employed fewer employees and generated less annual revenue than White-owned businesses on average.[8] Through inclusive contracting, contracting agencies and organizations can advance equitable procurement and promote economic mobility with an emphasis on fostering entrepreneurship and growing historically disadvantaged businesses to build wealth among historically marginalized communities.

Regulatory Context

Contracting agencies and organizations operate within different regulatory contexts to procure and contract goods and services. Most notable among these is Proposition 209, which prohibits public agencies in California from giving preference based on race or gender. Conversely, State policies encourage supplier diversity in select private industries, such as utilities and healthcare, enabling anchor institutions to use race- and gender-conscious preferences. While public agencies and anchor institutions face different contracting constraints and opportunities, a race- and gender-neutral approach remains paramount to advancing equitable procurement amid the shifting political and legal landscape for inclusive contracting.

7 Next Street and Common Future. "Los Angeles County Small Business Ecosystem Assessment." Fall 2020. https://nextstreet.com/wp-content/uploads/2022/06/Los-Angeles-County-Report_2-2021.pdf

8 Next Street and Common Future. "Los Angeles County Small Business Ecosystem Assessment." Fall 2020. https://nextstreet.com/wp-content/uploads/2022/06/Los-Angeles-County-Report_2-2021.pdf

TIMELINE OF HISTORIC MILESTONES

1953	U.S. Small Business Act was adopted.
1988	J.A. Croson Company v. the City of Richmond court ruling.
1988	General Order 156 was established in California.
1995	*Adarand v. Pena* court ruling.
1996	Proposition 209 was adopted in California.
2019	Assembly Bill 962 was adopted in California.
2020	Proposition 16 failed in California.
2023	*Students for Fair Admissions v. Harvard* and *Students for Fair Admissions v. University of North Carolina* (UNC) court rulings.

Public Sector Regulations

Over the years, inclusive contracting policies have undergone significant transformations. **The Small Business Act,** introduced in 1953, required assistance to "socially and economically" disadvantaged small businesses which directly led to dedicated allocations in federal contracting work as public works bills began to include set asides for minority-owned firms. At the local government level, cities also joined the movement by formally implementing policies that demanded greater vendor diversity in government contracting. These progressive measures aimed at empowering historically marginalized businesses were integral to shaping a more inclusive economic landscape. In California, San Francisco, Oakland, and San Jose mandated City goals for minority and women business enterprises (MWBE) following adoption of the act.

Despite notable achievements in race-conscious inclusive contracting efforts, legal challenges to these policies hindered economic equity and opportunity through contracting. Some firms that did not benefit from these programs argued that they were being discriminated against and concerns arose about their constitutionality concerning the 14th Amendment's Equal Protection Clause. In 1988, ***J.A. Croson Company v. The City of Richmond*** was a landmark case in which the City of Richmond's inclusive procurement program was invalidated by the Supreme Court. As a result, the Court established a standard that required governments to provide substantial statistical and anecdotal evidence to support a race-conscious procurement program.[9] In another Supreme Court case, ***Adarand v. Pena,*** the

9 Griffin & Strong P.C. "Culture, Collaboration and Capital: Leveraging Procurement for Economic Equity." Living Cities. 2019. https://livingcities.org/wp-content/uploads/2021/06/Implementation_Guide_FINAL_3.20.19.pdf

same standards that were established in Croson were also applied to the federal government.[10] These legal precedents have influenced the landscape of inclusive contracting initiatives, making it more challenging for public agencies to implement such programs effectively.

In 1996, California voters adopted **Proposition 209,** which explicitly prohibited the State and other public entities from using criteria based on race or gender to set procurement targets or give preference. The legislation ended affirmative action programs among public agencies, including in contracting and procurement, preventing governments from establishing race or gender-conscious procurement targets or weighing business ownership as criteria for evaluation or award. The measure specified exceptions: to maintain federal funding eligibility, to comply with federal law or the United States Constitution, or to meet privacy and other considerations based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting. Prior to its passage, California boasted one of the highest levels of MWBE participation among all 50 states. The tangible consequences of Proposition 209 were evident, resulting in an estimated annual loss of $1 billion for MWBEs.[11] In 2020, a measure to overturn Proposition 209, **Proposition 16,** failed despite notable endorsements by public leaders and significant fundraising by proponents.[12]

Private Sector Regulations

While public agencies are legally prohibited from setting race- and gender-conscious contracting goals and preferences, private organizations have more flexibility to enhance procurement opportunities for historically disadvantaged businesses. Many companies have implemented supplier diversity programs, a proactive business approach that ensures equal access to supply management opportunities. The primary objective is to foster supplier participation that reflects the diversity within the business community, fosters competition, and promotes economic development.

Industry-specific policies in the private sector have been adopted in California that recognize the role that large institutional buyers play in supporting and growing businesses, and the potential to direct more spending toward historically disadvantaged businesses to strengthen the economy and encourage healthy competition that lowers costs. Specifically, these policies are **General Order 156 (GO156)** that affects investor-owned utilities (IOUs) and **Assembly Bill 962 (AB962)** that affects hospitals.

Established in 1988 and broadened through amendments since, **GO156** is a voluntary supplier diversity program that encourages IOUs to contract for goods and services with certain historically disadvantaged businesses. The California Public Utilities Commission (CPUC)-Supervised Supplier Clearinghouse maintains a database of certified contractors that IOUs have access to. GO156 established statewide goals for procurement spending with historically disadvantaged businesses that include:

10 Griffin & Strong P.C. "Culture, Collaboration and Capital: Leveraging Procurement for Economic Equity." Living Cities. 2019. https://livingcities.org/wp-content/uploads/2021/06/Implementation_Guide_FINAL_3.20.19.pdf

11 Tim Lohrentz. "The impact of Proposition 209 on California's MWBEs: One billion in contract dollars lost annually by businesses owned by women and people of color due to Proposition 209." Equal Justice Society. 2015. https://equaljusticesociety.org/wp-content/uploads/2019/10/ejs-impact-prop-209-mwbes.pdf

12 Conor Friedersdorf. "Why California Rejected Racial Preferences, Again." The Atlantic. Nov. 10, 2020. https://www.theatlantic.com/ideas/archive/2020/11/why-california-rejected-affirmative-action-again/617049/

- 15% with Minority Business Enterprises (MBE)
- 5% with Women Business Enterprises (WBE)
- 1.5% with Disabled Veteran Business Enterprises (DVBE)
- 1% with Lesbian, Gay, Bisexual, and Transgender Business Enterprises (LGBTBE). The goal increases to 1.5% in 2024.

Participating utilities are required to comply with California Public Utilities Code Sections 8281-8286, which includes submitting annual detailed and verifiable plans for increasing procurement with women, minority, disabled, veteran, lesbian, gay, bisexual, and transgender business enterprises.

Adopted in 2019, **AB962** established new public transparency requirements for hospital supplier diversity. Hospitals subject to AB962 are required to provide annual Hospital Supplier Diversity data to the Office of Statewide Health Planning and Development with civil penalties for hospitals who fail to comply. The bill was drafted in recognition that hospitals are in a unique position to support diverse suppliers and uplift the communities they serve. The legislation states, "It is in the state's interest to encourage competitive business opportunities for all of its people. Hospitals are uniquely positioned to build relationships within the communities they serve through the development, inclusion, and utilization of certified minority, women, lesbian, gay, bisexual, transgender, and disabled veteran business enterprises whenever possible. National companies are able to leverage buying power to save costs to the benefit of patients."[13] Aimed to increase contracting transparency, AB962 requires hospitals file annual reports, but does not require supplier diversity goals or programs.

13 State of California. Assembly Bill No. 962, Chapter 815. Approved October 12, 2019.

Looking Ahead

While contracting agencies and organizations nationally have used inclusive contracting strategies for decades, recent Supreme Court rulings place these programs under heightened scrutiny, underscoring the importance of race- and gender-neutral tactics to advance equitable procurement. In June 2023, the Supreme Court severely limited the use of affirmative action in admissions programs used by the University of North Carolina and Harvard College. By a vote of 6-3, the Supreme Court Justices ruled that affirmative action admission programs violated the Constitution's equal protection clause, which bars racial discrimination by government entities. In a dissenting opinion, Justice Sonia Sotomayor stated that the ruling on affirmative action will likely affect more than the realm of education in future cases and rulings. The National Minority Supplier Development Council released the following statement: "the Supreme Court's decision could potentially jeopardize supplier diversity programs that corporations use to diversify their supply chains."[14] In light of these rulings, a race- and gender-neutral approach to inclusive contracting, while necessary for public agencies in the State of California, is increasingly compelling to all contracting agencies and organizations seeking to advance equitable procurement without legal challenges. Contracting agencies and organizations must move beyond setting spending goals to pursue a comprehensive approach to equitable procurement.

14 Matt Colaciello. "How Supplier Diversity Could be Impacted by the Supreme Court's Affirmative Action Ruling & 5 Ways Your Organization Can Respond". Hire Ground. 2023. https://hireground.io/supplier-diversity-affirmative-action/

Barriers to Equitable Procurement Today

Three categories of barriers exclude historically disadvantaged businesses from contracting opportunities with contracting agencies and organizations:

- **Historical and ongoing discriminatory behavior that excludes historically disadvantaged businesses from contracting opportunities.** Discrimination in procurement takes many forms, such as capability bias and exclusion from affordable lending opportunities. These practices can manifest in various ways, including racialized abuse involving racial slurs and subtler acts of discrimination, like imposing higher prices for accessing materials when compared to businesses owned by White individuals. Historically disadvantaged businesses often perceive they are viewed as less competent than other firms. As a result, they face double standards, where their work is often evaluated at a higher and unjust level due to a perceived sense of inferiority. This can create an unfair playing field and impede their opportunities for growth and success.
- **The inherited, cumulative results of this discrimination, which have diminished the capacity of historically disadvantaged businesses today.** Marketplace discrimination has had significant consequences for historically disadvantaged businesses, including lower rates of business formation, reduced annual earnings, and higher loan rejection rates. These historically disadvantaged businesses find themselves compelled to compete with larger and White-owned businesses, all while contending with the lingering effects of discrimination that create an uneven playing field and hinder their progress.
- **Inadvertent contracting practices that are not intentionally or directly discriminatory, but which still exert a disparate impact on historically disadvantaged businesses.** Certain ongoing practices may not be explicitly driven by discrimination but still result in a disproportionate impact on historically disadvantaged businesses. These practices encompass various aspects, such as delayed bid notifications, excessively large contract sizes, irregular or delayed payment for services, demanding bonding and insurance requirements, and insufficient data collection to facilitate behavioral improvements. While contract requirements are established over time in response to specific contract challenges, they are seldom revisited or audited, leading to exhaustive requirements to protect contracting agencies and organizations that are not responsive to the challenges historically disadvantaged businesses face. It is critical for procurement teams to review contracting practices to determine if requirements are justifiably necessary or unintentionally limiting competition.

Together, these biases, cumulative results, and inadvertent discriminatory practices manifest in the following barriers and constraints among historically disadvantaged businesses and contracting agencies and organizations.

COMMON BARRIERS

	Complicated Processes – Certification and procurement processes are fragmented, often with disparate goals, standards, and support services. As a result, it's difficult for historically disadvantaged businesses to navigate bureaucratic systems to obtain certification, identify solicitations, prepare proposals or other responses to contracting opportunities, and more.
Contracting Agency and Organization (Buyer) Constraints	**Lack of Data Collection and Enforcement –** As of today, contracting agencies and organizations in the SCAG region lack meaningful, consistent, and coordinated approaches to data collection, monitoring, and enforcement. This generates a lack of accountability and inability to achieve or enforce goals.
	Exclusive Contract Design – Both solicitations and contracts can be designed to cater or give inexplicit preference to large businesses and those with previous experience working with the buyer, making it harder for small businesses to compete. This includes exclusive practices such as certification requirements, irregular or delayed payments, large contract values, large insurance and bonding requirements.
	Access to Capital – Small businesses face a number of challenges to ensure they will have sufficient capital available to fulfill contracts. Traditional lenders establish higher interest rates and qualifying criteria for loans to businesses with lower revenue. Similarly, the smaller a business is, the less likely they are to qualify or be able to afford higher insurance limits to meet contract requirements.
Vendor Constraints	**Smaller Professional Networks –** Historically disadvantaged businesses typically have smaller professional networks, which leads to less exposure to contracting opportunities, especially as businesses and agencies tend to conduct business with suppliers they have worked with in the past.
	Lower Internal Overhead Capacity – Small businesses operate with limited staff and resources to pursue solicitations, making it difficult to compete with larger businesses who hire dedicated staff to identify and pursue contracting opportunities.

Opportunity: Inclusive Contracting to Advance Equitable Procurement

As significant buyers of goods and services, contracting agencies and organizations have the ability to foster growth and prosperity for small and historically disadvantaged businesses by transforming contracting practices in both the public and private sectors. This toolkit equips procurement professionals, whose investments contribute to the 15th largest economy globally, with the necessary resources and knowledge to embrace more inclusive contracting practices. The SCAG region's diverse population and strong economy render it critical to implement inclusive contracting practices to ensure that all entrepreneurs have an opportunity to succeed in growing and sustaining their businesses, regardless of race, class, gender, sexual orientation, or any other affiliation. Through inclusive contracting, contracting agencies and organizations have the power to revolutionize how they procure and contract goods and services, consequently altering the regional economic landscape, particularly for small and historically disadvantaged businesses.

Contracting agencies and organizations also benefit from equitable procurement. Throughout development of this toolkit, we heard from contracting agencies and organizations that they are struggling to expand their pool of potential vendors and receive limited responses to solicitations.

Inclusive contracting, by increasing access to procurement solicitations and contracts for more businesses, encourages healthy competition that lowers costs as businesses compete on price. Inclusive contracting also supports a more sustainable supply chain of goods and services as contracting agencies and organizations are less dependent on a small pool of vendors.

Additionally, customers and investors are increasingly choosing to conduct business with organizations committed to social responsibility, and implementing inclusive contracting policies can enhance brand reputation, leading to an increase in revenues and public perception.

Through implementation of the recommendations and tactics in this toolkit, the SCAG region could bolster the regional economy, increase economic mobility for historically disadvantaged businesses and communities, and serve as a leader of inclusive contracting within and beyond California.

Recommended Immediate Actions

Recommended Immediate Actions

Inclusive Contracting Plans will vary based on leadership commitments, capacity, baselines, and other unique attributes and considerations of contracting agencies and organizations.

We recommend these first actions to establish a foundational understanding of the existing contracting landscape, ensure a committed team, and build momentum to practice inclusive contracting. These initial steps have enabled other contracting agencies and organizations to begin an effective approach to more inclusive contracting:

1. **Appoint a Leader: Inclusive Contracting Manager**
2. **Build Internal Buy-In and Knowledge Base**
3. **Collect and Review Baseline Data**
4. **Conduct an Internal Audit**
5. **Develop an Inclusive Contracting Plan**

Together, these immediate actions will provide a foundation for contracting agencies and organizations to explore subsequent strategies and actions in this toolkit, the prioritization of which should reflect findings and leadership from these immediate actions.

1

Appoint a Leader: Inclusive Contracting Manager

Appointing a leader for inclusive contracting efforts ensures accountability, consistency, and commitment to develop strategies and deliver impacts. Throughout engagement to develop this toolkit, contracting agencies and organizations who have advanced inclusive contracting initiatives cited the importance of designated staff empowered to oversee and champion inclusive contracting programs, policies, and practices. A range of contracting agencies and organizations have recognized the importance of a designated champion, including public agencies (e.g., City of Los Angeles), quasi-public agencies (e.g., Port of Long Beach), and anchor institutions (e.g., Children's Hospital of Los Angeles, Cedars Sinai).

The Inclusive Contracting Manager serves as a point person within and outside of the organization to maintain a holistic perspective on contracting, champion the work, facilitate and build relationships across departments or divisions, participate in external networking to exchange lessons learned, and plan for and hire staff to ensure internal capacity to implement tactics and achieve goals. To ensure the Inclusive Contracting Manager is positioned to succeed, the role should be within the procurement division and report directly to senior leadership of the organization. This position should be insulated from leadership transitions such as elections, terms, and board appointments so that they are empowered and recognized as a committed, long-term champion and project manager with authority to plan and execute inclusive contracting initiatives.

INCLUSIVE CONTRACTING MANAGER JOB DESCRIPTION[15]

Responsibilities

Program and Contract Management

- Develop an Inclusive Contracting Plan and manage its implementation;
- Monitor performance of all contracts and procurements, and report to organization leadership on performance;
- Convene internal working groups to integrate inclusive contracting principles into contracts and procurement practices, programs, and policies; and
- Advocate on behalf of businesses and the organization for inclusive contracting practices that encourage competitive procurement to reduce costs while increasing opportunities for small and historically disadvantaged businesses.

Vendor Outreach and Business Engagement: engage small and historically disadvantaged businesses and their support networks to promote procurements.

- Attend industry networking meetings (e.g. Chambers, Business Improvement Districts, etc.);
- Oversee development and distribution of vendor surveys; and
- Lead development of business relationships.

Direct Supervisor

This position will serve as the primary point of contact in the Procurement Division, reporting directly to leadership (e.g. CEO, CFO, COO, and/or Board of Trustees).

Required Experience

Selected candidates should demonstrate experience with:

- Management.
- Procurement – demonstrate an understanding and familiarity with procurement processes in a similar organization.
- Initiatives centering equity and social justice.

Additional areas of expertise that will support a candidate's success include knowledge of:

- Contract law.
- Best practices for effective outreach, marketing and community/business engagement.
- Small Business Enterprise (SBE) and Disadvantaged Business Enterprise (DBE) programs.
- Federal, State, and local regulations and policies governing business certifications.

15 Based on job descriptions for Inclusive Contracting Managers posted by the City of Portland, Oregon and Port of Long Beach, California.

2

Build Internal Buy-In and Knowledge Base

Transforming procurement and contracting practices requires participation and commitment from staff both within the procurement department and the broader organization. Contracting agencies and organizations should deliberately and meaningfully engage staff to train and build awareness of the need and objectives for inclusive contracting; lend insights, pose questions, participate in implementation; and to become champions for inclusive contracting.

To build internal buy-in, contracting agencies and organizations should establish an internal, diverse team to support inclusive contracting initiatives. In addition to procurement personnel, this team should include colleagues from other divisions who manage solicitations, responses, and contracts such as legal counsel, project managers (e.g. those who oversee capital or construction projects, professional services, and goods and materials), and department managers. This team should not exceed 15 members and thus will not include all staff from the mentioned categories. Staff from these categories who do not participate on the team should still be engaged throughout the audit process to ensure a process that is inclusive and solicits a diversity of perspectives.

To build support across internal teams, leadership of contracting agencies and organizations should adopt values and commitments to inclusive contracting that underscore its importance and provide a foundation of support for implementation of inclusive contracting practices, policies, and programs. Further, training and skills development can create a shared knowledge base among staff on the need and opportunities for inclusive contracting. This training should provide an understanding of the challenges facing historically disadvantaged businesses, identify barriers within existing systems for equitable procurement, and discuss potential strategies to achieve inclusive contracting.

3

Collect and Review Baseline Data

Contracting agencies and organizations must understand their past procurement performance to assess challenges and opportunities as well as establish a baseline against which to measure progress. To build this baseline, contracting agencies and organizations should designate staff to collect the Suggested Baseline Data included in this toolkit. This step is crucial to:

- Understand how the organization is managing procurement and performing currently,
- Inform priorities and strategies for the Inclusive Contracting Plan by revealing the greatest areas of need, and
- Develop a baseline against which to monitor and evaluate effectiveness of initiatives.

SUGGESTED BASELINE DATA TO COLLECT

At a minimum, contracting agencies and organizations should develop systems to collect, manage, and monitor the following metrics to evaluate procurement practices, develop strategies to advance equitable procurement, and measure the impact of those strategies as they're implemented.

Solicitations	• Number of businesses who view or receive solicitations. • Number of historically disadvantaged businesses (e.g., SBEs, DBEs, veteran business enterprises (VBEs) and self-attested affiliations regardless of certification) who view or receive solicitations. • Solicitation duration (response period).
Responses	• Number of businesses who respond. • Certifications and/or self-attested owner demographics of businesses who respond.
Awards	• Certifications and/or self-attested owner demographics of businesses awarded contracts. • Contract values. • Number of unique businesses awarded contracts. • Number of new businesses awarded contracts.

4

Conduct an Internal Audit

In addition to collecting baseline data, contracting agencies and organizations should conduct an internal audit of their existing procurement policies, programs, and practices. The audit should be grounded in the following question: is your procurement process reducing competition?

To answer this question, contracting agencies and organizations should review all aspects of procurement protocol, including but not limited to:

- Contract requirements;
- Solicitation language, standards, and evaluation criteria;
- Solicitation platforms and outreach protocols;
- Response requirements; and
- Template solicitation and contract language, and more.

This audit should be led by an internal working group and overseen by the Inclusive Contracting Manager, taking the following steps to be successful:

1. Develop objectives and outline an approach for evaluating internal practices, including establishing study parameters.
2. Delegate and oversee the team to evaluate existing policies and practices, and identify opportunities for more inclusive contracting.
3. Gather relevant data and documentation related to procurement activities, contract awards, and evaluation processes while reviewing policies and procedures.
4. Identify disparities and opportunities for improvement based on audit findings.
5. Summarize and report findings and initial recommendations to the Inclusive Contracting Manager and then leadership.

Findings from the audit can be used to define existing procurement inequities and contracting barriers, which will enable contracting agencies and organizations to identify and prioritize strategies and tactics to create a more inclusive contracting environment.

CASE STUDY

THE CITY OF TULSA, OK

The City of Tulsa, which operates a race and gender-neutral small business enterprise (SBE) procurement program, historically struggled to diversify its procurement. According to the Harvard Government Performance Lab, "In fiscal year 2020, about one of every five contracts received only a single bid, and almost 85% of vendors who received contracts had worked with the City previously."

To improve its supplier diversity and the competitiveness of its bidding, Tulsa began convening a cross-departmental "Procurement Excellence Steering Committee" every two months to identify pain points in the city's bid processes and to align practices across departments. Solutions included a new solicitation template that centers on project goals, a requisition dashboard that allows departments to track upcoming procurements, a business engagement survey that gave nearly 1,800 firms the opportunity to share their suggestions related to Tulsa's procurement process, and webinars that introduced businesses to City procurement staff and covered how to read and respond to City bid opportunities. Over 100 businesses participated in the webinars, and post-webinar surveys revealed that participants left with greater confidence in their ability to secure contracts with the City.[16]

UNIVERSITY OF CALIFORNIA SUPPLY CHAIN 500

UC procurement developed the Supply Chain 500 initiative (SC500) to identify opportunities to optimize the supply chain across the UC system in pursuit of a $500 million benefit. This initiative was a follow-on to the successful P200 initiative where more than $260 million of annualized benefit was realized at the end of fiscal year 2015-2016. SC500 was intended to determine if the $500 million benefit target was realistic, provide recommendations on what changes needed to occur to achieve this goal, and evaluate the extent the UC system is ready to embrace the required changes. The project included interviews at each of the UC campuses, workshops, and an Advisory Group. Key advancements made under SC500 include:

- Supply chain expansions at select campuses: Davis, Merced, San Francisco, and San Diego;
- Enhanced systemwide procurement platforms through Benefit Bank (https://www.ucop.edu/procurement-services/procurement-systems/uc-benefit-training.html) and CalUSource (https://calusource.net/);
- Assessed opportunities for systemwide supplier data management and normalization;
- Improved engagement with campus senior leadership;
- Funded a dedicated Procurement Policy and Compliance contract position for system-wide support.

The SC 500 initiative ended in 2022 and the achievements from this initiative informed the Procurement Excellence program which is focusing on increasing capability and capacity within the UC procurement system.

16 "Using Government Procurement to Advance Racial Equity". Harvard Kennedy School Government Performance Lab. 2022. https://govlab.hks.harvard.edu/files/govlabs/files/procurement_equity_publication_1.pdf?m=166370 0373.

5

Develop an Inclusive Contracting Plan

Once organizations have a designated leader, internal buy-in, and a baseline understanding of their existing contracting landscape, organizations should develop their unique plan to pursue equitable procurement. These plans should set goals for inclusive contracting and articulate the strategies that will be taken to achieve them, including defined roles and responsibilities and timelines. Effective inclusive contracting plans will include a combination of initiatives to collect and evaluate metrics; reduce barriers for historically disadvantaged businesses to identifying, pursuing, and executing contracts; and grow businesses. In addition, these plans should include an outreach strategy to ensure that as contracting opportunities are made more accessible to historically disadvantaged businesses, they are promoted through engagement and networking initiatives. These inclusive contracting plans will serve as the organization's north star and road map for inclusive contracting.

MODEL PROCUREMENT PLAN

Boston Equitable Procurement Plans

In 2020, the City of Boston completed its first disparity study in 18 years, which found that less than 1% of the City's contracts were going to Black- or Hispanic-owned vendors.[17] As the findings were being recorded, former Boston Mayor Marty Walsh signed an executive order in support of equitable procurement procedures.[18] One of the mandated procedures in the executive order was a requirement for each City department to submit annual Equipment Procurement Plans with their department budget.

Boston Planning and Development Agency's 2021 Equipment Procurement Plan is available online at: https://www.bostonplans.org/getattachment/4df11296-850f-4f57-b4d1-c023b5fe59ef

17 City of Boston. 2020 Disparity Study. 2020. https://www.boston.gov/sites/default/files/file/2021/02/2020%20City%20of%20Boston%20Disparity%20Study%20Final%20Report_1.pdf

18 City of Boston. Executive Order of Mayor Martin J. Walsh. Adopted November 8, 2019.

QUESTIONS TO GUIDE DECISION-MAKING

As contracting agencies and organizations develop Inclusive Contracting Plans, these questions should be used to guide a prioritization of strategies and development of the plan to ensure objectives, roles and responsibilities, and accountability are clear to support implementation.

1	**Mission Alignment**	How does inclusive contracting support the organization's mission and values?
2	**Impact**	Who is likely to benefit from implementation? Who might be harmed? How will we mitigate unintentional consequences?
3	**Staff**	Do staff have the expertise needed to carry out this action? What additional team members are needed to implement this action?
4	**Data and Metrics**	What data will we collect to monitor impact? Do our existing systems support this data collection and management?
5	**Resources**	What are the necessary resources to implement this action? How will they be acquired (if applicable)?
6	**Engagement**	How will input and perspectives be welcomed from businesses? From other departments and divisions?
7	**Accountability**	Who are the decision makers involved in implementing this action? Which additional departments will support this effort?
8	**Communications**	How is this action – roles and responsibilities, timelines, milestones – being communicated to internal (e.g. departments) and external (e.g. businesses, elected officials, and governing boards) audiences?
9	**Implementation**	What is the timeline and plan for implementation of this action? What efforts have been taken to vet this action and mitigate bias on the part of people tasked with implementing it?
10	**Constraints**	What might limit impacts from this action? Who might resist implementation?

Inclusive Contracting Strategies and Tactics

This toolkit describes **6 strategies** that contracting agencies and organizations should undertake to transition to inclusive contracting.

1

ESTABLISH A BASELINE AND COLLECT DATA

Collect, manage, and report on metrics for accountability and to monitor progress toward goals. Understanding existing contracting protocols and contracts with historically disadvantaged businesses is critical to evaluating disparities and establishing a baseline to measure initiative impacts.

2

STREAMLINE PROCUREMENT PROCESSES

Improve procurement policies and processes to reduce barriers for historically disadvantaged businesses to certification, viewing solicitations, preparing and submitting bids and proposals, and contracting.

3

DEVELOP ACCESSIBLE CONTRACTS

Update contract language and requirements to reduce barriers to historically disadvantaged businesses, making them more likely to submit bids or proposals for contracts and enabling them to execute contracts they're awarded.

4

INCREASE BUSINESS ACCESS TO CAPITAL

Increase access to capital among historically disadvantaged businesses to empower and enable these businesses to compete for contracts.

5

GROW PROFESSIONAL NETWORKS

Expand and strengthen networks among historically disadvantaged businesses and business support organizations to increase opportunities to identify partners, exchange knowledge, and build organizational capacity.

6

BUILD BUSINESS CAPACITY

Support business capacity building to increase historically disadvantaged businesses' ability and interest to identify and compete for contracting opportunities.

Inclusive Contracting Strategies and Tactics

Inclusive Contracting Strategies and Tactics

STRATEGY	TACTIC	PAGE
Establish a Baseline and Collect Data	**Create a Data Management System to Collect, Monitor, Evaluate, and Report Impacts** Data management systems support collection, monitoring, evaluation, and reporting on ongoing contracting participation.	38
	Survey Vendors Surveys capture the perspectives of historically disadvantaged businesses on procurement processes, allowing them to identify barriers and areas for improvement in the procurement process.	40
	Conduct a Disparity Study Externally conducted disparity studies assess whether government procurement and contracting practices exclude historically disadvantaged businesses.	42
Streamline Procurement Processes	**Prequalification Programs and On-Call Benches** Prequalification programs and on-call benches enable buyers to build a diverse bench of firms that are positioned to respond to fast-paced procurements, typically with reduced requirements.	44
	Standardize Solicitation Procedures Clear and concise language allows all businesses can consider solicitation opportunities and compete for contracts.	46
	Implement Contract Forecasting Forecasts allow contracting agencies and organizations to strategically plan for communications, perform outreach, and encourage historically disadvantaged businesses to respond to solicitations.	48
	Create Opportunities for Businesses to Connect with Procurement Managers Networking opportunities enable businesses to enhance visibility and gain a better understanding of contracting requirements.	50
Develop Accessible Contracts	**Establish Small Business Contracting Goals and Preferences** Small business purchasing goals increase opportunities for historically disadvantaged businesses by creating more opportunities to compete for contracts.	52
	Require Prime Contractors to Achieve Inclusive Subcontracting Goals Inclusive contracting requirements for prime contractors increase participation of historically disadvantaged businesses, even on large contracts.	54
	Identify Contract Opportunities for Small Businesses Small contract values and a focused scope of goods and services are more accessible to historically disadvantaged businesses.	58
	Reduce Contract Requirements and Offer Financial Assistance Reduced contract requirements (e.g., insurance requirements) and assistance to satisfy them improve access to procurement and contracting among historically disadvantaged businesses.	62
	Implement Prompt Payment Programs Prompt payment programs commit to paying businesses within a set timeframe to increase the attractiveness of contracting opportunities to historically disadvantaged businesses by mitigating financial risks.	64

Strategies and Tactics

Inclusive Contracting Strategies and Tactics

STRATEGY	TACTIC	PAGE
Increase Business Access to Capital	**Establish Lending Programs to Increase Capital Among Disadvantaged Businesses** Assistance to secure capital loans or philanthropic support mitigate against one of the primary barriers historically disadvantaged businesses face to contracting: access to capital.	66
	Increase Bonding Capacity Improved access to bonding enables historically disadvantaged businesses to fulfill contract requirements.	68
Grow Professional Networks	**Build Procurement Professional Networks** Relationship building among procurement professionals encourages an exchange of emerging practices, policies, and programs; problem solving on similar issues; and sharing lessons learned.	70
	Advertise Solicitations with Community-Based Organizations Connected to Disadvantaged Businesses Promoting contracting opportunities through community-based organizations (CBOs) and business support organizations bridges gaps between procurement professionals and historically disadvantaged businesses to reach a larger pool of prospective respondents, particularly historically disadvantaged businesses.	72
Build Business Capacity	**Provide Constructive Feedback to Unsuccessful Respondents** Feedback on unsuccessful proposals assists businesses to identify areas for improvement and enhance their competitiveness in future proposals.	74
	Develop a Small Business Resource Guide Small business resource guides provide clarity on the procurement process and direct businesses to the necessary tools to compete for contracts.	78



Create a Data Management System to Collect, Monitor, Evaluate, and Report Impacts

Beyond gathering and reviewing the baseline data suggested in the Recommended Immediate Actions, contracting agencies and organizations should establish data management systems to collect, monitor, evaluate, and report contracting performance on an ongoing basis. Initially, baseline data provides context to set goals and priorities. Over time, evaluation of metrics should inform prioritization as organizations monitor progress and measure impacts of inclusive contracting strategies. This data should be used to provide regular reports that enable accountability and transparency internally and externally.

PROBLEM TO SOLVE

Buyers: Contracting agencies and organizations lack data to understand current contracting practices and trends, as well as to set goals and measure impacts of initiatives to diversify contracting.

Suppliers: Historically disadvantaged businesses have little data publicly available to demonstrate barriers to inclusive contracting and advocate for change.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Improve decision-making through the collection of organized data to track progress.
- Improve accountability to understand the effectiveness of equitable procurement policies.

EXAMPLE

SoCalGas - SoCalGas publishes annual reports on their inclusive contracting metrics, including:

- Total purchases with diverse suppliers, including total spend with:
  - Minority Business Enterprises,
  - Women Business Enterprises,
  - Disabled Veteran Business Enterprises,
  - Lesbian, Gay, Bisexual and Transgender Business Enterprises, and
  - Diverse subcontractors.
  - Diverse prime suppliers,
  - New diverse firms, and
  - Diverse firms receiving technical assistance.

This comprehensive report includes internal and external program activities, summaries of purchases and contracts, and progress on procurement goals. In addition, the reports also outline procurement plans for the upcoming year. The report includes detailed tables, charts, and infographics to communicate the agency's spend with historically disadvantaged businesses.

STEPS TO IMPLEMENT

1. **Define Key Performance Indicators (KPIs)** to accurately monitor and evaluate disparities in procurement programs (see Suggested Baseline Data to Collect). This should include data on the solicitation, prime contract, and subcontracts (if applicable).

2. **Develop standardized internal processes and protocols** for ongoing data collection and management. This data management system should include a summary KPI dashboard to support ongoing monitoring of priority metrics and facilitate reporting to leadership.

3. **To support collection of data** from contractors, update base contracts to include requirements to report subcontracting utilization.

4. **Train project managers and supervisors** on metrics and protocol for reporting as well as contract requirements to collect data from prime contractors on subcontracting utilization.

5. **At least one staff person** should be responsible for ongoing monitoring and evaluation of performance.

6. **Regularly provide reports** on performance and evaluate the impact of initiatives.



Survey Vendors

Surveys enable contracting agencies and organizations to understand the perspectives of historically disadvantaged businesses on procurement processes, allowing them to identify barriers and improve procurement policies, programs, and practices. They can also serve as data points for procurement teams to evaluate and measure the effectiveness of policies and strategies.

PROBLEM TO SOLVE

Buyers: Contracting agencies and organizations lack an understanding of the challenges and barriers that preclude historically disadvantaged businesses from responding to solicitations or submitting competitive proposals.

Suppliers: Historically disadvantaged businesses lack forums to provide feedback to contracting agencies and organizations to review and update procurement protocols, allowing prohibitive and exclusionary policies and practices to persist.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase trust with historically disadvantaged businesses.
- Improve strategy development and prioritization for inclusive contracting using vendor feedback.

Vendor surveys allow contracting agencies and organizations to understand barriers from the perspective of businesses. They can also serve as data points for procurement teams to evaluate and measure the effectiveness of policies/strategies. These surveys should be used to inform inclusive contracting priorities and actions.

EXAMPLE

City of Long Beach, CA - The City of Long Beach developed a vendor engagement survey asking past, current, and prospective vendors to participate to guide procurement improvements. The City engaged entrepreneur support organizations, departments across the city, and its vendor database. The goals of the survey were to identify barriers faced by prospective and current vendors, improve vendor outreach, and design and implement new solutions to increase opportunities for contracting. Nearly 500 vendors took the survey

and the results informed the City's efforts to increase transparency, expand communications, and increase MWBE participation. The City also planned to use the survey as a foundation for conducting focus groups with targeted categories of vendors to better understand industry concerns.

The Harvard Kennedy School Government Performance Lab Procurement Excellence Network offers **helpful insights** on the effectiveness of vendor surveys, including suggested survey questions and tips on how to structure a survey.

STEPS TO IMPLEMENT

1 **Define objectives** for surveying vendors and develop a preliminary draft of questions.

2 **Develop an outreach strategy**

2A: Create a contact list, including existing and prospective vendors for outreach. Direct outreach yields greater response rates so it's integral to identify receptive contacts and leverage relationships with industry networks and community development organizations to reach prospective vendors directly. For contracting agencies and organizations with weak relationships in their broader community, this will require forging new or improving existing relationships, which requires a thoughtful, ongoing commitment to building trust.

2B: Determine the distribution method. Using multiple channels – email, social media, online newsletters - ensures broad reach. In-person and phone surveys are useful to reach historically disadvantaged businesses that have historically been excluded from processes. Public agencies should be particularly mindful of communities who may lack trust or confidence in government. Consider partnering with business support organizations to increase participation.

3 **Design a survey** that is accessible with clear and concise questions for vendors. Create a mix of questions that gather both qualitative and quantitative data. Self-attested demographic data must be voluntary and not all respondents are comfortable providing this information. Include these questions at the end of the survey so that they do not deter respondents.

State confidentiality and anonymity parameters of the survey where appropriate to encourage honest feedback.

4 **Conduct pilot surveys** and gather feedback on survey design.

5 **Collect survey responses** and analyze and report findings. Disaggregate responses by business size and self-attested demographic data.

Continue to seek ongoing feedback as procurement initiatives are carried out.



Conduct a Disparity Study

Disparity studies are externally-conducted empirical assessments that demonstrate contracting barriers in public agency procurements. Nationally, public agencies use these studies to justify setting goals or targets to diversify contracting. Given the constraints of Proposition 209, public agencies in California are generally restricted to leveraging disparity studies to justify race- and gender-conscious contracting goals and strategies only when required for federal funding eligibility. The benefits of disparity studies are disputed among procurement professionals and advocates, and will only diminish if equal protection laws continue to be challenged in the State and Federal Government. As of this publication, disparity study costs range between $300,000 and more than $1 million.

PROBLEM TO SOLVE

Buyers: Proposition 209 prohibits public agencies in California from using race- and gender- conscious contracting practices, however, select federal funding programs may require utilizing Disadvantaged Business Enterprises (DBEs).

Suppliers: Historically disadvantaged businesses have little data publicly available to demonstrate inequitable contracting practices and advocate for change at local levels.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Among public agencies receiving federal funding with requirements for contracting with Disadvantaged Business Enterprises (DBEs), disparity studies enable them to set goals for inclusive contracting.

EXAMPLE

Caltrans - The California Department of Transportation (Caltrans) conducted a disparity study to assess whether minority-and woman-owned businesses face any barriers as part of Caltrans' contracting processes. The project team collected information as a part of the disparity study to help inform Caltrans' implementation of the Federal Disadvantaged Business Enterprise (DBE) Program.

Specifically, the study examined:

- Legal considerations surrounding the implementation of the Federal DBE program;
- Marketplace conditions throughout California for historically disadvantaged businesses;
- Contracting policies and business assistance programs that Caltrans currently has in place; and
- Program measures for consideration as part of the organization's implementation of historically disadvantaged business programs.

The report found that all minority groups showed substantial disparities on contracts held by Caltrans and subrecipient local agencies.

STEPS TO IMPLEMENT

1. **Determine** whether a disparity study will enable the contracting agency or organization to achieve goals that another, internally-conducted audit will not.
2. **Define study objectives** and areas of focus (i.e. specific contracted goods or services to be assessed in the study).
3. **Secure funding and approvals** to procure a consultant to complete the study.
4. **Draft a request** for proposals that outlines study parameters (relevant goods or services, applicable divisions, period of analysis, etc.).
5. **Contract a qualified consultant** and lead coordination on the entity's behalf to support their completion of the study.
6. Once a contract is awarded, **collect relevant data** related to procurement practices including contract awards, bid submissions, subcontracting data, and utilization of minority-owned businesses.
7. **Review findings** with stakeholders within the entity such as: procurement officers, managers, and organization leadership.
8. **Develop specific recommendations** for addressing identified disparities.



Prequalification Programs and On-Call Benches

Prequalification programs and on-call benches enable buyers to build a diverse bench of firms that are positioned to respond to fast-paced procurements, typically with reduced requirements. Prequalifications can streamline procurement by inviting firms to provide requisite material one time (e.g., certifications, tax ID number, W9, agreement to governing policies such as living wage provisions, and more) with reduced requirements for specific procurements for pre-qualified firms.

Prequalification benches are impactful when the solicitation and its outreach seeks to achieve equality in access and evaluation. Contracting agencies and organizations should consider setting a minimum number of responses required for pre-qualifications to be valid to ensure that these do not further limit opportunities to large firms who already hold contracts.

PROBLEM TO SOLVE

Buyers: Contracting agencies and organizations struggle to identify more diverse, qualified suppliers to fill contract needs.

Suppliers: Complicated contracting processes and extensive requirements deter historically disadvantaged businesses from competing for contracts for reasons discussed under Barriers to Equitable Procurement Today, which include limited internal capacity to navigate complex systems.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.
- Reduce administration costs through increased efficiency and streamlined procurement processes.
- Reduce procurement timelines.

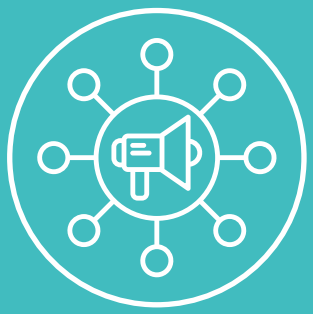
EXAMPLE

LA Business Connect - Los Angeles Sports and Entertainment Commission (LASEC) actively engages local diverse suppliers to maximize procurement opportunities for high profile events. Certified businesses are selected for the program and profiled through LA Business Connect, which event organizers and primary contractors use to identify and select local suppliers for subcontracting needs. Businesses selected for the program are considered "approved" suppliers and are part of an exclusive listing of businesses utilized by event producers from LASEC.

The program originally began as a partnership between the National Football League and the Los Angeles Super Bowl Host Committee. In addition, the program also facilitated workshops to prepare suppliers and connected suppliers with procurement executives for networking opportunities. A list of 250 qualified businesses was created to compete for contracting opportunities with Super Bowl event producers.

STEPS TO IMPLEMENT

1. **Establish requisites for prequalification** and confirm how this information will be securely filed for approved firms.
2. **Review contracts** from the previous two to five years to determine common goods and services that would be suitable for on-call bench suppliers. Supplies and materials (e.g., office supplies and maintenance supplies) as well as professional services (e.g. graphic design, strategic planning, real estate advisory services, and architecture and engineering services) are well-suited to prequalification given the importance of experience in the field or with similar clients is highly relevant. Conversely, construction and other capital goods and services are not as well-suited due to the risks to organizations for such projects and pricing that is bid-specific.
3. **Develop prequalification guidelines** by defining required documents, certifications, qualifications, and experience that respondents must provide to demonstrate eligibility. Contracting agencies and organizations should include a description of the range of goods and services anticipated to be fulfilled by firms on the prequalification bench.
4. **Identify prospective respondents** who may be interested in participating in an on-call bench for direct outreach.
5. **Actively promote prequalification solicitations** to prospective respondents using a range of communication channels to ensure breadth and diversity of outreach. Ensure promotional materials are accessible to different business groups, considering language accessibility and the needs of people with disabilities.
6. **Evaluate responses** and notify pre-qualified businesses.
7. **Conduct targeted outreach** to pre-qualified businesses to share contracting opportunities.
8. **Regularly update lists** and maintain communication with businesses.



Standardize Solicitation Procedures

Contracting agencies and organizations should strive to use consistent, accessible communication to develop equitable procurement processes. By using clear and concise language, organizations can help to ensure that all businesses can consider solicitation opportunities and compete for contracts.

PROBLEM TO SOLVE

Buyers: Complicated, unclear procurement processes lead to fewer responses from qualified historically disadvantaged businesses.

Suppliers: Complicated contracting processes and extensive requirements deter historically disadvantaged businesses from competing for contracts for reasons discussed under Barriers to Equitable Procurement Today, which include limited internal capacity to navigate complex systems.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.
- Reduce administration costs through increased efficiency and streamlined procurement processes.

EXAMPLE

Regional Alliance Marketplace for Procurement (RAMP LA) - The City of LA redesigned their procurement portal to provide a more easily navigable platform to advertise their own solicitations, as well as serve as a central hub for public and private organization solicitations in the Southern California region. Launched in 2022, RAMP LA expects to make available more than $10 billion in procurement in its first year.

RAMP offers specific business classifications for small businesses outside of construction and maintenance, making it easier for buyers to specify the type of services that are needed and identify potential vendors. Participating contracting agencies and organizations are also able to reach out directly to vendors by industry classification and by small and diverse business certifications to support their solicitation outreach.

STEPS TO IMPLEMENT

1. **Catalogue and evaluate** existing procurement processes. This can benefit from a comprehensive audit of internal processes that engages colleagues across divisions (see *Audit Internal Processes*).

2. **Conduct outreach** with historically disadvantaged businesses to identify barriers to contracting. Contracting agencies and organizations can accomplish this through parallel processes, such as vendor surveys (see *Vendor Surveys*).

3. **Develop new or update existing templates** to standardize language for procurement solicitations, prioritizing clarity and transparent, objective criteria.

4. **Maintain consistent documentation** of decision-making processes throughout the procurement process to continue to improve solicitation procedures.



Implement Contract Forecasting

Organizations can forecast contracting needs and priorities to identify goods and services that will be procured over a set period. These forecasts allow organizations to strategically plan for communications, perform outreach, and encourage historically disadvantaged businesses to respond to solicitations.

PROBLEM TO SOLVE

Buyers: Without a plan or timeline for procurements, procurement teams in contracting agencies and organizations lack time and capacity to support outreach to target firms.

Suppliers: Businesses have limited notice to evaluate and respond to solicitations, reducing their likelihood of being aware of and responding to opportunities.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.

EXAMPLE

LA Metro - Metro publishes its 12-month forecast of potential contracting opportunities. The 12-Month Look Ahead can be found in the Events and News section of Metro's Vendor Portal and includes descriptive information such as proposed advertising month, project title, NAICS Code, range of estimated cost, type of work, and department.

STEPS TO IMPLEMENT

1. **Collect historical procurement data** and examine trends and patterns (e.g. services contracted, budget cycles, seasonal variation) to inform the forecasting process.

2. **Coordinate internally** to build a schedule of contracting opportunities over a set time period. Review Capital Improvement Plans if available, which indicate pre-determined capital project timelines.

3. **Appoint a procurement liaison** from each department that contracts goods and services. This liaison will serve as the point of contact to update the procurement team of upcoming solicitations. They should meet with department supervisors and managers bi-annually or quarterly to check in on forecasted procurements and relay updates to the procurement team.

4. **Review anticipated solicitations** and contracting opportunities to identify those appropriate for enhanced outreach and support to encourage participation from historically disadvantaged businesses.



Create Opportunities for Businesses to Connect with Procurement Managers

Networking opportunities are important for historically disadvantaged businesses to enhance visibility and gain a better understanding of contractor requirements. Contracting agencies and organizations should facilitate engagement with historically disadvantaged businesses to identify potential vendors and provide clarity on the contracting process. Networking can support relationship building among contracting agencies and organizations, historically disadvantaged businesses who are potential vendors, and firms that may serve as prime contractors on large contracts.

PROBLEM TO SOLVE

Buyers: Procurement teams in contracting agencies and organizations rely on limited networks and relationships with familiar firms.

Suppliers: Historically disadvantaged businesses find contracting processes opaque without relationships or support from contracting agencies and organizations to navigate.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.

EXAMPLE

Several contracting agencies and organizations in the SCAG region offer opportunities for procurement managers and small businesses to connect. The following list of opportunities is not comprehensive. Contracting agencies and organizations should leverage their networks to identify opportunities to leverage existing networking events and collaborations.

Caltrans – The transportation agency hosts an annual procurement and resource fair for small businesses and buyers to meet.

U.S. Department of Energy – The agency has been performing a road tour with minority business development agencies to highlight opportunities for contracting.

SoCalGas – The utility company hosts a Meet the Primes event to unite prime and diverse suppliers with the goal of exploring potential business partnerships.

Metropolitan Water District of Southern California – MWDSC has a business outreach program known as "Metworks" that operates as a networking program for businesses in Southern California. This includes a series of quarterly workshops where the agency shares insight into their contracting standards and discusses any upcoming contracting opportunities.

STEPS TO IMPLEMENT

1. **Identify** potential organizations with ties to historically disadvantaged businesses such as community development organizations, chambers of commerce, APEX Accelerators,[19] and others.

2. **Develop a communication and outreach strategy,** including roles and responsibilities for procurement staff, setting goals, and building a calendar of events.

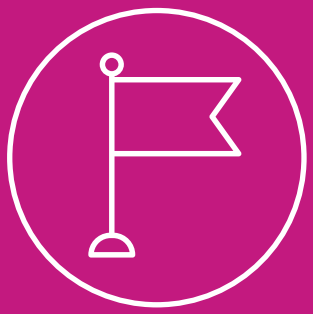
3. **Conduct outreach** to notify target businesses of events and opportunities to engage with procurement staff.

4. **Organize and host events and workshops** to facilitate networking and provide information. Allow businesses to showcase work and engage with agencies and prime contractors.

   Private anchor institutions can facilitate business matchmaking to pair businesses with procurement managers and prime contractors.

5. **Develop online platforms** that can showcase businesses to procurement managers and prime contractors, while also encouraging supplier registration.

19 APEX Accelerators (formerly Procurement Technical Assistance Centers) are a part of the Department of Defense's Office of Small Businesses Programs. Small business contractors can receive assistance to pursue federal, state, and local government contracts at more than 90 APEX Accelerator locations across the country.



Establish Small Business Contracting Goals and Preferences

Small business purchasing goals can increase opportunities for historically disadvantaged businesses by allowing small businesses the opportunity to compete on more contracts. Although public agencies are limited in implementing measures to achieve small business contracting goals by governing charters, clearly defined, prominent goals can enhance transparency and accountability for jurisdictions committed to inclusive contracting practices. Further, contracting agencies and organizations can provide preferences for small businesses by assigning criteria and/or points during the evaluation of solicitation responses.

Anchor institutions can establish goals and preferences for race-and gender-conscious contracting in addition to small business contracting.

PROBLEM TO SOLVE

Buyers: Proposition 209 prohibits public agencies in California from setting race- and gender-conscious business supplier minimums.[20]

Suppliers: Without a concerted effort from contracting agencies and organizations, historically disadvantaged businesses will continue to face systemic barriers to contracting and struggle to compete with large firms.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses .

EXAMPLE

Anchor institutions in the SCAG region provide varying precedents for small business contracting goals.

- **UCLA** has a small business utilization goal of 25% for overall contract dollars.

20 There are exceptions to Proposition 209 that allow public agencies to set race-and-gender-conscious business supplier minimums, including to comply with federal funding requirements.

- The **Port of Los Angeles** sets an overall goal of 25% small business enterprise participation, of which 5% is designated for very small business enterprises.
- The **Metropolitan Water District of Southern California** has set a goal of providing 25% of outside contracts to small, regional and disabled veteran-owned businesses.

STEPS TO IMPLEMENT

1. **Assess existing participation by historically disadvantaged businesses,** including responsiveness to solicitations, share of total contracts, and share of total contract values to assess gaps and opportunities. Determine which types of businesses to target through contracting goals based on who is underrepresented in existing procurement practices and demographics of business owners in the region.
2. **Coordinate with internal decision-makers to establish goals and timelines for increased participation from target businesses.** These goals should exceed past performance to encourage improvement. Goals may be based on the share of total contracts or total contract dollars awarded or spent. Setting targets for each metric encourages contracting agencies and organizations to seek to advance inclusive contracting more holistically.
3. **Define who is eligible to participate in a program.** In the SCAG region, public agencies may be limited to setting goals for contracts with small businesses, very small businesses, and/or local businesses.
4. **Develop a process for identifying target businesses.** This will include certification, either through self-identification or through a third-party. Anchor institutions that maintain vendor lists should update lists accordingly to add target businesses.
5. **Direct qualifying historically disadvantaged businesses to resources for achieving certification.** This could include federal, state, and local resources. Anchor institutions should regularly update their lists of certified businesses.
6. **Promote the program** to small businesses with the assistance of business support organizations.
7. **Develop a strategy** to support goal achievement, which may employ other tactics in this toolkit. Several jurisdictions have implemented small business preference programs that do not contradict Proposition 209. The City of Los Angeles' Local Small Business Enterprise Program provides businesses within the County and the City with 6% - 12% bid preference on proposals. Orange County's preference program for Local Small Business Enterprises and Disabled Veteran Business Enterprises ranges between 5% - 8% bid preference on proposals. These preference programs can help historically disadvantaged businesses improve their competitive edge in the bidding process.
8. **Monitor and evaluate** the program and report on progress.



Require Prime Contractors to Achieve Inclusive Subcontracting Goals

Requiring prime contractors to meaningfully engage with historically disadvantaged businesses, subcontract to them, and provide fair and prompt payment can increase opportunities for historically disadvantaged businesses. Experience on these projects increases the businesses' qualifications to pursue larger contracts as primes. Requiring prime contractors to report on utilization of subcontractors (e.g. contract values and business demographics) will strengthen data collection and tracking for contracting agencies and organizations.

Contracting agencies and organizations must determine the inclusive contracting requirements that are permissible under their governing charters. In addition to Proposition 209, some city agencies must also comply with governing city charters.

PROBLEM TO SOLVE

Buyers: Due to systemic barriers (e.g., complicated processes and exclusive contract design), historically disadvantaged businesses are less likely to compete for or be competitive to win large contracts. Meanwhile, large firms rely on established relationships with small firms and vendors, and therefore do not proactively subcontract to new firms. While private firms are able to set goals for contracting with historically disadvantaged businesses, California public agencies are prohibited by Proposition 209 from using race and gender-based criteria, and may be further constrained by local policy.

Suppliers: Historically disadvantaged businesses face barriers to contracting with agencies and organizations directly as well as larger firms who are typically prime contractors. Most contracting opportunities for minority businesses come as subcontractors, but building relationships with prime contractors is challenging with limited professional networks.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of historically disadvantaged businesses contracted as prime contractors or subcontractors.

EXAMPLE

Port of Los Angeles – The Port of Los Angeles has a Small Business Enterprise (SBE) program that mandates that contract awardees include SBE participation. Previously, the Port also required "good faith efforts" but anecdotally reports that after issuing a mandate, the participation of disadvantaged businesses doubled. Contract awardees are required to submit a form with proposals that demonstrates their commitment to SBE participation. In order to receive payment, contract awardees must submit proof that all of their invoices from subcontractors have been paid to date.

This initiative supports the Port's overall goal of 25% SBE participation, of which 5% is designated for Very Small Business Enterprises (VSBEs).

STEPS TO IMPLEMENT

Building on the Recommended Immediate Actions, contracting agencies and organizations should set goals for business participation in procurement and contracts. Making a case for the multitude of benefits (e.g., expanded pool of respondents, cost competition, increased economic resilience, and more) will support buy-in from leadership.

Pursuing these goals requires a multi-pronged approach:

- Solicitations
- Contracts
- Reporting

1 Solicitations

On large contracts, contracting agencies and organizations should include criteria in the solicitation for respondents to discuss their commitment to engaging historically disadvantaged businesses and evaluate responses as part of selection. To achieve this, depending on the contracting agency or organization's constraints, they may include in solicitations questions and prompts such as:

- Please provide an estimated percentage of total contract value to Women-Owned Firms/Minority-Owned Firms/Veteran-Owned Firms/LGBTQ-Owned Firms.*
- Describe the strategic model that your firm has for integrating historically disadvantaged firms.
- Describe the partnership you have with the historically disadvantaged firms on your team, whether you teamed in the past, how substantive their role is, and whether they are decision-makers and leaders on your team.
- Describe specific strategies your team will employ to provide equal access to opportunities to bid on subcontracts.

**Asterisk denotes prompts that public agencies may only be able to use under limited circumstances (e.g. federally-funded projects with contracting requirements).*

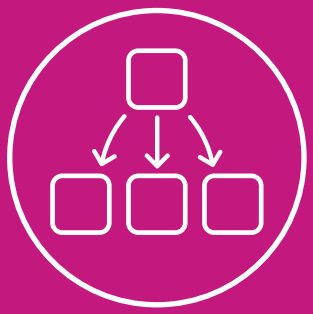
2 **Contracts**

If permissible, contracting agencies and organizations should establish specific goals for inclusive subcontracting in prime contracts.

Public agencies who legally cannot use evaluation criteria based on race or gender during solicitations may set goals for subcontracting participation and require prime contractors to demonstrate good faith efforts to solicit proposals from a large and diverse pool of prospective respondents.

3 **Reporting**

To enforce contract requirements, contracting agencies and organizations should require prime contractors to provide reports on their procurement process as well as their spending to subcontractors. These can be used to monitor compliance with established goals and policies. Enforcement penalties may include: withholding contract execution until procurement processes are validated and withholding payment until contract spending is aligned with subcontracting goals.



Identify Contract Opportunities for Small Businesses

Small contract values with a focused scope of goods and services are more accessible to historically disadvantaged businesses. Contracting agencies and organizations should proactively identify small contract opportunities, which may include unbundling large contracts, and promote these so that businesses can easily find them. To ensure these small contracts are awarded to small and/or historically disadvantaged businesses, contracting agencies and organizations can limit responses based on business criteria (e.g. annual revenue, employment, and/or business location).

By fulfilling large contracts, historically disadvantaged businesses grow their experience, financial position, and resources to compete for larger contracts in the future. Small contracts can attract more responses, resulting in greater competition and lower costs for the procuring organization. Contracting agencies and organizations should determine the appropriate goods and services to procure via small contracts since some cases may risk losing economies of scale and incurring additional costs.

PROBLEM TO SOLVE

Buyers: Solicitations for large contracts routinely receive responses from a small pool of the same qualified vendors.

Suppliers: By virtue of their relevant experience, limited staff, and financial capacity, historically disadvantaged businesses, particularly small businesses, are precluded from competing for large contracts.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.
- Increase percentage of spend awarded to historically disadvantaged businesses.
- Reduce contract costs (where appropriately applied).

EXAMPLE

City of Los Angeles Department of Public Works (LADPW) – LADPW established the Bureau of Contract Administration's Community-Level Contracting program created in collaboration with the Mayor's Office of Budget and Innovation's Chief Procurement Office. This program unbundles large contracts into contracts of $100,000 or less to create more opportunities for small and historically disadvantaged businesses to serve as prime contractors instead of subcontractors by reducing the responsibilities and requirements. This initiative was aligned with several Executive Directives signed by Mayor Eric Garcetti to promote racial equity in City government, procurement and contracting.

Previously, the Bureau of Contract Administration partnered with the Bureau of Engineering on its Small Sidewalk Repair program to implement the Community-Level Contracting program. This resulted in the creation of a list of 35 qualified contractors for the Pre-Qualifed On-Call Small Sidewalk Contractors list. About two-thirds of the contractors were first time bidders with many holding certifications as small, minority, women, or disabled veteran-owned businesses. Through Community-Level Contracting, 26 work packages have been awarded totaling more than $1,800,000.[21]

LA Metro's Small Business Prime Program sets aside small contracts between $3,000 and $5 million for only Metro certified Small Business Enterprises (SBEs) to compete for. The responding SBEs are required to perform, manage, or directly supervise at least 30% of the contract value with their own workforce. If the solicitation receives fewer than three responses from qualifying businesses in the target industries, the procurement is opened to all businesses regardless of size.

21 Los Angeles Department of Public Works. "LA City Board of Public Works Approves Motion to Establish Community-Level Contracting Program". 2021. https://dpw.lacity.gov/blog/la-city-board-public-works-approves-motion-establish-community-level-contracting-program

STEPS TO IMPLEMENT

Procurement professionals should determine an appropriate contract value for small contracts and use a multi-pronged approach to identify and elevate these opportunities, including:

1. **Review existing contracts** and convene with department project managers to identify appropriate small contract opportunities. This may include one-time purchase orders that could be competitively procured.
2. **Establish a means of promoting** small contracts in particular, such as a website or filter on existing procurement platforms.
3. **Work with legal counsel** to determine whether small contracts can be made exclusively available to a pre-qualified set of respondents either based on certification or information provided by businesses.
4. **Unbundle** large contracts (additional direction below).

Unbundle Large Contracts

1. **Define criteria and a method** for determining which tasks can be unbundled, considering factors such as complexity, monetary value, and skill requirements.
2. **Review smaller tasks** to ensure they won't compromise the efficiency of the work; then proceed with drafting distinct solicitations.
3. **Build internal buy-in** on potential changes to the procurement process, including leadership and staff on the purpose of unbundling contracts.
4. **Identify** those contracts that are well-suited to historically disadvantaged businesses and promote them as part of a procurement process.
5. **Evaluate the performance** of unbundled contracts that are awarded to small businesses and solicit feedback from both within the organization and the small businesses.

The Harvard Kennedy School Government Performance Lab provides **additional guidance** on unbundling contracts, including potential scopes of work, checklists for criteria to consider when unbundling a contract, case studies, and best practices.

QUESTIONS TO GUIDE CONTRACT UNBUNDLING[22]

Key components of a scope of work should include explicit language that an organization is open to contracting with multiple vendors and that prospective vendors are invited to bid on all or a designated portion of the scope of goods/services. There are also several methods for unbundling contracts including geographic area, service type, and requiring responsibilities to be subcontracted by prime contractors. A potential checklist for considering whether to unbundle a contract is listed below.

- Contract size: how large is this contract relative to all contracts at the organization? Is it one of the largest?
- Performance history: have you had issues with contractors fulfilling this service previously?
- Contract history: has one vendor been awarded this contract for more than one contract period?
- Contract interest: has this contract previously received a competitive pool of responses?
- Available vendors: do many qualified vendors exist for this contract or service type?

To determine whether there are available and interested vendors, consider conducting market research using business registries, industry days, professional associations, and internet searches.

22 Developed based on: Amanda Jaffe and Hope Patterson. "Unbundling Large Contracts to Diversify Your Vendor Pool". Harvard Kennedy School Government Performance Lab. 2023. https://gplpen.hks.harvard.edu/wp-content/uploads/2023/07/Unbundling-Large-Contracts-to-Diversify-Your-Vendor-Pool.pdf.



Reduce Contract Requirements and Offer Financial Assistance

Onerous contract requirements can make it difficult for historically disadvantaged businesses that are less financially stable to respond to solicitations. Base contract language is drafted to ensure risk mitigation requirements such as insurance limits are sufficient to satisfy high-dollar or high-risk projects. However, these same requirements are unnecessary for smaller value contracts. Reducing these requirements and offering assistance to satisfy them increases access to contracting for historically disadvantaged businesses. Organizations can establish internal policies for insurance requirements based on contract values and/or types of goods and services contracted. For example, contracts below $1,000,000 should have lower insurance requirements based on the premise that smaller contracts require lower levels of risk, allowing historically disadvantaged businesses to compete.

PROBLEM TO SOLVE

Buyers: Risk mitigation requirements, such as insurance limits, can be out of reach for historically disadvantaged businesses when procuring with contracting agencies and organizations.

Suppliers: Historically disadvantaged businesses face barriers to meeting insurance requirements for certain projects. Smaller businesses are less likely to have the experience and financial status to meet the cost of providing insurance. For businesses who borrow capital to meet requirements, lending discrimination creates additional challenges (e.g. higher interest rates). Larger firms can get approved and afford the required levels of insurance and other risk mitigation requirements; allowing them to outcompete historically disadvantaged businesses for contracts.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.

EXAMPLE

The **City of Long Beach** and **Port of Long Beach** have an agreement with an insurance brokerage firm to provide a low-cost insurance alternative to assist SBEs to meet the City's insurance requirements for bidding on small, low-risk projects. The program has low premiums, low deductibles, and pre-approved classes which expedite contract issuance.

The "Vendors/Contractors Program" offers insurance coverage to vendors and contractors who do not carry their own coverage. Premiums are based on the contract value.

STEPS TO IMPLEMENT

1. **Assess the organization's risk management policies** and current insurance requirements to evaluate necessity against their impact on contracting. To conduct a comprehensive assessment, engage staff across divisions, including legal counsel, procurement experts, and project managers to understand the range of interests and determine minimum requirements that satisfy the organization's needs without precluding competition in procurement.

2. **Engage businesses** to understand their constraints fulfilling risk management requirements such as meeting insurance limits to determine what threshold for insurance is feasible for different contract sizes.

3. **Review any regulatory obligations** that govern bonding and insurance requirements to identify flexibility or discretion to adjust requirements while still maintaining appropriate risk management practices.

4. **Explore alternatives** to traditional requirements, such as reduced insurance requirements and accepting alternative forms of financial security such as letters of credit or performance guarantees.

5. **Collaborate** with advocacy groups and professional organizations for changes in bonding and insurance requirements that are industry specific and ensure risk management while reducing unnecessary barriers.

6. **Work with insurance providers** to develop insurance programs designed for medium and small-sized businesses. These programs could offer affordable and tailored insurance coverage that still meets the organization's requirements to mitigate liability and risk.



Implement Prompt Payment Programs

Payment schedules favor larger firms that can bridge delayed payment compared to smaller firms that lack capacity and financial stability to withstand irregular payment schedules. Prompt payment programs commit to paying businesses within a set timeframe to increase the attractiveness of contracting opportunities to historically disadvantaged businesses by reducing risks. Further, organizations can require prime contracts to provide prompt payment to subcontractors.

Prompt payment timeframes vary, with two-week payment periods as the exemplary.

PROBLEM TO SOLVE

Buyers: Businesses are hesitant to respond to solicitations or enter contracts with organizations due to lengthy payment processing.

Suppliers: Historically disadvantaged businesses are less likely to have the financial ability to fund expenses while waiting for long payment processing times, particularly during earlier stages of growth.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.
- Reduce administrative costs for tracking payments that are late or overdue.
- Improve relationships with suppliers.

EXAMPLE

Orange County Transportation Authority (OCTA) – As a condition of receiving federal financial assistance from the U.S. Department of Transportation, OCTA has signed an assurance to comply with the federal government's policy of increasing the participation of disadvantaged businesses enterprises in DOT Financial Assistance Programs. As a part of

this program, monthly disadvantaged business enterprise (DBE) status reports are collected to track the prompt payment to disadvantaged businesses and subcontractors. OCTA has adopted prompt payment provisions on all U.S. DOT-assisted contracts that require payment for satisfactory performance of its contract no later than seven days for construction contracts and 15 days for consultant contracts. The agency tracks payments with subcontractors through a subcontractor payment verification form for prime contractors. OCTA tracks DBE engagement through a monthly report summary and payment verification form.

OCTA has also initiated the implementation of a web-based reporting system provided by Enhanced Compliance Application Tool (ECAT) to monitor compliance with prompt payment as well as DBE utilization progress.

STEPS TO IMPLEMENT

1. **Review** existing payment processes and timelines to identify bottlenecks and issues that delay payments.

2. **Establish clear and transparent** payment terms that include expectations for payments, due dates, acceptable payments, and any applicable discounts or penalties. Implement these terms with prime contractors as well.

3. **Simplify and streamline** the invoicing process to minimize administrative burdens and review times. Accomplish this by providing clear guidance on required invoice documentation, submission protocol, and a point of contact for questions. Reduce any requirements that are not essential for business operations or project management (e.g. requiring that invoices include written descriptions of work completed and deliverables submitted as separate items).

4. **Adopt** electronic payment systems for quicker payments.

5. **Establish** efficient and fair dispute resolution mechanisms to handle payment disputes or discrepancies that may arise.

6. **Monitor and evaluate** the performance of the prompt payment program by tracking payment cycle times and measuring on-time payment rates. This is easily accomplished by entering two dates in accounting systems: 1) the date that an invoice is received and 2) the date that payment is issued.



Establish Lending Programs to Increase Capital Among Disadvantaged Businesses

Access to capital is one of the primary barriers for disadvantaged businesses to procure work. Contracting agencies and organizations can offer pathways for historically disadvantaged businesses by helping them secure capital loans or leveraging philanthropic investments.

PROBLEM TO SOLVE

Buyers: Contracting agencies and organizations receive limited responses from qualified historically disadvantaged businesses.

Suppliers: Historically disadvantaged businesses are more likely to have greater difficulty raising capital and meeting contract insurance requirements, and typically pay higher interest rates on approved loans.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.

EXAMPLE

Los Angeles World Airports (LAWA) Contract Financing Assistance Program (CFAP) – CFAP offers loans to small construction contractors to be used for meeting construction contract funding requirements. Contractors applying for CFAP funds begin with an assessment of their capacity to meet a bid's requirements before bidding on it. The assessment identifies what the contract cash flow requirements will be for contract costs such as project labor, materials, and other areas specific to the contract, with a pre-approval for funds issued upon the assessment's successful completion. CFAP loans are ultimately approved following a winning bid, with funds released for contract expenses as needed. Loans are issued at a fixed 6.25% annual percentage rate, plus a 1% origination fee. Amounts are up to $250,000 plus interest. The Pacific Asian Consortium in Employment (PACE) Finance Corporation provides funding for the program and Merriwether & Williams administers the program.

STEPS TO IMPLEMENT

1. **Conduct a needs assessment** to understand existing financial requirements for procurement opportunities and the financial barriers disadvantaged businesses face.

2. **Evaluate organizational capacity** and willingness to establish capital loan programs to support disadvantaged businesses.

3. **Identify funding sources** (philanthropic, federal/state grants, partnerships with local banks) to establish the program.

4. **Establish partnerships** with financial institutions that have experience in supporting disadvantaged businesses and collaborate to combine resources, expertise, and networks to implement a lending program.

5. **Design loan products** that are tailored to the needs of small businesses and address issues such as contract financing, mobilization funds, or working capital lines of credit.

6. **Ensure a group of champions is in place** to manage and troubleshoot the loan program, as well as collect relevant data for ongoing monitoring and evaluation.

7. **Direct disadvantaged businesses** to organizations that provide financial counseling and support to help them manage their finances effectively and minimize the risk of loan default.



Increase Bonding Capacity

Providing historically disadvantaged businesses with greater access to bonding enables them to compete for larger contracts by assisting them with fulfilling contract requirements.

PROBLEM TO SOLVE

Buyers: Procurement professionals need bonding requirements to mitigate risk, but this shrinks the pool of available applicants. Bonding requirements can inadvertently result in excluding historically disadvantaged businesses from competing against larger businesses.

Suppliers: Bonding requirements are one of the largest barriers for historically disadvantaged businesses when bidding for contract work. Discrimination in capital markets and less financial stability can contribute to the inability of historically disadvantaged businesses to meet bonding requirements.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.

EXAMPLE

Los Angeles Regional Contractor Development and Bonding Program (CDABP) - Since 2005, CDABP has been helping small and diverse businesses in the construction sector build their contracting capacity using an aligned risk management strategy and providing support to access to capital, surety bonding, and other technical assistance. The program serves businesses certified as Small Business Enterprise (SBE), Disadvantaged Business Enterprise (DBE), and Disabled Veteran Business Enterprise (DVBE).

The program draws on a revolving fund of $8 million to provide contract financing to participating businesses. Contract financing advances a portion of a contract to a business as a short-term loan. Two Community Development

Financial Institutions (CDFIs) act as third-party fund administrators, underwriting contract finance loans and monitoring debt service from borrowers. Interest rates vary by lender and contract, but currently hover around 12%.

Construction contracts often require surety bonding.[23] Drawing on a $4 million line of credit, government sponsors lend up to $250,000 (or 40% of the value of the contract) to a business that must purchase bonding to enter into a contract.

Government sponsors coordinate access to various professional assistance services:

- Professional contract review, project assessment and field support for program bonded contracts.
- Assistance with project risk identification and mitigation.
- Project opportunities and industry events sent weekly via the "Blitz of the Week" and referrals to specific contracting opportunities.
- Prime contractor prequalification support.
- One-time subsidy towards CPA-Prepared Financial Statement.

Currently, the program has three sponsors—the City of Los Angeles, Los Angeles County, and Metro — and operates as a shared resource-cost program. Since its inception, more than 2,700 contractors have been served with more than $300 million in awarded contracts. There have only been two instances of default.

STEPS TO IMPLEMENT

1. **Identify partnerships** with bonding companies to facilitate favorable terms for historically disadvantaged businesses.
2. **Identify prospective partners** to collaborate with to develop a program (e.g. philanthropy, federal and state grant programs, community development financial institutions).
3. **Work with bonding providers** to streamline bonding application processes for historically disadvantaged businesses.
4. **Develop clear guidelines** for businesses to understand eligibility criteria for bonding assistance.
5. **Offer workshops and technical assistance** to assist businesses understand how to access bonding and improve financial standing.

23 Certain projects (usually public-sector construction projects) require contractors to set aside money that sits untouched for the duration of a project, but which the project owner/client can tap into if the contractor defaults or cannot complete the contract. This process is referred to as surety bonding. For a small business without significant working capital and low operating margins, purchasing large amounts of surety bonding can be cost-prohibitive and act as a barrier to construction contracts.



Build Procurement Professional Networks

By building relationships with one another, procurement professionals across contracting agencies and organizations can exchange emerging practices, policies, and programs; seek to problem solve similar issues; and benefit from sharing lessons learned. These networks of procurement professionals allow procurement professionals to bring broader expertise to their work, particularly to shift to inclusive contracting protocols. These networks also offer an opportunity for contracting agencies and organizations to collaborate on potential initiatives or advocate for their interests across a region or industry.

PROBLEM TO SOLVE

Buyers: Procurement professionals operate within the constraints of policies and protocols established by the contracting agency or organization where they work, without the benefit of insight into other inclusive contracting practices and opportunities.

Suppliers: Contracting processes are difficult to navigate and confusing with varied requirements for similar work across contracting agencies and organizations.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses
- Increase efficiency and streamline procurement processes.

EXAMPLE

Orange County Procurement Alliance - The Orange County Procurement Alliance fosters collaboration and cooperation among procurement professionals in cities across the County to support inclusive contracting.

The alliance kicked off in March 2022, outlining objectives to:

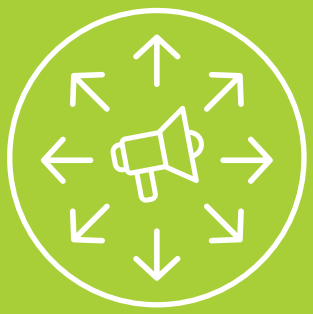
- Leverage market power to negotiate better terms, including lower prices;
- Increase efficiencies by eliminating the duplication of efforts;
- Increase opportunities for small businesses; and
- Share knowledge, information and expertise.

To build enthusiasm and support for the network, the Alliance cited the success of the **City-County Collaboration** between Chicago and Cook County which resulted in $70.9 million in savings or new revenue through 60 initiatives across 16 collaboration areas. The City and County reached the milestone through initiatives to eliminate duplicative services, identifying new efficiencies through coordinated enforcement and service delivery, and leveraging economies of scale through joint procurements and grant applications.

Hospital Association of Southern California (HASC) – HASC is a not-for-profit regional trade association that is dedicated to advancing the interests of hospitals in Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara and Ventura counties. The association launched their Supplier Diversity Initiative in 2023 with a committee comprised of hospitals in Los Angeles County. One of their initiatives are Hospital Supplier Diversity Days which are intentional matchmaking events with small businesses, chambers of commerce, and different hospitals. These events include more than 100 attendees and offer a round-table series to encourage matchmaking. They are working toward developing their first Hospital Diversity Conference across the six counties which will include roundtables and networking as well as educational components on RFP practices.

STEPS TO IMPLEMENT

1. **Select a leader** and form a core team responsible for leading the formation of the network and potential activities.
2. **Engage** with procurement professionals, suppliers, and advocacy groups to gather input and build a coalition.
3. **Identify the type of network** that would be beneficial for the agency or institution to be a part have (e.g., industry- or geographically-specific).
4. **Establish criteria and responsibilities** for those joining the network to promote engagement and ensure accountability (e.g., meeting attendance, performing outreach, carrying out initiatives).
5. **Collaborate** with members of the network to identify goals and objectives over the lifetime of the group and track progress for meeting those goals.
6. **Define initiatives** that members of the network can each partake in.
7. **Organize** workshops and training sessions to share best practices, insights, and tools.
8. **Create a repository** of resources and encourage members to contribute to benefit the entire network.
9. **Identify** regular forms of communication (e.g., meeting cadence, newsletters, shared calendars,) and seek feedback from members of the network.



Advertise Solicitations with Community-Based Organizations Connected to Disadvantaged Businesses

Community-based organizations (CBOs) and business support organizations can assist procurement professionals by directly advertising and promoting solicitations to historically disadvantaged businesses. These partnerships can enable contracting agencies and organizations to reach a larger pool of prospective respondents, particularly historically disadvantaged businesses.

PROBLEM TO SOLVE

Buyers: Contracting agencies and organizations struggle with limited responses to solicitations, particularly from qualifying historically disadvantaged businesses.

Suppliers: Historically disadvantaged businesses struggle to navigate the multitude of procurement websites to identify contract opportunities.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.

EXAMPLE

Pacific Asian Consortium in Employment (PACE) - PACE regularly hosts events where contracting agencies and organizations advertise potential work opportunities to local businesses. Notably, PACE hosts an annual supplier diversity conference to connect small businesses with private companies and government agencies to purse contract opportunities. The event features panel discussions, insights on procurement strategies and networking, and discussions on how to win private sector and government contracts.

Southern California Edison (SCE) – SCE collaborates with more than 50 advocacy and community organizations to advance supplier diversity and promote the growth and development of diverse businesses.

This collaboration includes participation in outreach events; capacity building with organizations to support programs that promote diverse business growth; and identifying opportunities for mentorship, education and scholarships for diverse entrepreneurs.

STEPS TO IMPLEMENT

1. **Compile** relevant bid opportunities for small and disadvantaged businesses.
2. **Identify** relevant community-based organizations with networks to historically disadvantaged businesses.
3. **Build relationships** with community-based organizations to establish a positive working relationship. If a contracting agency or organization does not have a strong existing relationship with the CBO, building these relationships and establishing trust will be an ongoing effort.
4. **Create** concise advertisements or alerts that are readily sharable for the CBO to communicate with their business network.
5. **Organize** outreach events or information sessions in collaboration with CBOs to promote solicitations.
6. **Recognize and acknowledge** participation from CBOs.

CASE STUDY

CASE (Chicago Anchors for a Stronger Economy)

Led by World Business Chicago, CASE was a network of more than 100 prominent public, private, nonprofit, and cultural Chicago-land institutions 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 and community development: Creating anchor action plans based on priorities within their geographic area of focus, and developing projects targeting distressed neighborhoods.

CASE facilitated $51.8 million in revenues to small businesses and 180 new jobs, through contracts with anchor institutions. World Business Chicago sunset the program during the COVID-19 pandemic.



Provide Constructive Feedback to Unsuccessful Respondents

By proactively offering businesses opportunities to receive feedback on unsuccessful bids, organizations support the growth of organizations by assisting them to identify areas for improvement and enhance their competitiveness in future proposals.

PROBLEM TO SOLVE

Buyers: Contracting agencies and organizations receive limited responses from qualified, historically disadvantaged businesses.

Suppliers: Businesses who respond to solicitations are unsure how to improve their responses and increase competitiveness to win. Eventually, they become discouraged and stop responding to solicitations.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase awards to previously unsuccessful bidders.
- Increase the number of responses from historically disadvantaged businesses.

EXAMPLE

Los Angeles Unified School District (LAUSD) – LAUSD receives debriefing requests within ten calendar days after the District's issuance of the Notice of Intent to Award. Requests for debriefings must be submitted in writing. Debriefings include a discussion of the proposer's proposal and their advantages and disadvantages in relation to the requirements of the RFP. Debriefings do not include point-by-point comparisons of the debriefed proposer's proposal with those of other proposers.

STEPS TO IMPLEMENT

1. **Engage** with historically disadvantaged businesses to determine feedback that would be helpful for bidding with the organization. Select businesses that have previously bid on work and have been unsuccessful in contracting.

2. **Create a feedback template** to ensure feedback is consistent and helpful. The feedback should focus on strengths and areas for improvement of individual proposals as well as convey why the winning proposal was awarded. Further, feedback should reflect objective evaluation criteria to protect the organization against protests of awards.

3. **Train feedback providers** on how to provide constructive feedback that is specific, respectful, and helpful. Feedback providers should also be individuals who have reviewed the proposals and can provide context on why certain bids were not chosen.

4. **Advertise** throughout the RFP process that unsuccessful bidders will have the opportunity to receive feedback on their bids.

5. **Offer to schedule calls** with bidders who were not selected and provide verbal or written feedback based on the bid evaluation criteria.

6. **Establish a window of time** for businesses to request feedback and ensure it is provided in a timely manner following an award.

EVALUATION SCORECARD[24]

KEY COMPONENTS

An evaluation scorecard and process that supports a fair, objective process will include:

- Clear instructions with guidance for your evaluation team.
- Rubric for how each criterion will be rated, accompanied by definitions (e.g., Poor, Fair, Good, Excellent).
- Technical and price scoring (e.g., weight of each criteria).

The creation of a scorecard should be guided by internal inquiries aimed at assessing whether the weighting assigned to specific criteria indirectly fosters exclusivity. For example, greater weight assigned to organizational capacity and experience can exclude small businesses that are unable to address circumstances out of their control. Criteria and their applicability should be regularly reviewed and adjusted on a project-by-project basis to avoid unintended consequences.

EVALUATION SCORECARD

Below is a sample evaluation scorecard that each reviewer would receive. A final summary matrix should average total scores for each respondent.

24 Tomás Aponte, Lars Benson, and Rebecca Graffy. "Evaluation Scorecards." Harvard Kennedy School Government Performance Lab. 2023. https://gplpen.hks.harvard.edu/wp-content/uploads/2023/05/Evaluation-Scorecards.pdf

EXAMPLE EVALUATION SCORECARD TEMPLATE

		Respondent 1		Respondent 2	
	Weight	**Score**	**Weighted Score**	**Score**	**Weighted Score**
Technical Fields					
Organizational Capacity & Experience	**%**				
Method of Approach	**%**				
Communications & Reporting	**%**				
Commitment to Supplier Diversity and/or Small Business Enterprises	**%**				
Proposed Price	**%**				



Develop a Small Business Resource Guide

A small business resource guide would direct businesses to the necessary resources to compete for contracts, such as:

- **Description of supplier diversity programs;**
- **Certification requirements;**
- **Bonding requirements; and**
- **Roadmap for bidding on work.**

PROBLEM TO SOLVE

Buyers: Procurement professionals struggle to inform historically disadvantaged businesses of potential procurement opportunities and what requirements are needed to successfully bid for work.

Suppliers: Historically disadvantaged businesses find it difficult to navigate the many requirements that are needed to bid with contracting agencies and organizations.

POTENTIAL IMPACTS

If implemented effectively, tactic can:

- Increase the number of responses from historically disadvantaged businesses.
- Decrease the number of complaints from unsuccessful bidders.

EXAMPLE

Los Angeles World Airports (LAWA) – LAWA has a website with resources for businesses to pursue and fulfill contracts with the organization, including:

Listing of Small and Local Business Enterprise Programs;

- Links to certifying agencies;
- Administrative requirements that are project specific (e.g., bonding);
- Frequently asked questions; and
- A roadmap for applicants.

LA Metro – Metro created a small business toolkit to provide materials that help small businesses grow and prepare for contracting opportunities. This toolkits provides:

- An overview of Metro's supplier diversity programs and how to qualify;
- Frequently Asked Questions;
- Tips for small business success; and
- Worksheets to support businesses in their growth and procurement processes

STEPS TO IMPLEMENT

1. **Compile** a list of relevant websites, agencies, and support organizations that can offer assistance with procurement, particularly to historically disadvantaged businesses.

2. **Develop checklists and templates** for historically disadvantaged businesses to use to seek certification, prepare responses to solicitations, and meet contract requirements.

3. **Create** an informative, user-friendly guide, using visual aids and examples where applicable.

4. **Offer personal assistance** and provide a point of contact at the organization to answer questions specific to the resource guide. Set internal expectations for responding to questions in a timely manner.

Appendix

Defined Terms

Anchor Institutions

Anchor institutions are entities such as universities, hospitals, and companies that are inextricably tied to their locations because of real estate holdings or capital investment, history, or mission. Because of these deep ties to their communities, these organizations may have an interest in investing in local economic or community development.[25]

Contracting Agencies and Organizations

Anchor institutions and public agencies in the SCAG Region.

Diverse Supplier

A business that is at least 51% owned and operated by an individual or group that is recognized as a minority. This definition varies by organization and may include: small business enterprises (SBEs), minority-owned enterprises (MBEs), woman-owned enterprises (WBEs), veteran-owned businesses, LGBTQ-owned businesses, and proprietors with disabilities.[26]

Equal Access

No company bidding on potential contracting opportunities should be excluded due to arbitrary or discriminatory barriers.

Equitable Procurement

An approach to acquiring goods and services that addresses barriers and biases to ensure all businesses can fully participate in the procurement and contracting process. When a person's identity (e.g., race, ethnicity, sex) is no longer predictive of how they fare. Equity differs from equality in that it accounts for people's disparate experiences with systems and institutions and involves actively reducing disparities while improving outcomes for all.

Historically Disadvantaged Businesses

Small and minority-, woman-, and veteran-owned businesses.

Inclusive Contracting

A collection of policies, practices, and programs that intentionally seek to create a procurement environment in which historically disadvantaged businesses have equitable opportunities to participate.[27]

Public Agencies

Government organizations, including Cities, Counties, and States.

25 Southern California Association of Governments.

26 Harvard Business Review and HR&A Advisors.

27 City of Portland, Government Alliance on Racial Equity, and HR&A Advisors.

Supplier Diversity

A business strategy that promotes the participation of diverse suppliers and increases the pool of businesses that can bid on contracting opportunities.

Small Business

Businesses that employ and/or generate annual revenue below a specified threshold. Employment and revenue thresholds vary by municipality and certifying agency as well as by industry. Select thresholds are included here for example:

- **The State of California** Small Business Certification recognizes non-manufacturing businesses with 100 or fewer employees and an average annual gross receipt of $16 million or less, among other criteria, as small businesses.[28]
- **LA Metro's SBE Certification** is available to businesses with annual gross receipts less than $24 million based on a three-year average, among other criteria.[29]
- **The City of Los Angeles' Local Small Business (LSB)** criteria requires that eligible businesses have annual gross receipts less than $5 million for the preceding fiscal year, among other criteria.[30]

28 State of California Department of General Services.

29 LA Metro.

30 City of Los Angeles.



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