

2009
REMEDIAL POLICY OPTIONS FOR



CITY OF SAN ANTONIO
SMALL & MINORITY BUSINESS PROGRAM

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(Prepared by Franklin M. Lee, Esquire 7-7-09)

Introduction

The following policy option matrices and recommendations are based upon our legal review of the 2009 San Antonio Regional Business Disparity Causation Study performed by MGT of America, Inc., the transcripts of the Public Hearings held by the Small Business Advisory Committee on April 16, 2009, and other written comments submitted during the course of the public comment period following the release of the Study from April 7, 2009, through May 7, 2009. These written comments include responses from MGT of America, Inc. to various questions raised by members of the public during outreach presentations of study findings by City staff during the public comment period. Tables I-A and I-B below summarize the remedial industry-specific small (“SBE”) and /or minority/women business enterprise (“M/WBE”) policy options that may be legally defensible and somewhat effective in addressing barriers to M/WBE participation in City of San Antonio (“COSA”) contracts. Table I-A reflects those recommendations for industry-specific remedial policy options that are race- and gender-neutral. Table I-B reflects those recommendations for industry-specific remedial policy options that are race- and gender-conscious. (“R/N” references in the name of a policy option mean that the proposed policy is a “race- and gender-neutral” remedy. “R/C” references in the name of a policy option mean that the proposed policy is a “race- and gender-conscious” remedy.)

Table II summarizes miscellaneous procurement policy reforms and non-industry-specific small / minority / women business enterprise policies that are worthy of consideration by COSA based upon a review of the full factual predicate evidence gathered from this Study effort and during the public comment period. As a result of U.S. Supreme Court precedents requiring narrow tailoring of remedies under the “strict scrutiny” standard, the City should first consider the use of race- and gender-neutral remedial options as reflected in Tables I-A and II, and only resort to the race- and gender-conscious remedial options reflected in Tables I-B and II when it has reason to believe that neutral remedies, in and of themselves, will be insufficient to fully eliminate disparities resulting from discrimination.¹

¹ Eight of the twelve non-industry-specific policy options described in Table II are race- and gender-neutral. Four of the twelve non-industry-specific policy options are race- and gender- conscious. Those four non-industry-specific race- and gender- conscious policy options either address administrative problems that undermined the effectiveness of the SBEDA program, or address identified barriers to the business formation and growth of M/WBE firms that are influenced by race or gender regardless of industry (e.g., unequal access to capital).

TABLE I-A: RACE / GENDER-NEUTRAL POLICY OPTIONS FOR COSA S/M/WBE PROGRAM

(Prepared by Franklin M. Lee, Esquire 7-7-09)

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p align="center">Construction (R/N-1)</p> <p align="center"><i>Small Business Enterprise Prime Contract Program</i></p>	<p>Two-tiered small business enterprise program for small prime contracts with different size standard categories for participating firms</p> <ul style="list-style-type: none"> • SBE – size standard equal to 50% of SBA small business size standard for construction (reserve subset of smaller contracts • from \$25,000 to 	<p align="center">FML concurs.</p>	<p>Significant disparity and underutilization COSA in M/WBE construction prime contract participation for all categories of M/WBEs except Hispanic firms; (Findings 9-2, 9-3, 9-4). Some evidence that certain M/WBE segments and firms are dominating and squeezing out participation of others in COSA contracts. 5.9% of survey</p>	<p><i>Pro: Enhances capacity development and competition in prime contracting overall; provides assistance for emerging firms, as well as for more established small firms; prevents larger established small firms from squeezing out emerging new entrants; more inclusive than single</i></p>

<p>Construction (R/N-1)</p> <p><i>SBE Prime Contract Program</i> (continued)</p>	<p>\$100,000 for established small contractors)</p> <ul style="list-style-type: none"> Emerging contractors – size standard equal to 25% of SBA size standard for construction firms. <p>(Reserve subset of small prime contracts below \$25,000 for emerging contractors)</p> <p>(See MGT Recommendation 9-13)</p>		<p>respondents cited performance based requirements as a barrier; significant underutilization of M/WBE primes. (See also SBAC Tr. 38, 69-70, and 70-73).</p>	<p><i>size standard.</i></p> <p><i>Con: Short term reduction of competition on smaller contracts; possible adverse cost impact; greater administrative challenge than managing a single size standard; requires careful consideration of selection of remedy on project-by-project basis.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/N-2)</p> <p><i>SBE Subcontracting Program</i></p>	<p>Two-tiered small business enterprise program for small subcontractors with different size standard categories for participating firms.</p> <p>SBE – size standard equal to 50% of SBA small business size standard for construction for established small contractors, and equal to 25% of SBA small business size standard for emerging contractors</p> <ul style="list-style-type: none"> • Set SBE subcontracting goals for emerging contractors on prime contracts valued above \$100,000. • Set SBE subcontracting goals for standard 	<p>FML concurs with additional details regarding mandatory good faith outreach by primes; centralized bidder registration system can significantly improve outreach and facilitate documentation of availability by specific trade.</p>	<p>See MGT Findings 9-4, Exh. 9-3; Finding 9-5.</p>	<p><i>Pro: Enhances capacity development and competition in sub contracting overall; provides assistance for emerging firms, as well as for more established small firms; prevents larger established small firms from squeezing out emerging new entrants; more inclusive than single size standard.</i></p> <p><i>Con: Short term reduction of competition on smaller subcontracts; possible adverse cost impact; greater administrative challenge than managing a single size standard; requires careful</i></p>

<p>Construction (R/N-2)</p> <p><i>SBE Subcontracting Program</i> (continued)</p>	<p>SBEs on contracts valued at \$500,000 and above.</p> <p>(See MGT Recommendation 9-4)</p>			<p><i>consideration of selection of remedy on project-by-project basis.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/N-3)</p> <p><i>SBE Joint Venture Incentives</i></p>	<p>For prime contracts valued over \$10 million, require joint ventures with SBE firms at certain percentage level.</p> <p>(See MGT Recommendation 9-9)</p>	<p>FML concurs with race-neutral variation for SBEs instead of M/WBEs; possible reduction in threshold dollar level of eligible prime contracts (e.g., apply to contracts valued at greater than \$5 million or \$2 million).</p>	<p>Significant disparity and underutilization COSA in M/WBE construction prime contract participation for all categories of M/WBEs except Hispanic firms; (Findings 9-2, 9-3, 9-4). See also Finding 9-5 and Exh. 9-4 reflecting negligible prime contract participation by M/WBEs in private sector.</p>	<p><i>Pro: Enhances capacity development and competition in prime contracting overall; provides some project management experience and prime contracting experience for small firms. May promote greater competition for prime contracts in long run.</i></p> <p><i>Con: Potential short-term adverse cost consequences; bonding may be problematic for some SBE JV partners; monitoring compliance with allocation of work and management responsibility may be difficult. Greater administrative challenge for COSA</i></p>

<p>Construction (R/N-3)</p> <p><i>SBE Joint Venture Incentives</i> (continued)</p>				<p><i>and other primes than a subcontracting goals program.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/N-4) <i>HUBZone Program</i></p>	<p>Reserve subset of prime contracts for competition among federal certified HUBZone firms, with at least 35% of employees residing in COSA HUBZone, and principal place of business located in HUBZone.</p> <p>(See MGT Recommendation 9-5)</p>	<p>FML concurs.</p>	<p>In state of Texas, there are 813 M/WBE HUBZone firms representing 74% of all HUBZone firms; in San Antonio MSA, there are 140 M/WBEs who represent 80.9 % of all certified HUBZone firms.</p>	<p><i>Pro: Builds capacity of HUBZone primes on mid-sized contracts; provides management experience to HUBZone firms on mid-size prime contracts; encourages collaboration among HUBZone firms; Enhances economic development attributes of program due to employment aspect.</i></p> <p><i>Con: Some increase in costs may result. Many certified M/WBE firms are not HUBZone certified, and it is not known if they would be eligible to be certified as such.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/N-5)</p> <p><i>Small Developer Ownership Construction Program</i></p>	<p>Reserve certain smaller development projects that are financed by COSA through TIFs for SBE developers that have prime contracting experience.</p> <p>Alternatively, RFPs contain language requesting developers to propose strategies for including all segments of S/M/WBEs into projects in various roles, including equity ownership, operational management, and construction opportunities.</p> <p>(See MGT Recommendation 9-12).</p>	<p>FML concurs.</p>	<p>Findings 9-5, 9-7, 9-8, and 9-9 reflect M/WBEs may be smaller than others due to decreased earnings in private sector in particular; moreover, unequal access to capital may thwart formation of M/WBE developers that then establish opportunities for M/WBE prime contractors.</p>	<p><i>Pro: Leverages public sector financing to open opportunities for smaller M/WBEs to participate in private sector construction projects and establish track record as developers.</i></p> <p><i>Con: Administrative challenges in monitoring follow-through on developer commitments; when liquidated damages are built into development agreements, some developers may be discouraged from competing for more challenging economic development projects.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/N-6)</p> <p><i>Bonding Assistance</i></p>		<p>City establishes a pool of up to \$5 million for providing bonding assistance to SBE construction firms; funds used to provide technical and financial assistance to SBE prime bidders to minimize risk of loss and insure management of funds during projects; surety issues bonds at competitive rates with partial guarantee from pool; projects segmented to reduce required bonding limits.</p> <p>(See San Diego County Regional Airport Bonding Assistance Program).</p>	<p>Significant disparity and underutilization COSA in M/WBE construction prime contract participation for all categories of M/WBEs except Hispanic firms; (Findings 9-2, 9-3, 9-4). Former SBEDA bonding assistance program was helpful but was terminated due to misuse of funds. (See SBAC Hearing Tr. 33-34) Lower earnings by M/WBE firms may also adversely affect capacity and ability to obtain bonding levels required for larger contracts. (Findings 9-7 and 9-9).</p>	<p><i>Pro: Provides enhanced access to prime contracts for SBE and M/WBE firms; strengthens ability to obtain bonds for SBE firms, while reducing risk of loss through technical assistance and financial management support.</i></p> <p><i>Con: Initial \$5 million investment in program may be problematic due to COSA budgetary concerns and private sources for funding may also be limited by recession.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/N-7)</p> <p><i>SBE Mentor – Protégé Program</i></p>	<p>Team up more established and successful construction firm mentors with less established SBE firms to provide management guidance and training. Existing trade associations may be vehicles for recruiting and pairing of mentors with protégé firms. (See MGT Recommendation 9-3 and Port of Portland Emerging Small Business Program).</p>	<p>FML concurs. May provide added incentive to potential mentors by reserving some contracts for pre-approved mentor-protégé teams. (See City of Columbia, SC mentor-protégé program)</p>	<p>Relationship-building is a key component to opening up subcontract opportunities for emerging SBE firms that are not known to prime contractor community. Also, training in such matters as safety programs, payroll, estimating and bidding, management of funds and project management is extraordinarily valuable to newer firms. Mentors benefit from expanded pool of competent subs that are dependable and work well with prime.</p>	<p><i>Pro: This approach to building capacity is favored by the AGC and may provide a win-win scenario if a long-term prime – sub relationship evolves; mentor will have greater confidence in SBE subs that they have mentored.</i></p> <p><i>Con: There may not be enough mentors to meet needs of SBE subs; incentive for participation as mentor may not be sufficient as some primes perceive protégés to be potential competitors. There is also a need to have safeguards to ensure that protégé is not becoming a captive.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/N-8)</p> <p><i>SBE Low Cost Wrap-up Insurance</i></p>	<p>COSA negotiates with insurance carriers for construction services firms to provide policy to City that covers its SBE construction firms.</p> <p>(MGT Recommendation 9-3)</p>	<p>FML concurs.</p>	<p>Levels the playing field as all SBEs pay the same or less than non-SBE firms for workman’s comp insurance, general liability, etc. (See San Diego, CA Minor Construction Program; see also SBAC Tr. 108).</p>	<p><i>Pro: Makes SBE construction firms more cost-competitive with larger firms.</i></p> <p><i>Con: May be difficult to find a carrier willing to write policy that covers firms with less experience and less track record. Rate that COSA pays may be higher than some of larger construction firms. In addition, legality of Owner Controlled Insurance Programs varies by state-to-state and must be investigated.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Architectural & Engineering (R/N-9)</p> <p><i>SBE Vendor Rotation</i></p>	<p>Selective use of vendor rotation of pre-qualified panel of SBE A&E firms for smaller COSA design projects.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs.</p>	<p>Significant underutilization of MBE firms in A&E prime contracts; prequalification requirements also hinder M/WBEs. There was also testimony from M/WBE A&E firms indicating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Automated centralized bidder registration system combined with pre-qualification process will enable rotation of SBE firms to get a fair chance to prove capabilities on smaller projects and overcome bias against unknown firms. Facilitates building a track record and overcoming lack of COSA experience barrier.</i></p> <p><i>Con: Reduces competition in the short-run and may adversely affect cost.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Architectural & Engineering (R/N-10)</p> <p><i>Evaluation Preference for SBE Prime Bidders</i></p>		<p>Evaluation point preferences (award up to 10% of available evaluation points) to SBE firms bidding as first-time A&E prime consultants. Also provide up to 10% bonus points for SBE joint ventures to perform A&E contracts.</p>	<p>Significant underutilization of MBE firms in A&E prime contracts; prequalification requirements also may hinder M/WBEs. There was also testimony from M/WBE A&E firms indicating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Encourages more natural evolution of SBE A&E firms into full-service A&E firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform A&E contracts for COSA.</i></p> <p><i>Con: SBA size standards for SBEs may not be workable for A&E firms, which typically may have fewer employees.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Architectural & Engineering (R/N-11)</p> <p><i>SBE Reserve Program</i></p>		<p>Reserve smaller A&E contracts (e.g., under \$500,000) for competition among SBE A&E firms.</p>	<p>Subcontracting approach does not always work as there is evidence prime A&E consultants self-perform work initially identified as being performed by M/WBE subs.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Encourages more natural evolution of SBE A&E firms into full-service A&E firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform A&E contracts for COSA.</i></p> <p><i>Con: Provides less competition than does Evaluation Preference. SBA size standards for SBEs may not be workable for A&E firms, which typically may have fewer employees.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/N-12)</p> <p><i>SBE Reserve Contracts (up to \$50,000 in value)</i></p>	<p>Reserve some smaller professional services contracts for competition among SBE professional services firms.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs with \$50,000 maximum limit.</p>	<p>Significant underutilization of MBE firms in professional services prime contracts; prequalification requirements also hinder M/WBEs. There was also testimony from M/WBE firms indicating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Encourages more natural evolution of SBE professional services firms into full-service professional services firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform professional services contracts for COSA.</i></p> <p><i>Con: SBA size standards for SBEs may not be workable for professional services firms, which typically may have fewer employees; reduces competition.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/N-13)</p> <p><i>SBE Reserve for Small Financial Services Consulting Contracts</i></p>	<p>Reserve some smaller financial services contracts for competition among SBE financial services consulting firms.</p> <p>(See MGT Recommendation 9-2; see also Commendation and Recommendation 9-11 commending COSA for RFP language seeking S/M/WBE participation in investment banking and other nontraditional areas of professional services.)</p>	<p>FML concurs.</p>	<p>Significant underutilization of MBE firms in professional services prime contracts; prequalification requirements also hinder M/WBEs. There was also testimony from M/WBE firms indicating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Greater diversity among portfolio of participating firms in financial services industry is especially important in these turbulent economic times. (Larger is not necessarily safer as noted in Lehman Bros. and Merrill Lynch disasters.)</i></p> <p><i>Con: SBA size standards for SBEs may not be workable for professional services firms, which typically may have fewer employees; reduces competition.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/N-14)</p> <p><i>SBE Subcontracting Goals on Large Contracts</i></p>	<p>Good faith effort SBE subcontracting goals assigned to certain larger professional services contracts.</p> <p>(See MGT Recommendations 9-3 and 9-4)</p>	<p>FML concurs with consideration by a Goal Selection Committee of whether there is a commercially useful function available to be performed under by a subconsultant.</p>	<p>Significant underutilization of MBE firms in professional services prime contracts; prequalification requirements also hinder M/WBEs.</p> <p>(Exhibit 9-2; Finding 9-3)</p>	<p><i>Pro: Enhances ability of SBE professional services firms to gain experience on larger contracts and establish a track record with COSA. May also develop referral source with prime consultant.</i></p> <p><i>Con: Not all professional services contracts have commercially useful subcontract opportunities, so Goal Selection Committee will need to carefully evaluate each prime contract opportunity.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/N-15)</p> <p><i>SBE Joint Venture Incentives</i></p>		<p>On professional services contracts valued at \$1 million or more, consider application of SBE joint venture incentives to include up to 10% evaluation preference based upon percentage of SBE participation, or to provide additional option year for contract wherein SBE joint venture partner has performed work in first contract year valued at more than aspirational goal for professional services.</p>	<p>Significant underutilization of MBE firms in professional services prime contracts; prequalification requirements also hinder M/WBEs.</p> <p>(Exhibit 9-2; Finding 9-3)</p>	<p><i>Pro: Enhances opportunity of SBE professional services firms to gain track record with COSA performing and managing larger contracts. Ultimately expands supplier base for professional services.</i></p> <p><i>Con: Additional option years may reduce annual number of contract opportunities for non-incumbent firms, including non-incumbent SBE firms.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/N-16)</p> <p><i>SBE Pre-qualified Panel Rotation</i></p>	<p>Selective use of vendor rotation of pre-qualified panel of SBE professional services firms for smaller COSA projects.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs, and suggests threshold of contracts valued at below \$250,000 for application of this policy option.</p>	<p>Significant underutilization of MBE firms in professional services prime contracts; prequalification requirements also hinder M/WBEs. There was also testimony from M/WBE firms stating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Takes SBE Reserve policy (see R/N-12) one step further by requiring COSA to determine capability and capacity of SBE professional services firms in advance; rotation of pre-qualified firms insures expansion of supplier base for routine matters of smaller size.</i></p> <p><i>Con: Pre-qualification process must be carefully managed to avoid favoritism and assignments to firms that are ill-suited for the needs of a particular contract. Routine matters are best suited for this option.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Other Services (R/N-17)</p> <p><i>Vendor Rotations</i></p>	<p>Selective use of vendor rotation of pre-qualified panel of SBE non-professional services firms for smaller COSA projects.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs, and suggests threshold of contracts below \$250,000 in value for application of this policy option.</p>	<p>Significant underutilization of African American, Asian American, and Native American firms in other services prime contracts. There was also testimony from M/WBE firms stating subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Takes SBE Reserve policy (see R/N-12) one step further by requiring COSA to determine capability and capacity of SBE other “non-professional” services firms in advance; rotation of pre-qualified firms insures expansion of supplier base for routine matters of smaller size.</i></p> <p><i>Con: Pre-qualification process must be carefully managed to avoid favoritism and assignments to firms that are ill-suited for the needs of a particular contract. Routine matters are best suited for this option.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Other Services (R/N-18)</p> <p><i>SBE Evaluation Preference for Prime Bidders</i></p>		<p>Where RFP process is used to select non-professional services firm, evaluation point preferences (award up to 10% of available evaluation points) are granted to SBE firms bidding as prime. Also provide up to 10% bonus points for SBE joint ventures to perform non-professional services contracts.</p>	<p>Significant underutilization of African American, Asian American, and Native American firms in other services prime contracts. There was also testimony from M/WBE firms stating subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Takes SBE Reserve policy (see R/N-12) one step further by requiring COSA to determine capability and capacity of SBE other “non-professional” services firms in advance; rotation of pre-qualified firms insures expansion of supplier base for routine matters of smaller size.</i></p> <p><i>Con: Pre-qualification process must be carefully managed to avoid favoritism and assignments to firms that are ill-suited for the needs of a particular contract. Routine matters are best suited for this option.</i></p>

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<p>Other Services (R/N-19)</p> <p><i>Mentor-Protégé Program</i></p>		<p>Economic Development Office should facilitate recruitment and matching of protégé with appropriate mentor. Potential sources of mentors should include SCORE, trade associations, and chambers of commerce.</p>	<p>Witnesses in both construction and services industries praised the value of mentoring with more established firms. Anecdotal evidence suggests informal networks and relationships may be key to obtaining COSA contracts. (Finding 9-3)</p> <p>(See also SBAC Tr. 108)</p>	<p><i>Pro: Unlike R/N-7 above, this is merely a referral resource without any incentives; the burden is on the protégé and mentor to make the most out of the referral. Requires little resources from COSA.</i></p> <p><i>Con: Each protégé will have to determine its own mentoring needs. A match may or may not be available.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Goods & Supplies (R/N-20)</p> <p><i>SBE Vendor Rotation</i></p>	<p>Selective use of vendor rotation of pre-qualified SBE vendors for smaller COSA goods and supplies contracts. Contract is automatically awarded if quoted price does not exceed estimate by more than 10%. If it does exceed the estimate by more than 10%, then opportunity rotates to next qualified SBE on the vendor rotation list.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs with suggest for threshold of contracts valued below \$25,000 for application of this policy option.</p>	<p>Significant underutilization of Hispanic American, Native American, and Non-minority Women-owned firms in Goods & Supplies prime contracts. There was also testimony from M/WBE firms stating subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: As goods and supplies contracts often do not provide commercially useful subcontract opportunities, rotation of approved small vendors to bid on smaller contracts if most cost-effective means for expanding supplier base and enhancing SBE and M/WBE participation.</i></p> <p><i>Con: COSA may not always obtain most competitive price. Careful identification of routine types of supply contracts where there is ample availability of qualified SBE suppliers is required under this option.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Goods & Supplies (R/N-21)</p> <p><i>SBE Reserve for Prime Supply Contracts</i></p>	<p>Reserve competition for SBE firms on selected COSA small supply contracts up to \$50,000.</p> <p>(See MGT Recommendation 9-3)</p>	<p>FML concurs.</p>	<p>Significant underutilization of Hispanic American, Native American, and Non-minority Women-owned firms in Goods & Supplies prime contracts. There was also testimony from M/WBE firms stating subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Provides enhanced opportunity for SBE firms to successfully compete for smaller supply contracts; builds volume and capacity for more successful SBE firms.</i></p> <p><i>Con: Larger more successful SBEs may dominate competition and crowd out emerging firms; unlike SBE vendor rotation (see R/N-20), supplier base is not as likely to expand significantly.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Goods & Supplies (R/N-22)</p> <p><i>SBE Bid Preferences</i></p>	<p>On selected COSA supply contracts, provide SBE preference to reduce its bid by up to 5% for bid evaluation purposes, but award contract at actual bid price.</p> <p>(See MGT Recommendation 9-3)</p>	<p>FML advises against this recommendation due to built-in higher cost and limited evidence quantifying cost-disadvantage for SBE suppliers on COSA contracts.</p>	<p>Significant underutilization of Hispanic American, Native American, and Non-minority Women-owned firms in Goods & Supplies prime contracts. There was also testimony from M/WBE firms stating subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Enhances ability of SBE supplier firms to competitively bid against larger firms that have benefit of volume discounts from manufacturers and distributors.</i></p> <p><i>Con: Successful use of this policy option always costs COSA more money than it otherwise would spend for goods and supplies; for certain supply contracts, 5% bid preference would be meaningless to result; in other kinds of supply contracts, 5% bid preference would always lead to award of contract to SBE. It is difficult to gauge what is appropriate and fair.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Goods & Supplies (R/N-23)</p> <p><i>SBE Joint Venture Incentives</i></p>		<p>Provide incentives to larger suppliers to joint venture with SBE suppliers, including awarding of additional option year or limit competition to SBE joint ventures.</p>	<p>Significant underutilization of Hispanic American, Native American, and Non-minority Women-owned firms in Goods & Supplies prime contracts. There was also testimony from M/WBE firms stating subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Encourages manufacturers, wholesalers, to form distributorships and authorized dealer relationships with SBEs; expands COSA supplier base. Permits SBEs to bid on larger bundled supply contracts where they only can supply a portion of the required product line.</i></p> <p><i>Con: Requires careful monitoring to insure that SBE suppliers are not serving merely as a pass-through for larger JV partner; must limit use to instances where SBE is performing a commercially useful function.</i></p>

TABLE I-B: RACE / GENDER-CONSCIOUS POLICY OPTIONS FOR COSA S/M/WBE PROGRAM

(Prepared by Franklin M. Lee, Esquire 7-7-09)

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p align="center">Construction (R/C-1)</p> <p align="center"><i>Annual M/WBE Aspirational Goals</i></p>	<p>Establishment of annual aspirational goals for M/WBE participation in COSA construction contracts (35% for prime contracts, and 22% for subcontracts. These goals are not to be necessarily applied to individual contracts, but rather serve as a guidepost to evaluate the effectiveness of the SBE and M/WBE programs and to make adjustments as necessary to the mix and aggressiveness of policy options.</p> <p>(See MGT Recommendation 9-8)</p>	<p>FML concurs.</p>	<p>Flexible benchmarks are important to managing the M/WBE program and finding the appropriate mix of race- and gender-neutral and race- and gender-conscious policies. Annual goals also provide an up-to-date measure of availability by overall industry categories, and can be useful for outreach purposes. (See Exhibit 9-7 and Chapter 3.0 of MGT Disparity Study Report)</p>	<p><i>Pro: Provides a useful tool for evaluating success of program and making necessary adjustments to aggressiveness of remedies and outreach efforts.</i></p> <p><i>Con: Must guard against reflex to apply annual goals to specific projects without justification. If not updated periodically, can also provide another avenue of legal attack against the program on narrow tailoring grounds.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/C-2)</p> <p><i>M/WBE Joint Venture Incentives</i></p> <p><i>(Contracts > \$10 million)</i></p>	<p>Reserve some larger prime contracts valued in excess of \$10 million for competition by joint ventures between non-M/WBE firms and M/WBE firms.</p> <p>(See MGT Recommendation 9-9; see also City of Atlanta’s Joint Venture Incentive Program)</p>	<p>FML proposes consideration of this option only in the event that COSA has several M/WBE prime contractors of sufficient size and capacity to meaningfully joint venture on contracts of this magnitude. Alternatively, dollar threshold for contracts for application of this remedy may need to be adjusted.</p>	<p>There is significant disparity in the utilization of M/WBE firms in COSA prime construction contracts. There is also significant underutilization of M/WBE firms in prime contracts in the private sector. (See Exhibit 9-2, Findings 9-2, 9-5, 9-6, 9-7, 9-9, and Exhibit 9-4) See also SBAC Tr. 42, 101-102.</p>	<p><i>Pro: Provides a strong incentive for collaboration across lines of race and gender in bidding on larger construction contracts; enhances opportunities for M/WBEs to gain project management and prime contract experience on larger projects.</i></p> <p><i>Con: Requires careful monitoring of role of M/WBE in contract to insure legitimate share of project management and contribution to joint venture scope of work; not certain if there are sufficient numbers of M/WBE primes of significant size and capacity to match up with others non-M/WBE bidders.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/C-3)</p> <p><i>M/WBE Subcontracting Plans</i></p>	<p>Mandatory submission of M/WBE subcontracting plans by prime contractors bidding on COSA construction contracts. Good faith efforts to solicit M/WBE subcontractors to satisfy contract-specific goals should apply to both M/WBE prime bidders and non-M/WBE bidders. Project-specific goals should vary by project and be based upon realistic measurement of available M/WBE firms for the particular project. Documented excessive prices or poor performance by M/WBE subcontractors is basis for exclusion from bid. (See MGT Recommendation 9-10).</p>	<p>FML concurs with suggestion that a Goal Setting Committee be formed to undertake analysis to set subcontracting goals on a project-specific basis.</p>	<p>.MGT Study concludes there is significant disparity in subcontract utilization of M/WBEs in COSA contracts and very low M/WBE utilization in private sector construction contracts, even after controlling for capacity and other race-neutral variables. There was also testimony indicating that M/WBE firms have been improperly removed from subcontracts once the prime has been awarded a contract. (Findings 9-4, and 9-5, Exhibit 9-3; see also SBAC Tr. 35-36, and 77).</p>	<p><i>Pro: Provides narrowly tailored approach to setting realistic M/WBE subcontract goals; built-in flexibility with consideration of good faith efforts documentation; follows federal government model for DBE program which is legally defensible.</i></p> <p><i>Con: Is more administratively burdensome to implement; requires careful consideration in goal-setting stage for each and every project.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/C-4)</p> <p><i>M/WBE Participation Requirements for TIF Economic Development Projects</i></p>	<p>Enhance M/WBE inclusion on private economic development projects that COSA finances through Tax Increment Financing (“TIFs”) through use of language in RFP requesting bidders to outline strategy for recruiting and utilizing M/WBE prime contractors and subcontractors on project. (See MGT Recommendation 9-12)</p>	<p>FML concurs.</p>	<p>MGT Study concludes there is significant disparity in prime and subcontract utilization of M/WBEs in COSA contracts and very low M/WBE utilization in private sector construction contracts, even after controlling for capacity and other race-neutral variables. There was also testimony indicating that M/WBE firms have been improperly removed from subcontracts once the prime has been awarded a contract. (Findings 9-4, 9-5, 9-6, and 9-9, Exhibits 9-2, 9-3; see also SBAC Tr. 35-36, and 77).</p>	<p><i>Pro: Will enable COSA to leverage public financing dollars to encourage greater M/WBE participation in private sector.</i></p> <p><i>Con: Liquidated damages clauses in development agreements are required to enforce M/WBE participation requirements. Projects typically take years to complete and monitoring is somewhat problematic until end of project since City is not paying monthly invoices.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/C-5)</p> <p><i>Two-tiered Certification for M/WBEs (small and emerging) and Graduation Provision</i></p>	<p>For construction contracts, MGT recommends a two-tiered approach to certifying M/WBE construction firms, one based upon the SBA size standard for small construction firms, and the other based upon 50% of that size standard for emerging M/WBE firms. The larger size standard would be applied to subcontract goals on larger construction contracts above \$500,000. In addition any M/WBE that receives \$15 million in construction contracts within last three years is graduated from M/WBE program.</p> <p>(See MGT Recommendation 9-13)</p>	<p>FML concurs, but prefers reliance upon graduation provision based upon \$15 million cumulative dollars received from COSA construction projects as means of weeding out larger M/WBEs that have crowded out smaller emerging firms. This will be less administratively burdensome than maintaining two different size standards for SBE certification and M/WBE certification.</p>	<p>Larger and more successful M/WBE prime contractors can dominate M/WBE program and prevent smaller emerging M/WBE firms from obtaining work and growing.</p>	<p><i>Pros: Enhances narrow tailoring of program to ensure that larger M/WBE firms that no longer need remedial relief are removed from benefits of program; enables smaller M/WBE construction firms to gain entry to COSA contracting opportunities so they can grow and develop.</i></p> <p><i>Con: None.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/C-6)</p> <p><i>Segmented M/WBE Subcontracting Goals</i></p>		<p>FML recommends segmented M/WBE subcontracting goals to ensure that the most significantly underutilized segments of the M/WBE construction firms (i.e., African American, Asian American, and Native American) receive a portion of subcontract opportunities. Therefore, when each such subcontracting goal is set, there would be an overall percentage subcontracting goal for all M/WBEs combined, and a lesser inclusive percentage goal for those three categories of most underutilized firms (i.e., African American, Asian American, and Native American) based on their combined relative availability.</p>	<p>While Hispanic American and Non-minority Women contractors have still been significantly underutilized in private sector contracts, they have fared much better on COSA contracts, leaving the other categories of M/WBE firms receiving a disproportionately small share of the remedy. (Finding 9-4, Exhibit 9-3, Finding 9-5, Exhibit 9-4; see also State of Maryland Bifurcated Goals for M/WBE program with carve-out for African American firms.</p>	<p><i>Pro: Provides more narrowly tailored subcontracting goals and more evenly distributes remedial benefits of M/WBE program.</i></p> <p><i>Con: More administratively burdensome to implement. Some contracts may not have ample availability of subcontract opportunities for two different segments of M/WBEs.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Construction (R/C-7)</p> <p><i>M/WBE Mentor-Protégé Program</i></p>		<p>Team up more established and successful construction firm mentors with less established M/WBE firms to provide management guidance and training. Existing trade associations may be vehicles for recruiting and pairing of mentors with protégé firms. Provide added incentive to potential mentors by reserving some contracts for pre-approved mentor-protégé teams. (See City of Columbia, SC Mentor-Protégé Program)</p>	<p>In the event the SBE program version of the mentor-protégé program (see R/N-7) is unable to recruit enough mentors, then this M/WBE Mentor Protégé Program should be implemented. It is presumed that there will be more certified SBE construction firms than M/WBE firms.</p>	<p><i>Pro: This approach to building capacity is favored by the AGC and may provide a win-win scenario if a long-term prime – sub relationship evolves; mentor will have greater confidence in SBE subs that they have mentored.</i></p> <p><i>Con: Incentive for participation as mentor may not be sufficient as some primes perceive protégés to be potential competitors. There is also a need to have safeguards to ensure that protégé is not becoming a captive, and maintains management and control of its firm.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Architectural & Engineering (R/C-8)</p> <p><i>Annual Aspirational M/WBE Goals</i></p>	<p>Establishment of annual aspirational goals for M/WBE participation in COSA A&E contracts (35% for prime contracts). This annual goal is not to be necessarily applied to individual contracts, but rather serves as a guidepost to evaluate the effectiveness of the M/WBE programs and to make adjustments as necessary to the mix and aggressiveness of policy options.</p> <p>(See MGT Recommendation 9-7, and Chapter 3.0)</p>	<p>FML concurs.</p>	<p>Flexible benchmarks are important to managing the M/WBE program and finding the appropriate mix of race- and gender-neutral and race- and gender-conscious policies. Annual goals also provide an up-to-date measure of availability by overall industry categories, and can be useful for outreach purposes. (See Exhibit 9-7 and Chapter 3.0 of MGT Disparity Study Report)</p>	<p><i>Pro: Provides a useful tool for evaluating success of program and making necessary adjustments to aggressiveness of remedies and outreach efforts.</i></p> <p><i>Con: Must guard against reflex to apply annual goals to specific projects without justification. If not updated periodically, can also provide another avenue of legal attack against the program on narrow tailoring grounds.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Architectural & Engineering (R/C-9)</p> <p><i>M/WBE Vendor Rotation</i></p>	<p>Selective use of vendor rotation of pre-qualified panel of M/WBE A&E firms for smaller COSA design projects.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs.</p>	<p>Significant underutilization of MBE firms in A&E prime contracts; prequalification requirements also hinder M/WBEs. There was also testimony from M/WBE A&E firms indicating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Automated centralized bidder registration system combined with pre-qualification process will enable rotation of SBE firms to get a fair chance to prove capabilities on smaller projects and overcome bias against unknown firms. Facilitates building a track record and overcoming lack of COSA experience barrier.</i></p> <p><i>Con: Reduces competition in the short-run and may adversely affect cost</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Architectural & Engineering (R/C-10)</p> <p><i>M/WBE Evaluation Preferences for Prime Bidders</i></p>		<p>Evaluation point preferences (award up to 10% of available evaluation points) to M/WBE firms bidding as first-time A&E prime consultants. Also provide up to 10% bonus points for M/WBE joint ventures to perform A&E contracts.</p>	<p>Significant underutilization of MBE firms in A&E prime contracts; prequalification requirements also may hinder M/WBEs. There was also testimony from M/WBE A&E firms indicating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Encourages more natural evolution of M/WBE A&E firms into full-service A&E firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform A&E contracts for COSA.</i></p> <p><i>Con: Biased evaluation panel members may eventually adjust scoring to negate effects of bonus points to hire preferred incumbent firms.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-11)</p> <p><i>Annual M/WBE Aspirational Goals</i></p>	<p>Establishment of annual aspirational goal for M/WBE participation in COSA Professional Services contracts (30%). This goal is not to be necessarily applied to individual contracts, but rather serve as a guidepost to evaluate the effectiveness of the SBE and M/WBE programs, and to make adjustments as necessary to the mix and aggressiveness of policy options.</p> <p>(See MGT Recommendation 9-8)</p>	<p>FML concurs.</p>	<p>Flexible benchmarks are important to managing the M/WBE program and finding the appropriate mix of race- and gender-neutral and race- and gender-conscious policies. Annual goals also provide an up-to-date measure of availability by overall industry categories, and can be useful for outreach purposes. (See Exhibit 9-7 and Chapter 3.0 of MGT Disparity Study Report)</p>	<p><i>Pro: Provides a useful tool for evaluating success of program and making necessary adjustments to aggressiveness of remedies and outreach efforts.</i></p> <p><i>Con: Must guard against reflex to apply annual goals to specific projects without justification. If not updated periodically, can also provide another avenue of legal attack against the program on narrow tailoring grounds.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-12)</p> <p><i>M/WBE Pre-qualified Panel Rotation</i></p>	<p>Selective use of vendor rotation of pre-qualified panel of M/WBE professional services firms for smaller COSA projects.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs, and suggests threshold of contracts valued at below \$250,000 for application of this policy option.</p>	<p>Significant underutilization of M/WBE firms in professional services prime contracts; prequalification requirements also hinder M/WBEs. There was also testimony from M/WBE firms stating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Takes SBE Reserve policy (see R/N-12) one step further by requiring COSA to determine capability and capacity of M/WBE professional services firms in advance; rotation of pre-qualified firms insures expansion of supplier base for routine matters of smaller size.</i></p> <p><i>Con: Pre-qualification process must be carefully managed to avoid favoritism and assignments to firms that are ill-suited for the needs of a particular contract. Routine matters are best suited for this option.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-13)</p> <p><i>M/WBE Subcontracting Goals on Large Contracts</i></p>	<p>Good faith effort M/WBE subcontracting goals assigned to certain larger professional services contracts.</p> <p>(See MGT Recommendations 9-3 and 9-4)</p>	<p>FML concurs with consideration by a Goal Selection Committee of whether there is a commercially useful function available to be performed under by a sub-consultant.</p>	<p>Significant underutilization of M/WBE firms in professional services prime contracts; prequalification requirements also hinder M/WBEs.</p> <p>(Exhibit 9-2; Finding 9-3)</p>	<p><i>Pro: Enhances ability of M/WBE professional services firms to gain experience on larger contracts and establish a track record with COSA. May also develop referral source with prime consultant.</i></p> <p><i>Con: Not all professional services contracts have commercially useful subcontract opportunities, so Goal Selection Committee will need to carefully evaluate each prime contract opportunity.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-14)</p> <p><i>M/WBE Joint Venture Incentives</i></p>		<p>On professional services contracts valued at \$1 million or more, consider application of M/WBE joint venture incentives to include up to 10% evaluation preference based upon percentage of M/WBE participation, or to provide additional option year for contract wherein M/WBE joint venture partner has performed work in first contract year valued at more than aspirational goal for professional services.</p>	<p>Significant underutilization of M/WBE firms in professional services prime contracts; prequalification requirements also hinder M/WBEs.</p> <p>(Exhibit 9-2; Finding 9-3)</p>	<p><i>Pro: Enhances opportunity of M/WBE professional services firms to gain track record with COSA performing and managing larger contracts. Ultimately expands supplier base for professional services.</i></p> <p><i>Con: Additional option years may reduce annual number of contract opportunities for non-incumbent firms, including non-incumbent M/WBE firms.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-15)</p> <p><i>Evaluation Preference for M/WBE Prime Bidders</i></p>		<p>Evaluation point preferences (award up to 10% of available evaluation points) to M/WBE firms bidding as first-time prime consultants. Also provide up to 10% bonus points for M/WBE joint ventures to perform professional services contracts.</p>	<p>Significant underutilization of M/WBE firms in professional services prime contracts; prequalification requirements also may hinder M/WBEs. There was also testimony from M/WBE firms indicating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-2)</p>	<p><i>Pro: Encourages more natural evolution of M/WBE professional services firms into full-service firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform professional services contracts for COSA.</i></p> <p><i>Con: Administratively difficult to monitor joint venture relationships and role of M/WBE firm; eventually, evaluation panels may adjust scoring to negate value of bonus point incentives.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-16)</p> <p><i>M/WBE Mentor-Protégé Program</i></p>		<p>Economic Development Office should facilitate recruitment and matching of protégé with appropriate mentor. Potential sources of mentors should include SCORE, trade associations, and chambers of commerce.</p>	<p>Witnesses in both construction and services industries praised the value of mentoring with more established firms. Anecdotal evidence suggests informal networks and relationships may be key to obtaining COSA contracts. (Finding 9-3)</p> <p>(See also SBAC Tr. 108)</p>	<p><i>Pro: Unlike R/N-7 above, this is merely a referral resource without any incentives; the burden is on the protégé and mentor to make the most out of the referral. Requires little resources from COSA.</i></p> <p><i>Con: Each protégé will have to determine its own mentoring needs. A match may or may not be available.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Other Services (R/C-17)</p> <p><i>Annual M/WBE Aspirational Goals</i></p>	<p>Establishment of annual aspirational goal for M/WBE participation in COSA non-professional services contracts (21%). This goal is not to be necessarily applied to individual contracts, but rather serve as a guidepost to evaluate the effectiveness of the SBE and M/WBE programs, and to make adjustments as necessary to the mix and aggressiveness of policy options.</p> <p>(See MGT Recommendation 9-8)</p>	<p>FML concurs.</p>	<p>Flexible benchmarks are important to managing the M/WBE program and finding the appropriate mix of race- and gender-neutral and race- and gender-conscious policies. Annual goals also provide an up-to-date measure of availability by overall industry categories, and can be useful for outreach purposes. (See Exhibit 9-7 and Chapter 3.0 of MGT Disparity Study Report)</p>	<p><i>Pro: Provides a useful tool for evaluating success of program and making necessary adjustments to aggressiveness of remedies and outreach efforts.</i></p> <p><i>Con: Must guard against reflex to apply annual goals to specific projects without justification. If not updated periodically, can also provide another avenue of legal attack against the program on narrow tailoring grounds.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Other Services (R/C-18)</p> <p><i>M/WBE Mentor-Protégé Program</i></p>		<p>Economic Development Office should facilitate recruitment and matching of protégé with appropriate mentor. Potential sources of mentors should include SCORE, trade associations, and chambers of commerce.</p>	<p>Witnesses in both construction and services industries praised the value of mentoring with more established firms. Anecdotal evidence suggests informal networks and relationships may be key to obtaining COSA contracts. (Finding 9-3)</p> <p>(See also SBAC Tr. 108)</p>	<p><i>Pro: Unlike R/N-7 above, this is merely a referral resource without any incentives; the burden is on the protégé and mentor to make the most out of the referral. Requires little resources from COSA.</i></p> <p><i>Con: Each protégé will have to determine its own mentoring needs. A match may or may not be available.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Other Services (R/C-19)</p> <p><i>M/WBE Pre-qualified Panel Rotation</i></p>	<p>Selective use of vendor rotation of pre-qualified panel of M/WBE non-professional services firms for smaller COSA projects.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs, and suggests threshold of contracts valued at below \$250,000 for application of this policy option.</p>	<p>Significant underutilization of M/WBE firms in other services prime contracts; prequalification requirements also hinder M/WBEs. There was also testimony from M/WBE firms stating that subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Takes SBE Reserve policy (see R/N-12) one step further by requiring COSA to determine capability and capacity of M/WBE non-professional services firms in advance; rotation of pre-qualified firms insures expansion of supplier base for routine matters of smaller size.</i></p> <p><i>Con: Pre-qualification process must be carefully managed to avoid favoritism and assignments to firms that are ill-suited for the needs of a particular contract. Routine matters are best suited for this option.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Goods & Supplies (R/C-20)</p> <p><i>Annual M/WBE Aspirational Goals</i></p>	<p>Establishment of annual aspirational goal for M/WBE participation in COSA Goods & Supplies contracts (28%). This goal is not to be necessarily applied to individual contracts, but rather serve as a guidepost to evaluate the effectiveness of the SBE and M/WBE programs, and to make adjustments as necessary to the mix and aggressiveness of policy options.</p> <p>(See MGT Recommendation 9-8)</p>	<p>FML concurs.</p>	<p>Flexible benchmarks are important to managing the M/WBE program and finding the appropriate mix of race- and gender-neutral and race- and gender-conscious policies. Annual goals also provide an up-to-date measure of availability by overall industry categories, and can be useful for outreach purposes. (See Exhibit 9-7 and Chapter 3.0 of MGT Disparity Study Report).</p>	<p><i>Pro: Provides a useful tool for evaluating success of program and making necessary adjustments to aggressiveness of remedies and outreach efforts.</i></p> <p><i>Con: Must guard against reflex to apply annual goals to specific projects without justification. If not updated periodically, can also provide another avenue of legal attack against the program on narrow tailoring grounds.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Goods & Supplies (R/C-21)</p> <p><i>M/WBE Vendor Rotation</i></p>	<p>Selective use of vendor rotation of pre-qualified M/WBE vendors for smaller COSA goods and supplies contracts. Contract is automatically awarded if quoted price does not exceed estimate by more than 10%. If it does exceed the estimate by more than 10%, then opportunity rotates to next qualified M/WBE on the vendor rotation list.</p> <p>(See MGT Recommendation 9-2)</p>	<p>FML concurs with suggest for threshold of contracts valued below \$25,000 for application of this policy option.</p>	<p>Significant underutilization of Hispanic American, Native American, and Non-minority Women-owned firms in Goods & Supplies prime contracts. There was also testimony from M/WBE firms stating subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: As goods and supplies contracts often do not provide commercially useful subcontract opportunities, rotation of approved small vendors to bid on smaller contracts if most cost-effective means for expanding supplier base and enhancing SBE and M/WBE participation.</i></p> <p><i>Con: COSA may not always obtain most competitive price. Careful identification of routine types of supply contracts where there is ample availability of qualified SBE suppliers is required under this option.</i></p>

<u>Industry Specific Programs</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Goods & Supplies (R/C-22)</p> <p><i>M/WBE Joint Venture Incentives</i></p>		<p>Provide incentives to larger suppliers to joint venture with SBE suppliers, including awarding of additional option year to base contract, or limit competition to M/WBE joint ventures.</p>	<p>Significant underutilization of Hispanic American, Native American, and Non-minority Women-owned firms in Goods & Supplies prime contracts. There was also testimony from M/WBE firms stating subcontracting program often is not complied with by primes who end up self-performing scope of work initially identified by prime for performance by M/WBE sub.</p> <p>(SBAC Tr. 23-30, 111; Exhibit 9-2; Finding 9-3).</p>	<p><i>Pro: Encourages manufacturers, wholesalers, to form distributorships and authorized dealer relationships with M/WBEs; expands COSA supplier base. Permits M/WBEs to bid on larger bundled supply contracts where they only can supply a portion of the required product line.</i></p> <p><i>Con: Requires careful monitoring to insure that M/WBE suppliers are not serving merely as a pass-through for larger JV partner; must limit use to instances where M/WBE is performing a commercially useful function.</i></p>

TABLE II: NON-INDUSTRY-SPECIFIC POLICY OPTIONS FOR COSA S/M/WBE PROGRAM

(Prepared by Franklin M. Lee, Esquire 7-7-09)

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p align="center">All Industries (R/N-24)</p> <p><i>Bid-Debriefings</i></p>		<p>Offer de-briefings to losing bidders.</p>	<p>There is perception among some M/WBEs that they have not been treated fairly in bidding process; there is mystery about bid or proposal outcomes, adverse changes to bid specifications, and rejection of low M/WBE bids. (See SBAC Tr. 56-64)</p>	<p><i>Pro: Takes bid scoring mystery away and provides guidance to firms about how to compete better on next bid; promotes defensible and consistent scoring by staff and careful consideration of scoring justification.</i></p> <p><i>Con: Could lead to increased bid protests.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/N-25)</p> <p><i>Bid Specification Review</i></p>		<p>Goal Setting Committee should be established with representation from purchasing agency and Economic Development Office to preview and eliminate unnecessarily restrictive contract specifications in bids before they are issued; special consideration should be given to whether specifications have a disproportionately adverse impact on SBEs and M/WBEs.</p>	<p>Particularly in tough budgetary environments, there is a natural tendency to bundle smaller contracts into a smaller number of large contracts, which can have unintended consequences for ability of smaller firms and firms with less capacity to obtain requisite bonding and working capital to be able to bid.</p>	<p><i>Pro: Enhances competition and fairness in procurement process; promotes bidding by new entrants; impedes operation of “good ol’ boy” networks.</i></p> <p><i>Con: Requires additional resources for Economic Development Office to preview bid specs.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/N-26)</p> <p><i>Commercial Non-discrimination Policy</i></p>	<p>COSA Commercial Anti-discrimination rules should require submission of subcontractor utilization reports by prime contractors, a mechanism whereby complaints may be filed against firms that have discriminated in the marketplace, due process in the form of an independent investigation by agency staff and a hearing process before an independent hearing examiner, an appeals process, and imposition of sanctions including debarment for up to 5 years, termination of contracts, and referrals for prosecution of fraud. (MGT Recommendation 9-6).</p>	<p>FML concurs. Policy should include standard contract clauses and disclosure requirements, to facilitate investigation of alleged exclusion on the basis of race- or gender.</p>	<p>Federal court decisions have favorably commented upon such policies as prerequisite or complement to race- and gender-conscious remedial relief. (See J. A. Croson v. City of Richmond, Northern Contracting v. Illinois DOT). See also SBAC Tr. 17-22, 25-26, 85-86, and 89-90.</p>	<p><i>Pro: Commercial non-discrimination policy approach is approved by Supreme Court; sets a positive standard for public and private marketplace to be inclusive of all business communities; provides incentive for contractors and vendors to consciously diversify supplier sources.</i></p> <p><i>Con: Requires some degree of administrative infrastructure to investigate complaints and to provide due process hearings.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/N-27)</p> <p><i>Business Development Assistance</i></p>	<p>COSA should continue to collaborate with the Procurement Technical Assistance Center; conduct assessments of SBE firms and M/WBE firms' growth and objectively measure the effectiveness of various forms of technical assistance provided by PTAC (e.g., number of bids submitted, number of winning bids, earnings growth, number of program graduations, etc.).</p> <p>(MGT Recommendation 9-7)</p>		<p>See SBAC Tr. 108.</p>	<p><i>Pro: Provides greater accountability regarding usefulness and effectiveness of technical assistance and business development resources; may promote greater diversity of supplier base for Consortium members.</i></p> <p><i>Con: Requires additional resources for Economic Development Office.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/N-28)</p> <p><i>S/M/WBE Program Data Management</i></p>	<p>COSA should modify its B2G data management system to insure that it can closely monitor the actual payments to all prime and subcontractors by race, ethnicity, gender and industry.</p> <p>(MGT Recommendation 9-14)</p>	<p>FML concurs. Further suggestion to make registration mandatory for all bidders and vendors; make modifications to automated centralized bidder registration system to enable targeted e-mail alerts and web site postings by prime contractors as good faith outreach solicitations to subcontractors based on commodity codes of registrants; use system to establish annual aspirational goals and project-specific goals based upon availability and the estimated weighted value of specific commodity codes used in the contract.</p>	<p>Enables narrow tailoring of project-specific goals based on best available current measure of firms that are ready, willing, and able to bid on COSA contracts; also provides transparency in contract awards and actual payments at prime contract and subcontract levels for all firms, not just M/WBEs.</p> <p>Testimony at SBAC hearing reflects considerable variances may be found between stated M/WBE participation at time of contract award and actual payments to M/WBE firms. (See SBAC Tr. 27, 33-34, 36-37, 89-90, 17-22)</p>	<p><i>Pro: Strengthens defensibility of disparity study and program goal-setting; reduces administrative burden in setting goals and tracking payments; facilitates enforcement of prompt payment provisions on behalf of subcontractors; facilitates focused outreach efforts; enhances competition; levels playing field for smaller firms' marketing efforts.</i></p> <p><i>Con: None.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/N-29)</p> <p><i>Periodic Program Performance Review</i></p>	<p>COSA should add performance measures other than S/M/WBE percentage utilization to gauge the program's effectiveness (e.g., growth in number of S/M/WBE firms winning their first COSA contract award; growth rate in M/WBE firms utilization; growth in M/WBE prime contract participation; number of successful M/WBE program graduates still in business and still actively performing work for COSA; percentage of M/WBE dollars gained through open competitive bidding;</p>	<p>FML concurs, and suggests that such performance measures should also include growth in M/WBE participation in private sector contracts. Reviews should be conducted on an annual basis, with policy adjustments to be considered at least every four years.</p>	<p>Increasingly, court decisions focus on serious good faith assessment of the effectiveness of race- and gender-neutral methods as a prerequisite to the continuation of race-conscious remedies; periodic assessment enables better program management and focus on least restrictive alternatives that are effective in eliminating disparities in the utilization of M/WBE firms.</p>	<p><i>Pro: Enhances legal defensibility of M/WBE program. Good management techniques lead to more effective program and eventual phasing out. Performance standards also serve to provide clearer rationale to the public regarding the purpose and benefits of the SBE and M/WBE programs.</i></p> <p><i>Con: None.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/N-30)</p> <p><i>Prompt Payment Notification (E-mail alerts)</i></p>		<p>COSA should use automated centralized bidder registration system to immediately send routine e-mail alerts to all subcontractors listed by prime contractor whenever a payment is issued to that prime. This will enhance transparency in the accounts payable process and permit subcontractors to avail themselves of prompt payment law remedies if they are not paid by primes in a timely fashion.</p>	<p>SBE and M/WBE firms often complain of slow payment and do not have equal access to working capital. (SBAC Tr. 69, Finding 9-8).</p>	<p><i>Pro: Provides transparency in payment process and also empowers subcontractors to protect their rights and to catch fraudulent reporting of subcontractor participation on COSA contracts.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/N-31)</p> <p><i>Vendor Complaint Hotline</i></p>		<p>FML recommends that COSA establish a vendor complaint hotline for contractors and subcontractors to report violations, fraud, or abuses of SBE and M/WBE programs; inappropriate conduct by City staff in the procurement / contracting process may also be the subject of complaints. COSA shall then conduct an independent investigation and review of relevant evidence to determine if the complaints are valid, and then take appropriate action.</p>	<p>Several witnesses at SBAC public hearing reported that prime contractor would list their firms as M/WBE subcontractors in their bids without their knowledge. It is unknown the extent this practice resulted in false reporting of M/WBE participation on COSA contracts. In other instances, prime contractors reportedly substituted other subcontractors or self-performed work originally identified for M/WBE performance. (See SBAC Tr. 17-22, 25-26, 77, 85-86, and 91-92.)</p>	<p><i>Pro: Helps to protect the integrity of SBE and M/WBE programs; eliminates fraud and abuse.</i></p> <p><i>Con: Need safeguards against frivolous complaints and harassment. Requires modest amount of additional resources.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/C-23)</p> <p><i>Linked Deposit Policy</i></p>		<p>Establish criteria for financial institutions to compete for COSA deposits and banking services on the basis of commercial lending practices and loan performance re: M/WBEs; revolving working capital fund for M/WBEs performing on COSA contracts.</p>	<p>MGT econometric analysis found disparities in loan denial rates to M/WBEs and interest rates for loans made to African- American owned businesses were considerably higher. Within Southern Region, African American-owned firms paid approximately 30 to 150 percent more in interest than non-African American owned firms. Such higher costs place M/WBEs at a competitive disadvantage. Higher loan denial rates reduce M/WBE capacity. Working capital fund could help level the playing field. (Finding 9-8; SBAC Tr. 70).</p>	<p><i>Pro: By encouraging competition among financial institutions for COSA business, COSA may positively influence availability of capital for M/WBE firms without expenditure of funds. Higher interest rates resulting from discrimination can be offset through subsidized interest rates provided through this policy.</i></p> <p><i>Con: Possible inconvenience or disruption from change in banking relationship, forms, etc.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/C-24)</p> <p><i>COSA Staff Performance Reviews / Incentives</i></p>		<p>Provide incentives to COSA department staff and managers to exceed annual aspirational goals. Reward significant increases in M/WBE participation through bonuses, compensatory time, or step increases; make compliance with program rules and responsibilities part of job descriptions and performance evaluations of COSA staff.</p>	<p>Responsibility for success of SBE and M/WBE programs must rest with all departments that have procurement and contracting authority. Economic Development will not be able to implement programs alone. (See SBAC Tr. 108-109.)</p>	<p><i>Pro: Positive incentives to staff can help to create a cooperative culture for economic inclusion and for staff to make the extra effort to encourage new firms to participate in COSA contract opportunities.</i></p> <p><i>Con: Money for bonuses and step increases may be scarce in tough budgetary times. Extra leave may not be adequate incentive.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/C-25)</p> <p><i>Segmented Goals for African Americans, Asian Americans, and Native American Firms</i></p>		<p>Where certain segments of M/WBE population are persistently underutilized and other have more success, establish bifurcated or segment annual aspirational goals and project-specific goals to insure that a portion of overall M/WBE goal is targeted specifically to that significantly underutilized segment.</p>	<p>African American, Asian American, and Native American firms have persistently been significantly underutilized in construction and other types of contracts. While Hispanic American and Women-owned firms have fared better on COSA contracts, they still lag far behind on private sector contracts. Segmented goals can help insure that larger more successful M/WBEs do not crowd underutilized segments out of competition for M/WBE dollars. (SBAC Tr. 35 and 111)</p>	<p><i>Pro: Provides more narrowly tailored subcontracting goals and more evenly distributes remedial benefits of M/WBE program.</i></p> <p><i>Con: More administratively burdensome to implement. Some contracts may not have ample availability of subcontract opportunities for two different segments of M/WBEs.</i></p>

<u>Procurement Reform & Non-Industry-Specific Policy Options</u>	<u>MGT Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>All Industries (R/C-26)</p> <p><i>Public / Private “Bridging the Gap” Initiative</i></p>		<p>COSA should establish a public/private partnership with Chambers of Commerce, Minority Supplier Diversity Council, and other minority trade associations to promote greater use of M/WBE suppliers in COSA private sector. A “Bridging the Gap” Initiative similar to that of Baltimore City would conduct research to build the business case for economic inclusion, and recruit major business leaders to commit to establishing long-term relationships with M/WBE vendors and suppliers that have successful performance track record with COSA.</p>	<p>MGT Study reflected near virtual exclusion of M/WBE firms in private sector. This greatly limits the growth of M/WBE firms and is a drag on the vitality of the San Antonio regional economy. Significant business-to-business sales are lost; job creation is also stymied. Lost revenue resulting from lower business formation rates and lower employment levels translates into a smaller tax base and smaller tax revenues. (Finding 9-5, Exhibit 9-4, Findings 9-6, 9-7, and 9-9). See also SBAC Tr. 116-119.</p>	<p><i>Pro: After 30 years of progress under the SBEDA program, a concerted effort to improve private sector participation of M/WBE firms holds the greatest promise for growth and full integration of M/WBE firms in the mainstream of the San Antonio economy. This also holds the greatest promise for new job growth and new economic development in the San Antonio region.</i></p> <p><i>Con: Must overcome prevailing attitude that private sector is not COSA’s business.</i></p>

