

SOLID WASTE AUTHORITY

OF

PALM BEACH COUNTY

- - -

SMALL/LOCAL/MINORITY/WOMEN BUSINESS ENTERPRISE

STAKEHOLDER GROUP MEETING

DATE TAKEN: APRIL 11, 2018  
TIME: 9:00 A.M. - 12:30 P.M.  
PLACE: ADMINISTRATION BUILDING AUDITORIUM  
7501 NORTH JOG ROAD  
WEST PALM BEACH, FL 33412

This cause came to be heard at the time and place aforesaid, when and where the following proceedings were reported by:

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1 MS. ROBBS: Good morning. Thank you for  
2 coming out in beautiful south Florida. The meeting  
3 will come to order. We have a quorum of members of  
4 the stakeholder meeting. My name is Colleen Robbs.  
5 I'm the coordinator for the Equal Business Opportunity  
6 office. And the Chair will now recognize Mr. Mark  
7 Hammond, SWA executive director. And he will  
8 recognize our governing board Chair, Mr. Mack Bernard.

9 MR. HAMMOND: Thank you, Colleen. First of  
10 all, I just want to take this opportunity to thank  
11 everybody for coming here today to participate in this  
12 important event. As you're probably well aware, in  
13 December, the governing board accepted the disparity  
14 study report prepared by Mason, Tillman and  
15 Associates. The report identified that there were  
16 certain disparities in areas of the SWA's purchasing  
17 program, and MTA recommended that certain changes be  
18 made to the SWA's current program to address these  
19 identified disparities.

20 The SWA is now entering into the  
21 deliberative process of meeting with stakeholders to  
22 gather information as we evaluate what remedies will  
23 be taken to correct the disparities within SWA's  
24 purchasing program. And we look forward to the input  
25 of the committee as we move forward. This is

1 extremely important. The Authority has some projects  
2 coming up that we believe any changes to our  
3 purchasing program will have a great impact on how we  
4 proceed.

5 So with that, before I move on, I would  
6 again, as Colleen mentioned, like to recognize our  
7 Chair who is here, commissioner Mack Bernard, Chair of  
8 the Solid Waste Authority.

9 As I look around the audience, I don't  
10 believe there are any other members of our board, but  
11 thank you, Commissioner, for your attendance. With  
12 that, I guess I'll turn it back over to Colleen as we  
13 then move forward.

14 MS. ROBBS: Thank you, Mr. Hammond. Now we  
15 will have the roll call of stakeholders. As your name  
16 is called, please answer present, and indicate if  
17 you're interested in serving as chair or vice chair of  
18 the stakeholder group. If you're standing in as a  
19 designee, please let us know that for the record.

20 Kumar Allady, Radise International Smart  
21 Structures.

22 MR. ALLADY: Present.

23 MS. ROBBS: And what we would like you to do  
24 is you can go ahead and turn on your microphones so  
25 that you will be ready to make any comment as it is

1 appropriate.

2 Maria Antuna, Hispanic Chamber of Commerce  
3 of Palm Beach County.

4 Carol Bowen, Associated Builders and  
5 Contractors.

6 Michelle Depotter, Associated General  
7 Contractors.

8 MR. SCHAFFER: I'm standing in for her, Bob  
9 Schaffer.

10 MS. ROBBS: Thank you. Shirley Everett,  
11 National Association of Black Women in Construction.

12 MS. THOMAS: Good morning. I'm standing in  
13 for her. My name is Nifretta Thomas.

14 MS. ROBBS: Thank you. Lia Gaines, Center for  
15 Enterprise Opportunity.

16 MS. GAINES: I'm standing in for Lia Gaines,  
17 present.

18 MS. ROBBS: Okay. Thank you, Ms. Gaines.  
19 Brian Johnson, Minority Builders Coalition.

20 MR. JOHNSON: Here.

21 MS. ROBBS: Please come forward, Brian. We  
22 have a binder up front, everything is in place for  
23 you.

24 Bruce Lewis, Black Chamber of Commerce.

25 MR. LEWIS: Present.

1 MS. ROBBS: Maria Sanches, I'm sorry, Marie  
2 Sanches, Urban League of Palm Beach County.

3 MS. SANCHES: Present.

4 MS. ROBBS: Selena Smith, Women's Chamber of  
5 Commerce.

6 MS. SMITH: Present.

7 MS. ROBBS: Tina White, Brilliant Minds  
8 Strategies, Inc.

9 Thank you. All guests are required to sign  
10 in. If you have not done so, please sign in at the  
11 break. We will have a break later this morning.  
12 We'll also have comment cards. They're actually there  
13 now, on the registration table. If you want to make a  
14 comment, the public can do so by completing the card  
15 and providing that to us.

16 The agenda, as published, is included in  
17 your packet. This is to the stakeholder members. And  
18 we also had copies on the registration table. But to  
19 the members, if there are no objections, the agenda is  
20 adopted. Thank you.

21 The next item of business is to introduce,  
22 which you have met, our illustrious executive staff.  
23 And our executive director, Mr. Mark Hammond. We also  
24 have on the dais, Mr. Dan Pellowitz, who is our  
25 managing director. We also have Mark Eyeington, our

1 chief operating officer. We have Paul Dumars, our  
2 chief financial officer. And we have our chief of  
3 engineering, Mr. Ramana Kamar, Kari, I'm sorry. I can  
4 make a little mistake, I've been here since February.  
5 But it's a great staff and a wonderful place to work,  
6 I really am enjoying it. We also have as a part of  
7 our team, our general counsel, Mr. Howard Falcon.

8 In addition to my left in the audience, we  
9 have our key SWA directors or designees that are  
10 attending this meeting and will attend the remaining  
11 meetings. The role of the SWA staff is to provide  
12 input to the stakeholders through this process and  
13 provide input to your stakeholder discussions.

14 The staff will also learn, as you learn, the  
15 policy options that are being presented that will,  
16 where they will be engaged in with their business  
17 operations within their respective departments.

18 The Chair now recognizes Howard Falcon, our  
19 general counsel, to do a presentation on the Sunshine  
20 Law.

21 MR. FALCON: Good morning, everyone. I'd like  
22 to thank you for being here and participating in this  
23 process with us. As Colleen said, I'm here to give  
24 you a presentation on the Sunshine Law, and I'm going  
25 to make it a brief one. I imagine you will be happy

1 to hear that.

2 The primary thing I'd like you to be aware  
3 of is that as members of this group, you will be  
4 assisting the board of the, the governing board of the  
5 Solid Waste Authority in its decision making process.  
6 And that decision making process is not just their  
7 final decision on this matter, it's the process that  
8 you-all will be going through and discussions that we  
9 will be having here today, as well as in the future.

10 And in your capacity on this advisory board,  
11 you are subject to the Sunshine Law. And the primary  
12 thing I'd like you to be aware of and take away from  
13 this presentation is that because of that, you-all  
14 cannot communicate with each other in any form or  
15 fashion about the subject matter that we are  
16 discussing here today, that we're going to discuss in  
17 the future, or that might reasonably foreseeably come  
18 before this group in the future.

19 That means no discussions directly, by  
20 phone, by text, by e-mail, by smoke signal, none. I  
21 know some of you may be, may run into each other and  
22 may be friends. That doesn't mean you can't see each  
23 other and talk to each other and so forth, as long as  
24 you limit the discussions to things other than what  
25 will be before this board.

1           As a result of your being on this committee,  
2           again, subject to Sunshine, we have to publicly notice  
3           these meetings. We have to make them open to the  
4           public and let anyone who wants to appear. We have to  
5           take minutes of it. We'll take care of all that for  
6           you. Again, the main thing is: No communication.

7           And just so you're aware, there are  
8           penalties if you violate the Sunshine Law and have  
9           such communication. It's as much as six months in  
10          prison and a five-hundred-dollar fine. So, again,  
11          please, no communication.

12          MS. ROBBS: Thank you, Mr. Falcon. The next  
13          item of business on the agenda is an overview of the  
14          stakeholder group and its role and responsibility. So  
15          Mr. Falcon has hit a lot of those areas, I'll just  
16          highlight and emphasize a few areas that have been  
17          mentioned.

18          The SWA governing board's interest in  
19          improving the fair and equitable distribution of  
20          contracts to small, local and minority women business  
21          enterprises lead to the solicitation and award of a  
22          contract to Mason, Tillman and Associates. This  
23          report was accepted by the board the end of last year.  
24          And we have Mr. Franklin Lee here to lead the  
25          stakeholder group through policy deliberations. And

1 so with that, you will learn best practices and those  
2 recommendations that came out of the study to improve  
3 the SWA's procurement practices.

4 We appreciate your commitment to attending  
5 the scheduled stakeholder meetings, reviewing the  
6 disparity study report recommendations and policy  
7 options that will be presented throughout this  
8 process. Reviewing proposed policy changes and  
9 providing feedback, valuable feed back.  
10 Working with each other as members to prioritize the  
11 recommendations and endorsing the final policy  
12 recommendation to be presented to SWA.

13 I'll also, for housekeeping, we want you to  
14 complete your commitment forms. We have a couple that  
15 are outstanding, but I did receive an e-mail and your  
16 verbal commitment. So if you could take care of that  
17 and leave that with me today.

18 Your binder that is before you has all of  
19 the information needed through this process. If  
20 additional information is required, we will give that  
21 to you. You don't have to worry about that.

22 For the record, I would like to acknowledge  
23 that Ms. Tina White with Brilliant Minds Strategies,  
24 Inc., has joined the meeting. Thank you, Tina.

25 The chair recognizes Barbara Proctor, a

1 professional registered parliamentarian, with thirty  
2 years of experience, to give us a brief overview of  
3 meeting procedure. Barbara...

4 MS. PROCTOR: Good morning. Parliamentary  
5 procedure is synonymous with Robert's Rules of Order.  
6 A common abbreviation is RONR. Everyone should have a  
7 one-page handout that has a brief review of the  
8 basics.

9 When used properly, parliamentary procedure  
10 protects the rights of individual members to receive  
11 notice of meetings, to make motions to speak and  
12 debate, and to vote. It also protects the rights of  
13 the assembly. A quorum is needed to transact  
14 business. A majority vote is needed to make  
15 decisions.

16 When you follow proper procedure, you will  
17 have an orderly transaction of business, because one  
18 motion is considered at a time and one person speaks  
19 at a time. You will elect a chairman that will  
20 preside over the meetings. The chairman will follow  
21 the agenda. The chair will recognize individual  
22 members when they have the right to speak.

23 I said we have one motion pending at a time,  
24 that's one main motion pending at a time. You might  
25 have a main motion on the floor. You can have a

1 secondary motion to amend the main motion. After you  
2 amend it, the main motion is still under discussion  
3 before it's voted on for adopted as amended. I've  
4 listed a couple of different types of motions. You  
5 have a motion to amend. Motion to refer to committee.  
6 Motion to postpone definite time. Motion to recess.  
7 Motion to adjourn.

8 If the chairman gets off the topic, a member  
9 can say "I call for the orders of the day", and that  
10 requires the presiding chairman to go back to the  
11 agenda. If something is happening that you think is  
12 not proper or you have a question, you say "point of  
13 order" or you can say "I object".

14 The main motion -- or members, you make a  
15 motion by saying "I move to". It helps to write the  
16 motion out before you make it so you make sure it  
17 includes everything you want to say. Once you make a  
18 motion, another member will second the motion,  
19 implying that it's worthy of being considered. The  
20 chair should restate the motion, ask for debate, and  
21 take the votes. And I have the language on the  
22 handout.

23 You may come across, the chair, to save time  
24 in voting, might say "if there is no objection", we  
25 will do something. That's voting by general consent.

1       So instead of taking the time to take a vote, you just  
2       say, "If there's no objection", we're going to go  
3       ahead and do something.

4               Rules of the debate, and you are familiar  
5       with these. Member must be recognized by the chair  
6       before speaking. Members may speak for no more than  
7       two minutes each time they're recognized. A member  
8       who has not spoken will be recognized before a member  
9       who has already spoken. Members shall address all  
10      remarks to the chair. Members shall not address each  
11      other directly. Remarks should be germane to the  
12      pending motion or topic. Members shall not attack  
13      another member's motives.

14              And to wrap it up, during the debate it  
15      helps if you start out your debate by saying "I speak  
16      in favor of the motion" or "I speak against the  
17      motion", and then give your reasons. If you state  
18      your position first, then people will listen to your  
19      reasons instead of trying to figure out which way  
20      you're trying to persuade them to vote. If you have  
21      any questions, let me know. Thank you.

22              MS. ROBBS: Thank you, Barbara. The next item  
23      of business is the election of chair and vice chair to  
24      take office at the end of this meeting, unless they  
25      prefer to take office sooner. Having that said, no

1 one, when I called the roll, said that they were  
2 volunteering to serve as chair and vice chair. So  
3 that's why we have it again on the agenda.

4 So we're going to, at this time, take  
5 volunteers to serve as chair or vice chair. The  
6 process that we will do this, if there's no objection,  
7 we will take it by raising hands. The person  
8 receiving the most votes will be chair. And the  
9 person receiving the second highest number of votes  
10 will be vice chair.

11 MR. JOHNSON: I have a question.

12 MS. ROBBS: Yes, the chair recognizes Brian  
13 Johnson.

14 MR. JOHNSON: Brian Johnson, Minority Builders  
15 Coalition, Madam Chair. I think it will be beneficial  
16 for us to sort of agree upon approach of the  
17 stakeholder work group, so that approach will then  
18 dictate what the commitment, the time commitments will  
19 be. And then some of us may decide, "Yeah, I could do  
20 that, I could do the chair", or "I can't do that. I  
21 don't want to put myself in a leadership position if  
22 I'm going to miss meetings." So I would recommend  
23 that we, at least, have some discussion regarding  
24 approach, and that would be helpful for those of us  
25 who might be interested in being the chair or not.

1 MS. ROBBS: Okay. Thank you, Mr. Johnson.

2 Are there any other comments before I respond?

3 Mr. Kumar, any comments to that?

4 MR. KUMAR: No, I don't have any comments.

5 MS. ROBBS: Mr. Schaffer?

6 MR. SCHAFFER: No.

7 MS. ROBBS: Ms. Thomas?

8 MS. THOMAS: No.

9 MS. ROBBS: Ms. Gaines?

10 MS GAINES: No, I shared his exact same  
11 sentiments earlier with you.

12 MS. ROBBS: Yes. Mr. Lewis?

13 MR. LEWIS: I think, in all consideration, all  
14 the members are very busy. And I think the suggestion  
15 that I made earlier, to have a little bit of a  
16 discussion to kind of gauge what that time commitment  
17 is, would be well worthwhile, because that's one of my  
18 concerns, as well.

19 MS. ROBBS: Ms. Sanches.

20 MS. SANCHES: I agree with that.

21 MS. ROBBS: And Ms. Smith?

22 MS. SMITH: I agree.

23 MS. ROBBS: Ms. White?

24 MS. WHITE: Definitely agree.

25 MS. ROBBS: Okay. All right. Considering

1 your comments, with no objection, we will have a brief  
2 discussion. I'm going to ask our consultant,  
3 Mr. Franklin Lee, with Tydings and Rosenberg to give  
4 comments on his strategy for streamlining the process  
5 in consideration for your time. Mr. Lee...

6 MR. LEE: First of all, good morning everyone.  
7 Thank you so much for taking time out of your busy  
8 schedules to be here and to help the Authority with  
9 its mission. This whole process is way more formal  
10 than I had hoped it would be. We're following  
11 parliamentary rules here. And so I hope you will give  
12 me some latitude if, from time to time, I have a more  
13 conversational approach with you-all as we proceed  
14 through this process. If we could give each other a  
15 little bit of slack, that would be helpful.

16 It's my, I'm deeply aware of the fact that  
17 you folks are primarily in business to make a living  
18 and not to be helping with public policy. But this is  
19 very important in terms of the Solid Waste Authority  
20 being able to move forward in satisfying its objective  
21 of being an ally in economic inclusion for all  
22 segments of the business population here. So we're  
23 trying to come together as best we can to get your  
24 feedback. The whole purpose of this stakeholder  
25 initiative is to get feedback from those who are

1 affected most by this particular public policy. And  
2 that will guide my own efforts in helping the  
3 Authority to develop that policy.

4 We've already engaged in phase one of this  
5 process, which was to review the disparity study that  
6 was conducted by Mason, Tillman. And the Authority  
7 board has decided that that study is a good basis upon  
8 which to proceed further in developing public policy.

9 And we've also started working to develop  
10 some administrative reforms to the small business  
11 program that will be put before the board, I believe,  
12 on April 23rd. With that being said, after carefully  
13 considering the recommendations from Mason, Tillman,  
14 recommendations that I've come up with that I'm going  
15 to be presenting to you starting today, I think we may  
16 be able to do this stakeholder process in three  
17 sessions. I'm willing to work with you, recognizing  
18 that you're small business people, to hold these  
19 additional sessions in times that are more suitable  
20 for you. I'll come on a weekend. I'll come in the  
21 evenings, if that works better than doing morning  
22 sessions.

23 The agenda that you have or what you have in  
24 your packet lists several dates when I'm available.  
25 By the end of this session, I think we will be

1       addressing how we may be able to streamline that whole  
2       process. It's not going to take all of those dates.  
3       I think we can do this in three sessions. Assuming we  
4       can get through the administrative reforms, a  
5       discussion about construction remedies, both race and  
6       gender neutral and race and gender conscious, policy  
7       options that I believe are legally defensible, and  
8       that may be effective in addressing some of the  
9       barriers that were identified by the Mason, Tillman  
10      study.

11               The second session I would like to focus on  
12      is professional services. And then the third and,  
13      hopefully, final session will focus on policy option  
14      review for other services and commodities and trade  
15      services. I think we can fit all of those. The  
16      remedies or types of approaches it will take will  
17      probably be similar for all of those industry groups.

18               So, again, if we can get through  
19      construction and administrative reforms today, for the  
20      most part, I think we can finish up with two more  
21      sessions, one on professional services and the other  
22      on the remaining industry groups, other services,  
23      commodities and trades services.

24               And I guess we will reserve that discussion  
25      as to when those dates should be and at what times.

1 Towards the end of the session today we want to make  
2 those decisions. Unless you would rather have that  
3 discussion now before you determine who is going to  
4 serve as chair or co-chair.

5 MS. ROBBS: Thank you, Mr. Lee. So to follow  
6 up with what has been discussed thus far. I want to  
7 make a point of clarification. The role of chair  
8 would be to only preside at the meetings. I will be  
9 your staff, so you don't have to worry about putting  
10 together the agenda, notifying members, providing  
11 copies. Our staff will do that, staff of one right  
12 now. But we have a lot of supportive staff within  
13 SWA. So as far as the role, it will be to preside at  
14 these meetings. And, of course, vice chair, when the  
15 chair is unable to serve, vice chair will serve. So  
16 if there's a motion to move the item for discussion of  
17 the schedule, and it's important to do that prior to  
18 voting, we can do that.

19 I will say that the consideration, as  
20 Mr. Lee mentioned, will be that meetings could either  
21 be held as initially scheduled, nine to noon, or from  
22 five to seven in the evenings. And as Mr. Lee  
23 mentioned, we will be able to determine if additional  
24 meetings are required. Mr. Johnson...

25 MR. JOHNSON: Point of clarification, Madam

1 Chair. So I heard Mr. Lee suggest that there will be  
2 three sessions, and I assume that means three more,  
3 right, so that means this one, plus three more?

4 MR. LEE: No, actually, it will be this  
5 session plus two more, assuming we can get through  
6 everything that's on our agenda for today.

7 MR. JOHNSON: And the time frame for each.  
8 Now, I've heard two time frames, nine to twelve, which  
9 is three hours, and five to seven which is two. So if  
10 we chose five to seven, we will be coming up an hour  
11 short each time, right?

12 MS. ROBBS: Then you may have to either do an  
13 additional meeting or we could make the meetings  
14 longer. Again, this is, we're trying to accommodate  
15 schedules and not hold you too long if it's in the  
16 evening. But it's a discussion of the stakeholder  
17 group.

18 MR. JOHNSON: So, then, if I may offer this  
19 sort of for the group consumption. So having done  
20 this already with Broward County public schools, just  
21 an hour and a half north, and having Ms. Robbs and  
22 Mr. Lee involved in that process, we went six months,  
23 thirty-two hours total, to come up with fifty-four  
24 affirmative procurement initiatives and a whole new  
25 supply diversity outreach policy. So, I'm not exactly

1       sure what the scope of our expectations are, what will  
2       be the outcome of this particular stakeholder group.  
3       Are we looking to revise the policy itself, are we  
4       looking to adopt some affirmative procurement  
5       initiatives? I think that will be helpful to decide  
6       upon for this particular group.

7               And then, secondly, I would encourage the  
8       group, so the reason that legal people sort of  
9       appreciate precedences, and the reason that those of  
10      us in research and public policy appreciate best  
11      practices is because we know that there are things  
12      that have already been thoroughly discussed and  
13      researched and tried and proven.

14             And so I encourage this group to take  
15      whatever opportunity we feel comfortable with to not  
16      want to litigate or re-discuss or re-research every  
17      little item that comes up for discussion. There are  
18      some things that are very clearly beneficial. And if  
19      we can shorten conversation on those, there are some  
20      that may require further discussion or debate. But I  
21      think that will help the time go further, if can agree  
22      as a stakeholder group to adopt some of these best  
23      practices and moderate our extensive discussions.

24             MR. LEE: That's an excellent point, Mr.  
25      Johnson. I have learned from that process that we had

1 in Broward County that there are ways to streamline  
2 that process. And one of the things that I think you  
3 may recall caused us to take a lot more time was we  
4 kept having meetings where we didn't have a quorum and  
5 couldn't take any formal action. We had to rehash, go  
6 over things over and over and over again. Plus the  
7 way we presented the APIs, or affirmative procurement  
8 initiatives -- we will discuss what that means shortly  
9 for those of you who are new to this process -- but  
10 the way we went about it, there was a lot of  
11 repetition. And there are certain tools that may  
12 apply to multiple industry segments. And I think the  
13 way our discussion will proceed, actually, as I go  
14 through the presentation today, I'm going to define  
15 what those tools are so everybody is aware of what  
16 they are. And as we go from industry segment to  
17 industry segment and consider whether or not it's an  
18 appropriate tool to be available for that particular  
19 industry segment, we will be able to, hopefully, get  
20 through that a lot quicker, because we'll understand  
21 exactly what's involved.

22 So we're going to handle those definitions  
23 today. We're also going to begin to familiarize  
24 everybody with this policy option matrix that's  
25 actually in your binder, which lays out a definition

1 of the various, race and gender neutral, race and  
2 gender conscious, legally defensible tools and  
3 initiatives that we are proposing for consideration.  
4 And we will also, going through that process, begin to  
5 get a sense or, hopefully, a feel of where there is  
6 consensus, where there's great disagreement, what's a  
7 priority and what isn't. We will start to do that  
8 today in the construction arena, and in the  
9 administrative reforms that have been identified both  
10 in the Mason, Tillman study and also in subsequent  
11 board meetings that we've had on this topic.

12 So I hope that provides some edification to  
13 you. But in looking for ways to try to streamline  
14 this process, I think it is doable. Once we get  
15 through administrative reforms and construction,  
16 everybody should be quite familiar with like ninety  
17 percent of the tools that we're going to be  
18 discussing. And then it's just a question of, does  
19 this tool make sense for these types of contracts that  
20 we are considering in the future based on the industry  
21 segment.

22 MS. ROBBS: Okay. With that, I'm going to  
23 assume that there is unreadiness with the committee at  
24 this time and we will move forward through the  
25 program. And at the end of the program, after

1 discussing the change in the schedule, if there's  
2 time, we will circle back to that and have the  
3 elections. If not, it will be at the next meeting.

4 So with that, Mr. Lee, you sort of  
5 highlighted a few of the things with Mason, Tillman's  
6 study. I don't know if there are a few more other  
7 things that you would like to add, if not, we have  
8 scheduled a break at ten, but we can keep it rolling  
9 if you'd like, highlight Mason, Tillman's findings and  
10 recommendations, and then move forward. And then we  
11 still will stop at ten o'clock for a break.

12 MR. LEE: Okay. So this is my first  
13 challenge. My goal is to actually not only go through  
14 the Mason, Tillman study findings briefly, they are  
15 contained in some detail in the presentation that you  
16 have in tab three in your binders, but I'm also going  
17 to try to go through my power point presentation to  
18 put all of this process in context for you-all, so you  
19 understand exactly what it is we're trying to  
20 accomplish and why we're trying to go through it in  
21 this manner, and what we hope to come out with at the  
22 end of the day.

23 Mason, Tillman's study that was delivered  
24 late last year found that there was significant  
25 disparity in the utilization of ready, willing and

1       able minority, women-owned businesses in all of the  
2       industry categories, that's construction, professional  
3       services, commodities, other services and trade  
4       services.

5                 That was true at the prime contract level  
6       and the subcontract level, to varying degrees, for  
7       different ethnic and gender groups. You can find the  
8       details of that spelled out and included in your  
9       summary under tab three in your binder. I want to try  
10      to put all this into context in the sense that the  
11      disparity analysis that was done was only one  
12      methodology that was explored in that study, and I've  
13      addressed this before the board at greater length.  
14      But there's a number of methodologies and data sources  
15      that were relied upon in examining the marketplace  
16      from different perspectives.

17                For example, there's a regression analysis  
18      that was done using what's called, PUMS data, Public  
19      Use Microdata Sample from the census bureau. An  
20      industry that looks at things like access to capital,  
21      barriers in earnings and measured disparities in  
22      earnings for firms, controlling for a number of  
23      different variables. It looked at disparities in  
24      access to loans. It looks at disparities in terms of  
25      business formation rates. All of these are indicators

1 that something may not be right in the marketplace.  
2 And there may be different remedies to address each of  
3 those identified problems or barriers.

4 There were also other methodologies,  
5 including gathering of anecdotal evidence. To talk to  
6 contractors and vendors in the relevant marketplace  
7 here, to find out what their experiences were, what  
8 their perceptions are of how the marketplace is  
9 behaving, and if there is any impact on the basis of  
10 race or gender in terms of either business formation  
11 or utilization in the marketplace, both in the private  
12 sector as well as in government contracts.

13 A variety of other methodologies were  
14 explored, as well, which are summarized also for you  
15 behind tab three. For those who have wanted to delve  
16 further into it, we certainly welcome any additional  
17 evidence that you may have that either corroborates,  
18 refutes or supplements what was contained in that  
19 disparity study. It's publicly available. It's been  
20 on the website, I believe, for some period of time.

21 So, what you have to keep in mind is, this  
22 entire process is basically a series of diagnostic  
23 tools. The disparity study being an important first  
24 step. But we're also trying to get feedback here from  
25 the community, from the relevant community of small

1 and minority and women business owners to understand  
2 what the experiences in the marketplace here are, and  
3 what type of remedies may be appropriate and narrowly  
4 tailored to address identified barriers and  
5 impediments to success.

6 With that being said, this is the part where  
7 we get to talk directly to the patient. If you're a  
8 doctor and you're giving an annual physical to a  
9 patient, and you examine what kind of symptoms that  
10 patient may be experiencing, before you prescribe  
11 medication, before you prescribe some remedy for what  
12 seems to be ailing that patient, you want to exercise  
13 the best practice of talking to the patient.

14 You, in essence, the business community, are  
15 the patient here. The marketplace is what we're  
16 trying to address. And so this is your opportunity to  
17 have input into this process, if I prescribe a bunch  
18 of remedies that nobody is going to follow, nothing is  
19 going to change. So I want to know what it is that  
20 you perceive to be the primary barriers or problems  
21 that you're experiencing in this marketplace and how  
22 best to address them.

23 That doesn't mean that the medicine that  
24 ultimately gets prescribed is necessarily going to be  
25 pleasant, or that it's necessarily going to be easy.

1 But what it does mean is working together we will find  
2 a course of treatment that is most effective in  
3 helping the patient get better. So, keep that in  
4 mind, keep that medical analogy in mind as we go  
5 forward. Because what we're trying to do here is to  
6 get the right medicine at the right dose to address  
7 the identified problems that we've gotten from the  
8 diagnostic test. The lab results have come back. We  
9 don't want to give chemotherapy to somebody that has  
10 the flu. But by the same token, we don't want to  
11 prescribe aspirin for somebody that has cancer.

12 So we're trying to come up with early  
13 tailored remedies to address the identified problems  
14 in this marketplace. And the overall objective is  
15 everybody benefits, whether you're a minority firm, a  
16 nonminority firm, a large firm or a small firm, when  
17 the marketplace is robust, it provides opportunity to  
18 all to be mainstream participants in the economy.  
19 That generates the most number of jobs. That  
20 generates the most amount of revenue. It, actually,  
21 reduces, it enhances competition for the goods and  
22 services that the Authority is going to be purchasing.  
23 That means overall prices will tend to come down,  
24 quality of goods and services should go up. And it is  
25 also our belief that with a more vibrant marketplace,

1 the businesses themselves will actually expand their  
2 revenues.

3 If you can accelerate the rate at which  
4 dollars are changing hands, support more jobs in the  
5 marketplace, generate more revenue, more tax revenue,  
6 perhaps the rates can go down overall as the community  
7 grows and becomes more economically viable. So that's  
8 the big picture.

9 If we can put the presentation up on the  
10 board, I'll try to get through this in the next ten or  
11 fifteen minutes and then we can take a break after  
12 that.

13 It's important that we understand the  
14 context in which all of this is taking place.  
15 Minority women business programs have been around  
16 probably since the 1960s, believe it or not. There  
17 have been a number of court challenges that have  
18 actually set up a frame work under which you have to  
19 operate, at least to the extent to which any type of  
20 race and gender conscious remedy is being considered.  
21 By race and gender conscious what we mean is that  
22 there is some racial classification in public policy.  
23 Under the 14th Amendment of the US Constitution,  
24 whenever that happens, there's something called strict  
25 scrutiny that the courts impose to make sure that

1       you're only using that kind of serious, strong  
2       medicine when it's really necessary to do so.

3               First, we want to do no harm. We want to  
4       make sure that we are considering every reasonable  
5       approach to making the patient well without resorting  
6       to the race and gender conscious remedies. What you  
7       have in this situation is the Authority had a small  
8       business program in place for a good number of years.  
9       I think since 1993. And even with that small business  
10      program, a race and gender neutral program that had no  
11      classification of race and gender in it, we are still  
12      finding significant disparities in the utilization of  
13      available and qualified, ready minority contractors  
14      and vendors. So that tells us, maybe there's  
15      something more that we need to do here.

16             Now, strict scrutiny basically has two  
17      prongs to it. It's required, again, whenever we  
18      examine the use of a racial preference or gender  
19      preference. And also examining the government's use  
20      of those classifications. The two prongs are: The  
21      first prong is called compelling interest. And the  
22      disparity study update provided a strong basis in  
23      evidence. That factual predicate also provided a road  
24      map to remedies. There were a number of  
25      recommendations that Mason, Tillman put forward based

1 on their findings. They sought to identify where the  
2 disparities existed, by industry, by gender and ethnic  
3 category. And also sought to identify the nature and  
4 form of those barriers and the root causes of those  
5 disparities.

6 The second prong of strict scrutiny is  
7 assuming that there's a compelling interest for the  
8 government to at least consider the use of race and  
9 gender conscious remedies, they need to be tailored to  
10 address the identified discrimination. So if you can  
11 show that there's an inference of discrimination from  
12 significant disparities, statistical disparities in  
13 the utilization of those firms, and there's other  
14 anecdotal and quantitative evidence that also points  
15 in that direction, you then have to make sure your  
16 remedies are narrowly tailored. And you need to  
17 consider a variety of race neutral remedies. You also  
18 need to consider the appropriate race conscious  
19 remedies only when it appears that the neutral  
20 remedies, in and of themselves, are inadequate. They  
21 need to be of limited duration. They need to be  
22 periodically reviewed to make sure they're still  
23 necessary. That means you go back to the doctor every  
24 year to see how your blood pressure is doing or how  
25 the medicine is working that you're taking. And you

1 have to limit it by -- and this being gender -- by  
2 industry and by the form of discrimination.

3 Again, the form of the remedies that we are  
4 considering here are basically following the road map  
5 of factual predicate. That factual predicate,  
6 certainly, is a thick part of the disparity study, but  
7 also other evidence has been gathered. Other  
8 testimony has been presented to the board. Ultimately  
9 it's the Authority's board that's going to be the  
10 final arbiter of what that policy is, what that  
11 prescription is to address these identified barriers  
12 to minority participation.

13 Now, this brings us to the policy option  
14 matrix. The policy option matrix, you actually have  
15 included behind tab five in your binder. And this is  
16 what we're going to be spending the remainder of our  
17 time on, for the most part. Kind of going through  
18 this. This is my discussion guide, as it were. All  
19 I've done here is come up with a menu of options that  
20 I believe are legally defensible. The policy option  
21 matrix actually documents and sites two pages in the  
22 study that I believe help to support consideration of  
23 each of these remedy options.

24 The policy option matrix identifies the  
25 appropriate administrative reforms and policy remedies

1 for addressing barriers identified in the disparity  
2 study.

3 Now, why do we go through this elaborate  
4 formal process? A lot of people may ask. This is  
5 kind of different, and it is. It's largely because of  
6 the court cases that we've seen come down over the  
7 course of the last thirty years, since the Croson case  
8 in 1989.

9 More, specifically, there's a case called  
10 Rothe versus Department of Defense, which is the  
11 reason why we've moved to this process of having a  
12 very deliberate conversation, first with the  
13 stakeholders and then ultimately with the board. This  
14 policy option matrix will eventually be revised and  
15 presented to the board for its consideration, as well.  
16 But in that Rothe case in the DC Circuit Court of  
17 Appeals, there used to be a Department of Defense  
18 program called The Small Disadvantaged Business  
19 Program. And it set up a five-percent goal for small  
20 disadvantaged business groups to get contract awards  
21 from the Department of Defense.

22 That program no longer exists because of the  
23 ruling of the court in that Rothe case. And one of  
24 the things the court said there was, even though there  
25 was a factual predicate that was presented to Congress

1 to re-authorize that five percent small disadvantage  
2 business program, what happened in that situation was  
3 you had Senator John Kerry, literally, on the floor of  
4 the Senate reading disparity studies into the  
5 congressional record at midnight. There was nobody  
6 else present in the chamber, hardly, when he was doing  
7 this. So, technically, there was a record created of  
8 the evidence, six disparity studies, that were used in  
9 an effort to try to support the re-authorization of  
10 the policy in that case. But the court noted there  
11 was a real question as to whether there was an actual  
12 deliberation about that factual predicate.

13 Well, the process that we're going through  
14 here today and the process that the board will be  
15 going through at my direction will ensure, regardless  
16 of what the policy outcome is, there was very real  
17 consideration of the evidence. The evidence is being  
18 tied to each policy element. And no court should be  
19 able to say this wasn't a serious, good-faith effort  
20 to try to base policy on fact.

21 That's why we're going through this. And I  
22 know it's a real burden on all of you to spend time  
23 out of your busy days to go through this process, but  
24 if you believe it's important that this marketplace  
25 becomes the best marketplace it can be for all

1 concerned, this is the process that we're going to  
2 have to go through.

3 So, again, the policy option matrix  
4 describes the features of each proposed policy option.  
5 The first column, if you look on tab five, just very  
6 quickly, turn to the second page, page two, you will  
7 see the far left column says administrative reforms  
8 and non-industry specific policy options. I've got  
9 notations here for all industries. There are some  
10 things that are going to apply to all industries that  
11 are just administrative reforms in the way the  
12 Authority conducts its business, that will benefit  
13 everyone, whether you are minority, small or large.

14 The first thing there is described as a  
15 title for the policy option there. It's called a  
16 centralized bidder registration system, data  
17 extraction and data management. So that's the title  
18 of that policy option. You will notice there's a  
19 notation in parenthesis R/N-1. That's a shorthand way  
20 of keeping track of each unique policy option that's  
21 being presented. R/N means race neutral. This a  
22 race-neutral proposed remedy. It's the first of many  
23 race-neutral remedies. So we put them in sequence in  
24 numerical order. So when we say R/N-1, that's going  
25 to mean the centralized bidder registration system.

1           The next column over, it says MTA  
2           recommendations. To the extent that MTA has  
3           recommended this policy option, there's a description  
4           of what they've recommended, what this means, and why  
5           they've recommended it, and a citation to the pages in  
6           that study where that recommendation is contained.

7           There are other recommendations that I've  
8           come up with on my own, based on my legal background  
9           in this arena over the last thirty years that I  
10          believe are also legally defensible and may not have  
11          been recommended by Mason, Tillman. Or I will have a  
12          comment that I concur with what Mason, Tillman, or  
13          disagree with what Mason, Tillman has recommended.  
14          And that's the third column. The third column  
15          represents my own views on the subject matter.  
16          And that's, you will see FML, that's my initials.

17          And then on the fourth column, you will have  
18          relevant findings and justifications. This is where  
19          the rationale, logical rationale is spelled out as to  
20          why we're considering a particular policy option. And  
21          there's also citations, again, back to the factual  
22          predicate in the disparity study that tend to support  
23          that logic or rationale.

24          And, finally, in the last column are just  
25          some pros and cons that I've included here as

1 discussion points. This is a discussion. And you  
2 know, you can debate both sides of the issue, but none  
3 of this is really edged in stone. Again, this is just  
4 a discussion guide that we're using to go through  
5 those issues and to see where there's consensus, to  
6 see where there's disagreement. And to also inform me  
7 as to, you know, where the priorities lie, most  
8 likely, in my recommendations to the board in a  
9 policy.

10 Each of you, whether you are in the  
11 stakeholder group or out here in the audience, you  
12 will have an opportunity also, first at the end of  
13 each of these sessions, to give a short public  
14 comment, but also, again, with the Authority board  
15 meetings that are considering these policy options and  
16 policy direction, to weigh in and have your voice  
17 heard.

18 This needs to be an inclusive process, so we  
19 want to make sure that everybody has an opportunity to  
20 participate. There's also plenty of opportunity to  
21 submit things in writing, both, to the stakeholder  
22 group for these meetings, and also to the board.  
23 So keep that in mind as we go forward.

24 And, again, keeping this medical analogy in  
25 mind, it's all about finding the right prescription.

1           What are the things we need to put into the doctor's  
2           bag to make this marketplace what it ought to be, so  
3           that there's no economic deserts based on race or  
4           gender in the Marketplace? Treatment options include  
5           race-neutral versus race-conscious remedies. We've  
6           described what the courts mean by race conscious. If  
7           there's any reference to or even a presumption of  
8           discrimination on the basis of race or gender in the  
9           remedies, we use a racial classification or gender  
10          classification, we're calling that race conscious.  
11          And if a policy option doesn't have those things, if  
12          the remedy doesn't have those sorts of classifications  
13          in it, then it's race and gender neutral.

14                    You can be far more aggressive with race and  
15                    gender neutral type remedies both at the prime and  
16                    subcontract level, simply because there's no strict  
17                    scrutiny applied to those types of remedies. Anybody  
18                    can go buy aspirin, but if you want chemotherapy, you  
19                    have to go to a doctor and get a prescription. Same  
20                    kind of analogy here. We're starting off with the  
21                    non-industry specific remedies today. Things like bid  
22                    debriefings, things that enhance financing, technical  
23                    assistance, commercial nondiscrimination policies that  
24                    say that the government should not engage in business  
25                    with firms that discriminate, that's race and gender

1 neutral. Debundling of large contracts into smaller  
2 contracts so that small firms have an enhanced  
3 opportunity to participate. Specification review of  
4 contracts to make sure there is no unnecessarily  
5 restrictive specifications that preclude competition  
6 from the smaller firms.

7 Centralized bidder registration system is another  
8 race-neutral approach or initiative that can be very  
9 helpful in basing your decisions as to what types of  
10 medicine, what tools to apply in a given contract.  
11 Based on the facts, who is available to do the work?  
12 Is there a disparity in the utilization of those kinds  
13 of firms. The centralized bidder registration system  
14 will track actual dollars being paid to every vendor,  
15 every contractor at both the prime and subcontract  
16 levels.

17 It will also measure availability of  
18 everybody that goes online and says "I want to do  
19 business with the Authority." There will finally be  
20 one centralized place where you can quickly go, spend  
21 ten, fifteen minutes as a business owner and create  
22 your own profile of what it is you think you can sell,  
23 goods and services, to the Authority. You can get  
24 targeted solicitations from that system. We will go  
25 over a lot of these remedies in much more detail as we

1 go through the policy option matrix documents.

2 Again, once we get past the administrative  
3 reforms, then we're focussing on the industry-specific  
4 type remedies. We're looking at construction, we're  
5 looking at professional services. And then the  
6 remaining industry segments are commodities, other  
7 services, and trade services.

8 Now, a few terms we need to be aware of as  
9 we go forward through this process, we just want to  
10 make sure everybody is speaking the same lingo. You  
11 will see in reference to the various documents  
12 something called API. That stands for affirmative  
13 procurement initiatives. That's a fancy way of saying  
14 medicine or tool or policy option.

15 These are the industry specific tools that  
16 are being applied, as opposed to administrative  
17 reforms. And these industry specific tools are  
18 designed to enhance prime and subcontract  
19 opportunities for both small and minority women-owned  
20 firms. They're also designed to enhance market  
21 access, and they also may be either race and gender  
22 neutral or race and gender conscious. So we're going  
23 to go through the race and gender neutral ones first,  
24 and then we will go to the race and gender conscious  
25 medicine second. And the matrix is laid out this way.

1 You'll see, for each industry segment, we will go  
2 through the RNs, the race-neutral remedies first,  
3 they'll be enumerated. And then we'll go through the  
4 race and gender conscious remedies. And all these  
5 APIs are to be applied on a contract-specific basis  
6 when it comes to these industry segments.

7 Let me just give you a few general  
8 examples. Something called annual aspirational goals.  
9 Those are the kind of things that are spelled out in  
10 the policy itself starting out. Given what the  
11 relative availability is, either through the disparity  
12 study and/or through the bidder registration system  
13 once it's implemented, you want to try to figure out,  
14 all things being equal, what would you expect to  
15 happen over the course of a year in terms of small,  
16 minority, women business participation.

17 Those annual aspirational goals are not to  
18 be applied on a contract-specific basis, but are just  
19 a benchmark tool against which to evaluate the  
20 effectiveness of a program on an annual basis and to  
21 determine the mix of remedies, whether you need to  
22 give stronger medicine or whether you can get by with  
23 some weaker medicine to make the patient well.

24 Prime contract, direct contracting programs.  
25 These may be small business preferences at the prime

1 contract level, where there is some limitation and  
2 competition to small businesses, or it could be direct  
3 contracting where the government is basically saying  
4 "Things that we would normally bundle up in a big  
5 contract, we're going to break out and bid those out  
6 separately so that small firms have a better chance at  
7 winning those contracts as primes as opposed to subs".

8 Evaluation preferences. Now, evaluation  
9 preference is a term that's used in terms of the  
10 selection process the Authority uses in what we refer  
11 to as best value contracts. That is contracts where a  
12 low bid is not the sole determining factor of who wins  
13 the contract. So usually, there's an RFP issued, or  
14 requests for proposals, when there's factors other  
15 than just price that are taken into consideration.  
16 And then there's an evaluation panel that's set up by  
17 the Authority to evaluate those proposals and to score  
18 them looking at a variety of different criteria.  
19 And the firm that's ranked the highest will then be  
20 awarded the contract. An evaluation preference is a  
21 means by which we can add additional points to that  
22 evaluation process, based on the status of ownership  
23 of a firm, whether it's a small business evaluation  
24 preference or a minority women business evaluation  
25 preference. There's additional points that can be

1       gained because of the status or the level of  
2       participation on the team for small and minority women  
3       business participation.

4               Joint venture incentives. These are tools  
5       that are used to promote collaboration on the part of  
6       prime contractors to jointly go after a contract.  
7       There can be incentives, and again, points that are  
8       available in the evaluation process for joint ventures  
9       between minority and nonminority firms or between  
10      small business and other firms or some other  
11      combination thereof. This is a tool that's designed  
12      to try to help boost prime contract participation to  
13      build capacity. It's also a capacity building tool  
14      for firms that might not have a whole lot of  
15      experience or track record at the prime contract  
16      level.

17              Mandatory subcontracting goals. This is a  
18      tool that's probably most recognized in these  
19      programs. And the Authority, for some period of time,  
20      has had a fifteen percent goal for subcontracting  
21      applied to contracts. It hasn't been mandatory in the  
22      past. We're looking at making it a mandatory goal  
23      with some waiver provisions for certain circumstances.  
24      And the same thing can apply to a minority women  
25      business subcontracting goal. Where you can

1 demonstrate that there's relative availability for the  
2 specific task that needs to be performed under any  
3 given contract, you try to set a reasonable goal based  
4 on that data as to how much subcontract participation  
5 you can get from either small or minority, women-owned  
6 businesses.

7 A subset of this type of remedy or policy  
8 option is called the segment of subcontracting goals,  
9 MWD Segment of Subcontracting Goals. These are  
10 helpful when certain segments of the minority business  
11 population, whether it's African American or Hispanic  
12 or women-owned firms, are significantly more  
13 underutilized than other segments. Sometimes you get  
14 a mixed bag in terms of what the data is showing, in  
15 that there's either not availability or certain  
16 segments are actually utilized beyond their  
17 availability already. So you want to narrowly tailor  
18 your medicine to address those segments of the  
19 minority business population. They're the most  
20 significantly underutilized. So you will have an  
21 overall subcontracting goal, mandatory subcontracting  
22 goal, say twenty percent. And out of that twenty  
23 percent, you must get at least five percent  
24 African-American participation, for example. That's  
25 the way the segmented subcontracting goals operate.

1                   Mentor protege programs. There's a variety  
2                   of different approaches to this. There's some  
3                   jurisdictions that have actually set aside contracts  
4                   for approved mentor protege teams. Again, the idea is  
5                   to grow capacity, to provide technical and financial  
6                   and other sorts of assistance to smaller firms that  
7                   are trying to compete in the marketplace, and to give  
8                   some incentive to the more established firms to  
9                   collaborate with the less established firms through  
10                  mentor protege programs. And there's a variety of  
11                  different incentives or mechanisms that can be applied  
12                  to that.

13                  Finally, the competitive business  
14                  development demonstration projects. When you have  
15                  situations, as you have here with the Authority, where  
16                  in certain areas of contracting you're always awarding  
17                  contracts to the same few firms over and over and over  
18                  again, there's lack of local availability, certainly  
19                  local availability of certain types of firms. This is  
20                  a tool of mechanism by which you can set up a  
21                  demonstration project to intentionally try to grow new  
22                  capacity by setting aside a small portion of our  
23                  overall contract and then having established firms  
24                  work with less established firms in this local  
25                  marketplace to teach them how to bid the jobs or bid

1 the contracts, how to perform them in the field.  
2 It's, basically, like a laboratory for instruction and  
3 development of new capacity in an industry where you  
4 don't have a whole lot of availability.

5 And bid preferences is also a tool that has  
6 been used. I'm not terribly keen of bid preferences  
7 for a variety of reasons. In this instance, the most  
8 important reason is I don't think there's a lot of  
9 data that shows the cost differential that minorities,  
10 small, and women-owned businesses may be confronted  
11 with in different industries. There's a lot of  
12 evidence to show that they are put at a competitive  
13 disadvantage by some of the barriers and impediments  
14 in the marketplace, but we can't really measure how  
15 much.

16 So if you come up with a bid preference, a  
17 bid preference is: The favored firms using this  
18 preference can bid five percent higher than another  
19 firm and still be awarded the contract. If they're  
20 within five percent of the low bid, they can win a  
21 contract. The five percent may make sense or may not  
22 make sense, but I think if you don't have data to show  
23 what the cost differential is that's caused by the  
24 discrimination, it's kind of difficult to hit the  
25 mark. Five percent may be way too big of a preference

1 or it may be so small that it doesn't make a  
2 difference, depending upon the situation. So it's not  
3 a very narrowly tailored kind of approach from my  
4 vantage point. But you may feel differently and you  
5 are certainly welcome to argue to the contrary before  
6 the board.

7 So I'm going to stop here for now, but the  
8 last part of this, I think we should go ahead and take  
9 a break. And when we come back, we will go over the  
10 administrative reforms one by one. I've listed all  
11 the ones that we're going to try to get through today  
12 in the remaining time. And I'm going to give you a  
13 brief explanation of how these policy options would  
14 operate. What they would mean. And then we'll engage  
15 in a conversation and discussion about the merits of  
16 each one. I think that's the best way for us to  
17 proceed.

18 MS. ROBBS: Thank you, Mr. Lee. We'll take a  
19 ten-minute break and resume at 10:25 a.m. Ten  
20 minutes, please.

21 (Brief recess.)

22 MS. ROBBS: It's 10:30 a.m. The recess is  
23 over, and the meeting will come to order. I think we  
24 are missing two members but we have enough to get  
25 started. So we will turn the meeting back over to

1 Mr. Lee.

2 MR. LEE: Okay. Back from the break. This  
3 part one of the policy option matrix discussion has a  
4 couple of tables in it. The first table is on  
5 administrative reforms. What I'll ask you to do to  
6 follow along with this discussion is to go to tab five  
7 on your binder starting on page two. And we're going  
8 to proceed through this in as brisk a fashion as we  
9 can, but where there's any questions, I want you to  
10 just feel free to raise your hand and say, "I have a  
11 question about this, that and the other". I want  
12 everybody to understand what we're talking about as we  
13 go forward. We just ask you to announce your name  
14 when you turn your mic on to raise a question, and  
15 we'll stop and address whatever questions you have.  
16 But, hopefully, I will be able to describe each of  
17 these remedies or APIs, as the case may be, in  
18 sufficient detail so that you can kind of get an  
19 understanding of what's involved.

20 The administrative reforms are actually  
21 things that we've started working on already. And so  
22 I've included them in the policy option matrix. They  
23 haven't been formally presented to the board yet. The  
24 board, ultimately, has to approve them. But there's a  
25 lot of things that we're proposing to be done at the

1 administrative level here, and changes and amendments  
2 to the purchasing manual that I think can be  
3 beneficial to our overall objective here.

4 The first one is R/N-1, which is the  
5 centralized bidder registration data extraction  
6 management enhancement. And you'll see in the policy  
7 option matrix there, under table one, that this was  
8 also recommended by Mason, Tillman. It's basically a  
9 centralized, automated web-based county system capable  
10 of tracking all availability of prime and  
11 subcontractors by industry and by spend dollars.

12 Those of you who have been involved in,  
13 well, if you've participated in a number of different  
14 websites and had to create accounts, whether it's with  
15 Amazon or someone else, they want to know what it is  
16 you're interested in buying. In this case, it's what  
17 you're interested in selling. There's certain fields  
18 of information you put in. This process has begun to  
19 grow across the country. We're seeing a real movement  
20 towards governments using technology to make it easier  
21 to track availability and utilization. By having  
22 folks go on the web, create their vendor profile. And  
23 then they can solicit those terms in a targeted basis,  
24 based on the commodity codes or the industry segments  
25 that they list in their profile.

1                   So I don't see much downside to this. Is  
2                   there anyone that has any questions about it or wants  
3                   to discuss it? Recognize Bruce Lewis.

4                   MR. LEWIS: Yes, Bruce Lewis, for the record.  
5                   Just some clarification, and maybe a suggestion as  
6                   well. In my experience, I've seen where these kinds  
7                   of databases are very cumbersome to maneuver through.  
8                   And I would like to suggest that we make this as  
9                   user-friendly, both from the staff point of view and  
10                  from the end-user standpoint. An end-user, meaning a  
11                  small business owner who wants to get in the game, who  
12                  wants to maybe find some other persons to partner with  
13                  or bid together with, or even prime contractors in all  
14                  categories of the same kind of concern. So,  
15                  maneuverability, to me, is going to be very critical  
16                  and useful. And so I would just like to add that.

17                  MR. LEE: Comment is well taken. I, myself,  
18                  have had to fill out a number of these registration  
19                  forms for a number of my clients. Some of them took  
20                  me days to complete the process. And others were very  
21                  user friendly. So I'm sharing all of my personal  
22                  experience with the Authority and giving them models  
23                  to look at, and also to help them develop their format  
24                  so that it is user friendly. I'm sure. Yes, sir...

25                  MR. SCHAFFER: Bob Schaffer, are you

1 suggesting or should there be vetting of -- or who  
2 will do that vetting to make sure that it's not just  
3 self-populated and somebody, for example, says they  
4 can build a fence that has never built a fence before?  
5 How do we know that the availability is truly  
6 qualified and available?

7 MR. LEE: There is no prequalification at the  
8 registration standpoint. Obviously, when there's a  
9 specific contract that comes up, to the extent those  
10 requirements are relevant, they will be explored at  
11 that point. The registration process is just designed  
12 to give us a best estimate of who is out there  
13 claiming that they can provide particular goods and  
14 services. If you have somebody claiming they can do  
15 everything, that's not terribly helpful to them or to  
16 the Authority. So, there are ways that you can build  
17 features into these systems to force them to submit  
18 their top three, for example, their top three  
19 commodity codes that they're operating under.

20 But, again, even if you use commodity codes,  
21 it's only good for coming up with a general  
22 availability number, and it won't be tied to a  
23 specific contract. There's no way you can possibly do  
24 that. That couldn't be done. Unless you have another  
25 approach that you think might work better.

1           MR. SCHAFFER: No, not tieing it to a specific  
2 contract. But I'm if registering, that's my  
3 understanding, is that you're registering as available  
4 to do a certain type of work for any contract.  
5 Shouldn't there be some vetting that I actually can do  
6 that work?

7           MR. LEE: How would you suggest that?

8           MR. SCHAFFER: That's my point. That's my  
9 point, because if I'm a prime contractor out looking  
10 for subcontractors, how do I know that this list of  
11 contractors --

12          MR. LEE: Well, at least you have a starting  
13 place. Right now you don't have any starting place.

14          MR. SCHAFFER: But then is that list used to  
15 determine percentages for availability?

16          MR. LEE: It's a starting point. Again, just,  
17 even in the disparity study context, you're talking  
18 about construction. There's lots of different  
19 sub-trades and so forth. If you need to do vetting,  
20 if you want to find out all the landscaping firms in  
21 the area, this will be a way that you could, at least,  
22 have a starting point for figuring out who it is that  
23 says they do landscaping. And then you would have the  
24 ability to go look at their website, for example.  
25 There will be a website link in their profile. So you

1 can start to do that vetting yourself. Maybe not all  
2 landscaping firms can do all kind of landscaping work.  
3 So at least you have phone numbers, websites, e-mail  
4 addresses. So to your particular needs, you can  
5 figure out who it is that you need to be contacting.  
6 But it's a lot better than having to basically pull  
7 out the phone book and go through everybody.

8 A lot of firms may not even be interested in  
9 doing business with the Authority or the government.  
10 A lot of firms may not be listed in the phone book  
11 that are actually out there doing work. So this is a  
12 way to capture the entire universe of firms that say  
13 they're at least available to do certain kind of work  
14 and to give you the means of doing the vetting that  
15 you need to do.

16 Any other questions? Brian Johnson.

17 MS. ROBBS: Because I can see you and you  
18 can't see me, I'm going to call on you so that  
19 everybody feels that they're being recognized. So, it  
20 was Tina White, Bruce Lewis and then Brian Johnson in  
21 that order.

22 MS. WHITE: Tina White. In reference to what  
23 the last speaker was addressing as a concern, his  
24 concern is that persons will register that are not, in  
25 his estimation, qualified. Every company starts out

1 with one contract. And if you -- a disparity study  
2 has been done that demonstrates that opportunity was  
3 denied. So if opportunity has been denied, you can't  
4 expect the person to have the ten years of experience  
5 against the white male firm that has had the ten, the  
6 twenty and the thirty-year experience, because  
7 opportunity was not denied. And so, if you're looking  
8 to continue to find a way to deny access, I guess  
9 that's down the line what you're proposing or  
10 questioning.

11 MR. LEE: Yeah, one other thing I forgot to  
12 mention, I think there may be a disconnect here in  
13 terms of understanding what the purpose of this bidder  
14 registration system is. Number one, it's not a  
15 prequalification system. There are other systems set  
16 up for that.

17 Number two, to the extent that we're  
18 concerned whoever is listed in this bidder  
19 registration is automatically qualified for everything  
20 they list themselves for, that's not true. There are  
21 other systems available for doing that.

22 And number three, to the extent that we're  
23 coming up with goals based on this availability, it  
24 may not be exact measurements of the availability for  
25 a particular contract. The policy itself will build

1 in provisions to address those situations. There will  
2 be waiver provisions that will be allowed where it  
3 could be demonstrated. If you went to everybody that  
4 registered online and you found out half the firms  
5 weren't qualified, and you need to reduce the goal  
6 because of that, there will be a process for waivers  
7 in that situation.

8 MS. ROBBS: Mr. Lewis.

9 MR. LEWIS: Yes, would it be safe to assume,  
10 from this committee's standpoint, that this  
11 centralized system could also serve as a master, you  
12 know, contact database as well, or is that a separate  
13 kind of spreadsheet or available document for use?

14 MR. LEE: If I understand the question  
15 correctly, it is like, the bidder registration system  
16 is kind of like a master vendor database. It's the  
17 most open, transparent way of doing it that I can  
18 think of in this day and age. Other traditional ways  
19 of doing it are usually out of date before they're  
20 published. We used to have all these directories and  
21 lists and telephone books and what have you. This is  
22 a way where you, the vendor or the contractor, has a  
23 way to put forward your best foot in terms of what it  
24 is you're seeking to sell in terms of goods and  
25 services.

1           MR. LEWIS: Maintained in realtime, I would  
2           assume.

3           MR. LEE: And it also provides a basis for  
4           developing a track record. Seeing which firms have  
5           won contracts. What size contracts they've won. What  
6           kind of work they've performed in the past. Because  
7           whatever vendor ID number gets assigned through this  
8           bidder registration system, will follow that firm  
9           throughout its history with the Authority. It's also  
10          a way to update. You know, things that firms can do  
11          today, they may do more tomorrow than what they could  
12          do today. So if you're expanding your business and  
13          breaking out into new areas, you have an opportunity  
14          to go in and edit your profile to reflect that.

15                 Is it the absolute truth? It's about as  
16          close to it as we can get, assuming that you believe  
17          most people are not lying intentionally. And there's  
18          not a whole lot of advantage to lying intentionally  
19          through the bidder registration system, because if you  
20          say you can do something you can't do, you're not  
21          going to get selected or when you do get selected,  
22          you're going to default and you'll be out of business.  
23          So what's the point?

24                 MS. ROBBS: Mr. Johnson.

25                 MR. JOHNSON: So just to be clear, despite the

1 name being centralized bidder registration, it's  
2 really a more elaborate database that allows for a lot  
3 of decision making, knowledge and decision making, so  
4 that you can facilitate an authentic endeavor to  
5 include minorities. And it's not just knowing who is  
6 there, but it's knowing who is bidding and who is  
7 winning, and it even has some aspects of it that  
8 dictates when the prime has gotten paid, and when the  
9 sub has gotten paid, if there's a mismatch in that.

10 And it also allows to inspect what we  
11 expect. So that means if we have created some  
12 options, some affirmative procurement initiatives  
13 designed to include a significant amount of  
14 minorities, and we find that the same old firms are  
15 the only ones winning, then that can support the fact  
16 that that's what's happening. Maybe we can start  
17 looking at vendor rotation or other things  
18 differently. So right now that's happening on Outlook  
19 spreadsheets and sometimes note pads, and this type of  
20 stuff is a great management tool for staff.

21 MR. LEE: I agree wholeheartedly.

22 MS. ROBBS: Ms. Gaines. And then Mr.  
23 Schaffer. And then Mr. Allady.

24 MS. GAINES: And I think also importantly, it  
25 is establishing ready, willing and able databases for

1 the update of the disparity study.

2 MR. LEE: Yes, there are multiple benefits  
3 from having this kind of a database created by the  
4 business community itself as individual business  
5 owners. One of them is the disparity studies,  
6 hopefully, will become far less burdensome and costly,  
7 because there will be electronic data that the  
8 consultant can download as to the actual firms in the  
9 availability category and tracking actual utilization.

10 They will also be able to do a more  
11 sophisticated quantitative analysis to look at growth  
12 trends overtime by race and ethnicity. They will be  
13 able to evaluate the size of the contract per vendor  
14 and contractor. And they will be available to look at  
15 specific industry segments more so than they could in  
16 the past.

17 When you're just relying upon contract files  
18 and some systems that are manual and not electronic,  
19 it's far more burdensome, time consuming and costly to  
20 undertake a disparity analysis.

21 MS. ROBBS: Mr. Schaffer.

22 MR. SCHAFFER: Speaking to the willingness,  
23 hopefully there will be some way in there also to  
24 track participation as a way to track willingness.  
25 But you said other systems in place to handle

1           qualifications.  What did you mean by that?

2                   MR. LEE:  For example, with CC and A  
3           contracts, professional services, there's already  
4           systems here in the State of Florida that require  
5           firms to be qualified for various types of work at  
6           different levels.  I think that's also true in the  
7           construction industry.  I believe that there is some  
8           kind of --

9                   MS. ROBBS:  ESTRF.

10                   MR. LEE:  ESTRF.  So those things are in place  
11           to really kind of drill down.  You start off with this  
12           very broad category of firms who say they want to be  
13           involved in selling a particular kind of goods and  
14           services.  And when they come to the point where  
15           they're ready to bid, for certain types of contracts,  
16           they have to be pre-qualified, go through the  
17           government process for being pre-qualified.  So that's  
18           what I meant by that.

19                   MS. ROBBS:  Mr. Allady.

20                   MR. ALLADY:  I have a comment and a solution.  
21           When you're considering these databases and  
22           businesses, it's probably, you should look at Palm  
23           Beach County or South Florida Water Management  
24           District.  They already have systems, registration  
25           systems in place.  So one of the advantages where I

1 see is for the small businesses, they don't need to go  
2 back and register in multiple agency websites or  
3 databases. And also from the agency perspective, it's  
4 a faster way to approach, because you don't need to  
5 reinvent the wheel. So I would like you to consider  
6 those two solutions.

7 MR. JOHNSON: Madam Chair, one last comment.  
8 Just because what he said sparked a memory. So one of  
9 the things we learned in Broward is that on this  
10 particular issue the due diligence that's recommended  
11 to try to figure out which software package works best  
12 for us took a little while, and then the transition  
13 period from our note pads and Outlook spreadsheet to  
14 now this more elaborate database system took a minute.  
15 And then the potential cost of it, you know, that  
16 consideration, trying to balance the cost benefit,  
17 took a little bit of deciding. So that kind of  
18 elongated the adoption of it. So I would recommend  
19 that looking forward -- so that when we transition  
20 from this group to the board adoption -- that we at  
21 least have some ideas of the type of systems that are  
22 out there, how much they cost, and what type of staff  
23 requirements are necessary to transition, so that they  
24 can support the board making a decision faster.

25 MR. LEE: Well noted. Any other comments on

1       this one? We have a bunch more to cover. I want to  
2       move forward, if we can.

3                   Race neutral two, is administrative  
4       strategies debundling. This is real simple, the  
5       Authority, where possible, will look at contract  
6       specifications before they're put out for bid and see  
7       if there's a reasonable way in which they can break  
8       them up into smaller packages so that smaller firms  
9       will have a shot at being able to compete for them.  
10      Any discussion regarding this one? Ms. White.

11                   MS. WHITE: This is very, very, very,  
12      important. And it cannot wait until it gets ready to  
13      go out to bid. The Authority knows what it's going to  
14      bid. It has a history. And in this process, they  
15      should be reviewing, historically, how they have let  
16      out solicitations. And based on those solicitations,  
17      if there has not been participation by the groups  
18      identified in the disparity study that were available,  
19      that already indicates to them that they need to  
20      address it. Because waiting until you're three months  
21      out or six months out before the bid is not enough  
22      time to vet it. It's not enough time for the public  
23      to have knowledge of that vetting. Because if they  
24      continue to vet these solicitations in, I'm going to  
25      just use the word, secrecy, where I can't find a

1 better word, it's not secrecy, meaning there's no  
2 public input, then you're going to get the same  
3 results.

4 I can give you an example, I always look at  
5 a municipality or a county's last solicitation to see  
6 what were the bid specs. Because those specs will  
7 tell me if they're getting ready, if they're a year  
8 out or six months out before that contract is ending,  
9 they're getting ready to bid it again. The old bid  
10 specs will tell me if there are barriers for my  
11 clients as primes, and even for minorities and women.  
12 For an example, if a bid spec says you must have, be  
13 able to demonstrate you have south Florida experience,  
14 that is a specification that I would be lobbying to  
15 have removed. Because it says that unless you've done  
16 business in south Florida, then you couldn't possibly  
17 be qualified to do business for that particular  
18 governmental agency, which is idiotic.

19 And so the Authority has to start looking at  
20 its bids in the past that they have not had minority  
21 and women participation in and then saying, "These are  
22 the contracts that we need to have public input on and  
23 dialogue on". Because the persons that design the bid  
24 specs, I don't think they are now going to have an  
25 overnight, you know, thought process that "the bid

1 specs that I have designed and have served me for the  
2 last twenty-five, thirty years is anything wrong with  
3 them".

4 And the contracts at the Authority, the bid  
5 specs to me, have been very troubling. And they have  
6 had barriers that had no science behind it. It had  
7 nothing to do with ability to perform, ability to  
8 bond, any of those things that you're looking for when  
9 you're qualifying a company. And so the process must  
10 not start when you're getting ready to put the bid  
11 out. You need to go back and historically look at  
12 your solicitations and what has been problematic in  
13 those solicitations, but you need public input with  
14 that.

15 MR. LEE: Ms. White, in response to what --  
16 very good points you made, by the way. In response to  
17 the points that you've made. We're currently  
18 contemplating three administrative type reforms that  
19 may assist with that very problem. One is the  
20 establishment of a small business advisory committee  
21 of business persons that would be basically one avenue  
22 that a business owner might be able go through to  
23 complain about certain bid specifications that have  
24 been held in the past that you believe are necessarily  
25 restrictive. That advisory committee would have the

1 function of identifying those types of specifications  
2 that are problematic, giving that input directly to  
3 the executive director, director of purchasing,  
4 whoever is relevant.

5 The second approach that we are considering  
6 taking at this point is to require all bid  
7 specifications, before they're put out on the street,  
8 to be signed off on by the new entity we are creating  
9 for all small local minority, women business program  
10 initiatives, which is the equal business opportunity  
11 office. And that person will be another check, the  
12 coordinator of that office will be another check in  
13 looking at those specifications from the standpoint of  
14 a small business owner. You need an advocate in that  
15 office that can take a look and see whether the  
16 specifications are unnecessarily restrictive with  
17 respect to small businesses.

18 The third thing that will happen is that  
19 there will be a formal change in the purchasing manual  
20 that, absent some emergency or public health concern,  
21 all bid solicitations would have to be on the street  
22 at least 30 days before they close, which would give  
23 an opportunity, at that juncture at least, for someone  
24 to intervene and ask for an amendment to contract  
25 solicitation for precisely the reasons you're talking

1       about. So you would have those three avenues that you  
2       could possibly pursue to address the concern that  
3       these specifications be vetted in advance before they  
4       go out or before a contract results from them.

5               MS. WHITE: The advocacy, the person that  
6       you're saying that would be internal, my question  
7       would be: Who would they report to? Because if  
8       they're reporting to purchasing or the executive  
9       director, I wouldn't find that person to have the  
10      comfort level of challenging if someone says no to  
11      their recommendations. So that would become very  
12      important.

13             MR. LEE: The structuring and reporting  
14      requirements for that office is something that,  
15      actually, is on the menu of things that we will  
16      discuss a little later.

17             I can tell you that the small business  
18      advisory committee, there would be no filter on that,  
19      it would basically be just business owners or trade  
20      association representatives serving on that committee,  
21      that I would think would have the sensitivity to  
22      identify those sorts of things. And if they didn't,  
23      then any individual business owner out here would be  
24      free to approach them about considering a particular  
25      kind of a bid spec that's problematic.

1 MS. WHITE: And forecasting, to be able to let  
2 people know a year out what bids are going out, that's  
3 very important, if forecasting is given on a regular  
4 basis. And then a tickler system, "We are now six  
5 months out before this bid will go out." "We are now  
6 three months out before this bid will go out." That  
7 becomes very important. It allows the small  
8 businesses to plan better and to understand the  
9 process better.

10 And also what becomes very important is  
11 being able to ensure that they have the proper funding  
12 in order to participate with those projects. And the  
13 more time they have to know that these projects are  
14 getting ready to hit the street, becomes more  
15 advantageous to them.

16 MR. LEE: Okay. I'll make a note of the  
17 forecasting issue, because I don't think that's  
18 currently addressed in this policy option matrix. We  
19 can come back to that.

20 Again, this particular API is administrative  
21 strategies for debundling, there are others that are  
22 in this list that you may not be aware of that are  
23 also going to address the bid process, the whole  
24 process of how bid specs are put together.

25 Any other comments on the debundling aspect,

1 breaking big contracts into smaller contracts?

2 MS. ROBBS: Mr. Lewis, Mr. Johnson and  
3 Mr. Allady.

4 MR. LEWIS: Yes, just a point of clarification  
5 only. I assume that this will apply to all three  
6 categories: Small business operations, commodities,  
7 construction and professional services.

8 MR. LEE: Yes, what we're discussing right now  
9 is administrative reforms that apply to all  
10 industries.

11 MS. ROBBS: Mr. Johnson.

12 MR. JOHNSON: In the list of things that Mr.  
13 Lee mentioned in terms of what remedies and tools  
14 we're considering to make this work, one thing I will  
15 respectfully add is a commitment to resources on the  
16 program management side to make sure that the packages  
17 that are coming out are right sized to minority  
18 business enterprises. So that if we are welcome to  
19 the restaurant and we have specific dietary  
20 restrictions, we don't have a cook just handing out  
21 whatever he feels like cooking and realizing that we  
22 just don't eat that. And so at the end of this  
23 program we're looking back and wondering why  
24 minorities didn't bid or win or participate, was  
25 because there was nobody in the kitchen with the

1 knowledge of the limitations of the industry of the  
2 segment that we're trying to attract. Who was making  
3 sure that what came out of the kitchen and into  
4 procurement and into the table of the businesses was  
5 the right size from the beginning? So, hopefully, we  
6 will be communicating to the board that we need to be  
7 clear about the need to dedicate resources on the  
8 program management side, so they can be created and  
9 packaged that way before they get to procurement.

10 MS. ROBBS: Mr. Allady.

11 MR. ALLADY: I'm clear.

12 MS. ROBBS: Ms. Smith.

13 MS. SMITH: Good morning, Selena Smith,  
14 Women's Chamber of Commerce. Some other groups that  
15 I've worked on with this, when an RFP goes out or even  
16 an RFQ, groups from the decision making bundle, will  
17 then say "We are holding an information session". So  
18 for instance, if you've never bid on a project like  
19 this before or if you're a newer business or smaller  
20 business and don't have the experience of "here is my  
21 list of recommendations of other projects I've worked  
22 on", there is somebody who goes through that process  
23 with them, and you have to attend the information  
24 session prior to bidding on the process, so that I do  
25 have a full understanding of what is required of me.

1        Maybe I'm not qualified to bid on this particular  
2        contract. But I will be now aware of that. So in the  
3        future when these come up, I am available to go  
4        through that in that process.

5                    Because what I found is that I may make an  
6        assumption of what you're looking for and it may not  
7        be what you're exactly looking for. And that process  
8        will then help me go through it. And not necessarily  
9        the decision makers facilitating the meeting, but at  
10       least having somebody who is on the committee  
11       facilitate the meeting and the expectations so that  
12       they're not now biased as to who they want to award  
13       the contract to.

14                   MR. LEE: Okay. Good comment. Can we move on  
15       to the next one? R/N-3, subcontract remedies. This a  
16       provision that will allow the Authority to pay  
17       mobilization costs. If they're providing mobilization  
18       costs to a prime, then they will also provide,  
19       proportionally, the same mobilization costs to  
20       subcontractors.

21                   There was tremendous evidence in the study  
22       of unequal access to capital for minority firms, so to  
23       the extent working capital becomes an issue, it more  
24       adversely affects minority firms than others. But  
25       this is a race-neutral remedy that could help, to the

1 extent mobilization costs are being paid at the prime  
2 level, they can also be extended to subcontractors.  
3 Any comments or discussion about that? Mr. Lewis and  
4 then Ms. White.

5 MR. LEWIS: I think this is critical. I could  
6 support this API for the main reason that it removes  
7 one of those obstacles that disengages small  
8 businesses in even getting in the game. So knowing  
9 that up front and knowing that there's difficulties  
10 with access to capital from the commercial banking  
11 institutions and the like, I think this will be very  
12 helpful.

13 MR. LEE: Thank you. Ms. White.

14 MS. WHITE: Could you explain a little bit  
15 before I ask my questions what you mean by the  
16 mobilization fees?

17 MR. LEE: Mobilization is, in some government  
18 contracts, the ability for government to pay funds  
19 before the contract really gets under way to assist  
20 the contractor in getting ready to perform the  
21 contract, taking care of certain general conditions in  
22 construction, for example. Typically, it's like five  
23 percent or less of the total contract amount that  
24 might be set aside for mobilization costs.

25 Normally, of course you get progress payments as

1       you complete performance of a certain scope of work or  
2       a portion of a certain scope of work, you submit an  
3       invoice and then you get paid for it. But at the  
4       start of a contract, certain contractors may be so  
5       capital intensive or whatever, that the government  
6       wants to provide some assistance up front to help with  
7       that mobilization, getting the forces in place,  
8       getting equipment in place, what have you.

9               MS. WHITE: Did you say this was going to be  
10       race and gender neutral?

11              MR. LEE: Yes, this particular proposed remedy  
12       or reform simply requires that the authority deems it  
13       appropriate to provide that kind of mobilization,  
14       advanced payment to a prime, they will also do it for  
15       subs.

16              MS. WHITE: So it would not apply to an MWBE?

17              MR. LEE: If they were a sub or if it was an  
18       SBE sub, they could also be eligible for their  
19       mobilization. This is race and gender neutral,  
20       actually.

21              MS. WHITE: So that's why I'm confused. If  
22       it's race and gender neutral, then it would be SBE not  
23       MWBE.

24              MR. LEE: Well, it's not being proposed as SBE  
25       and MWBE. It's all contractors actually.

1 MS. WHITE: Okay.

2 MR. LEE: Sorry, I wasn't clear on that.

3 MS. WHITE: Thank you.

4 MS. GAINES: I just want to add one comment  
5 and that's on relevant findings and justifications.  
6 Lia Gaines here. It's not just that there's unequal  
7 access to capital and they are less likely to retain  
8 earnings, often times primes will foot projects on the  
9 backs of the subs. So I think that's important to  
10 note, as well. So I think this is a great equilibrium  
11 or balancing act on that.

12 MR. LEE: Well noted. Okay. Any other  
13 comment on this R/N-4?

14 Okay. Moving onto R/N-5, website  
15 enhancement strategies. This is something that was  
16 also recommended by Mason, Tillman. Basically, try to  
17 make the website more user friendly and more robust in  
18 terms of its functions. Let's see here -- did I skip  
19 over one?

20 MS. ROBBS: I think you skipped 4.

21 MR. LEE: I did skip one. I've had four hours  
22 sleep, my apologies. R/N-4, rather, before we go to  
23 R/N-5.

24 R/N-4 is contract monitoring and recording  
25 multiyear contracts and change orders. Again, the

1 centralized bidder registration system could be a  
2 great tool in assisting in this. Part of the problem  
3 in the past has been with the authority, even with the  
4 small business program, by the time they realized that  
5 a prime hasn't met its goal or is not even using the  
6 sub that they said was going to be used, the contract  
7 is over. But if we can tie in the accounts payable  
8 systems with the Authority, with the bidder  
9 registration system, your software will allow you to  
10 raise red flags when it appears there's noncompliance.  
11 And the reporting will be more accurate because you  
12 can get the subs to verify online when they've been  
13 paid the dollars the prime says they've been paid. If  
14 just provides better transparency.

15 Also, with multiyear contracts and change  
16 orders, these will automatically be captured through  
17 this software system. So that whatever policies or  
18 APIs are applied to the initial original contract,  
19 they would also be applied to any change orders and  
20 would also apply throughout a multiyear contract.  
21 Yes, Ms. White. And then we'll come back to  
22 Mr. Allady.

23 MS. WHITE: This one in terms of a system  
24 makes sense. But what's more importantly is what is  
25 in the purchasing manual in terms of policies and

1 procedures as well as in the bid and the executed  
2 contract for penalties applied to the primes that are  
3 not complying. Because just for the sub to know that  
4 the prime has been paid and they have not, is not  
5 going to be enough to enforce compliance of the prime.

6 So there has to be a policy that goes along  
7 with this particular program. It has to be a punitive  
8 policy. Because no other policy works. And it should  
9 be a way that if the sub is showing that they have not  
10 been paid, and you're showing that the prime has been  
11 paid, the Authority likes to take the position they  
12 don't want to get in a dispute between the sub and the  
13 prime. That's just a cop out for not enforcing their  
14 policies. So it has to be policy that if the prime is  
15 being paid and the sub is not, at some point the sub  
16 has to be paid by the Authority directly.

17 MR. LEE: Well, you have raised a lot of  
18 issues there. All of which are going to be addressed  
19 in due course. The sanctions and penalties aspect of  
20 this is a separate line item that we will come to a  
21 little later. R/N-4 is actually meant to be a  
22 pre-cursor to sanctions and penalties, hopefully, to  
23 avoid the need for sanctions and penalties by catching  
24 problems early enough that a prime can get into  
25 compliance before the contract is completed.

1                   But you have to have some formal mechanism  
2                   in place for being able to capture performance, to be  
3                   able to take a plan, a project plan, for example, and  
4                   overlay it with the small, the minority, the women  
5                   business participation requirements, so that you can  
6                   be alerted well ahead of time if something is not  
7                   going according to plan before you get to the end of  
8                   the contract.

9                   I can tell you, there's also mechanisms  
10                  being put into the purchasing manual regarding that.  
11                  And putting mechanisms in place to assure that there  
12                  is the authority for the Authority to bring the  
13                  parties together to address any disputes over the  
14                  progress of the project or contract and to try to get  
15                  them to come to common ground to solve the problem  
16                  before there is noncompliance in those situations.  
17                  Mr. Allady...

18                  MR. ALLADY: Just, as part of the  
19                  recommendation, what I would suggest is not only  
20                  monthly contract compliance, probably at the end of  
21                  the contract also compliance. And especially for  
22                  professional services, that can be part of the  
23                  evaluation of the prime consultant. So you can reward  
24                  the good primes and penalize the primes who are not  
25                  meeting the criteria.

1 MR. LEE: Yes, well noted. There is also  
2 language that will be put into the policy that  
3 noncompliance with the policy or violation of the  
4 policy is itself an indication the firm is no longer  
5 responsible. And there's a number of sanctions and  
6 penalties that can be imposed for firms that are not  
7 responsible.

8 Okay. Let's move on to R/N-5, which is the  
9 website enhancement strategies. MTA recommended a  
10 number of enhancements to SWA's website to make it  
11 more user friendly to enhance transparency regarding  
12 upcoming, ongoing and past contract awards, and to  
13 integrate the EBO programs objectives and mission into  
14 that website. So, those are things that are all  
15 addressed there. I concurred with that, and I said  
16 those recommendations should also carefully be  
17 reviewed to assure that they also accommodate all  
18 recommendations for establishment of a centralized  
19 bidder registration system as summarized in R/N-1. In  
20 fact, the centralized bidder registration system, the  
21 functionalities of it will be spelled out in the  
22 purchasing manual.

23 Any further comments on that? Yes, Ms.  
24 Smith.

25 MS. SMITH: So will all bids be accessible via

1 the website so that I can now go back and find out  
2 last year who was awarded that bid and see their  
3 application?

4 MR. LEE: That is the plan. We're trying to  
5 increase transparency so that the whole world can see  
6 what's happening with the money.

7 Any other comments?

8 Let's move on to R/N-6. Uniform lead  
9 times for bid submittals. As I mentioned a little  
10 earlier, this race-neutral remedy would basically  
11 require and put it in the purchasing manual that  
12 unless there's a public health issue or emergency of  
13 some sort, bid solicitations will have a standard  
14 30-day period before they close before you have to  
15 submit a bid. Any comments? Discussion? Ms. White?

16 MS. WHITE: On the 30 days, if there's a  
17 pre-mandatory bid conference, how does that all jive  
18 with the 30 days?

19 MR. LEE: Well, obviously the pre-bid  
20 conference would have to happen before the 30-day  
21 period. That's not to say they couldn't extend it  
22 beyond 30 days if, at the pre-bid conference, for  
23 example, they learn there are some issues that they  
24 may want to consider, maybe want to amend the  
25 solicitation in light of that, based on the questions

1 they get back from perspective bidders. So there  
2 could be 60-day, 90-day periods in certain  
3 circumstances, if necessary. But the policy is no  
4 less than the 30-day submittal period for bid  
5 solicitation.

6 MS. WHITE: I would like to see a policy that  
7 does address pre-bid conferences. Because as it  
8 relates to your questions, you need also sufficient  
9 time in between the questions and the answers before  
10 the bid is also due. So, if you had a pre-bid, I  
11 think it should be an established amount of days as to  
12 how many days before the bid is due after the answers  
13 have been given by the Authority.

14 MR. LEE: Do you have a recommendation as to  
15 what time period would be reasonable?

16 MS. WHITE: Well, it depends on, it would have  
17 to be based on the size of the project, things of that  
18 nature. Because if, for example, if it was a  
19 predevelopment or a developers type of RFP, to only  
20 have 14 days before the bid is due after the pre-bid  
21 conference as well as submit your questions and get  
22 your answers, that wouldn't be sufficient time,  
23 because it's a large undertaking to respond to an RFP  
24 that would be for, just like when they did the burn  
25 center, that's a big one. The garbage one is a big

1       one. So in terms of that, I do think that the size of  
2       the award, the complexity of the award, all those  
3       things have to be factored in as to how many days are  
4       left after the staff responds to questions before the  
5       bid date.

6               MR. LEE: Okay. That's well noted. So at the  
7       very least, you're suggesting, if I understand your  
8       comments correctly, you're suggesting that the  
9       Authority ought to take into consideration the size of  
10      the contract, the complexity of the contract, in  
11      determining how far in advance of bid closing the  
12      pre-bid conference should be held.

13             MS. WHITE: And then also it should be in the  
14      manual addendums. When does staff cut off addendums?  
15      Because, technically, an addendum could come out the  
16      day that you're actually submitting the bid. If  
17      you're out of town and you're submitting the bid, you  
18      would have sent your bid in by overnight mail for that  
19      bid due time, so you would not have addressed or have  
20      seen that addendum. So addendums also must be really  
21      dealt with in the purchasing manual.

22             MR. LEE: And that's not currently the case.  
23      So would you propose two days, three days in advance  
24      of bid closing for addendums to be issued, or from a  
25      policy standpoint, how would you propose that?

1 MS. WHITE: Addendums, anything that's going  
2 to be less than a week before the bid closing can be  
3 very problematic for a person. I don't care if you're  
4 the prime or the sub. And I do know that -- I don't  
5 know about the Authority, but I know the county has  
6 put out addendums on the same day the bid was due.

7 MR. LEE: Typically, when at least, from my  
8 personal experience, when I have seen addendums issued  
9 at the last minute like that, they always extend the  
10 deadline for bidding. Has that not been your  
11 experience here?

12 MS. WHITE: I don't know about here, but I  
13 know at the county that has not been my experience.

14 MR. LEE: Okay. That's something we should  
15 take a look at. Yes, Ms. Smith.

16 MS. SMITH: Along those same lines as Ms.  
17 White, a thought would be, especially since you have  
18 the access to the website in doing that, is that maybe  
19 there's a deadline whereas if I have questions  
20 regarding what's on the contract, I cannot submit them  
21 to just one particular person. Those questions are on  
22 a page on the website with the answer, but all the  
23 questions need to be submitted prior to. So maybe  
24 there's a fourteen-day period prior to the deadline  
25 due date. If you have any questions regarding the

1 contract, instead of sending them to this one  
2 particular person, the question is listed with the  
3 answer so now all bidders can now go on the website to  
4 see those.

5 MS. ROBBS: I will respond that the  
6 procurement process within the solicitations,  
7 identifies the question period, request for  
8 information. So there is a form you use. You submit  
9 it by a time period. The response is an addendum. So  
10 that would be advertised. Everybody gets the answer.  
11 Pre-bid meetings that are not mandatory, of course,  
12 you don't receive the information as being said  
13 verbally. And the official answer are not ones that  
14 you can, for lack of a better word, hold to. So you  
15 must submit your question on the RFI to get a formal  
16 question answered. And those are all public, so...

17 MS. SMITH: And those are all public, so that  
18 I can go on to see?

19 MS. ROBBS: Yes, those are what would be  
20 listed in the addendum. Mr. Lewis...

21 MR. LEWIS: A couple of comments on this.  
22 First of all, my experience has been with a variety of  
23 different municipalities, that typically there's a  
24 schedule of milestone procurement steps that are in  
25 the first or second page of any solicitation that

1 tells the bidder, this is due at this day, this is due  
2 at this day, and down the line. I think where we may  
3 need some help in trying to determine that cone of  
4 question and answers is that, yes, you can list that,  
5 you can ask your questions up until this date. I have  
6 very rarely seen where a response had a deadline date  
7 to it. So last responses to any questions might be  
8 January 15th. And then that clock moves forward to  
9 allow adequate time for the proposer, once he has all  
10 the questions, to submit. So, generally speaking, a  
11 schedule of those milestone procurement process steps  
12 that gives us advance warning and gives the  
13 expectation of when we have to ask our questions and  
14 when we can expect an answer and the period of time  
15 that we have to respond thereafter.

16 MR. LEE: That's an excellent suggestion.  
17 I've seen that in a number of jurisdictions where  
18 they'll spell out: You must submit your question by  
19 this date. We will have the answer to you by that  
20 date. And if we don't, we will extend the  
21 solicitation by a similar amount of time.

22 MS. ROBBS: Mr. Kari, he is our chief of  
23 engineering.

24 MR. KARI: In response to Ms. White's and Ms.  
25 Smith's questions, you know, we do provide that.

1 Typically, though, we ask for questions in writing if  
2 it's a construction contract. And we receive all  
3 responses by e-mail and document that. If you have  
4 asked the questions for the benefit of every bidder,  
5 we share the answers with everyone. And, typically  
6 the deadline for cutoff is fourteen days on typical  
7 construction projects. And it's clearly listed in the  
8 procurement. And the last day for issuing any  
9 addendum is five days before the bid opening. If  
10 there are any addendums issued within the window, we  
11 extend the bid opening date.

12 MS. WHITE: That's in your purchasing manual,  
13 or just in the document?

14 MR. KARI: It's in the document. Because,  
15 like you mentioned before, each project is different.  
16 The scale is different. You know, sometimes it's a  
17 two-week window, sometimes it's longer.

18 MS. WHITE: You're right, you do that. I'm  
19 very familiar with that with the Authority. But what  
20 I'm actually trying to do is ensure these things are  
21 actually in the purchasing manual. So that if I'm in  
22 the position that I have to do a bid protest, I have  
23 something that you and I both are being held to the  
24 same standard that's in that purchasing manual, which  
25 I'm going to formulate my bid protest around.

1 MR. LEE: Yes, Mr. Johnson.

2 MR. JOHNSON: Madam Chair, point of order,  
3 just want to speak to pace. So we're at twenty-four  
4 minutes and we've done six. There are twenty-eight  
5 total. So at a four-minute pace, there's about  
6 eighty-eight more minutes left, and it's 11:30. So  
7 the first question is: Are we intending to go through  
8 all 28 today, or are we looking to break some up?

9 MR. LEE: That was my hope, to get through all  
10 of these, seeing how the pace goes. We have about  
11 thirteen race neutral ones all together. And I think  
12 a number of these are not terribly complicated or even  
13 controversial. So let's see if we can get through the  
14 rest of the race neutral ones in the next ten, fifteen  
15 minutes. And then we'll come to the race conscious.  
16 There's only four race conscious administrative  
17 reforms. Then I think we will get to construction.  
18 I was hoping to get to construction today. That may  
19 not happen, unless you-all are willing to stay later.  
20 And I don't know how much latitude I have to extend  
21 the time beyond noon. I'm willing to stay. But I'm  
22 here till tomorrow, so...

23 MR. JOHNSON: Let me offer this, if I may.  
24 Unfortunately, I have a hard stop at 12:15. I have  
25 another board meeting that I have to chair in Broward

1 County. But just maybe for the benefit of my  
2 colleagues here on the work group, this is an  
3 introduction. And if we're going to follow the same  
4 process --

5 MR. LEE: You're getting a sense of how this  
6 goes.

7 MR. JOHNSON: Right. And then after this  
8 comes a prioritization, where we identify what's most  
9 important. But then we'll rank them by priorities,  
10 right? Is that the intent here?

11 MR. LEE: Most important, moderately  
12 important, least important.

13 MR. JOHNSON: That's right. So we'll have  
14 another chance to look at these with more time and  
15 then vote on what level of priority they are. And  
16 then there will be the redlining of the actual policy.  
17 And then there is development of administrative  
18 procedures that actually show how you implement the  
19 policies, right?

20 MR. LEE: Well, your task is just to give me  
21 feedback and I'll basically be trying to incorporate  
22 all the comments that I'm hearing into the draft  
23 policy that I develop, ultimately.

24 MR. JOHNSON: So will this body review the  
25 redline before it goes to the Authority board?

1           MR. LEE: Yes, it's a two-step process. I was  
2 going to get to that at the end of this. But,  
3 basically, what's going to happen is we go through  
4 this policy option matrix review, get your feedback on  
5 that. I revise the policy option matrix. We take  
6 that to the board. You can go to the board and  
7 comment at that board meeting, as well. And based on  
8 that discussion, the board will give me direction as  
9 to what they want to see included in the policy that I  
10 draft.

11           Once I draft a policy, there's another round  
12 where you, as the stakeholder group, will be asked to  
13 make your comments to the board about the draft policy  
14 and anybody else out there in the audience who wants  
15 to comment on the draft policy. So there's actually  
16 two bites at the apple on this. One, through the  
17 policy option matrix, and then through the draft  
18 policy review.

19           MR. JOHNSON: I just wanted to make sure that  
20 was spelled out. So that we can understand there's  
21 multiple chances for us to understand, go back,  
22 research and ask questions.

23           MR. LEE: Yes. Let's try to move this along,  
24 if we can. The next race-neutral remedy for  
25 administrative reform is debriefing for unsuccessful

1        bidders. This should be fairly noncontroversial. But  
2        the Authority, as I've been told, already provides  
3        this to disappointed bidders, but they don't advertise  
4        it. So we're proposing to put it in the purchasing  
5        manual that in the bid solicitations themselves, it  
6        will be spelled out that if you bid on something and  
7        you're not successful, you have the right to request a  
8        debriefing from the Authority so that you can learn  
9        more about why you weren't successful.

10                The whole intent of this is to provide some  
11        more transparency to also keep the authority honest in  
12        the reasons that it comes up with as to why it awards  
13        a contract to one vendor, and not another. They  
14        should have some reason for that determination. They  
15        should be able to articulate that reason. And it's  
16        also designed to, hopefully, create more competition  
17        in the future as firms will recognize there may have  
18        been a legitimate reason why they didn't win a  
19        particular contract. And they come back the next time  
20        better able to compete. Any comment on this? Yes,  
21        Mr. Lewis...

22                MR. LEWIS: Well, it's hard to remember any  
23        successes, but I think more importantly for a small  
24        business, they learn so much more from defeat. And if  
25        you have the tenacity, and most business owners do

1       have that tenacity, to persevere, it is, I like to  
2       think of this particular API as a capacity-building  
3       tool that comes through, you know, a negative result,  
4       but gives you the added knowledge and experience to  
5       correct the mistakes and grow from there. So I would  
6       support this.

7               MR. LEE: Okay. Ms. Gaines.

8               MS. GAINES: I would like to also, I don't  
9       know if it's appropriate, but expand the debriefings  
10      so that the feedback can also come from the bidders to  
11      the Authority. Maybe what some continuing barriers  
12      may be as to why they were not successful, as well.  
13      So there's an opportunity for some exchange. Of  
14      course, they could talk about the technicalities, but,  
15      for example, in an evaluation of a particular  
16      proposal, some feedback may be there's a little bit  
17      too much discretion in this category where the points  
18      are awarded or whatever, so that there is some  
19      exchange. So it's actually developing capacity for  
20      Solid Waste Authority to actually be more accountable  
21      and open to ongoing issues that may come up with the  
22      bidders.

23              MR. LEE: Can I just suggest that perhaps the  
24      small business advisory committee could be a good  
25      vehicle for that type of input back to the Authority,

1 or are you suggesting it needs to be something else in  
2 addition to that?

3 MS. GAINES: Well, this is the thing, from a  
4 time stand point, if the information is given back to  
5 the staff and staff would forward it to the, you're  
6 calling it the advisory committee?

7 MR. LEE: Yes, the small business advisory  
8 committee.

9 MS. GAINES: Yes, or it just could be some  
10 ongoing reporting back --

11 MR. LEE: So you're suggesting it be a two-day  
12 debriefing, basically.

13 MS. GAINES: Yes, sir.

14 MR. LEE: All right. I'll make a note of  
15 that.

16 MS. ROBBS: Ms. White and then Mr. Johnson.

17 MS. WHITE: This has just come up for one of  
18 my clients who is a black female engineer. She sent  
19 in her qualifications. She was qualified. But she  
20 was not scored by that municipality. She asked for a  
21 debriefing in November. She got it in March. And  
22 then also the main point of this is that the award has  
23 already been given. So in some categories, the  
24 debriefing, if its requested, must stop the process,  
25 because in that debriefing if staff could not justify

1           why they did not score her or move her up in the  
2           process, then she now has a, should have another  
3           remedy. But if you wait until, especially on  
4           engineering on the professional services side, if it's  
5           based on qualifications that you're asking for first  
6           to move them in the process, and if you don't move  
7           them in the process and you make the award before they  
8           have a debriefing to challenge, in some instances,  
9           maybe why you did not move them in the process, it's  
10          too late.

11                 MR. LEE: Okay. Typically, there's a bid  
12           protest procedure that would accommodate --

13                 MS. WHITE: Well, I don't think that -- does  
14           that apply to qualifications?

15                 MR. LEE: It should, yes. You can use that as  
16           the basis for saying, "Well, my firm is much more  
17           qualified than who you awarded it to".

18                 MS. WHITE: But because, on the qualifications  
19           side, that's, a lot of it is very subjective. So how  
20           do they know what they're going to protest if they  
21           never had a debriefing to know why they were not moved  
22           in the process?

23                 MR. KARI: We do provide the process. In  
24           every solicitation there are procedures listed in  
25           there. And if you want to protest, you can do that.

1 MS. WHITE: So in your solicitations for those  
2 services, you tell them how they are going to be  
3 evaluated and scored?

4 MR. KARI: Yes, it's very clear how many  
5 points they get for qualifications, prior project  
6 experience for that solicitation, and you know, the  
7 SPE, local, and it's all listed clearly in there.

8 MS. WHITE: So do you pre-qualify your  
9 professional services, engineering and architect?

10 MR. KARI: What do you mean prequalification?

11 MS. WHITE: Meaning, that they've already,  
12 like at the county, they already have a pre-qualifying  
13 process. We talked about that. So when they send in  
14 their qualifications, they're not re-qualifying them,  
15 they've already been qualified.

16 MR. KARI: So you mean -- you know, these are  
17 master agreements that we select a firm and typically  
18 they get three years for a particular expertise.  
19 Let's say, land design or waste energy. So any  
20 project within that category, this firm would get all  
21 the projects under that umbrella.

22 MS. WHITE: So how does that help minority and  
23 small firms when we have those master agreements like  
24 that?

25 MR. PELLOWITZ: Dan Pellowitz, for the record.

1 We don't, the county, it's my understanding, does a  
2 prequalification process for CCNA that creates a  
3 rotation that firms are put into and then selected  
4 from. The Authority at this point does not have such  
5 a rotation. So we solicit specific projects in some  
6 cases. And it's an RFQ document, we're talking CCNA  
7 right here. It's an RFQ document that is responded  
8 to, similar to an RFP, with scoring identified in all  
9 of the categories. And in every one of those  
10 procurements, there's a specified procurement process  
11 that includes a five-day protest period after the  
12 evaluation committee meets. Those are all posted.  
13 And anyone who is aggrieved by that policy can file a  
14 protest. And our purchasing manual has a procedure  
15 for dealing with the protest.

16 The debriefing is kind of being conflated  
17 with the bid protest here. The debriefing is  
18 something that would take place after award, and it  
19 provides an opportunity for the Authority and any  
20 vendors who would like to understand more about why  
21 they were ranked where they were, in the case of a  
22 bid, why they were the low bidder. They would also  
23 have the ability to look at all the other proposal  
24 submittals so they can take a look at maybe  
25 understanding why the committee chose one vendor over

1 another. And it provides essential feedback as to,  
2 you know, looking at what other vendors have done who  
3 were competitive and maybe have been more successful.  
4 It gives them the opportunity to maybe enhance their  
5 presentation in such a way that it would benefit them  
6 the next time, or the next time they submit a  
7 solicitation, not just with the Authority but with  
8 anybody.

9 So that's what we're talking about. One of  
10 the things that's on this list coming forward is a  
11 recommendation for vendor rotation processes. And  
12 that will be addressed a little bit later in Franklin  
13 Lee's presentation.

14 MS. WHITE: Excellent.

15 MR. LEE: Okay. Can we move on to the next  
16 one? Moving right along. R/N-7, Debriefing,  
17 unsuccessful bidder. The next one is R/N-8, Establish  
18 a position for EBO, that's Equal Business Opportunity  
19 ombudsman. This is a position that will be  
20 established for helping to mediate disputes either  
21 between -- mediate. Which means you're not solving  
22 the problem, but you're trying to get the parties  
23 together to resolve the problem themselves -- between  
24 primes and subs or between the vendor and the  
25 Authority. To the extent that there's some

1 difficulty, some impediment to the smooth performance  
2 of a contract, this is a way that, it's just a  
3 position that can help to try to smooth the waters out  
4 and get the problem resolved before it gets into a  
5 more difficult dispute at the end of the contract.

6 For example, one of the things we're  
7 considering being addressed through this position  
8 would be problems where a sub says, "I was supposed to  
9 be doing X, Y and Z, and I haven't been called yet and  
10 the contract is three quarters finished. I thought I  
11 would have been, I mobilized my forces to be able to  
12 work on this project and I'm not getting used." That  
13 would be a perfect opportunity to bring a prime and a  
14 sub together and find out, "Well, what's going on?"  
15 What is our project schedule here? When is this  
16 particular scope of work going to be performed in the  
17 overall project, and are you still intending to use  
18 this sub, if not, why not?"

19 We're putting provisions in place to require  
20 substitutions of subs or self-performance of their  
21 work to be pre-approved by the EBO office before it  
22 can go forward. So whatever commitment is in the  
23 contract, in terms of the use of subcontractors, it  
24 has to be adhered to unless there's a request from the  
25 prime to change that for whatever reason for cause.

1           Again, this particular RN is solely to  
2           establish position in the purchasing manual for this  
3           ombudsman to help to try to facilitate or mediate a  
4           solution to disputes. Any comments or questions?  
5           Mr. Lewis and then Ms. White.

6           MR. LEWIS: Thank you. No concerns, really,  
7           about this one. I think this is a good measure. But  
8           I do have a question about the qualifications of such  
9           an ombudsman, and more importantly the  
10          disqualifications of one. I.E., would it be practical  
11          or would it make sense to have a mediator of sorts  
12          that has an existing contract with the Solid Waste  
13          Authority, and what would that present in terms of a  
14          potential conflict of interest? I would prefer that  
15          that not be the case, and that that individual or firm  
16          be completely neutral.

17          MR. LEE: That's a sound comment. I think  
18          there probably would be some ethical issues we'd have  
19          to address. My expectation was that it would be an  
20          independent individual. Perhaps it could be  
21          outsourced. But it may be ideal to have some  
22          personnel, some Authority personnel serve in that  
23          position that's not conflicting with another contract  
24          in any way. Ms. White...

25          MS. WHITE: I would highly recommend that it

1 is outsourced. The other part of this process would  
2 also be, you spoke about the prime having to have to  
3 ask permission to remove an SBE or subcontractor.  
4 Well, the Authority already has that policy, but they  
5 don't enforce it. And it's a one-way policy.  
6 Meaning, the sub could be removed and they'd never  
7 even know they've been removed. So how do you create  
8 this two-way dialogue for that sub to even protest  
9 their removal?

10 MR. LEE: Well, we're proposing to put systems  
11 in place to identify who the subs are. So the subs  
12 have to be notified. In fact, their subcontracts  
13 would have to be produced, executed, before there's a  
14 notice to proceed. So, hopefully, that can't happen,  
15 that wouldn't be able to happen again where a sub  
16 doesn't even know they've been listed.

17 MS. WHITE: Or replaced.

18 MR. LEE: Or replaced, yes. And they're not  
19 even replaced if they were never really listed in the  
20 first place. But there are other systems that we  
21 would put in place to address the situation where they  
22 are getting replaced. And there's no -- you need a  
23 traffic cop, as it were. And we're proposing that the  
24 EBO office has to sign off on final payments and  
25 contracts before, to show compliance with all of the

1 economic inclusion requirements of the contract before  
2 there's a final payment made. And to the extent that  
3 there's been a substitution, the centralized bidder  
4 registration system, one of the functionals it can  
5 serve is to have subs, at each payment to the prime,  
6 sign off on whatever payments they were supposed to  
7 receive based on the invoices. So if someone else is  
8 performing that work than who was supposed to perform  
9 the work, that sub would be notified that the payment  
10 has gone out for that scope of work. And they'll know  
11 whether or not they got paid. I would assume they can  
12 raise a red flag about that substitution.

13 MS. WHITE: No, you said the substitution had  
14 to be approved by someone at the Authority. I'm  
15 saying before that substitution is approved, it has to  
16 be a two-way street where that sub has a right to  
17 protest their replacement, their substitution, the  
18 request.

19 MR. LEE: Yes, what would happen is the prime  
20 would request the substitution. It would go to the  
21 EBO office. The EBO office would contact the sub and  
22 say "What say you about this substitution? Is it true  
23 that you can't perform this work or you're no longer  
24 available to do this work? And if they say that's not  
25 true, then we have a problem. And the burden is on

1 the prime to show just cause for substitution. If the  
2 sub didn't perform and they can document that, then I  
3 would assume the EBO office would approve it. If they  
4 can't document that there's any just cause for  
5 substitution, then they would deny it. I think we  
6 would build in some due process provisions for appeal  
7 of the decision, but that would be, the initial  
8 decision would rest with the EBO office, could run up  
9 to the executive director, and ultimately to the  
10 board.

11 MS. WHITE: But it would require that office  
12 to get something in writing from that subcontractor  
13 that they're asking to replace.

14 MR. LEE: Yeah, you have to contact the sub to  
15 find out whether or not the request is contested.  
16 Once it's contested, then there's a burden of proof  
17 there on the part of the prime.

18 MS. WHITE: Okay.

19 MS. ROBBS: Ms. Gaines...

20 MS. GAINES: Yes, I just wanted to also  
21 emphasize that I also strongly recommend a third  
22 party, independent, as much independent as you can  
23 get, recommending it be outsourced. So that that  
24 independence is part of the function of the office as  
25 well as appearance.

1           MR. LEE: Okay. The next one is R/N-9,  
2 expedited payment program. I don't know who would  
3 object to this. One of the things the centralized  
4 bidder registration system can enable in its more  
5 robust form, is that, first of all, you streamline the  
6 processing of invoices so that only the people that  
7 need to sign off on the approval of the payment are  
8 required, and you can have electronic transfer of  
9 funds. And a number of systems around the country are  
10 actually doing that now where part of the vendor  
11 profile that's not visible to the public but is in the  
12 profile that the government has access to, is their  
13 bank information, so they can transfer funds directly.  
14 You don't get checks lost in the mail anymore or wait  
15 two or three weeks for the next run of checks to take  
16 place. Anything that we can do to speed up cash flow  
17 is a win, win for everybody, I think. And it  
18 certainly helps those that are most capital  
19 challenged, which is the majority of small businesses.  
20 Mr. Lewis...

21           I might add something that might enhance  
22 this effort. Of course all of us like to be paid on  
23 time. It would really be nice to be paid early, but I  
24 don't think that's possible. To that extent, I'll  
25 take a page out of the county's book. When they

1 started to embark upon the one percent sales tax  
2 implementation process, this too came up during those  
3 discussions, very heated discussions, about prompt  
4 payment. The county has a prompt payment ordinance in  
5 place. How well it's adhered to is left to question.  
6 There was some intervention by, I believe, the County  
7 Clerk of Courts who serves as a fiscal agent for the  
8 county. And an electronic payment system was set up  
9 so that you could expedite those payments to the prime  
10 contractors, thereby that pass-down payment could take  
11 place at an earlier interval. And I do believe it was  
12 available to, or I could be wrong about this, but it's  
13 worth investigating, that that too applied to  
14 subcontractors. So I've signed up for it. I haven't  
15 gotten an electronic deposit yet. But I've signed up  
16 for it, so that's something that's in the process.  
17 And there's ways that you can block out the sensitive  
18 information, as you suggested. So I would be in  
19 support of this and be an advocate for electronic  
20 payments to the degree possible.

21 MR. LEE: Let me just also say, as we proposed  
22 it in this policy option matrix, we were trying to get  
23 the primes paid within 15 days. My understanding is  
24 that the Authority, more so than the county, has been  
25 pretty good in paying its bills on time. So we are

1           constantly pushing the envelope to see if we can do  
2           better. And, perhaps, for undisputed invoices to be  
3           paid electronically within 15 days would be feasible.

4                       I can tell you, Montgomery County Public  
5           Schools in Maryland, as a benefit to the government as  
6           well, they found a way to approve and issue progress  
7           payments on construction school contracts in 48 hours.  
8           And they found that the construction costs dropped  
9           about 20 percent as a result of that. Because nobody  
10          had to finance their payroll or anything else. And  
11          contractors love working for them. So they got lots  
12          of competition. People were sharpening their pencils.  
13          They love those jobs. They get paid in 48 hours on  
14          approved invoices. So that's where we're trying to go  
15          with this and push the envelope towards speeding up  
16          the cash flow. Yes, Ms. White...

17                      MS. WHITE: Why can't this be not instituted  
18          here at Solid Waste? Why the 15 days versus not going  
19          to the 48 hours, especially on the larger contracts?  
20          The garbage contract is one in particular.

21                      MR. LEE: Well, that's worth discussion. I  
22          just thought you may have to crawl before you walk and  
23          walk before you run.

24                      MS. WHITE: Well, if you're putting in a new  
25          system, put in the right system from the very

1 beginning. So I'm in favor of the Solid Waste  
2 exploring the 48 hours for primes. But the only  
3 question is: If primes are going to be paid in 48  
4 hours, how do you check and balance that the subs have  
5 been paid?

6 MR. LEE: The flip side of it is that the  
7 primes would have to pay their subs within five days.  
8 And, again, the bidder registration system is a  
9 vehicle by which you can verify with the subs whether  
10 they got paid within those five days. After that  
11 period of time, the clock starts to tick and, through  
12 prime payment laws, you can impose percentage  
13 penalties for late payments.

14 MS. WHITE: Well, definitely, would like to  
15 see what would be the cost for the 48 hours versus the  
16 15 days. If it's not a difference in cost, then I'm  
17 in favor of 48 hours for especially the large  
18 contracts that require, not only a lot of working  
19 capital for the prime, but also significant working  
20 capital for the subcontractors, like the garbage  
21 contract.

22 MR. LEE: Okay. Well, I think staff hears  
23 you. We'll see what can be done, what's feasible at  
24 this point. Let's move on to R/N-10. Disputed  
25 invoice five-day notice requirement. This is

1 something that we actually developed at Broward County  
2 Public Schools. Because we found a lot of times  
3 invoices weren't getting paid promptly because there  
4 was some dispute and the vendor never knew that there  
5 was a dispute. So they're sitting around waiting for  
6 a check, and then 30 days later or 45 days later they  
7 would ask about it. And they would say, "Oh, well,  
8 you didn't submit this." "How am I supposed to know  
9 that?"

10 So this is putting the burden on the  
11 Authority to notify the vendor. Once they've  
12 identified that there's a problem invoice, notify them  
13 within five days what the problem is so it can be  
14 cured and you can move forward. Mr. Johnson...

15 MR. JOHNSON: Just real quick, there's also an  
16 expectation that this is a line-item dispute, so that  
17 if there are eleven items on the pay app and only one  
18 is a problem, then you pay the ten while you discuss  
19 the other one.

20 MR. LEE: Yes, that's true. So to the extent  
21 there's line items that are not disputed, then those  
22 have to be paid in a timely fashion. But you also  
23 have to notify the vendor of those items that are  
24 disputed within five days. That's correct.

25 Any other comment? Okay. Let's move on to

1 R/N-11, commercial nondiscrimination policy. This is  
2 kind of foundational in all of these equal business  
3 opportunity economic inclusion policies.

4 Commercial nondiscrimination policy is a  
5 race-neutral policy that says: We, the government,  
6 will not engage in business with firms that  
7 discriminate either in their solicitation, selection  
8 or treatment of subcontractors, suppliers, commercial  
9 customers on the basis of race, gender, etcetera.  
10 And it provides an opportunity for disclosure of any  
11 adjudicated discrimination. And also provides a  
12 mechanism for complaints to be filed. Any comments  
13 about this one?

14 MS. ROBBS: Ms. White?

15 MS. WHITE: Yes. How do you actually verify,  
16 monitor and enforce this particular policy? I'm going  
17 to give an example. With the garbage contract, when  
18 subs are required and those companies do not choose  
19 any women, they do not choose any minorities, are they  
20 going to be required to justify to those firms that  
21 were available to them as to why they did not?

22 MR. LEE: The short answer to your question  
23 is: There would be an administrative process for  
24 filing of complaints, if nobody complains about a  
25 problem, it's not going to be addressed through this

1 policy. But if there is a complaint, there's a  
2 process put in place to investigate the complaint, to  
3 take evidence, to reach an initial determination and  
4 then there's a due process for appeal. Certain  
5 sanctions can be imposed in the event that the policy  
6 is violated. To the extent that there are  
7 administrative or judicial adjudications, showing that  
8 the policy has been violated, there's a duty to  
9 disclose that's put in the bid solicitation documents.  
10 It's made clear what the standard of conduct is. And  
11 if you're in violation of that standard, you're not a  
12 responsible bidder.

13 It kind of works the same way as defaults  
14 would work in terms or debarment in contracts. There  
15 are provisions that are to be put into the bid  
16 solicitations, and also into the contracts themselves  
17 that would give the Authority the authority to not use  
18 a contractor that's in violation of the policy.

19 MS. WHITE: This one to me is more of  
20 something that sounds good on paper, but, in  
21 actuality, what it does for a minority and a woman, to  
22 me, is not going to mean anything. I'm looking for  
23 something that also ties this policy to bona fide  
24 efforts when you are looking for subcontractors.  
25 Because if you're -- the largest award that the

1 Authority has is garbage since 1993. In that  
2 instance, there has only been two, one female and one  
3 male black person ever included as a subcontractor.  
4 And so if there's a history already predated that  
5 shows that the institutional companies are not using  
6 blacks and minorities and women for these, this  
7 particular award, it has to be something that starts  
8 even with the bid process.

9 MR. LEE: I can give you a number of different  
10 examples of how the policy could be used in real world  
11 situations. I can tell you a number of jurisdictions  
12 that have minority business programs. Their programs  
13 got shut down or struck down for whatever reason. And  
14 then primes decided they didn't need minority  
15 subcontractors and would tell them point blank, "I  
16 don't need a bid from you. There is no longer a  
17 program." That's a violation of a nondiscrimination  
18 policy, if something like that happens. So if you get  
19 documentation of that, if there's documentation of  
20 differences in solicitation, negotiation of contracts  
21 on the basis of the race or gender of the  
22 subcontractor, that's a violation of the policy. If  
23 there is a difference in treatment of the firm after  
24 they get selected, they use all the other subs except  
25 the minority sub, and there's a pattern of that in

1       their past practices, that's reason for a complaint  
2       under that policy.

3               So, I mean, we can talk about that later,  
4       but there's a lot of angles to the policy that make  
5       sense. I can also tell you the supreme court has  
6       said, at the very least, you ought to be able, the  
7       government is not powerless to act to prevent public  
8       tax dollars from financing the evil of private  
9       prejudice. So even in private sector dealings, in  
10      terms of discriminating, this policy prevents them  
11      from being a government contractor.

12             And a lot of times that's not that difficult  
13      to prove. So the whole intent of the policy is to  
14      make people knowledgeable and intentional in their  
15      willingness to be inclusive, to reach out to all  
16      regardless of race or gender. It's also designed to  
17      make sure that firms are utilizing other firms just  
18      based on merit, and not on the basis of relationships  
19      or on the basis of considerations that are not legal.  
20      To the extent that we can put these policies in place  
21      at the government level, it allows you to check off  
22      the box the supreme court has that you've at least  
23      prohibited discrimination. If we don't prohibit  
24      discrimination, commercial discrimination. The  
25      supreme court could view that as you haven't done all

1 that you can to try to prevent the discrimination in  
2 the first place. And you need to use all the, try to  
3 use as many race-neutral remedies as you can that make  
4 sense before you resort to the use of the  
5 race-conscious remedy.

6 So this is just a foundational piece.  
7 I put it in all the policies that I draft. We may  
8 argue about how useful or effective it is. That's why  
9 it's not the only thing we put in the policy. But I  
10 think it certainly couldn't hurt. And it helps to set  
11 the tone that we're trying to be a more inclusive  
12 marketplace, and that we expect everyone to just make  
13 decisions, commercial decisions on the basis of merit,  
14 and not on the basis of race or gender.

15 MS. ROBBS: Can I make one comment before Ms.  
16 Gaines. With respect to your time, and we've asked  
17 you to be here from nine to twelve, and you've done  
18 that. I'm going to ask if the committee would like to  
19 pause at this time with Mr. Lee's presentation and  
20 discuss the future meeting schedule to also allow for  
21 any public comment, if anyone has registered to make a  
22 public comment, we would like to know that. And if  
23 possible, the readiness of the committee to elect its  
24 chair and vice chair. So that's what? Three things.  
25 We're at our, you know, stopping point right now. And

1       you know, we need to know how you would like to  
2       proceed. I would, it's important that we have the  
3       discussion on the schedule, because as was mentioned  
4       with the Sunshine Law, we must do a public notice.  
5       And we would like your feedback on that. And the  
6       public has been here with you, so we would like to  
7       provide them with an opportunity to give their  
8       comment. And then the election, if possible. Mr.  
9       Lewis.

10               MR. LEWIS: I would table the election, number  
11       one. Number two, to the benefit of this committee, I  
12       think we're just now just getting our hands wrapped  
13       around with what we're charged to do, what the  
14       expectation is. So we appreciate that. As  
15       Mr. Johnson suggested earlier, can we probably choose  
16       a date for the next meeting, and then maybe if it's  
17       not so difficult at that point in time we have the  
18       luxury of time to determine the subsequent meetings  
19       after that. I think we can kind of come to a common  
20       accord, which is selecting the next meeting date and  
21       address the remainder of that schedule at the next  
22       meeting, that would expedite this process.

23               MS. ROBBS: Ms. Gaines.

24               MS. GAINES: I agree. But I would like to add  
25       that maybe we look at, because of the time that we're

1 running out of, a Saturday, as one of the three dates,  
2 so that we won't be rushed. Well, we want to rush, if  
3 we can. Not rush, but we want to, you know, be  
4 diligent. But, if so, we'll have enough time and  
5 people's schedules won't be so tight.

6 MS. ROBBS: Okay. With that comment, unless  
7 there's other comments, we will move to the  
8 discussion.

9 MS. GAINES: I do have one more comment, if I  
10 may. Attorney Lee, on the nondiscrimination policy,  
11 would we be looking at or could we look at a company's  
12 EEO1 report?

13 MR. LEE: Well, the EEO reports don't  
14 generally, I think that's labor related as opposed  
15 to --

16 MS. GAINES: And their work force.

17 MR. LEE: This is a commercial  
18 nondiscrimination policy. We already have laws and  
19 regulations in place to prevent employment  
20 discrimination.

21 MS. GAINES: So there's no other types of  
22 reports that someone who would be required to file an  
23 EEO1 would provide that would give us that kind of an  
24 overview?

25 MR. LEE: There's actually, you may not have

1 known this, but there's actually a broad commercial  
2 nondiscrimination policy in the purchasing manual for  
3 the Authority already. I've made some edits to it to  
4 make it a bit stronger and to also enhance  
5 transparency as to what's expected so that the  
6 contractors or vendors would know that with every  
7 solicitation that goes out. Part of what we're trying  
8 to do there is just to set the right tone as to  
9 expectations in terms of behavior and try to get  
10 people to be more intentionally inclusive in the way  
11 they think about conducting business.

12 MS. GAINES: I support that, but I also would  
13 like to have an opportunity to look periodically at  
14 their procurement purchasing policy, so if there's any  
15 such section of the EEO1 report or another EEO report  
16 that we could potentially look at, I think that's  
17 something that maybe we should.

18 MR. LEE: Well, for certain solicitations  
19 there may be an RFP's, a look at past performance and  
20 compliance. Certainly, it's legitimate. And when you  
21 talk about evaluation preferences, that could be one  
22 of the elements that's looked at in terms of how many  
23 points a firm gets for economic inclusion  
24 requirements.

25 So I can see circumstances where that makes

1 sense. Let me just also say this, and again, this is  
2 a housekeeping matter. You're getting a real flavor  
3 of how I hope this process goes forward, but if we're  
4 going to get through all of this, it would behoof  
5 everyone on the stakeholder group to do some homework  
6 between now and whenever the next session is to  
7 familiarize yourself with what's coming up.

8 And, like I said, in the next session, we're  
9 going to pick up where we leave off here, we've got  
10 like two more race-neutral administrative reforms,  
11 then we have four administrative race conscious  
12 reforms, and then the construction that we're going to  
13 have to get through. That's going to require that we  
14 be very succinct in our discussion. If somebody else  
15 says something you agree with, don't bother saying the  
16 same thing over and over again. We will have an  
17 opportunity to get a sense of the group later on as to  
18 what's a priority and what isn't. But for now, we're  
19 just trying to have a fruitful discussion, which this  
20 has been. And I don't mean to discourage you from  
21 expressing your feelings entirely, I just mean to try  
22 to be as efficient as we can be in having that  
23 discussion. If you're bringing up new things, fine,  
24 but try to always, when you're speaking up, try to say  
25 something new and different that hasn't been said

1           already.

2                   MS. ROBBS: Mr. Johnson and then Mr. Schaffer.

3                   MR. JOHNSON: So since this is probably the  
4           last break before we try to go real fast, let me just  
5           state a couple things for housekeeping. In terms of  
6           once we identify how we're going to break up and  
7           discuss the industry groups at future meetings, I  
8           strongly recommend that we put those matrices out in  
9           advance, so that the professional service people know  
10          that "My day is coming up. Let me study them. Let me  
11          give some input. Let me be there on that day". So  
12          that when we put the agenda out, we also identify  
13          which matrices the industry groups are going to  
14          address in the matrix.

15                  MR. LEE: Well stated, and in anticipation of  
16          that comment, I've committed to try to finish the  
17          other policy option matrices by the end of this week.  
18          We're on a very accelerated schedule for all of this,  
19          because of large contracts that are coming up with the  
20          Authority. And the task we've been given, the road  
21          map we've been given by the Authority is to,  
22          basically, finish this work and have some kind of  
23          equal business opportunity policy adopted by  
24          September. That means our work in developing the  
25          policy needs to be completed by June. And then we

1 work on implementation from June to September. So  
2 that's pretty aggressive.

3 So, what I would suggest is, yeah, we  
4 definitely want to get, there's going to be two more  
5 matrix parts. Part two and part three of the matrix.  
6 And we'll try to get those out to you by the beginning  
7 of next week. I'm also going to suggest, it may be  
8 best if we schedule the remaining meetings towards the  
9 end of the month so that you have time to review.  
10 This stuff is kind of dense and somewhat tedious, but  
11 it's all important.

12 And I know we have another day. I think we  
13 have, the next date on our list was April 19th.  
14 Perhaps you might want to consider doing the remaining  
15 sessions the last week of April. Again, I'm willing  
16 to work in the evening. And there's a, the next  
17 Saturday I thought that I was available was in May,  
18 but I don't know.

19 MR. PELLOWITZ: Can I just interrupt? I just  
20 want to make a note that from the standpoint of staff  
21 and based on feedback from our board, we would really  
22 encourage consideration of holding the next meeting or  
23 meetings in the evening or on a weekend to give the  
24 opportunity for more members of the public to arrive  
25 to come and participate in these. And, again, it's

1 all dependant on your schedule. That's just an  
2 encouragement I'd like to make.

3 MR. LEE: That's music to my ears.

4 MR. JOHNSON: If I may, 'cause again, I have  
5 to walk out right in fifteen minutes. And I don't  
6 want to have to interrupt again. So if we're going to  
7 do the schedule when I'm not here, I just want to put  
8 on the record, if it's in the evening, the 19th, the  
9 24th and the 30th are good. 25th is out for me. And  
10 in terms of the election, we can make it easy, if you  
11 want a volunteer, I'd be willing to volunteer or we  
12 can elect somebody in my absence. But I would be  
13 interested in doing it if we're going to be efficient  
14 with it. So sorry I have to leave, but I have to  
15 chair another meeting.

16 MR. LEE: I understand. Thank you for your  
17 help. Ms. White...

18 MS. WHITE: I'm not interested in weekends or  
19 nights. And especially the nights are two hours, not  
20 even three hours. I'm actually interested in staying  
21 on the schedule that you've provided, but increasing  
22 it to four hours per session. But in terms of this,  
23 even though you would like for it to go a little  
24 faster, I think that these, with the longevity of  
25 discrimination at the Authority in terms of

1       contracting, it's too many things that really must  
2       get, we must get down in the weeds on. And it cannot  
3       be rushed over. They cannot be left to staff, or at  
4       least I don't have confidence the staff is going to do  
5       the right thing without these things being put on the  
6       record.

7               MR. LEE: Believe me, I appreciate the  
8       weeding, the tending to the weeds. That's kind of my  
9       business. Most of that is going to take place, not at  
10      this stage, but once we get to the draft policy. I am  
11      getting valuable feedback from you-all, again, thank  
12      you for that, that will inform my drafting process.  
13      But there will be a draft. And then there will be  
14      comments from you on those details. And then we get  
15      the final draft to go to the board. So keep in mind,  
16      we don't have to solve all the world's problems today  
17      or the next few days. But we're working diligently  
18      towards getting to that level of detail that you're  
19      talking about. But we do have to be mindful. If we  
20      get bogged down in the weeds at this stage, we will  
21      never get to the policy stage in time to make a  
22      difference along the time frame the board has given us  
23      to complete this work.

24              MS. ROBBS: I want to make one exception,  
25      because the public has sat with us and heard our

1 comment. I have one comment card, and if we could  
2 allow this gentleman, Mr. Ramon Rivera, sir, please  
3 come forward, you have two minutes to speak.

4 MR. RIVERA: Madame Chair, distinguished  
5 board, SWA staff: My name is Ramon Rivera. I own a  
6 company called Diamond Scientific. We're a hub zone,  
7 veteran administration, BOSB, DOT, DBE. Is there any  
8 consideration or will there be any consideration for  
9 these non-race, non-gender certifications? That's my  
10 question. Thank you.

11 MR. LEE: The scope of our mission for this  
12 effort is small, minority, women-owned business policy  
13 that includes some race and gender neutral remedies,  
14 obviously, quite a few. The Authority also has a  
15 local preference that we're including under the  
16 umbrella of equal business opportunity provisions in  
17 the purchasing manual. Currently, there is no veteran  
18 owned or DBE or a number of these other programs that  
19 you've just alluded to in that purchasing manual. And  
20 given the amount of work that we have to do now, I'm a  
21 bit hesitant to try to take that on at this point in  
22 time. We don't have, I mean, we would basically be  
23 going back to square one in terms of trying to develop  
24 data on those other programs and going through the  
25 same fact finding process we've gone through for these

1 economic inclusion programs that we've talked about.

2 So I would say I'm ninety percent sure we  
3 would be focussing on small, local, minority, women  
4 business programs or remedies for what's been  
5 identified through the disparity study process thus  
6 that far.

7 That's not to say that you don't have every  
8 right to present alternative considerations to the  
9 board, and to certainly advocate for consideration of  
10 developing additional programs beyond the small, local  
11 minority women business program that we're focused on  
12 now.

13 MS. ROBBS: Thank you. Are there any  
14 additional comments that the public would like to make  
15 at this time? If there is none, we will move back  
16 with the committee's comments. And Mr. Schaffer and  
17 then Ms. Sanches.

18 MR. SCHAFFER: Thank you. I'm here  
19 representing AGC and I just wanted to make sure I got  
20 on the record that we still feel that the study is not  
21 legally defensible. And to that point, and I'm  
22 speaking about transparency, there was another report  
23 that was done that SWA paid for, and I briefly saw it  
24 up on the website and it was taken down, by Mr. Lenew.  
25 And I don't see it in here. Is that going to be

1 provided as part of the discussion?

2 MS. ROBBS: Any report submitted to and  
3 provided to the SWA is public record. So, we can make  
4 that available if the committee votes to have that  
5 available for discussion.

6 MR. JOHNSON: Point of clarification. Is that  
7 a part of the disparity study itself?

8 MS. ROBBS: It is not a part of the study. It  
9 was a report for review comment on the study, I  
10 believe it was.

11 MR. JOHNSON: So I want to make sure we're  
12 clear in terms of my understanding of this process.  
13 To be legally defensible the program that results from  
14 this process will have to be narrowly tailored to the  
15 problems that were identified in the disparity study  
16 so that those firms, those groups that were harmed by  
17 passive or active discrimination are the ones that  
18 we're prioritizing here. If we want to do something  
19 else outside of the disparity study group, outside of  
20 the WCE program, then that would be the proper place.  
21 But to the extent that the study stuff has been  
22 adopted, that discrimination has been identified, and  
23 that remedies need to be developed, I think that's  
24 what this particular process has been tailored for.

25 MR. LEE: Let me just clarify something here,

1 when the disparity study was presented to the board  
2 and when the board accepted the study, it accepted it  
3 for purpose of further policy deliberation. And we  
4 invited additional information from other sources that  
5 would tend to either refute, corroborate or supplement  
6 what was in that disparity study. So I have no  
7 problem at all with the AGC's comments on the  
8 disparity study being presented to the entire  
9 stakeholder group for your consideration.

10 MR. SCHAFFER: That still doesn't answer the  
11 question about Lenew's report. Is that going to be  
12 included in the binder for discussion?

13 MR. PELLOWITZ: It is not our intent to  
14 include that in the binder for discussion. The Solid  
15 Waste Authority board has accepted the MTA report and  
16 its recommendations, and at this point, that's what  
17 we're dealing with. Any contrary report, any  
18 additional information that was provided prior to  
19 their acceptance was part of the board's deliberative  
20 process in accepting the MTA study.

21 So right now what we're doing with this  
22 committee is we're moving forward with recommendations  
23 in consideration of recommendations for a program.  
24 That's the task of this committee at this time. Every  
25 committee member, at some point --

1           MR. LEE: Well, let me -- can I just? I'm  
2           sorry. I just want to make it clear to Associated  
3           General Contractors that as part of the stakeholder  
4           group you have every right to present whatever  
5           evidence or data that you think is showing that  
6           findings in the study are not strong or that are not  
7           strong based in evidence. It's been received, and it  
8           is true it's been received and considered by the board  
9           already. But stakeholders may or may not have heard  
10          that. I don't have a problem with that being brought  
11          into the discussions that we have.

12                 So, again, to the extent that you have any  
13          evidence that refutes the evidence that was presented  
14          or that we are relying upon in this disparity study,  
15          you can certainly bring that up in due course as we  
16          discuss different policy options. I'm not going to  
17          preclude anybody in terms of what comments they're  
18          making here.

19                 MR. JOHNSON: I'm sorry, but to be fair, I  
20          want to make sure, though, that that does not lend  
21          itself to belaboring or delaying the finalizing of  
22          these policy recommendations moving forward, because  
23          we've been dealing with this for a while.

24                 MR. LEE: We have a time line to keep to. And  
25          I think everybody understands that. But just like I

1           may make a statement that says we have a finding in  
2           the study that says X, Y and Z, if somebody wants to  
3           say, "I don't think that's true. And here is why I  
4           don't think that's true. I don't think you need this  
5           remedy because I don't think it's true." That's their  
6           right to express that opinion. Ultimately, the  
7           stakeholders, as a group, will determine what they  
8           think is priorities, what's a high priority, what's a  
9           medium priority, what's a low priority. And each  
10          individual business owner or member of this community  
11          can go to the board and also express their opinions.  
12          That's America, that's what we do. We have freedom of  
13          speech. Everybody is entitled to their opinion.  
14          Hopefully, we can reach some consensus, some agreement  
15          as to what the facts are, but sometimes that's not  
16          possible.

17                   MS. ROBBS: Ms. Sanches.

18                   MS. SANCHES: Marie Sanches, with the Urban  
19                   League of Palm Beach County. And I just want to be  
20                   clear about a couple of things for me. I really do  
21                   wish that we actually set dates today as to when we  
22                   are going to meet, because I have a very tight  
23                   schedule.

24                                And I'm kind of liking the whole  
25                   parliamentary procedure right now, because I feel that

1 if we don't abide by some rules, we're going to get  
2 derailed. And because we all have time constraints, I  
3 would really like for us to be more to the point of  
4 what we're here for. I have a lot of opinions, and I  
5 sometimes just keep them to myself. And for the sake  
6 of the group collectively, we really have to be  
7 conscious of time, otherwise we will be doing this for  
8 six months. And I don't think that we have six  
9 months.

10 MS. ROBBS: Okay. With that, please don't  
11 leave yet, Mr. Johnson. The next item, I will take,  
12 the privilege of the chair is to have a discussion on  
13 future meetings schedule, date, time, location. The  
14 agenda lists the date. The first date proposed is  
15 Thursday, April 19. We can meet on that day nine to  
16 noon or five to seven. We can change it to five to  
17 eight, but we need to move from morning or P.M. Those  
18 in favor of the meeting from nine to noon, raise your  
19 hand.

20 MS. SANCHES: Can I make a comment? Is it  
21 possible to do some mornings and some evenings so that  
22 more of the public can show up? I can't do all  
23 evenings, but I can do some. Is that a possibility?

24 MS. ROBBS: So you're the committee. We're  
25 going to put it out. If you want to discuss it in the

1 unreadiness, we can do that. And, you know, but to  
2 get it done, we're going to put it out there, morning  
3 or evening, and the majority will be the decision.

4 MS. WHITE: I would like for you to consider  
5 the nine to one, which is adding an hour to the day  
6 schedule, instead of nine to twelve, nine to one. But  
7 my vote is for no evenings and no Saturdays, because  
8 the evening schedule is only two hours. And Saturdays  
9 I'm brain dead.

10 MS. ROBBS: It doesn't have to be two hours.  
11 We're just trying to be respectful of your time. So  
12 say it is five to eight, so if we could vote on  
13 morning or evening, then we can tie down the time.  
14 Okay. So we're at Thursday, April 19th morning or  
15 afternoon?

16 MR. JOHNSON: Madame chair, there is  
17 unreadiness on the 19th. So that one of the ways in  
18 which we could make sure we're as efficient as  
19 possible when we do come together is spend some time  
20 doing homework, as Mr. Lee said. If he's already  
21 identified the fact that he's probably not going to  
22 have the next set of matrices available till early  
23 next week, then it may not give us enough time to  
24 review those if that's what we're going to discuss on  
25 the 19th. So I would ask the committee to consider

1 the 24th instead of the 19th. Okay. Just putting it  
2 out there.

3 MS. ROBBS: Okay. As a part of my  
4 announcements that was going to come later, this is  
5 advertising time. We're having a vendor opportunity  
6 power event, outreach event. The event is April 24th,  
7 from four to six. So if you want it on the 24th, it  
8 would have to be in the morning. So let's go back to  
9 this. We're going to say morning or evening? And we  
10 still have items to discuss under the present options.  
11 It will give you more time, probably, to think about  
12 what we've already talked about. The longest session  
13 is the first session to get it all out. So let's talk  
14 about it.

15 MS. WHITE: I vote for mornings.

16 MS. ROBBS: Okay. So the question on the  
17 floor is April 19th in the morning, please raise your  
18 hand. Okay. So that would be the A.M.

19 The second proposed date is either Tuesday  
20 April 24th in the morning or Wednesday April 25th in  
21 the evening.

22 MR. JOHNSON: Just want to restate, I'm not  
23 available on the 25th at all.

24 MS. ROBBS: All right. But we're going to  
25 take a vote. Those in favor of Thursday morning,

1 raise your hand. I'm sorry, Tuesday the 24th, raise  
2 your hand, in the morning. Okay. That's everybody.  
3 Okay. So we won't have the 25th, unless you want to  
4 do back to back.

5 So let's vote on those in favor of the  
6 meeting on Wednesday the 25th in the evening.

7 MS. WHITE: I'm in favor of no meeting on the  
8 25th. I can't give you two days back to back.

9 MS. ROBBS: Okay. So the third meeting  
10 proposed date is Monday, April 30th. We can meet in  
11 the morning or the evening. Those in favor of meeting  
12 in the morning...

13 MR. PELLOWITZ: Let me just interject. I'm  
14 going to strongly encourage that we have, at least,  
15 one of these meetings in the evening. The public, the  
16 people that work, the folks out there, the businesses  
17 who are going to be directly impacted by this, I  
18 think, have a right to be in the room if they want to  
19 be. And I'm just echoing a strong concern expressed  
20 to me by our board that we at least try to find a date  
21 in the evening that we can do this. I appreciate  
22 everyone's time and your efforts in this. I do truly  
23 appreciate it and I understand the burden it places on  
24 you. But just in the interest of getting this out to  
25 the widest audience possible, I really would consider

1 to you to consider an evening. That's my pitch.

2 MR. JOHNSON: Madame chair, I would be willing  
3 to make a motion that we do Monday the 30th in the  
4 evening.

5 MS. ROBBS: Those in favor of meeting Monday  
6 April 30th in the evening, please raise your hand.  
7 Okay. We have six. And those in favor of meeting in  
8 the morning of April 30th.

9 MS. SMITH: I have a conflict in the evening.

10 MR. PELLOWITZ: I will add, you're welcome to  
11 send a delegate. If you can't be here, you can send  
12 someone in your place.

13 MS. ROBBS: Okay. The question on the  
14 adoption of the meeting schedule, I will read and then  
15 we will take a question. Based on votes, we said  
16 April 19th, nine to one; April 24th, nine to one;  
17 April 30th, five till eight. Those in favor of this  
18 schedule that we just read say ay.

19 GROUP ANSWER: Ay.

20 MS. ROBBS: Those opposed? The ays have it  
21 and the meeting schedule is adopted.

22 MR. JOHNSON: Point of order, Madame Chair,  
23 can you clarify what constitutes a quorum?

24 MS. ROBBS: It's a majority. We have eleven  
25 stakeholders. Two were, obviously, not able to make

1           it today.

2                   MR. JOHNSON: So it's going to be six people.

3                   MS. ROBBS: Six.

4                   MR. JOHNSON: Got it, just want to make sure.

5                   MS. ROBBS: And I just want to, I just guess  
6 we will put on the agenda voting for the chair at the  
7 next meeting. I've made the announcement about the  
8 vendor opportunity outreach event. Please grab a  
9 flier on your way out. I will send it electronically.  
10 I would like you to distribute it to your circle of  
11 businesses.

12                   MS. WHITE: And was that also sent out to  
13 perspective prime bidders as well as your current  
14 haulers?

15                   MS. ROBBS: Well, we publicly distributed it.  
16 And we will send it to you electronic, and please feel  
17 free to help us to get the word out.

18                   MS. WHITE: I think that anyone that attended  
19 the past two pre-bid conferences should be included as  
20 primes.

21                   MS. ROBBS: I believe we did. But I'll double  
22 check that.

23                   Okay. If there is no further business we will  
24 adjourn. Thank you.

25                   All remaining meetings will be at the education

1 center. I'll send you an e-mail with that  
2 information. And we will publicly notice the meeting  
3 for the public.  
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1 THE STATE OF FLORIDA )

2 COUNTY OF PALM BEACH )

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5 I, Raquel Robinson, certify that I was  
6 authorized to and did stenographically report the  
7 foregoing proceedings and that the transcript is a true  
8 and complete record of my stenographic notes.

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12 Dated this 17th day of April, 2018.

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Raquel Robinson

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