

SOLID WASTE AUTHORITY

OF

PALM BEACH COUNTY

- - -

SMALL/LOCAL/MINORITY/WOMEN BUSINESS ENTERPRISE

STAKEHOLDER GROUP MEETING

DATE TAKEN: MAY 8, 2018  
TIME: 5:00 P.M. - 8:47 P.M.  
PLACE: EMBASSY SUITES WEST PALM BEACH  
1601 BELVEDERE ROAD ROAD  
WEST PALM BEACH, FL 33406

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           MR. JOHNSON: All right. Good evening,  
2           everybody. Thank you all for attending another  
3           evening meeting of the Solid Waste Authority of Palm  
4           Beach County Stakeholder Work Group Meeting. We've  
5           put in some twenty hours up to this point in  
6           preparation of this meeting. This, we're hoping, is  
7           the last formal meeting for this particular effort to  
8           help the Authority to revise and enhance its  
9           procurement policies to eliminate any active or  
10          passive discrimination.

11                 We're thankful for the staff. We're  
12          thankful for the work group members. We're thankful  
13          for the members of the public who have been with us  
14          every step of the way. So we'll call the meeting to  
15          order starting with the roll call.

16                 MS. ROBBS: Kumar Allady.

17                 MR. ALLADY: Present.

18                 MS. ROBBS: Carol Bowen. Michelle Depotter.

19                 MS. DEPOTTER: Present.

20                 MS. ROBBS: Nifretta Thomas.

21                 MS. THOMAS: Present.

22                 MS. ROBBS: Lia Gaines.

23                 MS. GAINES: Present.

24                 MS. ROBBS: Brian Johnson.

25                 MR. JOHNSON: Present.

1 MS. ROBBS: Bruce Lewis.

2 MR. LEWIS: Present.

3 MS. ROBBS: Marie Sanches. Selena Smith.

4 MR. JOHNSON: And I do want to say, for the  
5 record, that we do have a quorum with six members  
6 present. Officially, the total number is nine. Maria  
7 Antuna, of the Hispanic Chamber of Commerce, never  
8 officially joined. So I'll just state for the record  
9 the reason why six is still a quorum.

10 All right. I take it that you-all received  
11 the agenda in an e-mail. Are there any recommended  
12 modifications to the agenda?

13 MS. GAINES: If we could just take up an old  
14 business item --

15 MR. JOHNSON: Okay.

16 MS. GAINES: -- from last meeting. And that  
17 was on making a motion on one of the recommendations  
18 and also on the other policies that we had not  
19 officially adopted.

20 MR. JOHNSON: Okay. So here's what we'll do,  
21 then. Will it change how we proceed with  
22 prioritization? Because otherwise, because I think  
23 the one that we added was segmentation 13A, that's  
24 here. So do we have to do it before prioritization,  
25 or we can do it afterwards?

1 MS. GAINES: We can do it after.

2 MR. JOHNSON: So if it's the will of the body,  
3 I would add the old business item in the 7:00 o'clock  
4 to 7:50 time slot after the break.

5 MR. LEWIS: So moved.

6 MS. GAINES: Second.

7 MR. JOHNSON: All right. Properly moved and  
8 seconded that we accept the agenda with one  
9 modification of adding old business in the 7:00  
10 o'clock to 7:50 time frame. Any other amendments or  
11 discussions? All those in favor?

12 GROUP ANSWER: Ay.

13 MR. JOHNSON: Anybody opposed? Okay.

14 Likewise, you received the minutes in the  
15 e-mail. You will note that the 19th and the 24th,  
16 March --

17 MS. ROBBS: April 19th and April 24th.

18 MR. JOHNSON: April 19th and April 24th  
19 minutes that were revised based upon the revisions of  
20 work group member Depotter were e-mailed to you. And  
21 so you should have those corrections that were  
22 recorded and made to those minutes. If there aren't  
23 any additional revisions, does the Chair entertain a  
24 motion to approve the minutes?

25 MR. LEWIS: So moved.

1 MR. ALLADY: Second.

2 MR. JOHNSON: Moved by Lewis. Seconded by  
3 Mr. Kumar. Any unreadiness or discussion? All those  
4 in favor?

5 GROUP ANSWER: Ay.

6 MR. JOHNSON: Anybody opposed? Thank you very  
7 much.

8 All right. So let me do also an official  
9 approval of the April 30 minutes. So we just approved  
10 19 and 24, which we revised last meeting and we just  
11 approved. Now, I would entertain a motion to approve  
12 the 30th.

13 MR. LEWIS: So moved.

14 MR. JOHNSON: All right. Is there a second?

15 MS. THOMAS: Seconded.

16 MR. JOHNSON: All right. Properly moved and  
17 seconded. Any discussion or unreadiness? All those  
18 in favor?

19 GROUP ANSWER: Ay.

20 MR. JOHNSON: Anybody opposed? All right.  
21 Before introductions I just want to state real quickly  
22 for the record, today is going to move pretty swiftly.  
23 The bulk of today will focus on taking the, what I've  
24 counted as 52 affirmative procurement initiatives that  
25 we've been discussing over the last 18 hours, and

1 providing for staff a guide post -- obviously, we want  
2 all 52, we believe. But if there has to be some level  
3 of prioritization based upon limited staff time or  
4 resources, we want to provide staff with some idea of  
5 what we think are the most important. So that's why  
6 we will do this ranking exercise so they will have  
7 that as a guide post, if and when necessary. Other  
8 than that, we still want the public to pay close  
9 attention, because if you need any clarification or  
10 have any additional feedback, please make sure you're  
11 able to provide that for us at the appropriate time.  
12 Now we'll turn it over to staff, Colleen Robbs, for  
13 introductions.

14 MS. ROBBS: First, we would like to  
15 acknowledge any public officials. Seeing none. Our  
16 executive staff, I'll introduce: Mark Hammond,  
17 Executive Director. Dan Pellowitz, Managing Director.  
18 Mark Eyeington, Chief Operating Officer. Paul Dumars,  
19 Chief Financial Officer. Ramana Kari, Chief Engineer.  
20 And Howard Falcon, General Counsel.

21 MR. JOHNSON: All right. Again, we really  
22 appreciate the Authority's staff, the leadership who  
23 has been actively involved with this whole process.  
24 Now, Mr. Lee, if you don't mind walking us through the  
25 prioritization.

1 MS. ROBBS: May I make one addition? Please  
2 forgive me, Mark Eyeington, our Chief Operating  
3 Officer.

4 MR. LEE: Good evening, everyone. And thank  
5 you, again, for all of your hard work and dedication  
6 to this process as we come to the culmination with  
7 this business stakeholder group and the effort you've  
8 undertaken. I just want to, personally, express my  
9 gratitude to each and every one of you for, number  
10 one, showing up. And number two, being fully engaged  
11 in a polite and civil manner. We've gone through some  
12 fairly difficult subject matter over the last few  
13 weeks. And it's been very beneficial to me, as  
14 someone who is tasked with trying to develop a policy  
15 that is both effective and lawful and also  
16 justifiable, given the evidence that has been  
17 collected through the disparity study and through  
18 other means for SWA. So I thank you again. You have  
19 my gratitude for your attitude. And I think we're  
20 going to reach new altitudes if we continue this going  
21 forward through the remainder of this process.

22 At the conclusion of our prioritization --  
23 I'm just trying to get a sense of the stakeholders in  
24 terms of your sentiments as to which of these policy  
25 options is highest priority, moderate priority and low

1 priority. And at the conclusion of this process I'll  
2 then share with you our next steps going through  
3 development of a policy and approval of a final policy  
4 by the Board.

5 The factors that you ought to be taking into  
6 consideration as you begin to rank these various  
7 policy options that we've been discussing over the  
8 last several weeks are the relative effectiveness that  
9 a potential policy option may have in terms of  
10 maximizing the objectives of equal opportunity for all  
11 businesses, small, local and minority businesses in  
12 this marketplace. You should also consider the  
13 feasibility of each one of these. Some are more  
14 difficult than others to implement, require more  
15 resources. They may have some legal, not legal  
16 impediments, but they may have some administrative  
17 impediments along the way as well. And some of them  
18 are more complex than others. So we should take that  
19 into consideration in terms of ranking the various  
20 policy options.

21 And, finally, try to take into consideration  
22 the cost and the benefit where that balance is, and  
23 whether you believe as a member of this business  
24 community that costs are outweighed by the benefits to  
25 the particular policy option.

1                   Finally, I just want to say that while this  
2 evening marks the end of our formal meetings of the  
3 Stakeholder group, each and every one of you is still  
4 a member of this community and your input is still  
5 valued throughout the remainder of this process  
6 towards policy development.

7                   You are encouraged to participate and to  
8 make your own personal views known at any Board  
9 meeting where these policies are brought up for  
10 consideration. Hopefully going through this process  
11 has empowered each and every one of you to more  
12 effectively advocate for your own cause.

13                   These programs are very difficult and  
14 sometimes controversial in the communities across the  
15 country. But where I've seen the greatest success,  
16 and by success I measure that in terms of enhanced  
17 involvement of all segments of the business population  
18 in the contracting process, the most successful are  
19 those jurisdictions where everyone recognizes and  
20 respects the right of each other, of every other  
21 business, to be a mainstream participant in the  
22 marketplace and to try to work, genuinely try to work  
23 together in trying to achieve the objective of  
24 generating wealth for your communities. With that  
25 being said, let's move forward now to the

1 prioritization of the policy recommendations.

2 We're starting off in the category of  
3 Administrative Reforms All Industries. These are  
4 race-neutral remedies, the first category. Race  
5 neutral one through thirteen.

6 R/N-1 is the Centralized Bidder Registration  
7 System, which is designed to assist in data extraction  
8 and data management enhancements for looking at  
9 relative availability of firms and the tracking of  
10 actual utilization. Can I get a sense from the  
11 stakeholders as to how many of you believe this is a  
12 high priority? Please just raise your hand.

13 MR. JOHNSON: So those who consider this a  
14 high priority, I see myself, one, two, three, four.  
15 So that's four for high priority.

16 MS. GAINES: Mr. Chair, may I please. I see  
17 this as a high priority, but more importantly, I see  
18 it almost as foundational to the overall program. So  
19 we can't even get to the other things unless we kind  
20 of build a basic foundation. So it's a high priority,  
21 but I see it as more foundational, so I don't know if  
22 that's something that needs to be shared when this is  
23 transmitted. You know, it's kind of a little black  
24 and white to just say it's high priority, moderate  
25 priority or low priority. You really can't even get

1 to what I think is the real high priorities unless you  
2 have this foundational system in place.

3 MR. JOHNSON: Let me say this, because I  
4 neglected to say this at the outset. So this is not  
5 intended to communicate to staff or anybody that any  
6 of these 52 are optional. We did not exclude any at  
7 all, in fact, we added one. And so as far as we're  
8 concerned as a group, all of these are privy. What  
9 we're saying in this ranking is, if there has to be a  
10 choice for limitations on resources, limitations on  
11 time, degree of difficulty, potential cost associated,  
12 we're saying, "For the ones that we considered a high  
13 priority, find a way to do it anyway." So that's kind  
14 of what we're communicating.

15 Now, moderate doesn't mean that its less  
16 important. It's just that there may be a little bit  
17 more give and take in getting that done, still  
18 important. But high certainly means find a way to do  
19 it anyway. And low doesn't mean it's okay or optional  
20 whether or not you get to it. It just means that  
21 after we take care of high and moderate, in case you  
22 have to rank these in terms of how you implement, then  
23 we're willing to wait on the low priority, if  
24 necessary. So I just want to make sure we put that  
25 out. That's the process we're going through.

1 Mr. Lewis.

2 MR. LEWIS: Thank you, Mr. Chair. To give a  
3 little bit of clarity to my colleague to my left, I  
4 see this as much needed infrastructure in order to  
5 operate the program, monitor its participants and the  
6 like. So, without it, I think we are pretty much  
7 setting up staff for failure or at least making it  
8 very difficult for them to administer and operate a  
9 successful program. So I feel it's very high priority  
10 and necessity.

11 MR. JOHNSON: Okay. Any other comments? Let  
12 me take that vote again. So all of those who consider  
13 R/N-1, Centralized Bidder Registration System, as a  
14 high priority, please raise your hand. That will be  
15 five out of six. Moderate priority? That would be  
16 one.

17 MR. LEE: The next policy option for  
18 prioritization -- I think it's a good recommendation  
19 that the Chair gave to try to think of it in terms of  
20 urgency, which of these things are most urgent and  
21 need to be undertaken immediately according to the  
22 effectiveness of whatever policy is already adopted.  
23 R/N-2 is Administrative Strategies and Debundling. I  
24 think that's pretty self explanatory. Can we get a  
25 sense of how many believe that's a high priority?

1 MR. JOHNSON: That would be six out of six.

2 MR. LEE: So unanimous. Okay. I'll make a  
3 note of that. The next one is R/N-3, which is  
4 Subcontract Remedies. This involves mobilization and  
5 working capital payments and authorizing the SWA to  
6 ensure that whatever mobilization payments are  
7 available to primes are also available to subs on a  
8 pro rata basis. Can we get a sense of those who  
9 believe that's a high priority?

10 MR. JOHNSON: That's one, two, three, four out  
11 of six.

12 MR. LEE: How many believe it's moderate  
13 priority?

14 MR. JOHNSON: That's two.

15 MR. LEE: Okay. That's all the votes we have,  
16 then. The next policy consideration is R/N-4, which  
17 is Contract Monitoring and Reporting. Multi-year  
18 contracts and change orders. This kind of goes hand  
19 in hand with R/N-1, Centralized Bidder Registration,  
20 but it's also making sure that we have elements for  
21 carrying over economic inclusion requirements on  
22 contracts from the first year to all subsequent years  
23 and any change orders that occur. Do we have a sense  
24 of those who believe that's a high priority?

25 MR. JOHNSON: That's six out of six,

1 unanimous.

2 MR. LEE: The next policy element is R/N-5,  
3 which is Website Enhancement Strategies, which is a  
4 series of various recommendations that were made by  
5 Mason Tillman for making information more available  
6 and making transparency, enhancing transparency of  
7 both contracting and performance and payment options.  
8 All those that believe that this is a high priority,  
9 please raise your hand.

10 MR. JOHNSON: Let me ask a question, please,  
11 before I take the vote. This particular website,  
12 would it also track payments to primes so that subs  
13 can know when the primes got paid, or is there an  
14 existing website that does that, or would this provide  
15 that?

16 MR. LEE: It actually does a combination.  
17 R/N-1, the Centralized Bidder Registration System,  
18 would enable tracking of actual dollars paid to every  
19 prime, every sub, regardless of race or gender. The  
20 website enhancement includes a number of design  
21 features that would make the website more user  
22 friendly and help contractors find business  
23 opportunities and also business partners online  
24 through the SWA's website.

25 MR. LEWIS: Mr. Chair, I could see that as a

1 high priority only if, well it is high priority, but I  
2 think what would fortify that as being a high priority  
3 is if there were a link to R/N-1 on the website.

4 MR. JOHNSON: Okay. And if we're making the  
5 assumption or accepting that R/N-5 delivers R/N-1 to  
6 the public, is that the understanding?

7 MR. LEE: That's part of its function, yes.

8 MR. JOHNSON: Thank you.

9 MS. GAINES: Mr. Chair.

10 MR. JOHNSON: Ms. Gaines.

11 MS. GAINES: Many websites of governmental  
12 agencies also put on their sites forecasting of  
13 contracts. So it's not just what is going on now, but  
14 what's being forecast. And you can also look back to  
15 see what has been awarded, those types of thing.  
16 That's going to be included in that, as well?

17 MR. JOHNSON: Well, we can ask Mr. Lee to  
18 include forecasting.

19 MR. LEE: Yes.

20 MR. JOHNSON: And I think with that, any other  
21 comments before we take a tally?

22 MR. LEE: Very well. All those stakeholders  
23 that believe R/N-5 Website Enhancement Strategies is a  
24 high priority, please raise your hand.

25 MR. JOHNSON: That's five out of six.

1 MR. LEE: All those who believe it's a  
2 moderate priority, raise your hand.

3 MR. JOHNSON: That's one out of six.

4 MR. LEE: The next race neutral policy  
5 recommendation is R/N-6, which calls for Uniform Lead  
6 Times for Bid Submittals, routinely 30 days, unless  
7 there's an exigent circumstance involved. All those  
8 that believe that this is a high priority, please  
9 raise your hand.

10 MR. JOHNSON: That is three out of six.

11 MR. LEE: All that believe that it's a  
12 moderate priority, please raise your hand.

13 MR. JOHNSON: That is three out of six.

14 MR. LEE: The next policy recommendation,  
15 R/N-7, Debriefing For Unsuccessful Bidders. This is  
16 now going to be made a regular feature of every bid  
17 invitation in a bid or request for proposal to spell  
18 out that these debriefings are available to any  
19 disappointed bidder. All those that believe this is a  
20 high priority, please raise your hand.

21 MR. JOHNSON: That's two out of six.

22 MR. LEE: And all those who believe this a  
23 moderate priority?

24 MR. JOHNSON: Four out of six.

25 MR. LEE: Very well. The next policy

1 recommendation, R/N-8, is to Establish a Position for  
2 an Equal Business Opportunity Ombudsman to assist with  
3 mediation or disputes be they between primes and subs  
4 or between the Authority and contractors and vendors.  
5 All those that believe this is of a high priority,  
6 please raise our hand.

7 MR. JOHNSON: That's three out of six.

8 MR. LEE: Those that believe this is a  
9 moderate priority, please raise your hand.

10 MR. JOHNSON: That's two out of six.

11 MR. LEE: And any that believe this is a low  
12 priority, please raise your hand.

13 MR. JOHNSON: That's one out of six.

14 MR. LEE: Okay, the next policy  
15 recommendation, R/N-9, Provides for an Expedited  
16 Payment Program to have staff look into ways to  
17 accelerate payments to all contracts. How many of you  
18 think that's a high priority?

19 MR. JOHNSON: I'm sorry, before we tally, we  
20 have a question. Ms. Depotter.

21 MS. DEPOTTER: Yes, I missed the first meeting  
22 and I think that's where this was discussed. Clearly,  
23 it is contingent upon SWA paying first, correct? And  
24 doesn't the Florida statute already allow for prompt  
25 payment?

1           MR. LEE: The expedited payment was actually  
2 designed to speed up payment faster than what the law  
3 requires currently at the state level. And basically,  
4 the Authority was putting a work group together to  
5 look at ways to streamline that whole invoice and  
6 payment process.

7           MS. DEPOTTER: Does that include online  
8 payments?

9           MR. LEE: Yes. Online payments are certainly  
10 a part of that.

11          MS. DEPOTTER: All right. I didn't identify  
12 myself. Michelle Depotter, AGC. Thank you for the  
13 clarification.

14          MR. JOHNSON: I want to also say, Ms.  
15 Depotter, one of the comments that I made, this is  
16 where also primes have an interest in making sure that  
17 they're being paid on time. So in this particular  
18 policy option, we want to make sure there's  
19 sensitivity to the whole chain. We want to make sure  
20 primes get paid promptly, so they can pay their subs  
21 promptly.

22          MS. DEPOTTER: Thank you.

23          MR. LEE: All right. Again, R/N-9, Expedited  
24 Payment Program. All those --

25          MR. ALLADY: Mr. Chair, I have a question.

1 MR. JOHNSON: Yes, sir.

2 MR. ALLADY: R/N-9, it's not on time, it's  
3 expedited, right?

4 MR. JOHNSON: Expedited, yes, sir. Thank you.  
5 Any others? Okay.

6 MR. LEE: R/N-9, Expedited Payment Program,  
7 all those that have a sense it's a high priority,  
8 please raise your hand.

9 MR. JOHNSON: That's four out of six.

10 MR. LEE: All those that believe it is a  
11 moderate priority, please raise your hand.

12 MR. JOHNSON: That's two out of six.

13 MR. LEE: The next policy recommendation,  
14 R/N-10, is Disputed Invoice Five Day Notice  
15 Requirement. And under this provision, the SWA is  
16 required to notify any vendor or contractor who  
17 submitted an invoice within five days as to whether  
18 that invoice is defective in any way for processing  
19 purposes. The idea is to make sure you're not sitting  
20 around and waiting for payment when the invoice isn't  
21 moving because there's some defect. All those that  
22 believe that is high priority?

23 MR. JOHNSON: Before we vote, let me just make  
24 this point too, that it was in R/N-10 that we also  
25 provided the caveat that staff be encouraged to pay on

1 the nondisputed items. So that if you have eleven  
2 line items in your invoice and two of them are  
3 disputed, then pay on the nine and give us the  
4 five-day notice on the last two.

5 MR. LEE: Okay. With that amendment, how many  
6 have a sense that this is a high priority?

7 MR. JOHNSON: That's five out of six.

8 MR. LEE: And how many stakeholders believe it  
9 is a moderate priority?

10 MR. JOHNSON: That is one out of six.

11 MR. LEE: The next policy recommendation was  
12 R/N-11, which is an enhancement of the Authority's  
13 Commercial Nondiscrimination Policy to prohibit  
14 engaging in business with firms that discriminate in  
15 solicitation, selection or treatment of contractors,  
16 vendors, subcontractors or commercial customers on the  
17 basis of race, gender, etcetera. All those that  
18 believe this is a high priority, please raise your  
19 hand?

20 MR. JOHNSON: That is five out of six.

21 MR. LEE: All those that believe this is a  
22 moderate priority, please raise your hand.

23 MR. JOHNSON: That is one out of six.

24 MR. LEE: The next policy recommendation,  
25 R/N-12, is for Direct Periodic Reporting of the Equal

1 Business Opportunity Office to the Executive Director  
2 and Board. This is referring, not to the  
3 administrative day-to-day reporting, but rather formal  
4 reports regarding the progress of the program directly  
5 from the director or coordinated for the equal  
6 business opportunity office, both to the executive  
7 director and to the Board. And those issues are on  
8 the agenda. All those in favor of that being a high  
9 priority, please raise your hand.

10 MS. GAINES: Point of clarification.

11 MR. JOHNSON: Ms. Gaines.

12 MS. GAINES: Yes, two things. You said this  
13 is not akin to where the position would be in the  
14 organizational chart?

15 MR. LEE: No, this particular recommendation  
16 just had to do with ensuring that there's some direct  
17 line of reporting of the substance of the program to  
18 the Board.

19 MS. GAINES: The only reason that I bring it  
20 up is because there was substantial discussion in the  
21 workshop that day that several members -- and we  
22 didn't take a vote -- several members were wanting to  
23 see if it could actually be in the highest level of  
24 staffing, and recommended it fall under the executive  
25 director's office.

1                   In addition to that, the periodic reporting,  
2                   I think we were talking about on a monthly basis at  
3                   that workshop as well. So periodic, if you're saying  
4                   periodic reporting in terms of how things are going,  
5                   that it be a monthly reporting to the Board, maybe at  
6                   least to the Board a monthly reporting on the status  
7                   of the program. But I thought it was of, you know, a  
8                   sizeable number of participants that day that wanted  
9                   to actually have a discussion on where the office  
10                  would fall, or that person would fall in the  
11                  organizational chart, as well.

12                 MR. JOHNSON: Actually, you are correct, Ms.  
13                 Gaines, because I do recall, Mr. Dumars, for example,  
14                 providing some input on staff's perspective as to how  
15                 the current organizational chart would still lend  
16                 itself to unfettered compliance or unfettered  
17                 implementation of the program. You were right, there  
18                 was a desire amongst, what seemed like the majority,  
19                 to ensure that there was no filter between this  
20                 particular office and compliance. So I don't remember  
21                 how that --

22                 MR. LEE: Can I propose -- yes, there was no  
23                 real resolution, but there was ample discussion about  
24                 it. Can I propose that we do this in two steps? One,  
25                 vote on the reporting itself, as to whether that's a

1 high priority to have it -- if you want to put it in  
2 the form of a motion that the reporting should be on a  
3 monthly basis, or is there a sense of whether it  
4 should be on a quarterly basis, but one policy  
5 recommendation on the substantive reporting on the  
6 program itself. And then the second recommendation,  
7 we can create a new policy recommendation maybe call  
8 that 12A, R/N-12A, which would be what the sense of  
9 this body is in terms of the organizational structure  
10 as to where that office would reside. Is that an  
11 acceptable way of moving forward?

12 MR. JOHNSON: So we'll call, the substance of  
13 12 is the periodic reporting?

14 MS. GAINES: Can we add monthly? I make a  
15 motion to add monthly periodic reporting to the Board.

16 MR. JOHNSON: Do you want to specify the  
17 period. Do you want to say no less than monthly?

18 MS. GAINES: Yes.

19 MR. JOHNSON: Okay. So they can choose to do  
20 more, but no less than monthly.

21 MS. GAINES: Yes.

22 MR. JOHNSON: Okay.

23 MR. LEWIS: Second.

24 MR. JOHNSON: Okay. So it's been properly  
25 moved and seconded that we, in R/N-12, modify that to

1 say no less than monthly. Which means, if they choose  
2 to do more than that, they can. All those in favor?

3 GROUP ANSWER: Ay.

4 MR. JOHNSON: And then we're going to also  
5 add, well, the Chair will entertain a motion to add  
6 R/N-12A, which will be a derivative of 12, but speaks  
7 to the lines of authority in the organizational chart  
8 of the EBO office.

9 MS. GAINES: So moved.

10 MR. JOHNSON: Motion by Gaines. Is there a  
11 second?

12 MS. THOMAS: Second.

13 MR. JOHNSON: Any additional comments? Any  
14 discussion? All those in favor?

15 GROUP ANSWER: Ay.

16 MR. JOHNSON: Anybody opposed? Okay.

17 MR. LEE: All right. Let's start with R/N-12,  
18 which is Direct Periodic Reporting of the EBO Office  
19 on the substance of the program to the Executive  
20 Director and the Board on no less than a monthly  
21 basis. All that believe that's a high priority,  
22 please raise your hand.

23 MR. JOHNSON: That will be five out of six.

24 MR. LEE: All that believe that's a moderate  
25 priority, please raise your hand.

1 MR. JOHNSON: Zero of six.

2 MR. LEE: All who believe it's a low priority,  
3 please raise your hand.

4 MR. JOHNSON: That is one out of six.

5 MR. LEE: The next policy recommendation would  
6 be the newly created R/N-12A, which is the position of  
7 the Equal Business Opportunity office in the  
8 administrative structure of the Authority to report  
9 directly to the executive director. Is that the sense  
10 of the body?

11 MR. JOHNSON: Yes, that's the discussion.  
12 Anybody have any recollection any different? Okay.  
13 That was it.

14 MR. LEE: So, is there, can we have a show of  
15 hands for those who believe the newly created R/N-12A  
16 for positioning of the Equal Business Opportunity  
17 office to administratively report directly to the  
18 executive director, please raise your hand as a high  
19 priority.

20 MR. JOHNSON: That would be three out of six.

21 MR. LEE: And all those who believe that it's  
22 a moderate priority, please raise your hand.

23 MR. JOHNSON: That would be two out of six.

24 MR. LEE: And those seeing that as a low  
25 priority, please raise your hand.

1 MR. JOHNSON: That will be one out of six.

2 MR. LEE: That brings us to R/N-13, which is a  
3 policy recommendation for the Equal Business  
4 Opportunity Office Representation, to have  
5 representation on all evaluation panels, that is where  
6 you have best value contracts under consideration for  
7 award. May I have a show of hands of all who believe  
8 that is a high priority? Please raise your hand.

9 MR. JOHNSON: That is five out of six.

10 MR. LEE: All those viewing this as a moderate  
11 priority, please raise your hand.

12 MR. JOHNSON: Zero out of six.

13 MR. LEE: All those viewing this as a low  
14 priority, please raise your hand.

15 MR. JOHNSON: One out of six.

16 Before we move on to the next set of  
17 reforms, I do want to recognize that our vice mayor  
18 has joined us again. Commissioner Mack Bernard is  
19 here in the room. Thank you so much, sir, for  
20 participating. Any other elected officials? Okay.  
21 Thank you.

22 MR. LEE: Okay. The next general category is  
23 Administrative Reforms All Industries for  
24 Race-Conscious Remedies, Race and Gender Conscious  
25 Remedies. And the first of these policy

1 recommendations would be R/C-1, which is for Penalties  
2 and Sanctions for Noncompliance With Small Minority  
3 Women Business Enterprise Requirements. All those  
4 that see this as a high priority, please raise your  
5 hand.

6 MR. JOHNSON: That would be four out of six.

7 MR. LEE: All those that see this as a  
8 moderate priority, please raise your hand.

9 MR. JOHNSON: That would be one out of six.

10 MR. LEE: And all those that see this as a low  
11 priority, please raise your hand.

12 MR. JOHNSON: Ms. Depotter.

13 MS. DEPOTTER: Michelle Depotter, AGC. I  
14 guess this is a good time to restate AGC's position.  
15 We will not be voting on race-conscious remedies. We  
16 will be opposing race-conscious remedies for the  
17 reasons previously stated. I'm happy to restate them  
18 as necessary.

19 I want to thank you, Mr. Lee, for everything  
20 that you've done to move this forward. We certainly  
21 recognize that you're an expert in the field. But  
22 there are also other experts that we've done a little  
23 doctor shopping with, if you will, for remedies that  
24 we believe may or may not move forward. And we hope  
25 that you, as well as our colleagues will respect that.

1 We've provided other testimony previously, so I don't  
2 want to take the time to go through them. But to  
3 speed things along, we will just oppose race-conscious  
4 remedies moving forward. But we continue to be  
5 supportive of the strengthening of the SBE program and  
6 prioritizing those.

7 MR. JOHNSON: Thank you, Ms. Depotter. And  
8 thank you AGC for that position. Obviously, just  
9 about everybody else disagrees. We think that race  
10 and gender conscious remedies, based upon the  
11 disparity study, are important. So we will continue  
12 to rank those. I think we will, though, sort of break  
13 from Robert's Rule and I will ask for a motion to  
14 deviate from Robert's Rule and allow for Ms. Depotter  
15 to abstain. Because typically Robert's Rule will  
16 compel a vote, unless you have a conflict of interest.  
17 So I will ask for a motion from the group.

18 MR. LEWIS: So moved.

19 MR. JOHNSON: Moved by Mr. Lewis. Is there a  
20 second?

21 MR. ALLADY: Second.

22 MR. JOHNSON: Seconded by Mr. Kumar. All  
23 those in favor?

24 GROUP ANSWER: Ay.

25 MR. JOHNSON: Anybody opposed? All right. So

1 we will allow for Ms. Depotter to abstain from voting  
2 on any race-conscious, Ms. Depotter?

3 MS. DEPOTTER: That's correct.

4 MR. JOHNSON: Okay. Thank you.

5 MR. LEE: All right. The next policy  
6 recommendation is R/C-2, which is Penalties and  
7 Sanctions for Fraud. This can be distinguished from  
8 R/C-1 in that it applies to fraud in the sense of  
9 certification in the context of S/M/WBE compliance.

10 MR. JOHNSON: I'm sorry, let me just stop here  
11 for one more housekeeping. So, Ms. Robbs, do we have  
12 to add now another column for abstention, so that the  
13 record will reflect what happened to the sixth vote on  
14 those?

15 MR. LEE: Well, you could make the fourth  
16 column total number of votes. If it just shows five,  
17 that would show --

18 MR. JOHNSON: Right. But that could also mean  
19 somebody left. I want to show that she was here, but  
20 she's abstaining from voting. Because we're going to  
21 pick up the sixth vote later on when we get to race  
22 neutral. So for that particular one, just add an  
23 abstention. I'm sorry, go ahead.

24 MR. LEE: The next policy recommendation is  
25 R/C-2, Penalties and Sanctions for Fraud as it applies

1 to certification and S/M/WBE compliance. All those  
2 that view this as a high priority, please raise your  
3 hand.

4 MR. JOHNSON: That is five out of six.

5 MR. LEE: And I assume Ms. Depotter is  
6 abstaining?

7 MR. JOHNSON: Right.

8 MR. LEE: R/C-3, next policy recommendation,  
9 Equal Business Opportunity Office Prior Approval of  
10 S/M/WBE Subcontractor Substitutions. This is going to  
11 require that there's a formal process any time a prime  
12 changes the subcontractor that it has listed at the  
13 time of bid, unless there's some emergent or exigent  
14 circumstances that would not permit that for public  
15 health and safety reasons. All those who believe  
16 R/C-3 is a high priority, please raise your hand.

17 MR. JOHNSON: That would be five.

18 MR. LEE: With one abstention by Ms. Depotter.  
19 And the next policy recommendation would then be  
20 R/C-4, which is for SWA Staff Training to provide for  
21 S/M/WBE program procedures and responsibilities, new  
22 responsibilities under this policy to be thoroughly  
23 explained to all Authority staff that are affected.  
24 All those that view this as a high priority, please  
25 indicate by raising your hand.

1 MR. JOHNSON: That would be five.

2 MR. LEE: With one abstention. The next  
3 category is for the construction industry, race and  
4 gender neutral remedies that have been proposed.  
5 First of these is R/N-14 which calls for a work group  
6 to be established for purposes of making  
7 recommendations on Bond Waivers and Assistance  
8 Programs that might be feasible and might be adopted  
9 by the Authority. All that view this as a high  
10 priority?

11 MR. JOHNSON: I'm sorry, we have a question.

12 MR. LEE: Yes, Mr. Lewis.

13 MR. LEWIS: Yes, I'm sorry, does that include  
14 any technical assistance programs? When you say  
15 assistance, what are we talking about?

16 MR. LEE: Yes, there's a variety of different  
17 models for bonding programs that we're sharing with  
18 the Authority for consideration of this work group,  
19 including technical assistance, bond guarantee type  
20 programs, financial assistance, making sure that their  
21 management of funds is up to speed, etcetera, their  
22 books and accounts.

23 MR. JOHNSON: Question of clarification for  
24 me. I just want to confirm this is the only bonding  
25 assistance remedy that we have. And this covers all

1 races and gender, right? There are none that are  
2 exclusive to -- okay. I got it.

3 MR. LEE: Well, let me put it this way: It's  
4 up to the work group as to what to recommend. There  
5 are race and gender conscious versions of that. But  
6 there's many, many more race and gender neutral  
7 versions of that. And I wouldn't want to tie the work  
8 group's hands as to what they recommend. But, in  
9 general, you're looking to just try to enhance the  
10 ability of small businesses, I would say, to be able  
11 to get bonding. They're the ones who have the  
12 toughest time.

13 MR. JOHNSON: Okay. Any other questions or  
14 comments?

15 MR. LEE: All right. All those that view this  
16 as a high priority, this is R/N-14, Bond Waivers and  
17 Assistance Programs, please raise your hand.

18 MR. JOHNSON: Four.

19 MR. LEE: All those that view this as a  
20 moderate priority, please raise your hand.

21 MR. JOHNSON: Two.

22 MR. LEE: The next policy recommendation is  
23 R/N-15, which calls for a Direct Contracting Program  
24 for Small Contracts that traditionally may be bundled  
25 into much larger contracts, we're breaking up certain

1 pieces of those contracts where the Authority can  
2 contract directly with a vendor for those goods and  
3 services. All that view this policy recommendation as  
4 a high priority, please raise your hand.

5 MR. JOHNSON: That would be four out of six.

6 MR. LEE: All those that view this as a  
7 moderate priority, please raise your hand.

8 MR. JOHNSON: That's two out of six.

9 MR. LEE: The next policy recommendation for  
10 prioritization is R/N-16, which is the Small Business  
11 Enterprise Prime Contract Program. Again, a program  
12 to reserve certain contracts for competition solely  
13 among small businesses. These would be smaller  
14 contracts in the construction industry. All those  
15 that are viewing this as a high priority, please raise  
16 your hand.

17 MR. JOHNSON: That would be three out of six.

18 MR. LEE: All those that view this as a  
19 moderate priority, please raise your hand.

20 MR. JOHNSON: That would be three out of six.

21 MR. LEE: The next policy recommendation for  
22 consideration and prioritization is R/N-17, the SBE  
23 Subcontracting Program, the infrastructure which would  
24 permit the Authority to set mandatory goals with some  
25 waiver provisions for SBE or small business

1 subcontract participation. All those that view this  
2 as a high priority, please raise your hand.

3 MR. JOHNSON: That would be one out of six.

4 MR. LEE: All who view this as a moderate  
5 priority, please raise your hand.

6 MR. JOHNSON: That would be three out of six.

7 MR. LEE: All that view this as a low  
8 priority, please raise your hand.

9 MR. JOHNSON: That would be two out of six.

10 MR. LEE: The next policy recommendation for  
11 consideration is R/N-18 which is the SBE or Small  
12 Business Mentor-Protege Program in the construction  
13 industry. The work group would more fully develop the  
14 particulars of how this mentor-protege program would  
15 be structured and what incentives it would provide.  
16 All that view this policy recommendation as a high  
17 priority, please raise your hand.

18 MR. JOHNSON: Can I stop for a second and ask  
19 a question of clarification? So to the intent of this  
20 policy, right, so if we have an SBE mentor-protege  
21 program and we have an M/WBE mentor-protege program,  
22 is there anything in the policy that is going to  
23 prevent, let's say, a preferential use of SBE versus  
24 M/WBE, or is there something that's going to direct  
25 some sort of order that if there's a chance to use an

1 M/WBE start there first and then move forward?  
2 Because my fear is if we have these parallel programs,  
3 as the disparity study has already shown, we've had  
4 this SBE program, and there has been underutilization  
5 of minorities in that SBE program. So if the SBE  
6 mentor-protege program is also available, would the  
7 SBE mentor-protege stand -- will there be an  
8 opportunity for staff to choose that more than M/WBE  
9 in this particular case? Because it may change how I  
10 vote. And I hate to spoil the jury, but if it's going  
11 to compete with M/WBEs, then I want the M/WBEs to get  
12 higher priority.

13 MR. LEE: Well, as the proposals have been  
14 drafted and put forward, I think there is no judgment  
15 as to how they compete against one another, whether  
16 they would or would not compete against one another.  
17 That's for the work group to come back with  
18 recommendations.

19 I can tell you that in our discussions that  
20 we had initially on this topic, one of the concerns  
21 was, if you had both an SBE mentor-protege program and  
22 an M/WBE mentor-protege program, there might not be  
23 enough mentors to go around. And that was the  
24 experience that I personally observed in Orange County  
25 when I had a chance to speak with Jim Croson, and his

1 concerns about what had actually happened with the  
2 mentor-protege program in central Florida.

3 But, again, it's up to the work group to  
4 determine, number one, whether there should be an SBE  
5 and an M/WBE version of the mentor-protege program, or  
6 whether in this particular community it makes sense to  
7 have one or the other and not both.

8 MR. JOHNSON: So I will speak for myself and  
9 I'll solicit additional comments. So as we started  
10 off, we identified SBE mentor-protege programs as a  
11 tool in the tool box that we wanted to leave as an  
12 option for treatment that we wanted to use. It just  
13 dawned on me, because we're going to be voting in a  
14 few minutes on the M/WBE mentor-protege, that  
15 especially in this particular marketplace, according  
16 to the disparity study, that we have to be very  
17 intentional to favor the M/WBE over SBE when they both  
18 are available. Now, this is the first one where I see  
19 the overlap. Is there an opportunity for us to state  
20 that sensitivity in the policy itself? Mr. Lewis.

21 MR. LEWIS: My question is more to: Why  
22 couldn't that be a unilateral situation? I mean, I  
23 don't see the difference between the actual  
24 mentor-protege program structures. I'm not a part of  
25 that special group that's going to look at that, but

1 from a mechanical standpoint or functionality  
2 standpoint, I don't see a whole lot of difference in  
3 how the content of that mentor-protege program for one  
4 or the other would be so different. Maybe somebody  
5 can shed some light on that for me.

6 MR. LEE: There are a number of different  
7 models out there for different types of mentor-protege  
8 programs. Some are just basically do-the-right-thing  
9 kind of programs where mentors want to help those that  
10 come behind them. Others provide government  
11 incentives for those mentor-protege relationships.  
12 They may even set aside certain contracts solely for  
13 competition by mentor-protege teams.

14 So there's a wide variety of different, you  
15 know, types of programs out there. And that's why we  
16 wanted to have a work group from the industries  
17 assigned to take a look at the various models and make  
18 the recommendation as to which way to go on that.

19 MS. GAINES: I have a question.

20 MR. JOHNSON: Go ahead.

21 MS. GAINES: So I'm a little confused and I  
22 need some clarification. So if you have a set-aside  
23 for an SBE mentor-protege program, could you not have  
24 a minority women business enterprise goal included in  
25 that set-aside as well as a subcontract? Because I

1 see a value of combining the two. I think it  
2 incentivizes the selection to go to the most aggrieved  
3 classification of people that have been excluded by  
4 race. And if that is not in there, then there's no  
5 real incentive to go to the next level to ensure  
6 additional inclusion by race. So I see it almost as a  
7 similar justification for you having the segmented  
8 goals or the, you know, and some of the other things  
9 that are going to be coming up later, as to using it  
10 in a hybrid format that it would accomplish both  
11 goals.

12 MR. LEE: There's nothing in these policy  
13 recommendations, as we've proposed them, that would  
14 prohibit a combination of one, two, three different  
15 policy elements on a particular contract. We'll get  
16 to that level of detail, I think, once we draft the  
17 actual policy and get into the detail of what should  
18 be considered before certain policy options are put  
19 into place versus others. But as it stands now, we're  
20 trying to look at each one of these as a stand-alone  
21 and trying to prioritize it as stand-alone,  
22 recognizing that perhaps you may well have a situation  
23 where you're, as you suggested, applying  
24 subcontracting goals that mentor-protege teams also  
25 have to comply with.

1           MR. JOHNSON: So, if I may, before we take the  
2 tally, I do want to, not to poison the jury, although  
3 I am trying to. I just want to make the point that  
4 for those R/N-17, 18 and the subsequent ones where we  
5 have an SBE version of the M/WBE tool, I just want to  
6 make the point that I would be voting for the small  
7 businesses to have every opportunity to participate  
8 and grow. But the spirit of this particular exercise  
9 is to identify the fact that the marketplace hasn't  
10 been equal opportunity. So, I would want staff to  
11 know by my vote that if there was a choice between  
12 applying an M/WBE remedy or applying an SBE remedy,  
13 the whole point of the disparity study in the work  
14 group is to encourage as many race-conscious M/WBEs as  
15 possible to overcome the discrimination that we saw in  
16 the disparity study.

17           So I'm just putting that disclaimer out  
18 there, that if I voted low on an SBE remedy, it's not  
19 because I felt it's not important, it's because I'm  
20 trying to develop some distinction that I think the  
21 M/WBE version of the same thing is going to be more  
22 important to me. Any other comments?

23           MS. GAINES: I think you read my mind. Those  
24 are my sentiments, as well. Thank you.

25           MR. JOHNSON: Okay. So we can take a vote.

1           MR. LEE: Are we ready for a sense of  
2 priorities for R/N-18, which is the SBE Mentor-Protege  
3 Program? All those that think that's a high priority,  
4 please raise your hand.

5           MR. JOHNSON: That would be one of six.

6           MR. LEE: All that believe that's a moderate  
7 priority, please raise your hand.

8           MR. JOHNSON: That would be two of six.

9           MR. LEE: All that see this a low priority,  
10 please raise your hand.

11          MR. JOHNSON: That would be three of six.

12          MR. LEE: We move now to the next category  
13 which is Construction Industry Race-Conscious  
14 remedies. The first of these is R/C-5, which is for  
15 Annual Aspirational Goals. Again, these are just  
16 benchmarks that reflect an estimate of what current  
17 availability is in the industry on an annual basis,  
18 looking at all contracts cumulatively. And to assist  
19 the Authority in making adjustments moving forward in  
20 terms of the implementation of the program. All that  
21 view R/C-5 as a high priority, raise your hand.

22          MR. JOHNSON: That would be five.

23          MR. LEE: And we have one abstention from Ms.  
24 Depotter.

25          MR. JOHNSON: One abstention for Ms. Depotter.

1           MR. LEE: Now, the next policy recommendation  
2           is for R/C-6, which is for M/WBE Subcontracting Goals,  
3           mandatory goals that would provide for waivers under  
4           certain circumstances or reductions in those goals  
5           based upon good faith efforts documentation. All that  
6           view this as a high priority, please raise your hand.

7           MR. JOHNSON: That would be five with one  
8           abstention.

9           MR. LEE: Again, for Ms. Depotter. The next  
10          policy recommendation is R/C-7, which is for M/WBE  
11          Segmented Subcontracting Goals. This is a policy  
12          recommendation to assist us in getting the right dose  
13          of medicine to those who mostly need it in terms of  
14          disparities at the subcontracting level. All those  
15          that see this as a high priority, please raise your  
16          hand.

17          MR. JOHNSON: That would be four.

18          MR. LEE: Those who view this is a moderate  
19          priority, please raise your hand.

20          MR. JOHNSON: That would be one, with one  
21          abstention.

22          MR. LEE: The next policy recommendation is  
23          R/C-8, for M/WBE Joint Venture Incentives. This is a  
24          remedy that's intended to boost incentives for growing  
25          capacity of minority women-owned firms at the prime

1 contract level. All these that view this as a high  
2 priority, please --

3 MR. LEWIS: Chair, question.

4 MR. JOHNSON: We have a question from  
5 Mr. Lewis.

6 MR. LEWIS: Joint ventures, I have a problem  
7 with joint ventures because it's so flexible as to how  
8 you might do that. Is a joint venture agreement, just  
9 for clarity purposes so I know what I'm voting for, is  
10 that going to be a template that's provided by SWA's  
11 staff? Is that something that's going to be developed  
12 between the two parties?

13 MR. LEE: I can tell you that the policy will,  
14 the written policy will spell out the requirements or  
15 the elements of the joint venture. It has to be a  
16 written agreement, for example, between two parties.  
17 It has to specify what the roles and responsibilities  
18 are of each party in that joint venture and the level  
19 of ownership that each partner has in the joint  
20 venture.

21 MR. LEWIS: And the like?

22 MR. LEE: Correct, yes.

23 MR. LEWIS: Okay. Thank you.

24 MR. JOHNSON: Can I also add that I stated  
25 before and I'll restate again that I want to highlight

1 the fact that, in my view, this is one of the places  
2 where we can encourage the larger non-minorities to  
3 support the program and benefit from the program  
4 because we're targeting not only joint ventures  
5 between two M/WBEs but we're also incentivizing a  
6 joint venture that an M/WBE may have with a non-M/WBE  
7 for capacity. So, in my view, this is one of those  
8 places where we have a broader net of who can benefit  
9 from the race-conscious.

10 MR. LEWIS: Okay.

11 MR. LEE: That's true. So for R/C-8, may we  
12 have a show of hands of those that view M/WBE joint  
13 venture incentives as a high priority?

14 MR. JOHNSON: That would be four.

15 MR. LEE: And all those that view R/C-8 as a  
16 moderate priority, please raise your hand.

17 MR. JOHNSON: That would be one, with one  
18 abstention.

19 MR. LEE: The next policy recommendation is  
20 R/C-9 which is the M/WBE version of the Mentor-Protege  
21 Program. Again, there would be a work group that  
22 would look at various versions of mentor-protege  
23 programs that are available and make a recommendation  
24 as to which one the Authority should adopt. All those  
25 that view this as a high priority, please raise your

1 hand.

2 MR. JOHNSON: I'm sorry, I just have a  
3 comment. Mr. Lewis first and then I'll comment.

4 MR. LEWIS: Okay. With this work group, this  
5 committee that's going to take a look at this, can we  
6 include that they look at the possibilities of a  
7 hybrid version?

8 MR. LEE: Any version that you want to  
9 consider, I would imagine we could be able to work  
10 with.

11 MR. LEWIS: Well, it's very similar to the  
12 other one. So I would just think that this special  
13 committee or task force, whatever you want to call it,  
14 could put that into the mix and maybe they can come up  
15 with a hybrid. So I'd like to see that in there, if  
16 possible.

17 MR. JOHNSON: And I would also, for the  
18 record, state that this is another place where the  
19 non-minority larger firm could benefit and in this  
20 particular case be incentivized to help grow smaller  
21 minority women-owned businesses. So there are  
22 actually two groups that we're sensitive to here, if  
23 you think about it. One, M/WBEs who graduate. So  
24 those who get too large that can be certified, but  
25 they can still have some benefit from the program by

1 taking on a protege, and that team becomes  
2 incentivized through this particular policy option.  
3 And then, two, the larger non-minority firms who, and  
4 many of them are actively helping to grow small  
5 minority firms. And we're stating here that those  
6 firms who do that should be incentivized in this  
7 program.

8 MS. GAINES: And, again, it would be a  
9 prescribed template laid out by the Authority about  
10 how it would be structured?

11 MR. JOHNSON: Yes, not only that. But also a  
12 note that we make here again, just restating for the  
13 record, that within the incentives that it be  
14 sensitive to the volume of work that the minority  
15 protege would have. So that you don't give a whole  
16 bunch of incentives to a mentor-protege team that  
17 would have a small amount of work for minorities.

18 MR. LEE: Okay. Are we ready to proceed? All  
19 those that view R/C-9 M/WBE Mentor-Protege Program as  
20 a high priority recommendation, please raise your  
21 hand.

22 MR. JOHNSON: That's five with one abstention.

23 MR. LEE: The next policy recommendation is  
24 R/C-10, which is for M/WBE Evaluation Preferences for  
25 Best Value RFPs. This is in the construction

1 industry, so it's primarily referring to delivery  
2 methods where the lowest responsible bidder is not in  
3 play, but its rather construction management, design  
4 build, that sort of thing, where there are factors  
5 other than low price that are considered in the  
6 awarding of a contract. I think we noted in our  
7 discussion, there's not a whole lot of that kind of  
8 contracting going on at the Authority at this time.  
9 Any further questions for me for clarification?

10 MR. JOHNSON: I just want to state the point,  
11 that if and where they are though, we do strongly  
12 encourage it.

13 MR. LEWIS: Could we ask staff, on average, on  
14 a fiscal year annual basis, how much construction  
15 activity -- I know I see it in your budget. But my  
16 impression is that SWA does it in spurts. It may not  
17 happen in one calendar year and then go gang busters  
18 the next.

19 MR. PELLOWITZ: This is Dan Pellowitz. Yeah,  
20 that's exactly right. What we have going forward, I  
21 think we presented to you, it's relatively small  
22 construction programs. As far as design-build goes,  
23 we typically only do those on very large projects.  
24 The ones we've done were forty million and more. So  
25 it's highly unlikely we would do them in something

1 small.

2 MR. LEWIS: All right. Thank you.

3 MR. ALLADY: So, basically, what we are saying  
4 is it low priority in terms of volume because the  
5 volume is less?

6 MR. JOHNSON: I think what we're stating is  
7 consider the reality that according to the budget that  
8 was handed out, and according to Mr. Pellowitz's  
9 statements previously and now, construction that will  
10 prompt the use of this particular remedy is not a  
11 sufficient part of the mix. But I am going to vote as  
12 if there is even one project that applies, I think  
13 that I strongly recommend that we apply evaluation  
14 preferences to M/WBEs.

15 MR. PELLOWITZ: And if I just might add, this  
16 is not administratively burdensome on the Authority to  
17 do this. If you're concerned about whether we have  
18 the ability to do it in a timely basis, it's not.

19 MR. LEE: All right. Are we ready to proceed?  
20 All those that view R/C-10 for M/WBE Evaluation  
21 Preferences for Best Value RFPs for construction as a  
22 high priority, please raise your hand?

23 MR. JOHNSON: That's four.

24 MR. LEE: All those that view it as a moderate  
25 priority, please raise your hand.

1 MR. JOHNSON: That's zero.

2 MR. LEE: And all those that view it as low  
3 priority, please raise your hand.

4 MR. JOHNSON: That's one.

5 MR. LEE: And one abstention. All right.  
6 That brings us to the next category. We're coming  
7 down the home stretch towards the end.

8 MR. JOHNSON: We've passed the half-way point.

9 MR. LEE: All right. The next category is  
10 Professional Services Race-Neutral Remedies. The  
11 first policy recommendation is for R/N-19, which is  
12 the SBE Vendor Rotation policy option that we had a  
13 fair amount of discussion on. So there was two  
14 different options depending upon the size of the  
15 contracts, whether there would be a pre qualified  
16 panel of SBEs that would be assigned task orders on a  
17 rotating basis. And the other option was where the  
18 Authority is required to get three quotes because it's  
19 a contract of a certain size, less than fifty thousand  
20 dollars, fifty thousand dollars or less. The panel  
21 rotation of prequalified firms would be rotated three  
22 at a time. In both instances, they would be  
23 reordered, the rotation would be reordered  
24 periodically based upon the cumulative dollars that  
25 each firm had received in that fiscal year.

1 MR. LEWIS: So based on the cumulative  
2 dollars, but not based on time frames or the  
3 completion of a task?

4 MR. LEE: Based on the dollar value of the  
5 award to the firm, that's what it would be based upon.

6 MR. LEWIS: No matter how long it takes to  
7 complete that task for that work order. So that could  
8 go on for two years?

9 MR. LEE: Oh, I see what you're saying. Well,  
10 in that instance, the actual payments that the firm  
11 had received in that fiscal year.

12 MR. LEWIS: Okay. Thank you.

13 MR. LEE: All those that view R/N-19 for SBE  
14 Vendor Rotation as a high priority, please raise your  
15 hand.

16 MR. JOHNSON: That's two out of six.

17 MR. LEE: All those that view it as a moderate  
18 priority, please raise your hand.

19 MR. JOHNSON: That's one out of six.

20 MR. LEE: And all those that view it as low  
21 priority, please raise your hand.

22 MR. JOHNSON: That's three out of six.

23 MR. LEE: The next policy recommendation is  
24 for R/N-20, which is for Evaluation Preferences for  
25 New SBE Prime Bidders. Evaluation preferences would

1 permit for up to 15 points out of a hundred in the  
2 evaluation process to be allocated to those SBE prime  
3 bidders that had never previously won any work from  
4 the Authority. This is different from a subsequent  
5 evaluation preference, R/N-22, which isn't limited to  
6 those who have not previously received work from the  
7 Authority.

8 MR. JOHNSON: Okay. We have a question from  
9 Mr. Allady.

10 MR. ALLADY: When it comes to R/N-20 the  
11 intent was to facilitate breaking the barrier of entry  
12 for new firms. So the discussion point was setting a  
13 time limit on the number of contracts. So instead of  
14 saying new SBE primes can be, modifying that  
15 particular statement saying that a year from the first  
16 proposal response or whatever it is, so therefore they  
17 have a year or some kind of time limit, so the whole  
18 intent for that, from what I understand, is no barrier  
19 for new firms.

20 MR. JOHNSON: Because I look at my notes and I  
21 see the same, that we were trying to come up with some  
22 level of boundary, whether it's a time limit, the  
23 number of contracts or some dollar value aggregate,  
24 that the policy should specify what that milestone is.  
25 You're actually correct. Thank you, sir. Any other

1           comments?

2                   MR. LEWIS:   And new is exhausted once they're  
3           awarded the contract.   So how long is the shelf life  
4           for new?

5                   MR. JOHNSON:   So, again, I think what we're  
6           trying to figure out is, when you receive a contract,  
7           you are no longer considered new until you reach a  
8           certain milestone, whether you've been out of rotation  
9           for a while, you've got so many contracts, but you  
10          haven't won in a while.   That's the point that he was  
11          making.   So once you receive one contract, what we  
12          were saying is that, the spirit of the policy is to  
13          give other people a chance to win.   But we want to  
14          also be sensitive to the fact sometimes you may have  
15          gotten one contract and it may be small.

16                   MR. LEWIS:   Right.   Got it.

17                   MR. JOHNSON:   So that's the kind of dialogue  
18          that we had around this particular option.   And we  
19          will be looking for the, I made a note here to look  
20          for an actual written policy to see if it sort of  
21          addresses those issues.

22                   I did forget earlier, though, that I was  
23          asked at the last meeting if you can remember to say  
24          your name before your comment, for the record, I  
25          appreciate it.   Thank you.

1 MR. LEWIS: Bruce Lewis.

2 MR. LEE: So, if I got a sense of the group's  
3 concerns here, we could modify the description of this  
4 so that it says the valuation preferences would go to  
5 those new SBE prime bidders for up to one year after  
6 they receive their first contract. Is that the sense  
7 of what you're proposing?

8 MR. LEWIS: So moved.

9 MR. JOHNSON: Okay. Because I want to add to  
10 that. So let's stay on that one first. So if you  
11 haven't received a contract in the last twelve months,  
12 you're considered here.

13 MR. LEE: No, at least what I was suggesting  
14 was all firms that have never received a contract at  
15 the beginning of the year are eligible for these  
16 particular evaluation preference points. If they get  
17 a contract this year, they can continue getting those  
18 points and subsequent contracts up to one year after  
19 they've gotten their first contract.

20 MR. JOHNSON: Oh, I see, okay.

21 MR. LEE: This is your program.

22 MR. JOHNSON: But then that's where it's going  
23 to go to my statement then, because we had also  
24 contemplated reducing those points for repeat winners.  
25 So if you had a brand new firm who at least won one,

1 and you had a similarly situated capable and ready  
2 firm who is brand new and hasn't won any, then that  
3 brand new gets 15, maybe that other one gets 12.5 or  
4 7.5, something like that.

5 MR. LEE: Yeah, I would just suggest you want  
6 to do that in a way that that's not too  
7 administratively burdensome on staff to try to figure  
8 out how many points a firm is eligible for.

9 MR. JOHNSON: Yeah, there would be a scale.  
10 And we just thought of this in Broward, if there was a  
11 scale, 'cause we had the very same issue. We gave  
12 fifteen whole points for a minority prime and only one  
13 capable and ready firm was able to bid. But you don't  
14 want that happening too often because at some point  
15 it's going to be at the point where the non-minority  
16 community and other minorities won't be able to  
17 compete with that particular program. So you find a  
18 way to give --

19 MR. LEE: A sliding scale.

20 MR. JOHNSON: Yes, a sliding scale for the new  
21 points.

22 MR. LEWIS: Mr. Chair, so you're saying have  
23 that per occurrence?

24 MR. JOHNSON: I'm sorry?

25 MR. LEWIS: You're saying to have that

1 graduated scale per occurrence? So if I'm a guy who  
2 in this current year has never gotten a contract, and  
3 I win a contract, I'd get the full 15 points for that  
4 first submittal. But within that same year I go for  
5 another one, and you're saying that those preference  
6 points would diminish in the scale, but I'm still  
7 regarded as new because I'm still within that time  
8 frame, correct?

9 MR. JOHNSON: That's correct.

10 MR. ALLADY: Mr. Chair.

11 MR. JOHNSON: Yes, sir. Mr. Allady.

12 MR. ALLADY: Kumar Allady. So if we are  
13 looking in terms of a scale and also if it's not  
14 administratively burdensome to the staff, one of the  
15 ways I've seen other instances that's done is volume  
16 of previous work. So there's a ratio of the last five  
17 years. So they can get a volume of previous work to  
18 the firm, and if they have received, the previous  
19 twelve months they got something, they have a  
20 multiplier of one. The second year a multiplier of  
21 0.75, like that. They can put a grade scale, so that  
22 way it would benefit those firms.

23 MR. JOHNSON: Let me ask, are you still  
24 referring to the same 15 points, or are you saying  
25 something that --

1           MR. ALLADY: Yes, so how you award that scale  
2           so it's less administratively burdensome to the staff,  
3           if it's a new firm, they do not have a history, the  
4           volume of previous work is zero, so they get total  
5           points. But if the firm received four years ago, five  
6           years ago, a particular scale. Palm Beach County does  
7           that. And there are other agencies that do that, so,  
8           which is less administratively burdensome as a scale.

9           MR. JOHNSON: Okay. So we'll take that under  
10          advisement. Okay.

11          MR. LEE: All right.

12          MS. ROBBS: Mr. Chair, can we verify or  
13          confirm the final amendment to R/N-20, please? We  
14          talked about the up to one year after award.

15          MR. JOHNSON: So just to summarize, what we  
16          were trying to do, we were recalling some of the  
17          points of discussion around this particular remedy.  
18          And as Mr. Allady pointed out, we were sensitive to  
19          the concern of: At what point are you no longer  
20          considered new? So then there was a time limit  
21          discussion on that. And as Mr. Lee just discussed,  
22          it's within that twelve months you are still  
23          considered new, that's what I just understood, you  
24          have a twelve-month period to be considered new. But  
25          there are additional considerations, though, around:

1       How do you score those fifteen points evaluation  
2       preferences for repeat winners even if they are  
3       considered new versus those who are new and never won  
4       before? And that's the idea of providing less points  
5       to the repeat winner of that fifteen so that those who  
6       never won before could still get all fifteen points  
7       and get a chance to win for the first time. So all  
8       the other discussions were different modifications of  
9       those. Mr. Lewis.

10               MR. LEWIS: Can I ask, just staff to kind of  
11       chime in on that one. Because, it sounds like it's a  
12       little convoluted. I'd like to understand a little  
13       bit from staff's perspective as to how feasible that  
14       might be, what we're suggesting.

15               MR. PELLOWITZ: This is Dan Pellowitz. As  
16       long as it's specified in the policy what that sliding  
17       scale is and how it's applied, it's not that  
18       cumbersome. It should be fairly simple. What I  
19       understand you're asking for is some sort of a sliding  
20       scale that's not to restrict one award, one new SBE,  
21       but something that takes those points and applies them  
22       based upon either previous contracts or the dollar  
23       value of previous contracts or a combination of both  
24       as part of the policy. So I think we understand that  
25       that's what you're asking for. I think we understand

1       it. And, again, as long as it's spelled out  
2       ultimately when we write the policy, clearly, as to,  
3       you know, how those points are applied on that scale,  
4       it shouldn't be that much of a difficulty once it's  
5       set up.

6               MR. ALLADY: Kumar Allady. So I would be glad  
7       to share a template for consideration.

8               MR. JOHNSON: If you can. And I guess I'll  
9       make the offer to anyone, because the next phase of  
10      this will be Mr. Lee finalizing the first draft that's  
11      going to go before the Authority Board. So if you  
12      have any suggestions to send to Ms. Robbs for  
13      Mr. Lee's consideration, please do that.

14              MR. LEE: Okay. So, let's get a sense of the  
15      body here with those considerations in place for  
16      R/N-20. All those that view this policy  
17      recommendation as high priority for Evaluation  
18      Preferences for New SBE Prime Bidders, please raise  
19      your hand.

20              MR. JOHNSON: That's three out of six.

21              MR. LEE: All those that view it as a moderate  
22      priority, please raise your hand.

23              MR. JOHNSON: That's two out of six.

24              MR. LEE: And all those that view it as a low  
25      priority, please raise your hand.

1 MR. JOHNSON: That's one out of six.

2 MR. LEE: The next policy recommendation is  
3 R/N-21, which provides for an SBE Reserve for  
4 Contracts Up to Five Thousand Dollars and Required SBE  
5 Quotations on Informal Solicitations Up to Fifty  
6 Thousand Dollars. So what this means is for those  
7 contracts five thousand dollars and below in value, it  
8 could be reserved solely for SBE competition or for,  
9 actually SBE could be selected on a single basis. For  
10 those contracts valued at between five thousand up to  
11 fifty thousand, including fifty thousand dollars, you  
12 would be required to get two or three quotations from  
13 SBE firms for those solicitations.

14 MR. JOHNSON: Question.

15 MR. LEE: Yes.

16 MR. JOHNSON: Let's suppose that R/N-21 and  
17 R/C-15 -- is R/C-15 the race-conscious version of  
18 R/N-21, or are they different?

19 MR. LEE: I think they're the same. My  
20 recollection is that those are the same. It's just  
21 one is race-neutral and one is race-conscious.

22 MR. JOHNSON: Correct. But we don't have a  
23 five thousand -- wait a minute, let me back up on  
24 that. We don't have a reserve for the M/WBE.

25 MR. LEE: You would not have -- no, there

1 actually would not be a reserve for the five thousand  
2 dollars under the R/C-15. And the reason for that is  
3 a legal one. You can't eliminate competition on the  
4 basis of race. But you can require the quotations  
5 from M/WBEs. That's why there's a distinction there.

6 MR. JOHNSON: Got it. Okay. Thank you. Any  
7 other questions?

8 MR. LEE: So all those that view R/N-21, which  
9 is the SBE Reserve for Contracts Up to Five Thousand  
10 Dollars and required SBE Quotations on Informal  
11 Solicitations Up to Fifty Thousand Dollars, all that  
12 view that as high priority, please raise your hand.

13 MR. JOHNSON: That's four out of six.

14 MR. LEE: All that view that as a moderate  
15 priority, please raise your hand.

16 MR. JOHNSON: One out of six.

17 MR. LEE: And all that view this as a low  
18 priority, please raise your hand.

19 MR. JOHNSON: One out of six.

20 MR. LEE: The next policy recommendation is  
21 R/N-22, which is an SBE Evaluation Preference for  
22 Prime Bidders. Again, up to fifteen points could be  
23 allocated for those bidders and professional services  
24 that are small. All that view this as a high  
25 priority, please raise your hand.

1 MR. JOHNSON: That's two out of six.

2 MR. LEE: All that view it as a moderate  
3 priority, please raise your hand.

4 MR. JOHNSON: Zero out of six.

5 MR. LEE: And all that view it as a low  
6 priority, please raise your hand.

7 MR. JOHNSON: That would be four out of six.

8 MR. LEE: Okay. This bring us to the next,  
9 I'm sorry, it brings us to R/N-23, which provides for  
10 SBE Subcontracting Goals for Professional Services.  
11 These would be mandatory goals, unless there is some  
12 waiver granted for lack of availability. All those  
13 that view R/N-23 as a high priority, please raise your  
14 hand.

15 MR. JOHNSON: That's two out of six.

16 MR. LEE: All that view R/N-23 as a moderate  
17 priority, please raise your hand.

18 MR. JOHNSON: One out of six.

19 MR. LEE: And those that view it as low  
20 priority, please raise your hand.

21 MR. JOHNSON: That's three out of six. Let me  
22 stop for a minute, according to the agenda, we're at a  
23 break right now at 6:30. It's 6:32. I do want to  
24 sort of as a point of order, we're now at a point  
25 where we could take a break or we could do public

1 comment. I would ask, unless the public strongly  
2 objects, we're about 70 percent done, if we could hold  
3 public comment to the end of the prioritization, that  
4 way, we can break now, come back, finish up and then  
5 take public comment.

6 MR. LEWIS: So moved.

7 MS. THOMAS: I second.

8 MR. JOHNSON: Okay. So we'll make that  
9 modification. So we'll take a break now and resume at  
10 7:00 o'clock and take public comment. Thank you.

11 (Brief recess.)

12 MR. JOHNSON: Okay. All right. We're just  
13 waiting on our quorum to resume. All right. So once  
14 Mr. Lewis is here, we will go ahead and continue. Ms.  
15 Thomas will join us. All right. We will start back  
16 at Professional Services Race-Conscious Remedies, Mr.  
17 Lee.

18 MR. LEE: All right. Professional Services  
19 Race-Conscious Remedies. The first policy  
20 recommendation is R/C-11 for Annual Aspirational M/WBE  
21 Goals. It serves as benchmark against which to  
22 evaluate the effectiveness of the program to make  
23 modifications as warranted. All those that view this  
24 policy recommendation as a high priority, please raise  
25 your hand.

1 MR. JOHNSON: This is R/C-11, race-conscious  
2 remedies. So I see four, and we have one abstention.  
3 And we have Ms. Thomas not available to vote on this  
4 one.

5 MR. LEE: The next policy recommendation in  
6 Professional Services is R/C-12, which is the M/WBE  
7 Evaluation Preference for Professional Services up to  
8 fifteen points. Any best-value contract for  
9 professional services could be allocated to M/WBE  
10 bidders or based upon the percentage of the total  
11 value of the contract. It's going to be based on team  
12 members for the bidder for the professional services.  
13 All those that view R/C-12 as a high priority, please  
14 raise your hand.

15 MR. JOHNSON: So that will be four and one  
16 abstention.

17 MR. LEE: The next policy recommendation for  
18 professional services is R/C-13, which provides for  
19 M/WBE Subcontracting Goals for Professional Services,  
20 allowing for waivers or reductions in the goals when  
21 warranted based upon good faith efforts documentation.  
22 All those who view this as a high priority, please  
23 raise your hand.

24 MR. JOHNSON: That will be another four plus  
25 one abstention.

1           MR. LEE:   And R/C-13A, which is M/WBE  
2           Segmented Subcontracting Goals, which provides for  
3           ensuring that the greatest dose of the remedy gets  
4           allocated to those segments that are most  
5           underutilized or suffering from the most disparity.  
6           All those that view this as a high priority policy  
7           recommendation, please raise your hand.

8           MR. JOHNSON:   R/C-13A, high priority, that  
9           would be four.   Ms. Thomas has just joined us.   We do  
10          have one abstention.

11          MR. LEE:   So we have four high priority for  
12          M/WBE Segmented Subcontracting Goals.

13          MR. JOHNSON:   And one abstention.   Point of  
14          order, to catch up, Ms. Thomas, do you want to  
15          provide --

16          MS. THOMAS:   I do, I apologize.

17          MR. JOHNSON:   Do you want to add what your  
18          preference is for R/C-11?

19          MS. THOMAS:   Yes, I do.   Where are you now?

20          MR. JOHNSON:   Well, we're going back now.  
21          We've done 11, 12, 13 and 13A.

22          MS. THOMAS:   Okay.   Would you be so kind?

23          MR. LEE:   We're at the bottom of page one  
24          under professional services race-conscious remedies,  
25          R/C-13A, M/WBE Segmented Subcontracting Goals.

1 MR. JOHNSON: That's the one we just voted on.  
2 Do you want to add a preference to that?

3 MS. THOMAS: Yes, I do, high priority.

4 MR. JOHNSON: So we'll make that one five and  
5 one abstention for R/C-13A.

6 MS. THOMAS: Chair, would it be okay if I, can  
7 I put my preferences in for eleven through thirteen --

8 MR. JOHNSON: Yes, ma'am.

9 MS. THOMAS: Okay. I would like to, all  
10 eleven, twelve and thirteen are fives.

11 MR. JOHNSON: So each of those will now become  
12 five, high priorities, with one abstention for R/C-11,  
13 R/C-12, R/C-13 and R/C-13A.

14 MR. LEE: Very well, we're caught up now.  
15 Okay. The next policy recommendation is for R/C-14,  
16 in race-conscious professional services remedies.  
17 That provides for M/WBE Vendor Rotation. Again, with  
18 two options there for very small contracts, five  
19 thousand and below. And well, actually, that's not  
20 true. M/WBE Segmented Vendor Rotation is for  
21 contracts of fifty thousand and below requiring a  
22 minimum of two or three quotations from M/WBE firms.  
23 All those that view this as a high priority, please  
24 indicate by racing your hand.

25 MR. JOHNSON: Five with one abstention.

1           MR. LEE: And then the next policy  
2           recommendation is R/C-15, which provides for Required  
3           M/WBE Quotations for Informal Solicitations Up to  
4           Fifty Thousand Dollars. All those that view this as a  
5           high priority, please indicate that by raising your  
6           hand.

7           MR. JOHNSON: I just want to make a point  
8           before we vote, that this would be a different thing  
9           as the previous one, because it does not have a  
10          reserve, otherwise it's the same, for the record.

11          MR. LEE: Yes, it's different from the SBE  
12          version. And the prior R/C-14, for M/WBE Vendor  
13          Rotation calls for a prequalified panel of firms to be  
14          assigned professional services tasks or contracts.  
15          That's the distinction between R/C-14 and R/C-15. All  
16          those that view R/C-15, requiring M/WBE Quotations for  
17          Informal Solicitations Up to Five Thousand Dollars in  
18          value, please indicate by raising your hand.

19          MR. JOHNSON: Four out of six.

20          MR. LEE: All that view this policy  
21          recommendation as a moderate priority, please raise  
22          your hand.

23          MR. JOHNSON: That would be one, with one  
24          abstention.

25          MR. LEE: Okay. On to the next category, this

1 is part three of the policy option matrix for  
2 Commodities, Other Services and Trade Services  
3 Industry Race-Neutral Remedies. The first policy  
4 recommendation here is R/N-24, which is another  
5 version of the SBE Vendor Rotation in these industry  
6 categories. All those that view this recommendation  
7 as a high priority, please raise your hand.

8 MR. JOHNSON: Two out of six. Ms. Gaines, did  
9 you raise your hand?

10 MS. GAINES: No.

11 MR. LEE: All that view this SBE vendor  
12 rotation as moderate priority, please raise your hand.

13 MR. JOHNSON: One.

14 MR. LEE: And all that view this as a low  
15 priority, please raise your hand.

16 MR. JOHNSON: That would be three, no  
17 abstentions.

18 MR. LEE: The next policy recommendation is  
19 R/N-25, which calls for SBE Reserve for Contracts Up  
20 to Five Thousand Dollars in Value and Required SBE  
21 Quotations of Two Or Three Quotations on Informal  
22 Solicitations Up to Fifty Thousand Dollars. All that  
23 view this policy recommendation as a high priority,  
24 please raise your hand.

25 MR. JOHNSON: That's three out of six.

1 MR. LEE: All that view this recommendation as  
2 a moderate priority, please raise your hand.

3 MR. JOHNSON: One out of six.

4 MR. LEE: And those that view this as a low  
5 priority, please raise your hand.

6 MR. JOHNSON: That's two out of six.

7 MR. LEE: The next policy recommendation is  
8 R/N-26, which is providing for Direct Contracting  
9 Program for Other Services and Trade Services. These  
10 are contracts where services may normally be bundled  
11 in much larger contracts, but they are separated out  
12 so that SBE prime contractors can bid directly with  
13 the Authority for these contracts. All that view  
14 R/N-26 as a high priority, please raise your hand.

15 MR. JOHNSON: That's two out of six.

16 MR. LEE: All that view this policy  
17 recommendation as a moderate priority, please raise  
18 your hand.

19 MR. JOHNSON: That's two out of six.

20 MR. LEE: And all that view this policy  
21 recommendation as a low priority, please raise your  
22 hand.

23 MR. JOHNSON: That's two out of six, no  
24 abstentions.

25 MR. LEE: Next policy recommendation is

1 R/N-27, SBE Evaluation Preference for Prime Bidders up  
2 to fifteen points being allocated for those SBE prime  
3 bidders for other services commodities and services  
4 contracts where best value is involved. All that view  
5 this policy recommendation as a high priority, please  
6 raise your hand.

7 MR. JOHNSON: Two out of six.

8 MR. LEE: Those viewing this policy  
9 recommendation as a moderate priority, please raise  
10 your hand.

11 MR. JOHNSON: One out of six.

12 MR. LEE: And those viewing this policy  
13 recommendation as a low priority, please raise your  
14 hand.

15 MR. JOHNSON: Three out of six, no abstention.

16 MR. LEE: The next policy option  
17 recommendation is R/N-28. It establishes SBE Joint  
18 Venture Incentives for Other Services and Trade  
19 Services contracts. The idea is to promote more prime  
20 contract participation and capacity building in the  
21 part of SBE firms through joint ventures.

22 MR. JOHNSON: I don't have my policy options  
23 in front of me -- oh, here they are. So here under  
24 commodities and other services, we have an SBE Joint  
25 Venture Incentive that we did not have under

1 construction or professional services. And I can  
2 certainly see the value of this, if, what I think  
3 we're doing here, please confirm, Mr. Lee, are we  
4 incentivizing the joint venture of SBES with M/WBES  
5 who are commodities and other trades? I can't  
6 remember if we are.

7 MR. LEE: R/C-28? I'm sorry?

8 MR. JOHNSON: R/N-28, and the reason I'm  
9 asking is because in this particular, at least under  
10 the options, we actually used M/WBE, and SBE together.  
11 So I would take it to mean that we are trying to  
12 incentivize the non-minority and the minority  
13 commodities and other services firms to come together,  
14 which in that regard we will be supporting both.

15 MR. LEE: Yes, and the thinking is that  
16 whatever definition there is of SBE is probably going  
17 to count as most M/WBES as well. We are going to try  
18 to expand the prime contracts track records and  
19 capacity for M/WBES through the SBE joint venture  
20 incentives as well. The incentives could include such  
21 things as additional options for contracts, waivers of  
22 certain SWA fees and/or access to mobilization funds  
23 or, you know, professional capital costs that are  
24 incurred. And the idea is that the joint venture  
25 teams would have to include a minimum percentage of

1 SBE participation, for example, twenty percent. Such  
2 incentives should be used by SWA as a priority for  
3 promoting growth and availability of new, small,  
4 minority and women-owned business enterprises in a  
5 given industry segment.

6 MR. JOHNSON: So I guess where I'm trying to  
7 draw a distinction is -- because I do know that we  
8 have a race-conscious version of this, R/C-22, but in  
9 both cases we're using S/M/WBE almost synonymously.

10 MR. LEE: Well, the objective of all of these  
11 remedies is to some extent at least, to address the  
12 ongoing effects of market-based discrimination that  
13 were identified in the disparity study in the form of  
14 significant disparity at the prime contract level with  
15 respect to joint venture incentives. You could do  
16 that through race and gender neutral means, if it's an  
17 small business joint venture incentive, or you could  
18 probably be more effective at that in using a race and  
19 gender conscious M/WBE joint venture incentive. So  
20 the distinction is that in one case you're basing the  
21 incentives on the level of SBE participation and joint  
22 venture. And in the other case you're basing the  
23 incentives on the level of participation, specifically  
24 of M/WBEs, recognizing that those M/WBEs are probably  
25 also SBEs.

1           MR. JOHNSON: My last point on this issue, so  
2           if I'm looking at the R/C-22 on page 28 of the matrix,  
3           it is clear that's also considered an evaluation  
4           preference for joint ventures between two or more  
5           certified M/WBE and SBE firms. So on the  
6           race-conscious one, we're incentivizing M/WBEs who  
7           partner with SBEs. On the race neutral ones, I can't  
8           tell if we're incentivizing --

9           MR. LEE: The race-neutral one is just for  
10          SBEs.

11          MR. JOHNSON: Okay. So SBEs could potentially  
12          benefit from those?

13          MR. LEE: Yes, but the tool that is providing  
14          the greater incentive or greatest measure of remedy  
15          for M/WBEs is the race-conscious one.

16          MS. GAINES: Lia Gaines. So that is not what  
17          this one is? This is not -- I thought that in your  
18          kind of rationale you were saying that it should be  
19          used to incentivize when trying to develop the  
20          capacity for S/M/WBEs. So it could be used as a tool  
21          in that way, as well.

22          MR. LEE: Yes, although it would not  
23          specifically give any extra points for the M/WBE  
24          participation. It's assumed that most of the M/WBEs  
25          would qualify for the SBE version of this.

1           MR. JOHNSON: Okay. So the way I see this is:  
2           With R/N-28 an SBE who is nonminority and non-woman  
3           could partner with another SBE and receive incentive  
4           points. But unless we write as such, that partnering  
5           with an M/WBE would provide incentive points --

6           MR. LEE: Well, if you want to give extra  
7           points to the joint venture because there is M/WBE  
8           participation, you would use the other tool, the  
9           race-conscious tool.

10          MR. JOHNSON: I see that, right, because there  
11          is joint venture non-minority protege. I see, I got  
12          it.

13          MR. LEE: All right. Are we ready to get a  
14          sense of the stakeholders on this? All those that  
15          consider race neutral R/N-28 SBE Joint Venture  
16          Incentive for Other Services and Trades Services to be  
17          a high priority, please raise your hand.

18          MR. JOHNSON: That's two out of six.

19          MR. LEE: All that consider this policy  
20          recommendation to be a moderate priority, please raise  
21          your hand.

22          MR. JOHNSON: Zero out of six.

23          MR. LEE: And all that consider this policy  
24          recommendation to be low priority, please raise your  
25          hand.

1 MR. JOHNSON: That's four out of six and zero  
2 abstentions.

3 MR. LEE: The next policy recommendation for  
4 consideration is R/N-29, which provides for SBE  
5 Subcontracting Goals for Other Services and Trades  
6 Services Contracts That Are Valued At Greater Than  
7 Five Million Dollars. This high threshold is a  
8 reflection of the fact that much smaller sized  
9 contracts are not likely to have much in the way of  
10 commercially useful subcontracting opportunities. All  
11 that view this policy recommendation as a high  
12 priority, please raise your hand.

13 MS. GAINES: Mr. Chair, point of  
14 clarification. This was the item that I wanted some  
15 reinforcement, so to speak, on the twenty percent of  
16 the total value of the contract. Because in this  
17 particular case, you're talking about commodities.  
18 And there has been, there had been some discussion  
19 that there should be some exceptions for the hauling  
20 contracts. So I wanted to, I thought it very  
21 important that we, actually, if we could, Mr. Chair,  
22 if we could take a vote on that matter so that there  
23 is no confusion that that is the recommendation in  
24 that particular situation.

25 MR. JOHNSON: So clarify for me. Is this the

1           one where we stated verbally and almost took it by  
2           consensus that we intend for the full contract to be  
3           applied, apply the full goal, not just a portion of  
4           the contract. Is this it?

5                   MS. GAINES: Yes.

6                   MR. JOHNSON: Okay. So is it your  
7           recommendation that we take, I can't remember if we  
8           actually took a vote on that or not. But it is your  
9           recommendation that we --

10                   MS. GAINES: The reason I wanted to do that is  
11          because the existing contract is a twenty percent  
12          goal, but it's not twenty percent of the total value  
13          of the contract.

14                   MR. JOHNSON: But this one actually says it,  
15          that it would be a percentage of the whole value, it  
16          already says that.

17                   MR. LEE: Yes, that's the standard best  
18          practice. So that language will be written into the  
19          policy.

20                   MS. GAINES: And I also want to state on the  
21          record, that would include any increases in awards,  
22          any increases in the rates, any CPI increases. All  
23          that would be included as well?

24                   MR. LEE: For all of the subcontracting goal  
25          policy options that are applied to contracts, the

1 standard language in the policy would be that they  
2 should be extended to the extent feasible or  
3 practicable for any contract amendments, change orders  
4 expansions and duration of contracts.

5 MR. JOHNSON: So, are you still suggesting or  
6 are you satisfied that we are covered?

7 MS. GAINES: I would like a motion, because I  
8 think this may be a point of contention going forward.  
9 And I would like for the record to have a position on  
10 that.

11 THE COURT: State your motion.

12 MS. GAINES: I'd like to make a motion that we  
13 include that it is twenty percent of the total value  
14 of the contract.

15 MR. JOHNSON: Okay. So, in terms of, so even  
16 though it says it, you want to put on the record a  
17 strong emphasis that we want the total value of the  
18 contract. Got it. I want to make sure the motion  
19 isn't duplicating something that's already decided.

20 MS. GAINES: Yes, sir.

21 MR. JOHNSON: So you want to just put on  
22 record a strong emphasis on the total value of the  
23 contract.

24 MS. GAINES: Yes.

25 MR. JOHNSON: All right. So that's the

1 motion. Is there a second?

2 MR. ALLADY: I'll second it.

3 MR. JOHNSON: Okay. Seconded by Mr. Allady.

4 All those in favor?

5 GROUP ANSWER: Ay.

6 MR. JOHNSON: Anybody opposed? Okay.

7 MR. LEE: Okay. As amended, all those that  
8 view policy recommendation R/N-29 for SBE  
9 Subcontracting Goals for Other Services and Trade  
10 Services Contracts Valued At Greater Than Five Million  
11 Dollars as a high priority, please raise your hand.

12 MR. JOHNSON: That will be two, so Lewis and  
13 Allady. Two out of six.

14 MR. LEE: All that view R/N-29 as a moderate  
15 priority, please raise your hand.

16 MR. JOHNSON: One out of six.

17 MR. LEE: And all that view R/N-29 as a low  
18 priority recommendation, please raise your hand.

19 MR. JOHNSON: That would be three out of six  
20 with no abstention.

21 MR. LEE: And this brings us to the final  
22 category for prioritization this evening. I'm sorry  
23 for the fun to end, but we must move forward. This is  
24 the category for Commodities, Other Services and  
25 Trades Services Industry Race-Conscious Remedies. The

1 first of these policy recommendations is R/C-16, which  
2 establishes Annual Aspirational M/WBE Goals serving as  
3 bench marks with which to evaluate the effectiveness  
4 of the program on an annual basis. All those that  
5 view this policy recommendation as high priority,  
6 please raise your hand.

7 MR. JOHNSON: Five. And I would assume one  
8 abstention?

9 MS. DEPOTTER: Yes.

10 MR. LEE: And the next policy recommendation  
11 is R/C-17, for M/WBE Vendor Rotation. That's a  
12 prequalified panel of M/WBE firms in each industry  
13 segment that can be awarded tasks under this policy  
14 option. All those that view R/C-17 as a high  
15 priority?

16 MR. LEWIS: Chair.

17 MR. JOHNSON: Mr. Lewis.

18 MR. LEWIS: Bruce Lewis. I assume that these  
19 parameters are consistent with the priors on the  
20 rotation?

21 MR. JOHNSON: Good point. So, for the record,  
22 that would apply to 17, 20, 22 and 23, where we've had  
23 previous discussions regarding the same model. So  
24 whatever parameters were put on those, right?

25 MR. LEWIS: Yes, sir.

1           MR. LEE: So all those that view R/C-17 for  
2 M/WBE vendor rotation as a high priority, please raise  
3 your hand.

4           MR. JOHNSON: Four.

5           MR. LEE: All that view R/C-17 as a moderate  
6 priority, please raise your hand.

7           MR. JOHNSON: That will be one, with one  
8 abstention.

9           MR. LEE: Okay. Next, we have policy  
10 recommendation R/C-18, which provides for a Voluntary  
11 M/WBE Distributorship Development Program. This is,  
12 obviously, applied to commodities or goods contracts  
13 to promote more relationship, enhance relationships  
14 between manufacturers and minority suppliers,  
15 authorized dealers and distributors. All that view  
16 R/C-18 as a high priority, please raise your hand.

17           MR. JOHNSON: Four.

18           MR. LEE: All that view R/C-18 as a moderate  
19 priority, please raise your hand.

20           MR. JOHNSON: That's one, with one abstention.

21           MR. LEE: Very well. Next we have R/C-19,  
22 which is a mandatory version of the same policy  
23 recommendation, a mandatory M/WBE Distributorship  
24 Development Program. That would apply or be required  
25 for any manufacturer or commodities firm that was

1 found to have violated the commercial  
2 nondiscrimination policy and sold goods or  
3 participated in selling their goods to the Authority  
4 for participation in the mandatory distributorship  
5 development program. All that view R/C-19 as a high  
6 priority, please raise your hand.

7 MR. JOHNSON: Five. With one abstention.

8 MR. LEE: Next we have R/C-20, which provides  
9 for M/WBE Evaluation Preferences. Again, up to  
10 fifteen points of the hundred total evaluation points  
11 for RFPs or contracts for services based on M/WBE  
12 participation on a team. All those that view R/C-20  
13 as a high priority, please raise your hand.

14 MR. JOHNSON: Five, with one abstention.

15 MR. LEE: Next we have R/C-21, which provides  
16 for a Competitive Business Development Demonstration  
17 Project. This is a mechanism by which the Authority  
18 may set aside certain contracts to help develop new  
19 capacity, new competition in the marketplace,  
20 promoting joint established firms in the joint  
21 venture, teaching curriculum to new firms to help them  
22 diversify into a new industry segment through  
23 training, on-the-job participation, and also certain  
24 financial incentives to promote, certain financial  
25 investments, rather, to promote greater capacity and

1 competition within their industry segment. All those  
2 that view R/C-21 as a high priority, please, raise  
3 your hand.

4 MR. JOHNSON: Five with one abstention.

5 MR. LEE: Next we have R/C-22, which is the  
6 M/WBE version of the Joint Venture Incentives, in  
7 connection with commodities other services and trade  
8 services contracts. All that view R/C-22 for M/WBE  
9 Joint Venture Incentives as a high priority, please  
10 raise your hand.

11 MR. JOHNSON: Five. With one abstention.

12 MR. LEE: And last, but not least, drum roll,  
13 please, we have R/C-23 which establishes an M/WBE  
14 Subcontracting Goals for Other Service Contracts  
15 Valued At Greater Than Five Million Dollars. All that  
16 view this policy recommendation R/C-23 as a high  
17 priority, please raise your hand.

18 MR. JOHNSON: Five with one abstention.

19 MR. LEWIS: Mr. Chair.

20 MR. JOHNSON: Mr. Lewis.

21 MR. LEWIS: I feel like I'm finally here now.  
22 So, can we go through the list again?

23 MR. JOHNSON: All right. Thank you, Mr. Lee.  
24 So now we do want to take this time to accept public  
25 comment or hopefully definitely appreciate those who

1 stood with us. If you've seen or heard anything that  
2 you would like to add additional thoughts, context,  
3 content, consideration, please feel free to step up to  
4 the microphone. Make sure you state your name and the  
5 firm you're representing for the record. Is there any  
6 public participation? Yes, ma'am.

7 MS. WHITE: Hi, Tina White. Brilliant Minds  
8 Strategies, and BMS Garbage Collection Disposal. One  
9 thing that I'm very concerned with is that in the bid  
10 situations where the Authority does put out a lot of  
11 just straight low bids, there is no place for points  
12 for local preference and there is no place for  
13 incentives. So how do you address and fix that  
14 problem? Because the garbage bid will be a low bid  
15 and it will not have a place in which you are going to  
16 have points for local preference. And there will not  
17 be, as it has been in the past, any incentives  
18 depending on race-conscious and gender conscious. And  
19 that's a 450 million dollar bid. And so the Authority  
20 needs to figure out how they will address local  
21 preference and acknowledging that black females and  
22 males have not been in that industry. And that  
23 companies that do bring them in as a joint venture or  
24 subcontractor should be rewarded for those efforts,  
25 because you're bringing them into a marketplace that's

1       worth sixty billion dollars that we have not had the  
2       opportunity to be in.

3                 Secondly, I think it's important for the  
4       Authority to have an attorney that understands these  
5       programs, that has specialized knowledge of these  
6       programs. If you do not have an attorney that  
7       understands these programs, then you simply don't have  
8       legal, competent legal advice, in my opinion. And so  
9       the Authority does need to address how they will have  
10      legal advice that has experience in these types of  
11      programs, the compliance of these programs, and all of  
12      the above. It cannot just be a general attorney that  
13      has represented the Solid Waste Authority in the past.

14                And thirdly, I would still want this  
15      committee to make a motion or consider making a motion  
16      that for certain, that the office of Equal Business  
17      Opportunity is tied to the executive director and that  
18      the executive director's compensation and annual  
19      evaluations are also tied to the success or the  
20      failure of that program. Thank you.

21                MR. JOHNSON: Thank you. So before, I want to  
22      throw your first one to Mr. Pellowitz and Mr. Lee. So  
23      on the issue of methodology, hard bids versus best  
24      value, typically when we do have these programs, it's  
25      difficult to legislate everything, right. We can

1 provide a policy statement that sets an expectation  
2 for staff. You can provide anything that you think  
3 will be effective at inspecting what you're expecting,  
4 hoping that staff will carry out the spirit of the  
5 policy and procedure, and yet it still comes down to  
6 the staff's commitment to identifying and pursuing as  
7 many options available to remedy this issue.

8 And one of the significant places, frequent places  
9 where we see the programs end up being watered down is  
10 an over-reliance on hard bids as opposed to best  
11 value. So I would ask Mr. Pellowitz and Mr. Lee, Mr.  
12 Pellowitz first, in terms of staff's commitment to  
13 that balance, is there anything that would provide the  
14 public some assurance that that won't happen in this  
15 case?

16 MR. PELLOWITZ: Well, as it relates to the  
17 commitment, I would like to give you a little progress  
18 of where we're going. We've got three additional  
19 positions in the budget for next year to staff the EBO  
20 office. We've also already procured the Central  
21 Bidder Registration System so we can get running with  
22 that. So we're moving forward and continue to move  
23 forward and will move forward aggressively.

24 Specifically as it relates to hard bids  
25 versus RFPs, typically, we hard bid those things when

1 we know exactly what we want. We're not looking for  
2 creativity. We're not looking for a design. We're  
3 looking for something that's easily quantifiable. And  
4 we're looking for low price, primarily.

5 Ms. White is correct that in a hard bid  
6 there is really no mechanism for dealing with local  
7 preference. We do have a current policy that provides  
8 a best and final price option for if a local firm was  
9 within five percent of a nonlocal firm, then we go to  
10 best and final and get best and final prices from both  
11 of them, and we award the contract to the lowest  
12 bidder. That's our current policy.

13 As it relates to local in the hauling  
14 contracts, like I said, it is a bid. So local has  
15 never really been a consideration. It is a  
16 consideration in the current program as it relates to  
17 SBEs. They all have to be local. And under the  
18 future program, all M/WBEs and SBEs will also have to  
19 be local to qualify against the twenty percent goal.

20 Unless you do an RFP, it's difficult to  
21 incorporate non-price factors such as local. With the  
22 hauling contract, specifically, we require the firm to  
23 be local to provide the service. They have to be here  
24 for seven years to provide the service. They have to  
25 establish a facility in the county. Customer service

1 operation in the county. And they're hiring Palm  
2 Beach County employees to drive the trucks and do all  
3 the other stuff. So that's typically how it is.  
4 Obviously, it's a policy decision on the part of the  
5 Board. If they want to incorporate a local preference  
6 they can.

7 MR. JOHNSON: So, since it's the intent of  
8 this particular work group to forward recommendations  
9 that will be supported by the Board, hopefully, that  
10 will provide direction to staff to perhaps do things  
11 in a way that may not be familiar, but at the very  
12 least is more equitable and fair. We know that price  
13 is still a significant consideration in RFPs. It's  
14 just not the only consideration. We provide  
15 additional value for other things like minority  
16 participation.

17 So I guess the question I will ask you,  
18 Mr. Lee is: What are some of the ways in which we can  
19 craft some of these policies that communicate to the  
20 Board that it is our intent to compel staff to look  
21 for ways to be as equitable as possible, still  
22 accomplishing some of the same price goals, but  
23 consider things other than price so that we can make  
24 room for M/WBE participation?

25 MR. LEE: Well, actually, as we proposed it

1 here, R/C-22 for M/WBE Joint Venture Incentives can be  
2 applied in such a way that applies to lowest  
3 responsible bidder contracts. For example, you can  
4 award a contract for waste hauling or some other  
5 service to the lowest bidder, but if that bidder  
6 happens to be a joint venture that is intentionally  
7 inclusive of either small business or minority women  
8 owned businesses, you may add additional incentives to  
9 the contract, for example, additional option years in  
10 a contract, or perhaps some type of a waiver of a  
11 portion of fees or franchise fees, or perhaps the  
12 incentive could be something along the lines of  
13 accelerated payment or increased mobilization costs to  
14 reimburse for certain capital expenses that the firm  
15 might have.

16 Those are some innovative approaches,  
17 innovative ways that you might be able to keep a low  
18 bid model on a contract, but still incentivize  
19 intentional inclusivity on the part of the firms  
20 bidding on those contracts.

21 MR. JOHNSON: So the benefit of us doing this  
22 particular iteration of the stakeholder group, having  
23 done it previously in the county down south, different  
24 type of government entity, School Board, but similar  
25 objective, the benefit is that we get a chance to

1 learn from the mistakes there before we make them  
2 here. And one of the challenges right now is that the  
3 schedule of the bulk of the projects that have come  
4 down in the bond program are scheduled to be ninety  
5 percent hard bid. So you literally have one more  
6 solicitation, and then everything else in the  
7 foreseeable future is hard bid. And so then you ask  
8 yourself the question: What's the point of spending  
9 all these hundreds of thousands of dollars in a  
10 disparity study? What's the point of spending staff's  
11 time and money and our time and money on building this  
12 process, if at the end of the day we choose to over  
13 rely upon a solicitation method that doesn't lend  
14 itself to minority participation.

15 So we need to avoid that scenario where,  
16 after all of this, the operation is a success and the  
17 patient still dies. So we end up with all this  
18 activity, but still no change in the distribution or  
19 the opportunity for minorities. How do we avoid that  
20 in our recommendations to the board, that sort of way  
21 of soliciting that's still price conscious but in a  
22 way that creates more minority participation. Hard  
23 bids just isn't the way. It's been proving over and  
24 over again. In fact, it's a predictable way to limit  
25 minority participation.

1           MR. LEE: All I can say is that there are a  
2           number of examples, usually in the concessions mode,  
3           where you have contracts that are being awarded on the  
4           lowest responsible bid in some way. And you can  
5           change the terms of the solicitation, such that you're  
6           incentivising greater participation by small, minority  
7           women-owned firms in those contracts.

8           And it's been done effectively with the  
9           Department of Defense commodities contracts. For  
10          example, the Department of Defense had a very large  
11          concession contract for food services all around the  
12          world through DLA. And they found a way to  
13          incentivize the large concessionaires to include  
14          minority suppliers of certain food items in their  
15          line.

16          Those that had the greatest amount of  
17          diversity in their supply line would get additional  
18          option years in the supply contract. It would,  
19          essentially, increase the value of the contract for  
20          the more inclusive bidders.

21          MR. JOHNSON: So that would be a contract  
22          language endeavor then. So the solicitation would be  
23          as is. You still could win. It would be a matter of  
24          whether or not once you have won the project and you  
25          are now engaged with the Authority in performing that

1 project, whether or not you have the most favorable  
2 terms available in performance.

3 Is that the only incentive to include  
4 minorities? Because I can see a situation where a  
5 mayor firm who has done this for many years without  
6 minority participation just feels comfortable. "Okay.  
7 We will just give you three years and I'll just re-bid  
8 again in three years." And we still end up with a  
9 situation of 450 million dollars to spend and no  
10 minority participation. How do we strongly compel  
11 minority participation?

12 MR. LEE: Are we willing to take a risk that a  
13 competitor won't be more inclusive?

14 MR. JOHNSON: Good point. But as long as  
15 there is a definitive difference in how we award the  
16 ones who are, it does give a real incentive -- I'm  
17 sorry. Ms. Gaines.

18 MS. GAINES: Yes, Mr. Chair. I think we're  
19 all talking about the elephant in the room, and that's  
20 the hauling bid that's about to come out. And I do  
21 believe we have to get outside of this box. And I  
22 guess my question is: Can we even look at saying, for  
23 example, we're going to take two zones and we're going  
24 to set them aside for joint ventures and describe what  
25 the joint ventures are. And it would not be a

1 straight bid. There is no way you can do it as a  
2 straight bid. There just is not a way to do it.  
3 There are some pre-award compliance mechanisms you can  
4 work in. Mr. Pellowitz talked about the current SBE  
5 program where you must be a local SBE, that's part one  
6 of you pre-qualifying before you go forward to even be  
7 able to open the bid for the rates. But I think the  
8 only way to do that is to, let's say, we're going to  
9 take two zones and we're going to set them aside and  
10 we're going to do this innovative project, where we're  
11 going to be seeking joint ventures, and it would be  
12 prescribed what that would entail. And then you can  
13 build in all of those things for those incentives. I  
14 just don't see any way around it, except to do  
15 something that innovative or that has never been done  
16 here before. There is just no way around it.

17 MR. JOHNSON: So I think that's the rut,  
18 right. That this process, we hope, is to establish a  
19 new culture, right, a new shared belief system and  
20 behavioral practices that result in more fair and  
21 equitable contracting procurement in the Authority.  
22 And so throughout this new supply diversity plan  
23 program, we are preaching more creativity than there  
24 has been. All right. So it seems like if we're just  
25 stuck in the way we've done it, and that way --

1 MS. GAINES: There's going to always be a  
2 barrier.

3 MR. JOHNSON: -- has always proven a certain  
4 outcome, then we can assume that the outcome will be  
5 the same if we keep doing it that way. But I'm hoping  
6 that the spirit of this process is to incentivize even  
7 staff to be more creative to find additional ways. So  
8 I'm wondering, at the policy level, how can you write  
9 a policy that incentivizes staff to come up with more  
10 options like that, as opposed to just merely, this is  
11 how we've done it?

12 MS. GAINES: We just make the recommendation.  
13 That's just it. And I agree with you. I think that  
14 this program, no matter how great we design it, if  
15 there is no fidelity to the implementation of the  
16 program, and there is no true leadership at the top to  
17 bring in the staff of the Solid Waste Authority to  
18 really build a team that has that commitment to this  
19 goal, it's a waste of time. So I think we need to  
20 make sure that on the record we're transferring that  
21 both to the governing Board and, of course, to the  
22 Solid Waste Authority staff as a whole that that  
23 really is what it's going to take. And we're going to  
24 have to use carrots and sticks to do that. There's  
25 going to have to be, also, some enforcement and

1        accountability. And I think it needs to be tied to  
2        the performance of the senior staff, of the staff at  
3        some level.

4                And so I think these are the other conversations  
5        we need to have. And when we go forward to meet with  
6        the governing Board, I just really want to make a  
7        plead to all of us here that we go and we put those  
8        things on the record. That this is really how  
9        successful programs are built and operated and  
10       implemented across the country. There has to be  
11       fidelity and there has to be resources.

12               I appreciate the cost benefit analysis.  
13       However, we don't really know what the true cost  
14       should be. And when I say that, what I mean is, the  
15       cost that serves everyone in the community, not just a  
16       portion of the community. So we don't really have  
17       anything to compare it to. So this cost benefit  
18       analysis, while I can appreciate it, I still don't  
19       think, I think first we need to make a commitment to  
20       make the investment of the necessary resources so the  
21       program has a chance at being successful. Of course,  
22       then you can weigh the cost and benefits then. But I  
23       don't think that should stop us from saying what needs  
24       to happen to really give this program a decent chance  
25       to be successful.

1           MR. JOHNSON: So, again, before we go on with  
2           some other public comment, again, this is a very  
3           important point, right, because it undergirds the  
4           essence of why we even came together. Because there  
5           was a presumption and still is a presumption, unless  
6           we're saying explicitly differently now, that with  
7           this new program the predominance of the business that  
8           we do in the Authority moving forward will be applied  
9           or will be subject to these new policies and  
10          procedures. Otherwise, the point of having a new  
11          program but almost all of what you do is exempt from  
12          it, does not fulfill the intent of why we're here in  
13          the first place. So the question becomes -- and also,  
14          in terms of the cost benefit analysis, Mr. Lee will  
15          tell you that discrimination ain't free. Right.  
16          There's a cost to discriminating. And so aside from  
17          the money that we've invested in trying to correct it,  
18          there are some more punitive costs if it continues to  
19          persist, so that should be factored in too. There  
20          seems to be a compelling case for us to do as much as  
21          we can to make as much of our business subject to  
22          these policies. But I don't know, other than us  
23          saying it here and us putting it in the minutes as a  
24          motion, where does that influence the decisions of the  
25          policy makers to say, "Yes, this is the direction I

1       want to go, let's make sure all of our staff goes in  
2       that direction"? How do we do that, is what I'm  
3       trying to figure out?

4               MS. GAINES: Well, I'm willing to make a  
5       motion, because I do believe this is going to require  
6       a paradigm shift in this organization, particularly  
7       with the extremely high barriers to enter for  
8       minorities who have been historically excluded from  
9       the process. So, you know, I'll wait to hear what my  
10      colleagues think about that. But I really do think we  
11      need to really do something innovative and look at  
12      really setting, maybe looking at, similar to the  
13      Community Demonstration Pilot Project, doing a pilot  
14      project where they set aside a couple of zones where  
15      we can actually utilize and incentivize the inclusion  
16      and participation of minority and women business  
17      enterprises.

18             MR. LEE: If I can just add my little two  
19      cents here. I've tried my best to step outside of the  
20      box and come up with some innovative approaches and  
21      give the Authority every possible tool for addressing  
22      these circumstances. Strictly with the waste hauling  
23      contract, we did give a lot of thought to that,  
24      because it's a different kind of contract and a  
25      massive one.

1           The models that I've relied upon came out of  
2 history. And I can tell you, I was speaking to a  
3 couple of people, just before the meeting, that in  
4 Suburban Washington D.C. area, in 1918, there was  
5 nothing but wooden pipes that made up the entire water  
6 sewer network there. And they needed to replace all  
7 those rotten wooden pipes with special iron pipes.  
8 But there was no contractors at the time that had the  
9 construction methods and equipment necessary to dig  
10 those trenches, lift those heavy iron pipes and lay  
11 them. They were creating a new industry, creating a  
12 new capacity in the industry to be able to bid on  
13 those contracts in their water sewer district.

14           And it was written into law that they would  
15 have these demonstration projects, they called them  
16 Day Labor Programs. All the contractors in the area  
17 were invited to come to a job site. They were taught  
18 by the commission how to do those projects. They  
19 handed equipment out. They dug the trenches. They  
20 taught them how to do it. They taught them how to bid  
21 the projects, how much the pipes cost per linear foot,  
22 etcetera, etcetera. And when the project was over,  
23 they actually donated that heavy construction  
24 equipment to those contractors who showed up. That  
25 went straight on their bottom line, probably helped

1 their books in terms of ability to get bonding.

2 And the only problem was in 1918 there were  
3 no contractors of color that were allowed to even  
4 participate in that. Those pipe contracts that  
5 emerged from the program became dominant pipe  
6 contractors in Suburban Washington for the next 60, 70  
7 years, mostly Italian, mostly Portuguese pipe  
8 contractors.

9 So we noticed, when we did our very first  
10 disparity study on the Washington Suburban Sanitary  
11 Commission contract, that the patterns of contract  
12 awards that went to those prime contractors accounted  
13 for sixty or seventy percent of all the dollars.

14 So that's just one example, if you're really  
15 serious about trying to produce additional capacity  
16 and additional competition in the marketplace, you  
17 have to make those investments up front to do that.

18 But we're also building into this policy,  
19 and I sent a couple of care packages out to the  
20 stakeholders showing what kind of analysis you can do  
21 to really measure that benefit over time that comes  
22 from that investment in terms of job creation, in  
23 terms of additional competition and ultimately  
24 lowering of cost to the government for goods and  
25 services that are purchased for tax revenues, or

1       reduce the burden on rate payers overall.

2                   That's the kind of thinking that I think we  
3       need to approach this problem. We've also looked at  
4       the joint venture incentives in an innovative kind of  
5       way to do something similar to try to incentivize what  
6       we consider good behavior, and make it a more  
7       inclusive marketplace that makes for a more robust  
8       marketplace that lives up to the optimal potential in  
9       terms of economic activity, competition, job creation,  
10      etcetera.

11                   In terms of accountability, I'll just say  
12      that the best practices out here are to make the  
13      success of the program, not just the responsibility of  
14      whoever is running the EBO office, but the entire  
15      Authority. All of the management, you build it into  
16      part of their job descriptions and elements that they  
17      get evaluated on in terms of performance. If  
18      everybody owns the program, everybody will be pulling  
19      the ship in the right direction and putting their oars  
20      in the water at the same time and trying to get to the  
21      promise land. And that's really all we're trying to  
22      accomplish here.

23                   MR. JOHNSON: Was there any additional public  
24      input? Yes, ma'am, please state your name and your  
25      company or who you represent.

1 MS. DISBERRY: Cheryl Disberry, Coral Steel  
2 Company. Just a few observations, I know I came in a  
3 little late. But when I was doing all of your  
4 ratings, you're supposed to be prioritizing. And yet  
5 every single item that is an R/C item, they're all top  
6 priority. You didn't prioritize anything. The R/Ns  
7 are all split basically between high and low priority.  
8 So how did you prioritize these items when everything  
9 can't be a high priority?

10 My other part is that, you know, I was on  
11 the ASLA Board for Palm Beach County. And I know that  
12 when they would give us statistics showing that there  
13 were no M/WBE participation in certain categories, I  
14 would always ask, I would go, "Well, how many  
15 companies are there that are qualified, willing and  
16 able to do this category?" I could not get an answer.  
17 I mean, I'd really like to have defined: What is  
18 qualified? I've been in business for thirty-five  
19 years. You know, why should someone that just starts  
20 a business one year be given a higher priority than  
21 me? I'm the one with the experience, I'm qualified.  
22 A lot of companies also are not willing and able to  
23 work for government. We did not do government work  
24 for seven to eight years. We did private work. We  
25 got our experience and then we started bidding for

1 government contracts. So I really don't understand  
2 the whole process about this at all.  
3 You know, if you only have one company that's an M/WBE  
4 out of ten, you're going to have a low percentage.  
5 There's no getting around that.

6 And I also think that yes, I do agree with  
7 the local, I know for Palm Beach County, they go by  
8 someone having an office up here with one person in it  
9 and a fax machine and a phone. Even though their  
10 Florida corporate report that is filed annually  
11 domiciles them in another county. And, I'm sorry, I  
12 think that's wrong. If your domicile is in Broward or  
13 Miami, you're not a Palm Beach County small business.

14 So I just feel that, you know, yes, the SBE  
15 program for everywhere, you know, for City of West  
16 Palm, for Palm Beach County, for SWA, they all need to  
17 be tweaked, but why don't you try doing the race  
18 neutral ones first and fixing the SBE program, because  
19 I think you would get a lot more participation all the  
20 way around in all categories.

21 MR. JOHNSON: Thank you, Ms. Disberry. So I  
22 would, for the record, just state that many of your  
23 questions speak to some of the fundamental knowledge  
24 of why we're here and how we got here. And the fact  
25 that the Solid Waste Authority has funded a disparity

1 study to identify if there are any disparities in,  
2 contracting disparities where there's discrimination  
3 active or passive. That was the whole point of the  
4 disparity study. And the disparity study is online.  
5 If you read the disparity study -- though I will  
6 state, for the record, there are some people who  
7 disagree with the content and conclusion of the  
8 disparity study, I just don't happen to be one of  
9 them, I actually trust what the experts said about  
10 what they found. And what they found was active  
11 disparity, gross statistical disparity, and they found  
12 active and passive discrimination. And that accounted  
13 for those who were capable, available, ready and even  
14 seeking to do business in this market, still didn't  
15 get a fair shot.

16 You had some categories of professionals  
17 where everybody had to be qualified based upon a state  
18 statute. And you would think that based upon  
19 qualification and availability with all things being  
20 equal you should have some relative distribution of  
21 awards. And yet you have this significant imbalance.  
22 And that can't be explained by chance. That was  
23 something that was identified as happening as a result  
24 of active or passive discrimination. That's why we're  
25 here now.

1                   When you talked about prioritization, one of  
2                   the things you may have missed earlier is, we stated  
3                   that everything, all 52, affirmative procurement  
4                   initiatives that are on this table are important to  
5                   us, every last one of them. In fact, before we got  
6                   here today, at the last meeting, I offered again: Is  
7                   there anybody who wants to pull one from this list?  
8                   If you didn't think it was important, let's pull it  
9                   now. If there is anything you want to add, let's add  
10                  those now.

11                  And so what we did today was to put on  
12                  record and communicate to staff that while all of them  
13                  are important, what you actually observed, which is a  
14                  pretty keen observation, is this group saying, "Highly  
15                  prioritize those race-conscious remedies, because  
16                  those are the ones that speak to the discrimination  
17                  the disparity study found." So I proclaimed earlier  
18                  that's how I was voting. Apparently, we had others  
19                  who thought some of the same things, or they can speak  
20                  for themselves. But that's what you see. That  
21                  pattern that you see are the race-conscious measures  
22                  being prioritized and emphasized being strongly  
23                  encouraged to be implemented, alongside the  
24                  race-neutral ones. But, certainly, if there are two  
25                  APIs and one says vendor rotation that's race neutral,

1 and vendor rotation that's race-conscious, we said,  
2 prioritize the race-conscious one as much as possible.  
3 So that's what you saw with the prioritization.  
4 Hopefully, I answered your question. Thank you,  
5 Ma'am.

6 MS. MCNEAL: Good evening. I know it's a  
7 little late, but good evening. My name is Ann McNeal  
8 and I am the master builder, helping to build stronger  
9 and better lives. And I'm very excited about  
10 everything that has culminated to this point. I want  
11 to thank, on behalf of the National Association of  
12 Black Women in Construction, all of you that are  
13 volunteering your time.

14 I also want to thank staff. Because this is  
15 something that I think was also inherited over many  
16 years for some people that have been here for a long  
17 period of time. I am one of the first black female  
18 contractors in the State of Florida that operate at  
19 the level that we do as a licensed general contractor,  
20 and also the founder of the National Association of  
21 Black Women in Construction. But I've also driven out  
22 of Palm Beach County for the last forty years to Dade  
23 and Broward County to work. And so what you're doing  
24 today is going to impact generations who are yet  
25 unborn. So I just want to give that word of

1 encouragement, for one thing.

2 But the other thing is to also suggest that  
3 one of these programs that exist in Atlanta, which I  
4 know you're very familiar with, basically states that  
5 any projects over a certain value should automatically  
6 have a joint venture partner as part of that. And so  
7 I want to suggest that as a consideration to look at,  
8 because we are going to experience some disparity in  
9 terms of availability, because if certain trades  
10 didn't exist within Solid Waste for minorities to work  
11 in, how then do we develop that?

12 And I would like to suggest that there's  
13 another program that exists within Miami-Dade County  
14 Aviation Program that has received national  
15 prominence. And it is a miscellaneous CM program,  
16 which I've already given copies to engineering, to the  
17 School Board, to the County, Bruce actually also has  
18 an electronic copy of it. And they're all looking at  
19 it. And, basically, what it does is that it allows a  
20 CM RFP for many of the small business contracts. That  
21 CM then would be your overseer, if you will, to help  
22 build and grow the trades that don't exist currently.  
23 Because many of us are too small to work directly with  
24 the agency, if you will, and the agency is really not  
25 going to be doing any kind of hand holding or

1 training. But if you consider putting out an RFP that  
2 is a CM, and let those CMs compete against each other,  
3 and let them be responsible and creative in their  
4 response, to then over time help to grow those  
5 disciplines that do not exist for small businesses  
6 right now, right.

7 So I just wanted to just share those two  
8 options as we move forward in terms of answering some  
9 of the questions that were asked earlier about how we  
10 bridge the gap. There's a lot of creative ways that  
11 are cost effective, because it still would require  
12 those CMs, once prequalified, to then bid on price.  
13 And so that's the challenge. So thank you very much.

14 MR. JOHNSON: Thank you, ma'am. Any other?

15 MS. KENNEDY: Hi, good evening. My name is  
16 Carolyn Kennedy. And I'm here representing my company  
17 CEK-1 Trucking as well as Maverick. I'm a member of  
18 Maverick. And I reside in Pahokee. And I have an  
19 office there and in West Palm Beach. I'm certified  
20 SBE and M/WBE, and currently very interested in the  
21 trash hauling business. I wanted to talk about the  
22 other possibility. I want to thank the stakeholders  
23 that are here that have volunteered their time to  
24 participate, as well as the staff who has been very  
25 helpful here at SWA, like you guys say.

1                   And I spoke to Mr. Lee today outside when he  
2                   was in this room, the other possible idea is the  
3                   mentor-protege. And I know we talked about the joint  
4                   venture, but that's also a possibility. And I think  
5                   that we should consider all of the options. And  
6                   hopefully we can take it back to the Board and get  
7                   some positive feedback from them. Thank you.

8                   THE COURT: Thank you, ma'am. In the interest  
9                   of time, I will close public comments.

10                  MR. SCHAFFER: Hold on.

11                  MR. JOHNSON: I'm sorry. We have one more.

12                  MS. SCHAFFER: Bob Schaffer, Ranger  
13                  Construction. I just wanted to clarify that when  
14                  you're talking about twenty percent or certain  
15                  percentage on subcontractors we're talking about  
16                  assets that they own, not brokers, not a vendor that  
17                  doesn't own anything, we're talking about assets owned  
18                  by that subcontractor. I want to clear that up.  
19                  Number two, could somebody define joint venture for  
20                  me?

21                  MR. JOHNSON: Let me ask for clarification of  
22                  the first question. When you used the words twenty  
23                  percent goal...

24                  MS. SCHAFFER: Well, I heard a percentage out  
25                  here before. I don't know what that -- I believe you

1           were talking about subcontracting. Right?

2                   MR. JOHNSON: That would be their percentage  
3 of participation on the project, right?

4                   MR. SCHAFFER: But it must be with their  
5 assets, correct?

6                   MR. JOHNSON: When you say assets...

7                   MR. SCHAFFER: I can't be a broker and just go  
8 to subcontract with somebody else.

9                   MR. JOHNSON: Well, that's a commercially  
10 useful function, right, so --

11                   MR. SCHAFFER: Right. I just want to make  
12 sure that, I want to make sure that we're not changing  
13 those rules.

14                   MR. JOHNSON: Oh no, that's a commercially  
15 useful function.

16                   MR. SCHAFFER: Okay. And then could somebody  
17 define joint venture?

18                   MR. LEE: A joint venture is, basically, a  
19 legal agreement between two parties for the limited  
20 purpose of performing a particular task for a contract  
21 or series of contracts, where each party or each joint  
22 venture partner owns a certain percentage and has  
23 certain delineated roles and responsibilities, a  
24 certain level of contribution to the joint venture.

25                   MR. SCHAFFER: Okay. To me that sounds like a

1 contractor/subcontractor relationship. Most joint  
2 ventures are incorporated, they have shared risks,  
3 shared returns, shared assets. So, is that what we're  
4 talking about here? So, again, what I get back to is  
5 assets that are owned by that subcontractor who wants  
6 to be part of the joint venture, there have to be  
7 assets by the subcontractor that are included in the  
8 joint venture, correct?

9 MR. LEE: Not necessarily.

10 MR. SCHAFFER: It can't just be by name.

11 MR. Lee: It doesn't necessarily have to be --

12 MR. SCHAFFER: What did you say?

13 Commercially --

14 MR. JOHNSON: Useful function. But, no,  
15 that's something else. You said twenty percent --

16 MR. LEE: Let me give you one example. It  
17 doesn't necessarily have to be a hard, I don't know  
18 what you mean by hard asset, whether you're talking  
19 about equipment.

20 MR. SCHAFFER: Let's talk about trucks,  
21 because that's what everybody wants to talk about.

22 MR. LEE: There was a joint venture between  
23 Herman Russell, an African-American contracting firm,  
24 and I think it was Jones Construction in Georgia, to  
25 build the Georgia Dome. HL Russell could have built

1       that stadium on its own, but it didn't have the volume  
2       level high enough to be able to bid the project. So  
3       they came together as a joint venture. Jones had an  
4       unlimited bonding limit and they did that project  
5       together. That's just, each one had a responsibility  
6       for contributions to the joint venture. Didn't have  
7       to be the same thing that they were contributing to  
8       the joint venture. But each one had value that they  
9       were bringing to the joint venture. Each one had  
10      responsibilities of work they were supposed to  
11      perform, whether they were bringing equipment,  
12      bringing labor forces, managing the project. You  
13      could divide those responsibilities up between the  
14      partners.

15               MR. SCHAFFER: So there needs to be value by  
16      both parties.

17               MR. LEE: Absolutely.

18               MR. SCHAFFER: Okay. Thank you.

19               MR. JOHNSON: Thank you, Mr. Schaffer. All  
20      right. So since we have one more item on the agenda,  
21      for those who remember, earlier we added an old  
22      business item after public comment. We do want to  
23      address that item now before we adjourn. Under old  
24      business Ms. Gaines had made -- I'm sorry. Hold on  
25      one second. I skipped an agenda item. The next step

1 is policy development.

2 MR. LEE: Okay. Once, again, my heart felt  
3 gratitude to all of the stakeholders who've done a  
4 yeoman's job. I'm deeply grateful to each and every  
5 one of you for volunteering for this effort. I know  
6 it has been quite time consuming, I know you've got  
7 other things, important things that you need to do.  
8 And this is important for this community that we have  
9 your input and your very valuable feedback through  
10 this process.

11 I just wanted to bring you up to speed on  
12 where we're going with this. As you know, we started  
13 off with the policy option matrix, which is basically  
14 my own interpretation and draft of policy options that  
15 I considered to be legally defensible based on the  
16 disparity study findings regarding barriers in the  
17 marketplace, discrimination and other barriers in the  
18 marketplace that are adversely affecting the  
19 participation of small, minority women-owned  
20 businesses on Authority contracts at the prime level  
21 and subcontract level.

22 That policy option matrix includes very  
23 detailed references to the disparity study findings by  
24 page, different methodologies that were used,  
25 different data sources that were used to develop the

1 diagnosis of what we think is wrong with this  
2 marketplace. You, as policy, stakeholders in this  
3 whole effort, have provided us with input as to what  
4 you think makes the most sense in trying to address  
5 those identified barriers. You've also assisted us in  
6 prioritizing the medicine, if you will, based on the  
7 diagnosis, what kind of medicine should be given to  
8 address what kind of barrier and what's the right  
9 dose.

10 We don't want to, like I said in the past,  
11 we don't want to be prescribing aspirin to somebody  
12 that's got cancer. But we also don't want to give  
13 chemotherapy to somebody that has the flu. So it's  
14 all about trying to find the right medicine and the  
15 right dose to address the barriers and the problems we  
16 found in this marketplace.

17 With this policy option matrix and your  
18 feedback, I'm going to go back and revise the policy  
19 option matrix. That will be circulated to you-all.  
20 And for the remainder of this month, I will be working  
21 on a draft policy based on the comments and feedback  
22 that you provided to us. So we're going to continue  
23 to be getting feedback from staff, the disparity study  
24 work groups and other stakeholders on this.

25 We will then be presenting a draft EBO or

1 Equal Business Opportunity program presentation to the  
2 SWA Board. Our time line is going to be as follows:  
3 Again, drafting of EBO program, which is basically  
4 revisions to the procurement procedures for SWA based  
5 upon the elements of this revised policy option  
6 matrix, and we'll get that done by the end of this  
7 month. We will then be disseminating that draft  
8 program procedure to you-all, the Stakeholder group,  
9 to staff, to the Board and the public as of that date.  
10 And from there, we hope to present the draft EBO  
11 program and revised policy option matrix to the SWA  
12 Board, allowing for public comment at the June 13th  
13 meeting.

14 And I want to strongly encourage everybody  
15 in this room, that has a voice and an interest, to  
16 show up at that meeting and let it be known to the  
17 Board. This needs to be an inclusive process so that  
18 we come out with the best possible product for all  
19 concerned in the business community here.

20 We then will hopefully get final approval by  
21 the SWA Board of the revised final EBO policy  
22 procedures, following the public comment period at a  
23 June 26th meeting. So it's going to be like almost a  
24 two-week period in between that the Board will have to  
25 mull over all that has been presented to them. And at

1       that point, we will be finished with the policy  
2       development phase, this phase two policy deliberation  
3       phase will come to an end. And from then on it's all  
4       about implementation.

5               There will be advice and counsel that I'll  
6       be giving to staff as they move forward, based on  
7       whatever policy comes out of this process that the  
8       board approves, helping them with looking at what kind  
9       of resources are going to be necessary to implement  
10      it. I've already started giving them some advice  
11     about that. They've already started demonstrating  
12     good faith by moving forward on a number of items in  
13     terms of developing the bidder registration,  
14     Centralized Bidder Registration System, getting the  
15     ball moving on that. And modifying the procedures  
16     manual to start addressing some of the administrative  
17     reforms that you all seemed to have gotten on board  
18     with. So that's moving forward.

19              The next big task after that will be to, for  
20     the, staff has been asked by the Board to come back  
21     with proposed approaches for the big waste hauling  
22     contract that's coming out. I think it's supposed to  
23     be issued maybe towards the end of September, the RFP,  
24     so there will be about a two-to-three-month period  
25     when staff will be debating and trying to figure out

1 the best way to apply the new policy to that contract,  
2 or the best ways to go about doing that.

3 So that's pretty much what we have on our  
4 agenda for the next few months. But we're going to be  
5 diligently working on all of these various aspects to  
6 making this whole effort as successful as possible.

7 Keep in mind it's going to be a work in  
8 progress regardless of what comes out of the next few  
9 months. Typically, these programs are not a hundred  
10 percent perfect on day one. It requires constant  
11 vigilance and modifications. But more than everything  
12 else, it requires a commitment to the overall  
13 objective that we don't want to leave any segment of  
14 the business population behind here. We want to find  
15 a way that everybody can prosper. Because that's what  
16 being in business is all about in the final analysis.  
17 Making sure that people can feed their families, that  
18 the communities can be sustained without economic  
19 deserts. That you are generating wealth and  
20 accelerating growth of wealth in all segments of the  
21 business population. We can't do that, particularly,  
22 if certain ethnic groups, certain genders are not  
23 mainstream players in the marketplace. This is the  
24 beginning of the effort to change the dynamics so that  
25 we can be all that we hope to be here in Palm Beach

1 County and across the country.

2 So I thank you again for your persistence  
3 and your dedication to this effort. And with that I  
4 will say a fond adieu.

5 MR. JOHNSON: So before we adjourn, I just  
6 want to clear up, again, are we good on the old  
7 business, Ms. Gaines?

8 MS. GAINES: We've addressed it.

9 MR. JOHNSON: Okay. And before we adjourn,  
10 Mr. Falcon did want to make a very important  
11 announcement.

12 MR. FALCON: I'd just like to remind you-all  
13 that this group is not being disbanded now. It's  
14 conceivable that you might be asked to perform some  
15 future function. As Mr. Lee said, it's an ongoing  
16 process. I'd just like to remind you that until this  
17 group is totally disbanded, you are subject still to  
18 the Sunshine Laws. So please don't speak to each  
19 other about this subject matter outside of the public  
20 meeting.

21 MR. JOHNSON: And right now the foreseeable  
22 future would be the June 13th Board meeting and  
23 beyond. Right, Mr. Falcon?

24 MR. FALCON: I believe it's then.

25 MR. JOHNSON: I just want to make sure we're

1       stating that for the record so we'll know that that  
2       cone continues to be open. Any other announcements  
3       for the good of the order?

4               MS. DEPOTTER: Mr. Chair, I have a question.

5               MR. JOHNSON: Yes, Ms. Depotter.

6               MS. DEPOTTER: Michelle Depotter, AGC.

7       Mr. Lee, could you clarify whether or not you will be  
8       working simultaneously on the Solid Waste Authority  
9       disparity study outcome and the County at the same  
10      time?

11              MR. LEE: There will be some overlap. I just  
12      met with some representatives from the County today.  
13      I tried to put off the work for them as long as I  
14      could until this, the bulk of my work on this project  
15      was finished. So, their stakeholder process, I  
16      believe, is going to be somewhat different. It's  
17      going to be less formal than what we have here.  
18      They're going to be like town hall type sessions --

19              MS. DEPOTTER: Kind of like what we did at the  
20      School District. So I guess I would say to that: Why  
21      the rush? It took four years to complete and multiple  
22      breaks along the way. So it would be like what we  
23      participated in in the School District?

24              MR. LEE: That could take place in July for  
25      them. My work in drafting the policy will be largely

1 completed by the end of June for SWA, and then I think  
2 the process for the County is actually going to run up  
3 to October, some time in October.

4 MS. DEPOTTER: Not looking to debate a bunch  
5 of things here tonight, but why the difference in the  
6 make up? Why was this so formal as opposed to town  
7 hall meetings like at the School District? Different  
8 setting, but I think this is something you're not used  
9 to, right, in this formal setting?

10 MR. LEE: Yes, I had to go through this with  
11 Broward County Public Schools too. All I can say is  
12 there was a different sense of urgency on the part of  
13 SWA to move the process forward. So they got the ball  
14 rolling on this before I had even had a chance to tell  
15 them what my preference was in terms of the style of  
16 the stakeholder input. But it works either way. It's  
17 just that sometimes when you have very formal  
18 stakeholder groups, that actually serves as some type  
19 of an advisory group. Because of the structure of the  
20 law here in Florida, it makes things a bit more  
21 cumbersome in terms of being able to communicate.  
22 But, well, you tell me, what do you think? Was there  
23 useful discussion, conversation, debate through this  
24 process?

25 MR. JOHNSON: Ms. Gaines, Mr. Lewis.

1 MS. GAINES: Yes, Lia Gaines. I want to say,  
2 initially, I was a little reluctant about the formal  
3 process. I shared that with Colleen. But I think  
4 it's been informal and formal in the process to keep  
5 us on track. I would like to see the County adopt a  
6 similarly styled format, because I think it keeps us  
7 on track, there is consistency and continuity from  
8 meeting to meeting. And there is more intentional  
9 input and deliberation beyond what just a member of  
10 the public would be able to do with just a couple of  
11 minutes of discussion. So I like the combination of  
12 the formal structure. I know my colleagues here will  
13 probably try to crucify me. But I like the formal  
14 structure, even though it was a lot of time. But I  
15 like the deliberative process that was involved. And  
16 I think because we've done it now this first time, if  
17 it's a similar format going forward with the County,  
18 it probably would not take as long, because we've  
19 already kind of hammered out sort of the -- this is  
20 the same county, we're just on the solid waste side.  
21 The County is a larger organization. But I think  
22 having hammered out and having had that discussion, I  
23 would prefer to see a more formal than informal  
24 process on the County side.

25 MR. LEE: Let me just say, and I would be

1       amiss, and I'm sorry I did not say this earlier. This  
2       process would not have gone anywhere near as smoothly  
3       as it has gone without this guy right here and this  
4       lady right here. When we went through this with  
5       Broward County public schools, we had all kinds of  
6       problems just getting a quorum. That's the thing  
7       about a formal stakeholder group, you can't even  
8       really do anything substantive without having a  
9       quorum. And you are all business, you're very busy  
10      business people. And you're not getting paid to be  
11      here. So it's just a labor of love. You either show  
12      up or you don't and contribute.

13                So we're just very, very, fortunate that we  
14      had a task master in Brian here. He does a much  
15      better job at chairing these things than I do. And  
16      Colleen made sure that we had every resource that we  
17      needed available to us to get it done in a very  
18      efficient manner. Much more efficient than I've seen  
19      happen in other places.

20                So I'm not sure what awaits us with the  
21      County and the approach there. I've had a variety of  
22      different methods of doing this in terms of informal  
23      town hall meetings that I found to be very  
24      informative. We had free flowing discussion back and  
25      forth about Roberts Rule of Order. But you're right,

1 the trade off there is, you don't always stay on task  
2 and you can have some drift in the conversation where  
3 you're not really reaching all the points you need to  
4 reach. You can tell, we have a whole lot of  
5 information to cover. And if you would go back to the  
6 first meeting that we had, it didn't look like we were  
7 ever going to get here. But we learned from the  
8 process, we got more efficient and more effective at  
9 it. And I just like to think it's a very, it's always  
10 a very positive development in any community when  
11 people with diverse views and points can come together  
12 and hash out over some very difficult, substantive  
13 issues, and still be respectful and still find a way  
14 to try to make things better than what they are.

15 We just move the ball forward in a  
16 significant way. It's not going to be perfect, but it  
17 can be a whole lot better than what it is. And we  
18 need that constant pressure to move forward to bring  
19 about the change that we ultimately need.

20 MR. JOHNSON: Mr. Lewis.

21 MR. LEWIS: Yes, I think I mentioned this two  
22 meetings ago. Ms. Gaines, I won't crucify you. And I  
23 think my comment will be very similar to her comment.  
24 So, first, I want to just reiterate a couple different  
25 things. One, my hats off to staff for making the

1       commitment, because I really kind of believe that if  
2       staff moved forward in a very reluctant fashion, we  
3       wouldn't make any kind of progress at the speed in  
4       which we have. That's number one.

5               Number two, Mr. Lee serving as a  
6       facilitator, you gave us a nice road map that allowed  
7       us to, first of all, absorb all this information, and  
8       help facilitate us through the process in  
9       understanding clearly what our task was. So that  
10      helped us to save some more time. So we really  
11      crammed in a lot of information, deliberation,  
12      dialogue, really, in a short period of time, when you  
13      look at it, you know, from a standpoint. And we're on  
14      a very aggressive schedule on top of that.

15             The third thing I want to say is that to  
16      Mr. Brian Johnson, my business colleague and friend,  
17      he stepped up to the plate and took over that  
18      chairmanship, but he's been down this road before. So  
19      I think he had a way of making everybody comfortable  
20      as a stakeholder here. So it was a pleasure for me to  
21      serve. Just don't ask me to do it again. No, but I  
22      appreciate the opportunity. I think this is something  
23      that each of us, as stakeholders, can take out in the  
24      community to serve as ambassadors, because we have  
25      this in-depth knowledge now that we can share with

1 other business owners, with the community, with other  
2 stakeholders out there. And maybe it's a model that  
3 the County will adopt some portions of or not. But my  
4 pleasure to serve. Thank you.

5 MR. JOHNSON: Thank you all. I do want to  
6 thank everyone of the stakeholder members, Ms. Smith  
7 and Ms. Bowen, in their absence, you-all are very  
8 valuable and substantive experts. Thank you so much  
9 for your commitment, consistency and your attendance.

10 I do want to state for the record, and after  
11 this I'll hand it over to Ms. Robbs, I, like Ms.  
12 Gaines, prefer this kind of process, and let me tell  
13 you why: Something as important and almost exhaustive  
14 and frustrating as discrimination in the marketplace  
15 not only requires a real serious effort to get to the  
16 bottom of it and come up with remedies, but it  
17 requires a convincing message to the community that  
18 tomorrow is going to be better than yesterday.

19 And I credit Ms. Robbs and Mr. Pellowitz and  
20 staff in putting us this band of experts together.  
21 Because they've made sure that each of us, if you look  
22 at the list of those of us who are representatives, we  
23 all have a bunch of people behind us and with us that  
24 we represent. And we found through this process that  
25 each of us are very passionate about who we represent,

1 and so you had that come to bear. But this particular  
2 process does a couple of things. A, it allows for us  
3 as community members to lend our expertise to the SWA.  
4 And it's very important that we find answers to  
5 age-old questions.

6 But there's a two-sided mirror here, right.  
7 There's a side looking at SWA saying: "Hey, you-all  
8 have a disparity study that says that you've  
9 discriminated. You need to change yourself. Look in  
10 the mirror and make some changes." But there's  
11 another side looking at us, though. And that's the  
12 part that when we leave here, I go back to the  
13 minority black and women or all contractors that I  
14 represent and say, "Hey, you-all, we might get that  
15 yes that we've been asking for. Are we ready for it?  
16 Do we own this process enough to step up and  
17 participate?" And that's the value of having us spend  
18 this kind of time, because then they become a little  
19 bit more confident that if Mr. Lewis was there, Ms.  
20 Gaines was there, Mr. Johnson was there, Ms. Depotter  
21 was there, Ms Bowen was there, Mr. Allady was there,  
22 Ms. Smith was there, Ms. Thomas was there, and they  
23 know us, and if they know our hand was in it, then  
24 they have a greater motivation to get involved.

25 If it's just staff, I'm glad SWA didn't do

1           what I'm hearing the County might want to do, and have  
2           their staff look at it first. I would strongly  
3           recommend against that. How do you give the public  
4           confidence that you, the purveyor of discrimination,  
5           are going to solve your own problems? I just don't  
6           see that.

7                        So I recognize, I appreciate Mr. Pellowitz.  
8           I appreciate staff for taking this process for paying  
9           Mr. Lee to come down here. It's good to see him  
10          again. I appreciate the hiring of Ms. Robbs who had  
11          this experience. Hopefully, what we did here today  
12          will help set a new course for opportunities here in  
13          this county.

14                      MS. DEPOTTER: Mr. Chair.

15                      MR. JOHNSON: Ms. Depotter.

16                      MS. DEPOTTER: Michelle Depotter, AGC. I do  
17          share everyone's sentiments here in thanking the  
18          staff. The Solid Waste Authority is one of the finest  
19          professional staff I've encountered and it's probably  
20          just the same in Palm Beach County. I've said that  
21          therefore.

22                      Thank you for your transparency throughout this  
23          entire process. Thank you for feeding us. Thank you  
24          for ensuring that we were comfortable here during the  
25          fourteen plus hours that we spent. You guys did an

1       amazing job. Especially your timeliness in delivering  
2       information to us.

3                But I would share this with my colleagues  
4       around the table: When you're sharing this with the  
5       other organizations that perhaps you represent, I  
6       guess my question would be: Did you share the  
7       information in the objective manner that I offered you  
8       as well, which was a legal analysis by another expert,  
9       an analysis by another expert that the SWA staff  
10      actually contracted with when you were talking about  
11      this? Because we looked at all sides. And I  
12      appreciate Mr. Lee's analogy back to 1918, that's when  
13      the agency was founded by President Woodrow Wilson to  
14      act as a body of Congress to advocate on fair  
15      contracts as our great nation was built. I just would  
16      implore my colleagues to take a look at all sides.  
17      And I appreciate you-all respecting AGC's side. And  
18      it's good when we can all come together and  
19      collaborate for the good and great benefit of the  
20      organization that we represent. Thank you for  
21      allowing me to participate.

22               MR. JOHNSON: Mr. Allady.

23               MR. ALLADY: Mr. Chair, in the interest of  
24      time, I would like to say similar sentiments, it's  
25      been a pleasure and thank you for the opportunity.

1 MR. JOHNSON: Thank you, sir. Ms. Thomas.

2 MS. THOMAS: I just want to say it has been a  
3 pleasure serving on this board. I think that we have  
4 made some great headway. I think there's going to be  
5 quite a few people that are going to benefit from  
6 these hours we've spent here. Thank you all so much.

7 MR. JOHNSON: And with that, Ms. Robbs.

8 MS. ROBBS: I just want to say just a few  
9 words. I know it's late in the evening. But first of  
10 all, Ms. Depotter, you mentioned transparency, so  
11 that's our foremost goal is transparency. And we know  
12 that by being transparent we build trust. And I'm  
13 excited to be a part of the new family of SWA. And I  
14 want you to know that everything that has happened  
15 since I've been here is because of my supervisor, Paul  
16 Dumars. And there has not been an objection to  
17 getting the job done. I've been given the goal and  
18 not asked how I was going to do it step by step, but  
19 having confidence knowing that we had a team of people  
20 and a professional group of stakeholders with the  
21 skill and experience to get this process done. So I  
22 want you to know that we are committed to this process  
23 and the success of the program. And, again, I want  
24 you to know it's all because of Mr. Paul Dumars.  
25 Okay, my supervisor. And I thank him for his

1       commitment and support in this process. And he's not  
2       paying me to say this, but I just want you to know I'm  
3       excited about it.

4               The other thing I want you to know that a  
5       part of the transparency is because of our great  
6       public affairs staff that responds so timely, so  
7       quickly to make sure that everything that we do and  
8       have done in this process has been available to the  
9       public. Audio, video, documents, however you need it,  
10      we are sharing information that is uncut. That's why  
11      we have a court reporter here so that you can get the  
12      full document, not a summary of minutes. This is so  
13      all the information can be shared with the entire  
14      public.

15             The other thing I would like to also let you  
16      know is the responsibility of these guys sitting here.  
17      These are directors of departments who are also  
18      sacrificing their time to support you in this effort  
19      and to answer questions and provide information to  
20      you. And this is a continual process that will happen  
21      throughout us developing the policy.

22             So with that, I have a lot of love to tell  
23      you that I appreciate everything that you've done. I  
24      will keep you engaged and informed throughout this  
25      process. Thank you to our executive director,

1           managing director, all the chiefs, staff and the  
2           community that is here. And, of course, my Chair and  
3           Attorney Franklin Lee. Thank you.

4                       MR. JOHNSON: Thank you all. Good night.

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1 THE STATE OF FLORIDA )

2 COUNTY OF PALM BEACH )

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5 I, Raquel Robinson, RPR, 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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Dated this 14th day of May, 2018.

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Raquel Robinson, RPR

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