SOLID WASTE AUTHORITY
OF
PALM BEACH COUNTY

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SMALL/LOCAL/MINORITY/WOMEN BUSINESS ENTERPRISE
STAKEHOLDER GROUP MEETING

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

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

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

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

The SWA is now entering into the deliberative process of meeting with stakeholders to gather information as we evaluate what remedies will be taken to correct the disparities within SWA's purchasing program. And we look forward to the input of the committee as we move forward. This is
extremely important. The Authority has some projects coming up that we believe any changes to our purchasing program will have a great impact on how we proceed.

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

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

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

Kumar Allady, Radise International Smart Structures.

MR. ALLADY: Present.

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

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

Carol Bowen, Associated Builders and Contractors.

Michelle Depotter, Associated General Contractors.

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

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

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

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

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

MS. ROBBS: Okay. Thank you, Ms. Gaines.

Brian Johnson, Minority Builders Coalition.

MR. JOHNSON: Here.

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

Bruce Lewis, Black Chamber of Commerce.

MR. LEWIS: Present.
MS. ROBBS: Maria Sanches, I'm sorry, Marie Sanches, Urban League of Palm Beach County.

MS. SANCHES: Present.

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

MS. SMITH: Present.

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

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

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

The next item of business is to introduce, which you have met, our illustrious executive staff. And our executive director, Mr. Mark Hammond. We also have on the dais, Mr. Dan Pellowitz, who is our managing director. We also have Mark Eyeington, our
chief operating officer. We have Paul Dumars, our chief financial officer. And we have our chief of engineering, Mr. Ramana Kamar, Kari, I'm sorry. I can make a little mistake, I've been here since February. But it's a great staff and a wonderful place to work, I really am enjoying it. We also have as a part of our team, our general counsel, Mr. Howard Falcon.

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

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

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

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

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

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

That means no discussions directly, by phone, by text, by e-mail, by smoke signal, none. I know some of you may be, may run into each other and may be friends. That doesn't mean you can't see each other and talk to each other and so forth, as long as you limit the discussions to things other than what will be before this board.
As a result of your being on this committee, again, subject to Sunshine, we have to publicly notice these meetings. We have to make them open to the public and let anyone who wants to appear. We have to take minutes of it. We'll take care of all that for you. Again, the main thing is: No communication.

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

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

The SWA governing board's interest in improving the fair and equitable distribution of contracts to small, local and minority women business enterprises lead to the solicitation and award of a contract to Mason, Tillman and Associates. This report was accepted by the board the end of last year. And we have Mr. Franklin Lee here to lead the stakeholder group through policy deliberations. And
so with that, you will learn best practices and those recommendations that came out of the study to improve the SWA’s procurement practices.

We appreciate your commitment to attending the scheduled stakeholder meetings, reviewing the disparity study report recommendations and policy options that will be presented throughout this process. Reviewing proposed policy changes and providing feedback, valuable feedback.

Working with each other as members to prioritize the recommendations and endorsing the final policy recommendation to be presented to SWA.

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

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

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

The chair recognizes Barbara Proctor, a
professional registered parliamentarian, with thirty years of experience, to give us a brief overview of meeting procedure. Barbara...

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

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

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

I said we have one motion pending at a time, that's one main motion pending at a time. You might have a main motion on the floor. You can have a
secondary motion to amend the main motion. After you amend it, the main motion is still under discussion before it's voted on for adopted as amended. I've listed a couple of different types of motions. You have a motion to amend. Motion to refer to committee. Motion to postpone definite time. Motion to recess. Motion to adjourn.

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

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

You may come across, the chair, to save time in voting, might say "if there is no objection", we will do something. That's voting by general consent.
So instead of taking the time to take a vote, you just say, "If there's no objection", we're going to go ahead and do something.

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

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

MS. ROBBS: Thank you, Barbara. The next item of business is the election of chair and vice chair to take office at the end of this meeting, unless they prefer to take office sooner. Having that said, no
one, when I called the roll, said that they were volunteering to serve as chair and vice chair. So that's why we have it again on the agenda.

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

MR. JOHNSON: I have a question.

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

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

Are there any other comments before I respond?

Mr. Kumar, any comments to that?

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

MS. ROBBS: Mr. Schaffer?

MR. SCHAFFER: No.

MS. ROBBS: Ms. Thomas?

MS. THOMAS: No.

MS. ROBBS: Ms. Gaines?

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

MS. ROBBS: Yes. Mr. Lewis?

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

MS. ROBBS: Ms. Sanches.

MS. SANCHES: I agree with that.

MS. ROBBS: And Ms. Smith?

MS. SMITH: I agree.

MS. ROBBS: Ms. White?

MS. WHITE: Definitely agree.

MS. ROBBS: Okay. All right. Considering
your comments, with no objection, we will have a brief
discussion. I'm going to ask our consultant,
Mr. Franklin Lee, with Tydings and Rosenberg to give
comments on his strategy for streamlining the process
in consideration for your time. Mr. Lee...

MR. LEE: First of all, good morning everyone.

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

It's my, I'm deeply aware of the fact that
you folks are primarily in business to make a living
and not to be helping with public policy. But this is
very important in terms of the Solid Waste Authority
being able to move forward in satisfying its objective
of being an ally in economic inclusion for all
segments of the business population here. So we're
trying to come together as best we can to get your
feedback. The whole purpose of this stakeholder
initiative is to get feedback from those who are
affected most by this particular public policy. And that will guide my own efforts in helping the Authority to develop that policy.

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

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

The agenda that you have or what you have in your packet lists several dates when I'm available. By the end of this session, I think we will be
addressing how we may be able to streamline that whole process. It's not going to take all of those dates. I think we can do this in three sessions. Assuming we can get through the administrative reforms, a discussion about construction remedies, both race and gender neutral and race and gender conscious, policy options that I believe are legally defensible, and that may be effective in addressing some of the barriers that were identified by the Mason, Tillman study.

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

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

And I guess we will reserve that discussion as to when those dates should be and at what times.
Towards the end of the session today we want to make those decisions. Unless you would rather have that discussion now before you determine who is going to serve as chair or co-chair.

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

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

MR. JOHNSON: Point of clarification, Madam
Chair. So I heard Mr. Lee suggest that there will be three sessions, and I assume that means three more, right, so that means this one, plus three more?

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

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

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

MR. JOHNSON: So, then, if I may offer this sort of for the group consumption. So having done this already with Broward County public schools, just an hour and a half north, and having Ms. Robbs and Mr. Lee involved in that process, we went six months, thirty-two hours total, to come up with fifty-four affirmative procurement initiatives and a whole new supply diversity outreach policy. So, I'm not exactly
sure what the scope of our expectations are, what will be the outcome of this particular stakeholder group. Are we looking to revise the policy itself, are we looking to adopt some affirmative procurement initiatives? I think that will be helpful to decide upon for this particular group.

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

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

MR. LEE: That's an excellent point, Mr. Johnson. I have learned from that process that we had
in Broward County that there are ways to streamline that process. And one of the things that I think you may recall caused us to take a lot more time was we kept having meetings where we didn't have a quorum and couldn't take any formal action. We had to rehash, go over things over and over and over again. Plus the way we presented the APIs, or affirmative procurement initiatives -- we will discuss what that means shortly for those of you who are new to this process -- but the way we went about it, there was a lot of repetition. And there are certain tools that may apply to multiple industry segments. And I think the way our discussion will proceed, actually, as I go through the presentation today, I'm going to define what those tools are so everybody is aware of what they are. And as we go from industry segment to industry segment and consider whether or not it's an appropriate tool to be available for that particular industry segment, we will be able to, hopefully, get through that a lot quicker, because we'll understand exactly what's involved.

So we're going to handle those definitions today. We're also going to begin to familiarize everybody with this policy option matrix that's actually in your binder, which lays out a definition
of the various, race and gender neutral, race and gender conscious, legally defensible tools and initiatives that we are proposing for consideration. And we will also, going through that process, begin to get a sense or, hopefully, a feel of where there is consensus, where there's great disagreement, what's a priority and what isn't. We will start to do that today in the construction arena, and in the administrative reforms that have been identified both in the Mason, Tillman study and also in subsequent board meetings that we've had on this topic.

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

MS. ROBBS: Okay. With that, I'm going to assume that there is unreadiness with the committee at this time and we will move forward through the program. And at the end of the program, after
discussing the change in the schedule, if there's
time, we will circle back to that and have the
elections. If not, it will be at the next meeting.

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

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

Mason, Tillman's study that was delivered
late last year found that there was significant
disparity in the utilization of ready, willing and
able minority, women-owned businesses in all of the industry categories, that's construction, professional services, commodities, other services and trade services.

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

For example, there's a regression analysis that was done using what's called, PUMS data, Public Use Microdata Sample from the census bureau. An industry that looks at things like access to capital, barriers in earnings and measured disparities in earnings for firms, controlling for a number of different variables. It looked at disparities in access to loans. It looks at disparities in terms of business formation rates. All of these are indicators
that something may not be right in the marketplace. And there may be different remedies to address each of those identified problems or barriers.

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

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

So, what you have to keep in mind is, this entire process is basically a series of diagnostic tools. The disparity study being an important first step. But we're also trying to get feedback here from the community, from the relevant community of small
and minority and women business owners to understand what the experiences in the marketplace here are, and what type of remedies may be appropriate and narrowly tailored to address identified barriers and impediments to success.

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

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

That doesn't mean that the medicine that ultimately gets prescribed is necessarily going to be pleasant, or that it's necessarily going to be easy.
But what it does mean is working together we will find a course of treatment that is most effective in helping the patient get better. So, keep that in mind, keep that medical analogy in mind as we go forward. Because what we're trying to do here is to get the right medicine at the right dose to address the identified problems that we've gotten from the diagnostic test. The lab results have come back. We don't want to give chemotherapy to somebody that has the flu. But by the same token, we don't want to prescribe aspirin for somebody that has cancer.

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

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

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

It's important that we understand the 
context in which all of this is taking place.
 Minority women business programs have been around 
probably since the 1960s, believe it or not. There 
have been a number of court challenges that have 
actually set up a frame work under which you have to 
operate, at least to the extent to which any type of 
race and gender conscious remedy is being considered. 
By race and gender conscious what we mean is that 
there is some racial classification in public policy. 
Under the 14th Amendment of the US Constitution, 
whenever that happens, there's something called strict 
scrutiny that the courts impose to make sure that
you're only using that kind of serious, strong
medicine when it's really necessary to do so.

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

Now, strict scrutiny basically has two
prongs to it. It's required, again, whenever we
examine the use of a racial preference or gender
preference. And also examining the government's use
of those classifications. The two prongs are: The
first prong is called compelling interest. And the
disparity study update provided a strong basis in
evidence. That factual predicate also provided a road
map to remedies. There were a number of
recommendations that Mason, Tillman put forward based
on their findings. They sought to identify where the disparities existed, by industry, by gender and ethnic category. And also sought to identify the nature and form of those barriers and the root causes of those disparities.

The second prong of strict scrutiny is assuming that there's a compelling interest for the government to at least consider the use of race and gender conscious remedies, they need to be tailored to address the identified discrimination. So if you can show that there's an inference of discrimination from significant disparities, statistical disparities in the utilization of those firms, and there's other anecdotal and quantitative evidence that also points in that direction, you then have to make sure your remedies are narrowly tailored. And you need to consider a variety of race neutral remedies. You also need to consider the appropriate race conscious remedies only when it appears that the neutral remedies, in and of themselves, are inadequate. They need to be of limited duration. They need to be periodically reviewed to make sure they're still necessary. That means you go back to the doctor every year to see how your blood pressure is doing or how the medicine is working that you're taking. And you
have to limit it by -- and this being gender -- by industry and by the form of discrimination.

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

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

The policy option matrix identifies the appropriate administrative reforms and policy remedies
for addressing barriers identified in the disparity study.

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

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

That program no longer exists because of the ruling of the court in that Rothe case. And one of the things the court said there was, even though there was a factual predicate that was presented to Congress.
to re-authorize that five percent small disadvantage business program, what happened in that situation was you had Senator John Kerry, literally, on the floor of the Senate reading disparity studies into the congressional record at midnight. There was nobody else present in the chamber, hardly, when he was doing this. So, technically, there was a record created of the evidence, six disparity studies, that were used in an effort to try to support the re-authorization of the policy in that case. But the court noted there was a real question as to whether there was an actual deliberation about that factual predicate.

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

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

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

The first thing there is described as a title for the policy option there. It's called a centralized bidder registration system, data extraction and data management. So that's the title of that policy option. You will notice there's a notation in parenthesis R/N-1. That's a shorthand way of keeping track of each unique policy option that's being presented. R/N means race neutral. This a race-neutral proposed remedy. It's the first of many race-neutral remedies. So we put them in sequence in numerical order. So when we say R/N-1, that's going to mean the centralized bidder registration system.
The next column over, it says MTA recommendations. To the extent that MTA has recommended this policy option, there's a description of what they've recommended, what this means, and why they've recommended it, and a citation to the pages in that study where that recommendation is contained.

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

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

And, finally, in the last column are just some pros and cons that I've included here as
discussion points. This is a discussion. And you know, you can debate both sides of the issue, but none of this is really edged in stone. Again, this is just a discussion guide that we're using to go through those issues and to see where there's consensus, to see where there's disagreement. And to also inform me as to, you know, where the priorities lie, most likely, in my recommendations to the board in a policy.

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

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

And, again, keeping this medical analogy in mind, it's all about finding the right prescription.
What are the things we need to put into the doctor's bag to make this marketplace what it ought to be, so that there's no economic deserts based on race or gender in the Marketplace? Treatment options include race-neutral versus race-conscious remedies. We've described what the courts mean by race conscious. If there's any reference to or even a presumption of discrimination on the basis of race or gender in the remedies, we use a racial classification or gender classification, we're calling that race conscious. And if a policy option doesn't have those things, if the remedy doesn't have those sorts of classifications in it, then it's race and gender neutral.

You can be far more aggressive with race and gender neutral type remedies both at the prime and subcontract level, simply because there's no strict scrutiny applied to those types of remedies. Anybody can go buy aspirin, but if you want chemotherapy, you have to go to a doctor and get a prescription. Same kind of analogy here. We're starting off with the non-industry specific remedies today. Things like bid debriefings, things that enhance financing, technical assistance, commercial nondiscrimination policies that say that the government should not engage in business with firms that discriminate, that's race and gender
neutral. Debundling of large contracts into smaller contracts so that small firms have an enhanced opportunity to participate. Specification review of contracts to make sure there is no unnecessarily restrictive specifications that preclude competition from the smaller firms.

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

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

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

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

These are the industry specific tools that are being applied, as opposed to administrative reforms. And these industry specific tools are designed to enhance prime and subcontract opportunities for both small and minority women-owned firms. They're also designed to enhance market access, and they also may be either race and gender neutral or race and gender conscious. So we're going to go through the race and gender neutral ones first, and then we will go to the race and gender conscious medicine second. And the matrix is laid out this way.
You'll see, for each industry segment, we will go through the RNs, the race-neutral remedies first, they'll be enumerated. And then we'll go through the race and gender conscious remedies. And all these APIs are to be applied on a contract-specific basis when it comes to these industry segments.

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

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

Prime contract, direct contracting programs. These may be small business preferences at the prime
contract level, where there is some limitation and competition to small businesses, or it could be direct contracting where the government is basically saying "Things that we would normally bundle up in a big contract, we're going to break out and bid those out separately so that small firms have a better chance at winning those contracts as primes as opposed to subs".

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

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

Mandatory subcontracting goals. This is a tool that's probably most recognized in these programs. And the Authority, for some period of time, has had a fifteen percent goal for subcontracting applied to contracts. It hasn't been mandatory in the past. We're looking at making it a mandatory goal with some waiver provisions for certain circumstances. And the same thing can apply to a minority women business subcontracting goal. Where you can
demonstrate that there's relative availability for the specific task that needs to be performed under any given contract, you try to set a reasonable goal based on that data as to how much subcontract participation you can get from either small or minority, women-owned businesses.

A subset of this type of remedy or policy option is called the segment of subcontracting goals, MWD Segment of Subcontracting Goals. These are helpful when certain segments of the minority business population, whether it's African American or Hispanic or women-owned firms, are significantly more underutilized than other segments. Sometimes you get a mixed bag in terms of what the data is showing, in that there's either not availability or certain segments are actually utilized beyond their availability already. So you want to narrowly tailor your medicine to address those segments of the minority business population. They're the most significantly underutilized. So you will have an overall subcontracting goal, mandatory subcontracting goal, say twenty percent. And out of that twenty percent, you must get at least five percent African-American participation, for example. That's the way the segmented subcontracting goals operate.
Mentor protege programs. There's a variety of different approaches to this. There's some jurisdictions that have actually set aside contracts for approved mentor protege teams. Again, the idea is to grow capacity, to provide technical and financial and other sorts of assistance to smaller firms that are trying to compete in the marketplace, and to give some incentive to the more established firms to collaborate with the less established firms through mentor protege programs. And there's a variety of different incentives or mechanisms that can be applied to that.

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

It's, basically, like a laboratory for instruction and
development of new capacity in an industry where you
don't have a whole lot of availability.

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

So if you come up with a bid preference, a
bid preference is: The favored firms using this
preference can bid five percent higher than another
firm and still be awarded the contract. If they're
within five percent of the low bid, they can win a
contract. The five percent may make sense or may not
make sense, but I think if you don't have data to show
what the cost differential is that's caused by the
discrimination, it's kind of difficult to hit the
mark. Five percent may be way too big of a preference
or it may be so small that it doesn't make a
difference, depending upon the situation. So it's not
a very narrowly tailored kind of approach from my
vantage point. But you may feel differently and you
are certainly welcome to argue to the contrary before
the board.

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

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

(Brief recess.)

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

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

The administrative reforms are actually things that we've started working on already. And so I've included them in the policy option matrix. They haven't been formally presented to the board yet. The board, ultimately, has to approve them. But there's a lot of things that we're proposing to be done at the
administrative level here, and changes and amendments to the purchasing manual that I think can be beneficial to our overall objective here.

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

Those of you who have been involved in, well, if you've participated in a number of different websites and had to create accounts, whether it's with Amazon or someone else, they want to know what it is you're interested in buying. In this case, it's what you're interested in selling. There's certain fields of information you put in. This process has begun to grow across the country. We're seeing a real movement towards governments using technology to make it easier to track availability and utilization. By having folks go on the web, create their vendor profile. And then they can solicit those terms in a targeted basis, based on the commodity codes or the industry segments that they list in their profile.
So I don't see much downside to this. Is there anyone that has any questions about it or wants to discuss it? Recognize Bruce Lewis.

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

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

MR. SCHAFFER: Bob Schaffer, are you
suggested or should there be vetting of -- or who
will do that vetting to make sure that it's not just
self-populated and somebody, for example, says they
can build a fence that has never built a fence before?
How do we know that the availability is truly
qualified and available?

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

But, again, even if you use commodity codes,
it's only good for coming up with a general
availability number, and it won't be tied to a
specific contract. There's no way you can possibly do
that. That couldn't be done. Unless you have another
approach that you think might work better.
MR. SCHAFFER: No, not tieing it to a specific contract. But I'm if registering, that's my understanding, is that you're registering as available to do a certain type of work for any contract. Shouldn't there be some vetting that I actually can do that work?

MR. LEE: How would you suggest that?

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

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

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

MR. LEE: It's a starting point. Again, just, even in the disparity study context, you're talking about construction. There's lots of different sub-trades and so forth. If you need to do vetting, if you want to find out all the landscaping firms in the area, this will be a way that you could, at least, have a starting point for figuring out who it is that says they do landscaping. And then you would have the ability to go look at their website, for example. There will be a website link in their profile. So you
can start to do that vetting yourself. Maybe not all landscaping firms can do all kind of landscaping work. So at least you have phone numbers, websites, e-mail addresses. So to your particular needs, you can figure out who it is that you need to be contacting. But it's a lot better than having to basically pull out the phone book and go through everybody.

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

Any other questions? Brian Johnson.

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

MS. WHITE: Tina White. In reference to what the last speaker was addressing as a concern, his concern is that persons will register that are not, in his estimation, qualified. Every company starts out...
with one contract. And if you -- a disparity study has been done that demonstrates that opportunity was denied. So if opportunity has been denied, you can't expect the person to have the ten years of experience against the white male firm that has had the ten, the twenty and the thirty-year experience, because opportunity was not denied. And so, if you're looking to continue to find a way to deny access, I guess that's down the line what you're proposing or questioning.

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

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

And number three, to the extent that we're coming up with goals based on this availability, it may not be exact measurements of the availability for a particular contract. The policy itself will build
in provisions to address those situations. There will be waiver provisions that will be allowed where it could be demonstrated. If you went to everybody that registered online and you found out half the firms weren't qualified, and you need to reduce the goal because of that, there will be a process for waivers in that situation.

MS. ROBBS: Mr. Lewis.

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

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

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

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

MS. ROBBS: Mr. Johnson.

MR. JOHNSON: So just to be clear, despite the
name being centralized bidder registration, it's really a more elaborate database that allows for a lot of decision making, knowledge and decision making, so that you can facilitate an authentic endeavor to include minorities. And it's not just knowing who is there, but it's knowing who is bidding and who is winning, and it even has some aspects of it that dictates when the prime has gotten paid, and when the sub has gotten paid, if there's a mismatch in that.

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

MR. LEE: I agree wholeheartedly.

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

MS. GAINES: And I think also importantly, it is establishing ready, willing and able databases for
the update of the disparity study.

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

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

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

MS. ROBBS: Mr. Schaffer.

MR. SCHAFFER: Speaking to the willingness, hopefully there will be some way in there also to track participation as a way to track willingness. But you said other systems in place to handle
qualifications. What did you mean by that?

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

MS. ROBBS: ESTRF.

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

MS. ROBBS: Mr. Allady.

MR. ALLADY: I have a comment and a solution. When you're considering these databases and businesses, it's probably, you should look at Palm Beach County or South Florida Water Management District. They already have systems, registration systems in place. So one of the advantages where I
see is for the small businesses, they don't need to go back and register in multiple agency websites or databases. And also from the agency perspective, it's a faster way to approach, because you don't need to reinvent the wheel. So I would like you to consider those two solutions.

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

MR. LEE: Well noted. Any other comments on
this one? We have a bunch more to cover. I want to move forward, if we can.

Race neutral two, is administrative strategies debundling. This is real simple, the Authority, where possible, will look at contract specifications before they're put out for bid and see if there's a reasonable way in which they can break them up into smaller packages so that smaller firms will have a shot at being able to compete for them.

Any discussion regarding this one? Ms. White.

MS. WHITE: This is very, very, very, important. And it cannot wait until it gets ready to go out to bid. The Authority knows what it's going to bid. It has a history. And in this process, they should be reviewing, historically, how they have let out solicitations. And based on those solicitations, if there has not been participation by the groups identified in the disparity study that were available, that already indicates to them that they need to address it. Because waiting until you're three months out or six months out before the bid is not enough time to vet it. It's not enough time for the public to have knowledge of that vetting. Because if they continue to vet these solicitations in, I'm going to just use the word, secrecy, where I can't find a
better word, it's not secrecy, meaning there's no public input, then you're going to get the same results.

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

And so the Authority has to start looking at its bids in the past that they have not had minority and women participation in and then saying, "These are the contracts that we need to have public input on and dialogue on". Because the persons that design the bid specs, I don't think they are now going to have an overnight, you know, thought process that "the bid
specs that I have designed and have served me for the last twenty-five, thirty years is anything wrong with them".

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

MR. LEE: Ms. White, in response to what -- very good points you made, by the way. In response to the points that you've made. We're currently contemplating three administrative type reforms that may assist with that very problem. One is the establishment of a small business advisory committee of business persons that would be basically one avenue that a business owner might be able go through to complain about certain bid specifications that have been held in the past that you believe are necessarily restrictive. That advisory committee would have the
function of identifying those types of specifications that are problematic, giving that input directly to the executive director, director of purchasing, whoever is relevant.

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

The third thing that will happen is that there will be a formal change in the purchasing manual that, absent some emergency or public health concern, all bid solicitations would have to be on the street at least 30 days before they close, which would give an opportunity, at that juncture at least, for someone to intervene and ask for an amendment to contract solicitation for precisely the reasons you're talking
about. So you would have those three avenues that you could possibly pursue to address the concern that these specifications be vetted in advance before they go out or before a contract results from them.

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

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

I can tell you that the small business advisory committee, there would be no filter on that, it would basically be just business owners or trade association representatives serving on that committee, that I would think would have the sensitivity to identify those sorts of things. And if they didn't, then any individual business owner out here would be free to approach them about considering a particular kind of a bid spec that's problematic.
MS. WHITE: And forecasting, to be able to let people know a year out what bids are going out, that's very important, if forecasting is given on a regular basis. And then a tickler system, "We are now six months out before this bid will go out." "We are now three months out before this bid will go out." That becomes very important. It allows the small businesses to plan better and to understand the process better.

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

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

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

Any other comments on the debundling aspect,
breaking big contracts into smaller contracts?

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

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

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

MS. ROBBS: Mr. Johnson.

MR. JOHNSON: In the list of things that Mr. Lee mentioned in terms of what remedies and tools we're considering to make this work, one thing I will respectfully add is a commitment to resources on the program management side to make sure that the packages that are coming out are right sized to minority business enterprises. So that if we are welcome to the restaurant and we have specific dietary restrictions, we don't have a cook just handing out whatever he feels like cooking and realizing that we just don't eat that. And so at the end of this program we're looking back and wondering why minorities didn't bid or win or participate, was because there was nobody in the kitchen with the
knowledge of the limitations of the industry of the
segment that we're trying to attract. Who was making
sure that what came out of the kitchen and into
procurement and into the table of the businesses was
the right size from the beginning? So, hopefully, we
will be communicating to the board that we need to be
clear about the need to dedicate resources on the
program management side, so they can be created and
packaged that way before they get to procurement.

MS. ROBBS: Mr. Allady.

MR. ALLADY: I'm clear.

MS. ROBBS: Ms. Smith.

MS. SMITH: Good morning, Selena Smith, Women's Chamber of Commerce. Some other groups that
I've worked on with this, when an RFP goes out or even
an RFQ, groups from the decision making bundle, will
then say "We are holding an information session". So
for instance, if you've never bid on a project like
this before or if you're a newer business or smaller
business and don't have the experience of "here is my
list of recommendations of other projects I've worked
on", there is somebody who goes through that process
with them, and you have to attend the information
session prior to bidding on the process, so that I do
have a full understanding of what is required of me.
Maybe I'm not qualified to bid on this particular contract. But I will be now aware of that. So in the future when these come up, I am available to go through that in that process.

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

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

There was tremendous evidence in the study of unequal access to capital for minority firms, so to the extent working capital becomes an issue, it more adversely affects minority firms than others. But this is a race-neutral remedy that could help, to the
extent mobilization costs are being paid at the prime level, they can also be extended to subcontractors. Any comments or discussion about that? Mr. Lewis and then Ms. White.

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

MR. LEE: Thank you. Ms. White.

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

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

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

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

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

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

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

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

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

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

MS. WHITE: Thank you.

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

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

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

MS. ROBBS: I think you skipped 4.

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

R/N-4 is contract monitoring and recording multiyear contracts and change orders. Again, the
A centralized bidder registration system could be a great tool in assisting in this. Part of the problem in the past has been with the authority, even with the small business program, by the time they realized that a prime hasn't met its goal or is not even using the sub that they said was going to be used, the contract is over. But if we can tie in the accounts payable systems with the Authority, with the bidder registration system, your software will allow you to raise red flags when it appears there's noncompliance. And the reporting will be more accurate because you can get the subs to verify online when they've been paid the dollars the prime says they've been paid. If just provides better transparency.

Also, with multiyear contracts and change orders, these will automatically be captured through this software system. So that whatever policies or APIs are applied to the initial original contract, they would also be applied to any change orders and would also apply throughout a multiyear contract.

Yes, Ms. White. And then we'll come back to Mr. Allady.

MS. WHITE: This one in terms of a system makes sense. But what's more importantly is what is in the purchasing manual in terms of policies and
procedures as well as in the bid and the executed contract for penalties applied to the primes that are not complying. Because just for the sub to know that the prime has been paid and they have not, is not going to be enough to enforce compliance of the prime.

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

MR. LEE: Well, you have raised a lot of issues there. All of which are going to be addressed in due course. The sanctions and penalties aspect of this is a separate line item that we will come to a little later. R/N-4 is actually meant to be a pre-cursor to sanctions and penalties, hopefully, to avoid the need for sanctions and penalties by catching problems early enough that a prime can get into compliance before the contract is completed.
But you have to have some formal mechanism in place for being able to capture performance, to be able to take a plan, a project plan, for example, and overlay it with the small, the minority, the women business participation requirements, so that you can be alerted well ahead of time if something is not going according to plan before you get to the end of the contract.

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

Mr. Allady...

MR. ALLADY: Just, as part of the recommendation, what I would suggest is not only monthly contract compliance, probably at the end of the contract also compliance. And especially for professional services, that can be part of the evaluation of the prime consultant. So you can reward the good primes and penalize the primes who are not meeting the criteria.
MR. LEE: Yes, well noted. There is also language that will be put into the policy that noncompliance with the policy or violation of the policy is itself an indication the firm is no longer responsible. And there's a number of sanctions and penalties that can be imposed for firms that are not responsible.

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

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

MS. SMITH: So will all bids be accessible via
the website so that I can now go back and find out last year who was awarded that bid and see their application?

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

Any other comments?

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

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

MR. LEE: Well, obviously the pre-bid conference would have to happen before the 30-day period. That's not to say they couldn't extend it beyond 30 days if, at the pre-bid conference, for example, they learn there are some issues that they may want to consider, maybe want to amend the solicitation in light of that, based on the questions
they get back from perspective bidders. So there could be 60-day, 90-day periods in certain circumstances, if necessary. But the policy is no less than the 30-day submittal period for bid solicitation.

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

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

MS. WHITE: Well, it depends on, it would have to be based on the size of the project, things of that nature. Because if, for example, if it was a predevelopment or a developers type of RFP, to only have 14 days before the bid is due after the pre-bid conference as well as submit your questions and get your answers, that wouldn't be sufficient time, because it's a large undertaking to respond to an RFP that would be for, just like when they did the burn center, that's a big one. The garbage one is a big
one. So in terms of that, I do think that the size of the award, the complexity of the award, all those things have to be factored in as to how many days are left after the staff responds to questions before the bid date.

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

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

MR. LEE: And that's not currently the case. So would you propose two days, three days in advance of bid closing for addendums to be issued, or from a policy standpoint, how would you propose that?
MS. WHITE: Addendums, anything that's going to be less than a week before the bid closing can be very problematic for a person. I don't care if you're the prime or the sub. And I do know that -- I don't know about the Authority, but I know the county has put out addendums on the same day the bid was due.

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

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

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

MS. SMITH: Along those same lines as Ms. White, a thought would be, especially since you have the access to the website in doing that, is that maybe there's a deadline whereas if I have questions regarding what's on the contract, I cannot submit them to just one particular person. Those questions are on a page on the website with the answer, but all the questions need to be submitted prior to. So maybe there's a fourteen-day period prior to the deadline due date. If you have any questions regarding the
contract, instead of sending them to this one particular person, the question is listed with the answer so now all bidders can now go on the website to see those.

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

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

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

MR. LEWIS: A couple of comments on this. First of all, my experience has been with a variety of different municipalities, that typically there's a schedule of milestone procurement steps that are in the first or second page of any solicitation that
tells the bidder, this is due at this day, this is due at this day, and down the line. I think where we may need some help in trying to determine that cone of question and answers is that, yes, you can list that, you can ask your questions up until this date. I have very rarely seen where a response had a deadline date to it. So last responses to any questions might be January 15th. And then that clock moves forward to allow adequate time for the proposer, once he has all the questions, to submit. So, generally speaking, a schedule of those milestone procurement process steps that gives us advance warning and gives the expectation of when we have to ask our questions and when we can expect an answer and the period of time that we have to respond thereafter.

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

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

MR. KARI: In response to Ms. White's and Ms. Smith's questions, you know, we do provide that.
Typically, though, we ask for questions in writing if it's a construction contract. And we receive all responses by e-mail and document that. If you have asked the questions for the benefit of every bidder, we share the answers with everyone. And, typically the deadline for cutoff is fourteen days on typical construction projects. And it's clearly listed in the procurement. And the last day for issuing any addendum is five days before the bid opening. If there are any addendums issued within the window, we extend the bid opening date.

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

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

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

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

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

MR. JOHNSON: Let me offer this, if I may. Unfortunately, I have a hard stop at 12:15. I have another board meeting that I have to chair in Broward
County. But just maybe for the benefit of my colleagues here on the work group, this is an introduction. And if we're going to follow the same process --

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

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

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

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

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

MR. JOHNSON: So will this body review the redline before it goes to the Authority board?
MR. LEE: Yes, it's a two-step process. I was going to get to that at the end of this. But, basically, what's going to happen is we go through this policy option matrix review, get your feedback on that. I revise the policy option matrix. We take that to the board. You can go to the board and comment at that board meeting, as well. And based on that discussion, the board will give me direction as to what they want to see included in the policy that I draft.

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

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

MR. LEE: Yes. Let's try to move this along, if we can. The next race-neutral remedy for administrative reform is debriefing for unsuccessful
bidders. This should be fairly noncontroversial. But the Authority, as I've been told, already provides this to disappointed bidders, but they don't advertise it. So we're proposing to put it in the purchasing manual that in the bid solicitations themselves, it will be spelled out that if you bid on something and you're not successful, you have the right to request a debriefing from the Authority so that you can learn more about why you weren't successful.

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

MR. LEWIS: Well, it's hard to remember any successes, but I think more importantly for a small business, they learn so much more from defeat. And if you have the tenacity, and most business owners do
have that tenacity, to persevere, it is, I like to think of this particular API as a capacity-building tool that comes through, you know, a negative result, but gives you the added knowledge and experience to correct the mistakes and grow from there. So I would support this.


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

MR. LEE: Can I just suggest that perhaps the small business advisory committee could be a good vehicle for that type of input back to the Authority,
or are you suggesting it needs to be something else in
addition to that?

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

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

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

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

    MS. GAINES: Yes, sir.

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

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

    MS. WHITE: This has just come up for one of
my clients who is a black female engineer. She sent
in her qualifications. She was qualified. But she
was not scored by that municipality. She asked for a
debriefing in November. She got it in March. And
then also the main point of this is that the award has
already been given. So in some categories, the
debriefing, if its requested, must stop the process,
because in that debriefing if staff could not justify
why they did not score her or move her up in the
process, then she now has, should have another
remedy. But if you wait until, especially on
engineering on the professional services side, if it's
based on qualifications that you're asking for first
to move them in the process, and if you don't move
them in the process and you make the award before they
have a debriefing to challenge, in some instances,
maybe why you did not move them in the process, it's
too late.

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

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

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

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

MR. KARI: We do provide the process. In
every solicitation there are procedures listed in
there. And if you want to protest, you can do that.
MS. WHITE: So in your solicitations for those services, you tell them how they are going to be evaluated and scored?

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

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

MR. KARI: What do you mean prequalification?

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

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

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

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

The debriefing is kind of being conflated with the bid protest here. The debriefing is something that would take place after award, and it provides an opportunity for the Authority and any vendors who would like to understand more about why they were ranked where they were, in the case of a bid, why they were the low bidder. They would also have the ability to look at all the other proposal submittals so they can take a look at maybe understanding why the committee chose one vendor over
another. And it provides essential feedback as to, you know, looking at what other vendors have done who were competitive and maybe have been more successful. It gives them the opportunity to maybe enhance their presentation in such a way that it would benefit them the next time, or the next time they submit a solicitation, not just with the Authority but with anybody.

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

MS. WHITE: Excellent.

MR. LEE: Okay. Can we move on to the next one? Moving right along. R/N-7, Debriefing, unsuccessful bidder. The next one is R/N-8, Establish a position for EBO, that's Equal Business Opportunity ombudsman. This is a position that will be established for helping to mediate disputes either between -- mediate. Which means you're not solving the problem, but you're trying to get the parties together to resolve the problem themselves -- between primes and subs or between the vendor and the Authority. To the extent that there's some
difficulty, some impediment to the smooth performance
of a contract, this is a way that, it's just a
position that can help to try to smooth the waters out
and get the problem resolved before it gets into a
more difficult dispute at the end of the contract.

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

We're putting provisions in place to require
substitutions of subs or self-performance of their
work to be pre-approved by the EBO office before it
can go forward. So whatever commitment is in the
contract, in terms of the use of subcontractors, it
has to be adhered to unless there's a request from the
prime to change that for whatever reason for cause.
Again, this particular RN is solely to establish position in the purchasing manual for this ombudsman to help to try to facilitate or mediate a solution to disputes. Any comments or questions?

Mr. Lewis and then Ms. White.

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

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

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

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

MS. WHITE: Or replaced.

MR. LEE: Or replaced, yes. And they're not even replaced if they were never really listed in the first place. But there are other systems that we would put in place to address the situation where they are getting replaced. And there's no -- you need a traffic cop, as it were. And we're proposing that the EBO office has to sign off on final payments and contracts before, to show compliance with all of the
economic inclusion requirements of the contract before there's a final payment made. And to the extent that there's been a substitution, the centralized bidder registration system, one of the functionals it can serve is to have subs, at each payment to the prime, sign off on whatever payments they were supposed to receive based on the invoices. So if someone else is performing that work than who was supposed to perform the work, that sub would be notified that the payment has gone out for that scope of work. And they'll know whether or not they got paid. I would assume they can raise a red flag about that substitution.

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

MR. LEE: Yes, what would happen is the prime would request the substitution. It would go to the EBO office. The EBO office would contact the sub and say "What say you about this substitution? Is it true that you can't perform this work or you're no longer available to do this work? And if they say that's not true, then we have a problem. And the burden is on
the prime to show just cause for substitution. If the sub didn't perform and they can document that, then I would assume the EBO office would approve it. If they can't document that there's any just cause for substitution, then they would deny it. I think we would build in some due process provisions for appeal of the decision, but that would be, the initial decision would rest with the EBO office, could run up to the executive director, and ultimately to the board.

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

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

MS. WHITE: Okay.

MS. ROBBS: Ms. Gaines...

MS. GAINES: Yes, I just wanted to also emphasize that I also strongly recommend a third party, independent, as much independent as you can get, recommending it be outsourced. So that that independence is part of the function of the office as well as appearance.
MR. LEE: Okay. The next one is R/N-9, expedited payment program. I don't know who would object to this. One of the things the centralized bidder registration system can enable in its more robust form, is that, first of all, you streamline the processing of invoices so that only the people that need to sign off on the approval of the payment are required, and you can have electronic transfer of funds. And a number of systems around the country are actually doing that now where part of the vendor profile that's not visible to the public but is in the profile that the government has access to, is their bank information, so they can transfer funds directly. You don't get checks lost in the mail anymore or wait two or three weeks for the next run of checks to take place. Anything that we can do to speed up cash flow is a win, win for everybody, I think. And it certainly helps those that are most capital challenged, which is the majority of small businesses. Mr. Lewis...

I might add something that might enhance this effort. Of course all of us like to be paid on time. It would really be nice to be paid early, but I don't think that's possible. To that extent, I'll take a page out of the county's book. When they
started to embark upon the one percent sales tax implementation process, this too came up during those discussions, very heated discussions, about prompt payment. The county has a prompt payment ordinance in place. How well it's adhered to is left to question. There was some intervention by, I believe, the County Clerk of Courts who serves as a fiscal agent for the county. And an electronic payment system was set up so that you could expedite those payments to the prime contractors, thereby that pass-down payment could take place at an earlier interval. And I do believe it was available to, or I could be wrong about this, but it's worth investigating, that that too applied to subcontractors. So I've signed up for it. I haven't gotten an electronic deposit yet. But I've signed up for it, so that's something that's in the process. And there's ways that you can block out the sensitive information, as you suggested. So I would be in support of this and be an advocate for electronic payments to the degree possible.

MR. LEE: Let me just also say, as we proposed it in this policy option matrix, we were trying to get the primes paid within 15 days. My understanding is that the Authority, more so than the county, has been pretty good in paying its bills on time. So we are
constantly pushing the envelope to see if we can do better. And, perhaps, for undisputed invoices to be paid electronically within 15 days would be feasible. I can tell you, Montgomery County Public Schools in Maryland, as a benefit to the government as well, they found a way to approve and issue progress payments on construction school contracts in 48 hours. And they found that the construction costs dropped about 20 percent as a result of that. Because nobody had to finance their payroll or anything else. And contractors love working for them. So they got lots of competition. People were sharpening their pencils. They love those jobs. They get paid in 48 hours on approved invoices. So that's where we're trying to go with this and push the envelope towards speeding up the cash flow. Yes, Ms. White...

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

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

MS. WHITE: Well, if you're putting in a new system, put in the right system from the very
beginning. So I'm in favor of the Solid Waste
exploring the 48 hours for primes. But the only
question is: If primes are going to be paid in 48
hours, how do you check and balance that the subs have
been paid?

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

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

MR. LEE: Okay. Well, I think staff hears
you. We'll see what can be done, what's feasible at
this point. Let's move on to R/N-10. Disputed
invoice five-day notice requirement. This is
something that we actually developed at Broward County Public Schools. Because we found a lot of times invoices weren't getting paid promptly because there was some dispute and the vendor never knew that there was a dispute. So they're sitting around waiting for a check, and then 30 days later or 45 days later they would ask about it. And they would say, "Oh, well, you didn't submit this." "How am I supposed to know that?"

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

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

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

Any other comment? Okay. Let's move on to
R/N-11, commercial nondiscrimination policy. This is kind of foundational in all of these equal business opportunity economic inclusion policies.

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

MS. ROBBS: Ms. White?

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

MR. LEE: The short answer to your question is: There would be an administrative process for filing of complaints, if nobody complains about a problem, it's not going to be addressed through this
policy. But if there is a complaint, there's a process put in place to investigate the complaint, to take evidence, to reach an initial determination and then there's a due process for appeal. Certain sanctions can be imposed in the event that the policy is violated. To the extent that there are administrative or judicial adjudications, showing that the policy has been violated, there's a duty to disclose that's put in the bid solicitation documents. It's made clear what the standard of conduct is. And if you're in violation of that standard, you're not a responsible bidder.

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

MS. WHITE: This one to me is more of something that sounds good on paper, but, in actuality, what it does for a minority and a woman, to me, is not going to mean anything. I'm looking for something that also ties this policy to bona fide efforts when you are looking for subcontractors. Because if you're -- the largest award that the
Authority has is garbage since 1993. In that instance, there has only been two, one female and one male black person ever included as a subcontractor. And so if there's a history already predated that shows that the institutional companies are not using blacks and minorities and women for these, this particular award, it has to be something that starts even with the bid process.

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

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

And a lot of times that's not that difficult to prove. So the whole intent of the policy is to make people knowledgeable and intentional in their willingness to be inclusive, to reach out to all regardless of race or gender. It's also designed to make sure that firms are utilizing other firms just based on merit, and not on the basis of relationships or on the basis of considerations that are not legal.

To the extent that we can put these policies in place at the government level, it allows you to check off the box the supreme court has that you've at least prohibited discrimination. If we don't prohibit discrimination, commercial discrimination. The supreme court could view that as you haven't done all
that you can to try to prevent the discrimination in
the first place. And you need to use all the, try to
use as many race-neutral remedies as you can that make
sense before you resort to the use of the
race-conscious remedy.

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

MS. ROBBS: Can I make one comment before Ms.
Gaines. With respect to your time, and we've asked
you to be here from nine to twelve, and you've done
that. I'm going to ask if the committee would like to
pause at this time with Mr. Lee's presentation and
discuss the future meeting schedule to also allow for
any public comment, if anyone has registered to make a
public comment, we would like to know that. And if
possible, the readiness of the committee to elect its
chair and vice chair. So that's what? Three things.
We're at our, you know, stopping point right now. And
you know, we need to know how you would like to proceed. I would, it's important that we have the
discussion on the schedule, because as was mentioned
with the Sunshine Law, we must do a public notice.
And we would like your feedback on that. And the
public has been here with you, so we would like to
provide them with an opportunity to give their
comment. And then the election, if possible. Mr.
Lewis.

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

MS. ROBBS: Ms. Gaines.

MS. GAINES: I agree. But I would like to add
that maybe we look at, because of the time that we're
running out of, a Saturday, as one of the three dates, so that we won't be rushed. Well, we want to rush, if we can. Not rush, but we want to, you know, be diligent. But, if so, we'll have enough time and people's schedules won't be so tight.

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

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

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

MS. GAINES: And their work force.

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

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

MR. LEE: There's actually, you may not have
known this, but there's actually a broad commercial nondiscrimination policy in the purchasing manual for the Authority already. I've made some edits to it to make it a bit stronger and to also enhance transparency as to what's expected so that the contractors or vendors would know that with every solicitation that goes out. Part of what we're trying to do there is just to set the right tone as to expectations in terms of behavior and try to get people to be more intentionally inclusive in the way they think about conducting business.

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

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

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

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

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

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

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

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

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

MR. PELLOWITZ: Can I just interrupt? I just want to make a note that from the standpoint of staff and based on feedback from our board, we would really encourage consideration of holding the next meeting or meetings in the evening or on a weekend to give the opportunity for more members of the public to arrive to come and participate in these. And, again, it's
all dependant on your schedule. That's just an
encouragement I'd like to make.

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

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

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

MS. WHITE: I'm not interested in weekends or
nights. And especially the nights are two hours, not
even three hours. I'm actually interested in staying
on the schedule that you've provided, but increasing
it to four hours per session. But in terms of this,
even though you would like for it to go a little
faster, I think that these, with the longevity of
discrimination at the Authority in terms of
contracting, it's too many things that really must
get, we must get down in the weeds on. And it cannot
be rushed over. They cannot be left to staff, or at
least I don't have confidence the staff is going to do
the right thing without these things being put on the
record.

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

MS. ROBBS: I want to make one exception,
because the public has sat with us and heard our
comment. I have one comment card, and if we could allow this gentleman, Mr. Ramon Rivera, sir, please come forward, you have two minutes to speak.

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

MR. LEE: The scope of our mission for this effort is small, minority, women-owned business policy that includes some race and gender neutral remedies, obviously, quite a few. The Authority also has a local preference that we're including under the umbrella of equal business opportunity provisions in the purchasing manual. Currently, there is no veteran owned or DBE or a number of these other programs that you've just alluded to in that purchasing manual. And given the amount of work that we have to do now, I'm a bit hesitant to try to take that on at this point in time. We don't have, I mean, we would basically be going back to square one in terms of trying to develop data on those other programs and going through the same fact finding process we've gone through for these
economic inclusion programs that we've talked about. So I would say I'm ninety percent sure we would be focusing on small, local, minority, women business programs or remedies for what's been identified through the disparity study process thus far.

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

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

MR. SCHAFER: Thank you. I'm here representing AGC and I just wanted to make sure I got on the record that we still feel that the study is not legally defensible. And to that point, and I'm speaking about transparency, there was another report that was done that SWA paid for, and I briefly saw it up on the website and it was taken down, by Mr. Lenew. And I don't see it in here. Is that going to be
MS. ROBBS: Any report submitted to and provided to the SWA is public record. So, we can make that available if the committee votes to have that available for discussion.

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

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

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

MR. LEE: Let me just clarify something here,
when the disparity study was presented to the board
and when the board accepted the study, it accepted it
for purpose of further policy deliberation. And we
invited additional information from other sources that
would tend to either refute, corroborate or supplement
what was in that disparity study. So I have no
problem at all with the AGC's comments on the
disparity study being presented to the entire
stakeholder group for your consideration.

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

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

So right now what we're doing with this
committee is we're moving forward with recommendations
in consideration of recommendations for a program.
That's the task of this committee at this time. Every
committee member, at some point --
MR. LEE: Well, let me -- can I just? I'm sorry. I just want to make it clear to Associated General Contractors that as part of the stakeholder group you have every right to present whatever evidence or data that you think is showing that findings in the study are not strong or that are not strong based in evidence. It's been received, and it is true it's been received and considered by the board already. But stakeholders may or may not have heard that. I don't have a problem with that being brought into the discussions that we have.

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

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

MR. LEE: We have a time line to keep to. And I think everybody understands that. But just like I
may make a statement that says we have a finding in
the study that says X, Y and Z, if somebody wants to
say, "I don't think that's true. And here is why I
don't think that's true. I don't think you need this
remedy because I don't think it's true." That's their
right to express that opinion. Ultimately, the
stakeholders, as a group, will determine what they
think is priorities, what's a high priority, what's a
medium priority, what's a low priority. And each
individual business owner or member of this community
can go to the board and also express their opinions.
That's America, that's what we do. We have freedom of
speech. Everybody is entitled to their opinion.
Hopefully, we can reach some consensus, some agreement
as to what the facts are, but sometimes that's not
possible.

MS. ROBBS: Ms. Sanches.

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

And I'm kind of liking the whole
parliamentary procedure right now, because I feel that
if we don't abide by some rules, we're going to get derailed. And because we all have time constraints, I would really like for us to be more to the point of what we're here for. I have a lot of opinions, and I sometimes just keep them to myself. And for the sake of the group collectively, we really have to be conscious of time, otherwise we will be doing this for six months. And I don't think that we have six months.

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

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

MS. ROBBS: So you're the committee. We're going to put it out. If you want to discuss it in the
unreadiness, we can do that. And, you know, but to get it done, we're going to put it out there, morning or evening, and the majority will be the decision.

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

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

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

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

MS. WHITE: I vote for mornings.

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

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

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

MS. ROBBS: All right. But we're going to take a vote. Those in favor of Thursday morning,
raise your hand. I'm sorry, Tuesday the 24th, raise your hand, in the morning. Okay. That's everybody. Okay. So we won't have the 25th, unless you want to do back to back.

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

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

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

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

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

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

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

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

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

GROUP ANSWER: Ay.

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

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

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

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

MS. ROBBS: Six.

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

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

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

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

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

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

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

All remaining meetings will be at the education
center. I'll send you an e-mail with that information. And we will publicly notice the meeting for the public.
THE STATE OF FLORIDA )
COUNTY OF PALM BEACH )

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

Dated this 17th day of April, 2018.

Raquel Robinson