

**REMEDIAL POLICY OPTIONS FOR PALM BEACH COUNTY'S
EQUAL BUSINESS OPPORTUNITY PROGRAM (PART II –PROFESSIONAL SERVICES)**

(Submitted by Franklin M. Lee, Esquire 8-13-18)

Introduction

The following policy option matrix and recommendations related to Professional Services industry-related remedies are based upon our legal review of the November 2017, Final Report entitled “Disparity Study Final Report” (“Study”) performed for Palm Beach County (“the County”) by Mason Tillman Associates, LTD. (“MTA”). Beginning in July 2018, the County convened a group of internal County staff stakeholders, as well as a group of Small, Local, Minority, and Women Business Enterprise stakeholders and trade association representatives from Palm Beach County for purposes of extensively reviewing and debating the key findings and recommendations of the Study to facilitate development of this Policy Option Matrix.¹ This first draft of the Policy Option Matrix now reflects many of the predominant views from this stakeholder deliberation process regarding the efficacy and justifications for various legally defensible policy elements. This document is now intended to facilitate similar consideration and further discussion between the business community stakeholders and the Board of Commissioners in furtherance of the Board’s deliberations regarding the merit of various proposed components of a new Equal Business Opportunity (“EBO”) Program. The EBO Program will ultimately take the form of draft amendments to the County Purchasing Code, the SBE Ordinance, and the Purchasing Procedures Manual and shall reflect features similar to many of those outlined herein.

In all, there are three distinct parts to this Policy Option Matrix. Part I focuses on administrative reforms and construction industry-related remedies. Part II focuses on professional services industry-related remedies (including CCNA design contracts) and other professional services. Finally, Part III focuses on remedies related to goods and other services (i.e., non-professional services) industry segments. Within this Part II of the Policy Option Matrix, Tables III-A and III-B below summarize respectively the remedial industry-specific race-neutral Small Business Enterprise (“SBE”) policy options and the race- and gender-conscious minority/women business enterprise (“M/WBE”) policy options for the Professional Services industry that may be legally defensible and somewhat effective in addressing identified barriers to M/WBE participation in Palm Beach County (“County”) contracts. Table III-A reflects those recommendations for industry-specific remedial policy options that are race- and gender-neutral. Table III-B reflects those

¹ Altogether, two internal County staff stakeholder meetings and three such Business Stakeholder meetings were held within the month of July 2018 in advance of preparation of this document. These internal and external stakeholder sessions were facilitated by Franklin Lee, Esq.

recommendations for industry-specific remedial policy options that are race- and gender-conscious (i.e., they include the use of racial or gender classifications). As a result of U.S. Supreme Court precedents requiring narrow tailoring of remedies under the “strict scrutiny” standard, the County should first consider the use of race- and gender-neutral remedial options as reflected in Table III-A, and only resort to the race- and gender-conscious remedial options reflected in Tables III-B when it has reason to believe that neutral remedies, in and of themselves, will be insufficient to fully eliminate disparities resulting from discrimination.²

² This “Part II” of the draft Policy Option Matrix for professional services contracts includes a total of 11 various policy recommendations, of which five are race-and gender-neutral, and six are race-and gender-conscious in nature. **“R/C” references within the numerical label of a policy option mean that the proposed policy is a “race- and gender-conscious” remedy. “R/N” references within the numerical label of a policy option mean that the proposed policy is a “race- and gender-neutral” remedy.**

**TABLE III-A: RACE / GENDER-NEUTRAL PROFESSIONAL SERVICES INDUSTRY
POLICY OPTIONS FOR PALM BEACH COUNTY'S EQUAL BUSINESS OPPORTUNITY PROGRAM**

(Submitted by Franklin M. Lee, Esquire 8-13-18)

<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p align="center">Professional Services (R/N-19)</p> <p align="center"><i>SBE Vendor Rotation</i></p>		<p><u>Option 1:</u> Selective use of vendor rotation of pre-qualified panel of SBE Professional Services firms for smaller County contracts valued at less than \$100,000. Price for work is subject to negotiation with County based upon rates and estimated hours. Assignment of work tasks is rotated among this pre-qualified panel of SBE Professional Services firms. Periodically, SBE Vendor Rotation list is re-ordered from least dollars received to most dollars received based</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or larger resulting in significant underutilization of prequalified professional services firms owned by African American and</p>	<p><i>Pro: Automated centralized bidder registration system combined with pre-qualification process will enable rotation of SBE firms to get a fair chance to prove capabilities on smaller projects and overcome bias against unknown firms. Facilitates building a track record and overcoming lack of County experience barrier.</i></p> <p><i>Con: Reduces</i></p>

<p>Professional Services (R/N-19)</p> <p><i>SBE Vendor Rotation (continued)</i></p>		<p>upon cumulative dollars in work tasks each firm has received within past year.</p> <p><u>Option 2:</u> To ensure there is price competition, for those professional services contracts valued at \$100,000 or less where price may be a factor in selection, price quotations must be solicited from the next three prequalified SBE vendors in rotation.</p>	<p>Asian American firms; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of M/WBEs); and PUMS regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	<p><i>competition in the short-run and may adversely affect cost. However, this risk is mitigated under Option 2. Note also, that for certain professional services contracts in Florida, the CCNA prohibits selection based solely upon low cost.</i></p>
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<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/N-20)</p> <p><i>Evaluation Preferences for <u>New</u> SBE Prime Bidders</i></p>		<p>Provide preferences only for first time entrants seeking professional services contracts for up to one year after first contract award is won. Evaluation point preferences (award up to 15% of available evaluation points) to SBE firms bidding as first-time Professional Services prime consultants. One year after the SBE Professional Services firm is first awarded a contract on this basis, the SBE firm is no longer eligible for such “New” SBE prime bidder evaluation preferences in the future, but may be entitled to other versions of the SBE and M/WBE evaluation preferences.</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or greater resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of</p>	<p><i>Pro: Encourages more natural evolution of successful S/M/WBE Professional Services sub-consultant firms into full-service Professional Services firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform Professional Services prime contracts for County</i></p> <p><i>. Con: SBA size standards for SBEs may not be workable for Professional Services firms, which typically may have fewer employees.</i></p>

<p>Professional Services (R/N-20)</p> <p><i>Evaluation Preferences for <u>New SBE</u> Prime Bidders (continued)</i></p>			<p>M/WBEs); and PUMS regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	
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<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/N-21)</p> <p><i>SBE Reserve for Contracts Up to \$5,000 and Required SBE Quotations on Informal Solicitations under \$325,000</i></p>		<p>Reserve some smaller professional services contracts valued at less than \$5,000 for competition among SBE professional services firms only. For larger informal professional services contracts valued under \$325,000, require quotations from at least three SBE professional services firms.</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or larger resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of</p>	<p><i>Pro: Encourages more natural evolution of successful S/M/WBE Professional Services sub-consultant firms into full-service Professional Services firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform Professional Services prime contracts for County.</i></p> <p><i>Con: SBA size standards for SBEs may not be workable for Professional Services firms, which typically may have fewer employees.</i></p>

			<p>M/WBEs); and PUMS regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	
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<p>Professional Services (R/N-22)</p> <p><i>SBE Evaluation Preference for Prime Bidders</i></p>		<p>Evaluation point preferences (award up to 15% of total available evaluation points) to any SBE firms bidding as professional services prime consultants on contracts valued at less than \$500,000. **One alternative is to restrict this API to professional services SBE prime consultant bidders that have not previously won a professional services prime contract with the County. (Compare with R/N- 20 above.)</p> <p>** 2nd Alternative is to have a sliding scale for award of up to 15 SBE Evaluation Preference Points awarded based upon relative dollar value (from 10% up to 100%) of bidder’s team total SBE participation.</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or greater resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of M/WBES); and PUMS</p>	<p><i>Pro: Encourages more natural evolution of successful S/M/WBE Professional Services sub-consultant firms into full-service Professional Services firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform Professional Services prime contracts for County.</i></p> <p><i>Con: SBA size standards for SBEs may not be workable for Professional Services firms, which typically may have fewer employees.</i></p>

<p>Professional Services (R/N-22)</p> <p><i>SBE Evaluation Preference for Prime Bidders (continued)</i></p>			<p>regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	
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<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/N-23)</p> <p><i>SBE Subcontracting Goals for Professional Services</i></p>		<p>Mandatory subcontracting outreach program with SBE subcontract goals of 20% unless waiver or reduction is granted by EBO Office.</p> <p>Mandatory good faith outreach by primes to satisfy contract-specific SBE subcontracting goal of 20%; centralized bidder registration system can significantly improve outreach and facilitate documentation of availability by specific trade. Such data will further provide objective means for processing SBE goal waiver requests or goal reductions on a contract-specific basis.</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or greater resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of M/WBEs); and PUMS</p>	<p><i>Pro: Enhances ability of S/M/WBE professional services firms to gain experience on larger contracts and establish a track record with County. May also develop referral source with prime consultant.</i></p> <p><i>Con: Not all professional services contracts have commercially useful subcontract opportunities, so EBO Office and Goal Setting Committee will need to carefully evaluate each prime contract opportunity. Also, SBA size standards may not effectively benefit M/WBE firms since</i></p>

<p>Professional Services (R/N-23)</p> <p><i>SBE Subcontracting Goals for Professional Services (continued)</i></p>			<p>regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in un-remediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	<p><i>professional services firms typically have relatively small numbers of employees and gross revenues.</i></p>
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**TABLE III-B: RACE / GENDER-CONSCIOUS PROFESSIONAL SERVICES INDUSTRY
POLICY OPTIONS FOR PALM BEACH COUNTY’S EQUAL BUSINESS OPPORTUNITY PROGRAM**

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<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p align="center">Professional Services (R/C-11)</p> <p align="center"><i>Annual Aspirational M/WBE Goals</i></p>		<p>Establishment of annual aspirational goals for M/WBE participation in County professional services contracts (base goals starting at 23% MBE and 19% WBE for professional services prime contract dollars, and 25% MBE and 21% WBE for subcontract dollars awarded, with some adjustment on an annual basis as warranted based upon CBR registration). See Study pp.6-21 to 6-22;</p>	<p>Flexible benchmarks are important to managing the M/WBE program and finding the appropriate mix of race- and gender-neutral and race- and gender- conscious policies. Annual goals also provide an up-to-date measure of availability by overall industry categories, and can be useful for outreach purposes. Disparity Study findings obtained with benefit of threshold analysis</p>	<p><i>Pro: Provides a useful tool for evaluating success of program and making necessary adjustments to aggressiveness of remedies and outreach efforts. Provides realistic targets for M/WBE participation in County contracts that are data-driven based upon bona fide measures of availability.</i></p>

<p>Professional Services (R/C-11)</p> <p><i>Annual Aspirational M/WBE Goals (continued)</i></p>		<p>Table 6.16; see also Study pp. 6-30 to 6-31.. These goals are not to be necessarily applied to individual contracts, but rather serve as a guidepost to evaluate the effectiveness of the SBE and M/WBE Affirmative Procurement Initiatives (“APIs”) on an annual basis, and to identify and direct adjustments as necessary to the mix and aggressiveness of applied policy options.</p>	<p>greatly diminish smaller M/WBE capacity as a plausible explanation for significant disparities observed at prime contract and subcontract levels. (Study at pp. 6-7 to 6-18; 6-21 to 6-24, and 6-30 to 6-31).</p>	<p><i>Con: Must guard against reflex to apply annual goals to specific projects without justification. If not updated periodically, can also undermine ability to narrowly tailor program’s application in the future.</i></p>
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<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-12)</p> <p><i>M/WBE Evaluation Preferences for Professional Services</i></p>	<p>In professional services contracts that are “best value” contracts where selection is through an RFP process instead of lowest responsible bidder IFBs, include language in RFP to encourage M/WBE participation on bidder’s team as one element in selection criteria. This option assigns evaluation point preferences (awarding up to 15% of total available evaluation points on a sliding scale basis based upon the level of M/WBE participation) to any firms bidding on professional services contracts. (See Study at pp. 12-21 to 12-24)</p>	<p>FML concurs. Evaluation preference points are assigned to team based upon the percentage dollar value of the contract that will be performed by team members that are M/WBE firms. County should also consider changes to its evaluation panel scoring process, which currently does not facilitate and discussion regarding each panel member’s scoring rationale. This undermines the intent and purpose of including a representative of the SBO or EBO Office on each evaluation panel. The idea is to promote more rational and defensible scoring based upon demonstrated firm</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study at pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or greater resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of</p>	<p><i>Pro: Encourages more natural evolution of successful S/M/WBE Professional Services sub-consultant firms into full-service Professional Services firms that bid as primes. Helps overcome natural bias in favor of incumbent firms that repeatedly perform Professional Services prime contracts for County.</i></p> <p><i>Con: Requires careful compliance monitoring by County to ensure that M/WBE team members get to perform agreed upon</i></p>

<p>Professional Services (R/C-12)</p> <p><i>M/WBE Evaluation Preferences for Professional Services</i></p> <p>(continued)</p>		<p>capabilities, and to counteract undue influence resulting from lengthy incumbency of certain firms in working with County staff. Evaluation panel members should be comfortable in defending their scores based upon questions raised by other panel members with differing views.</p>	<p>M/WBEs); and PUMS regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	<p><i>scope of work at agreed upon dollar value.</i></p>
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<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-13)</p> <p><i>M/WBE Subcontracting Goals for Professional Services</i></p>	<p>Require prime bidders to exercise good faith efforts to meet an M/WBE subcontract participation goal with firms owned by African Americans and Women. Subcontracting goals should also contain waiver provisions for those instances where sufficient ready, willing, and able M/WBE subcontractors are not available. (Study at pp. 12-15 to 12-16).</p>	<p>FML concurs. There should be opportunity for good faith waivers or reductions in subcontracting goals based upon documentation of inadequate M/WBE availability. Contract-specific subcontracting goals should be weighted to availability of M/WBE firms in required sub-specialties. This provision should be limited in its application to M/WBE prime bidders, which, as significantly underutilized M/WBE prime firms themselves, should be permitted to self-perform such M/WBE subcontracting goals. Project-specific goals should vary by</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study at pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or greater resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of</p>	<p><i>Pro: Enhances ability of M/WBE professional services firms to gain experience on larger contracts and establish a track record with County. May also develop referral source with prime consultant.</i></p> <p><i>Con: Not all professional services contracts have commercially useful subcontract opportunities, so EBO Office will need to carefully evaluate each prime contract opportunity.</i></p>

<p>Professional Services (R/C-13)</p> <p><i>M/WBE Subcontracting Goals for Professional Services (continued)</i></p>		<p>project and be based upon realistic measurement of available M/WBE firms for the particular project. Documented excessive prices or poor performance by M/WBE subcontractors should be recognized as a basis for disqualification from bid. EBO Office should undertake analysis to set subcontracting goals on a project-specific basis where there is a commercially useful function to be subcontracted.</p> <p>**Alternatively, consider limiting availability of this policy option to larger professional services contracts greater than \$100,000 in value.</p>	<p>M/WBEs); and PUMS regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	
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<p>Professional Services (R/C-13A)</p> <p><i>M/WBE Segmented Subcontracting Goals for Professional Services</i></p>		<p>In those instances wherein a particular ethnic segment of M/WBE subcontractors (e.g., African American, Asian American, Hispanic American, Native American, and/or Caucasian WBE firms) has been consistently and significantly underutilized as compared to relative availability even after the use of aggregate M/WBE subcontracting goals, then subsequent overall M/WBE subcontracting goals may be segmented such that a prime bidder must subcontract no less than a certain percentage of the overall M/WBE subcontracting goal to M/WBE firms that are within that significantly</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study at pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or greater resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of</p>	<p><i>Pro: Provides narrowly tailored approach to setting realistic M/WBE subcontract goals; built-in flexibility with consideration of good faith efforts documentation; follows federal government model for DBE program which greatly enhances legal defensibility.</i></p> <p><i>Con: Is more administratively burdensome to implement than single uniform subcontracting goal; requires careful consideration in goal-setting stage for</i></p>

<p style="text-align: center;">Professional Services (R/C-13A)</p> <p style="text-align: center;"><i>M/WBE Segmented Subcontracting Goals for Professional Services</i> (continued)</p>		<p>underutilized ethnic segment. (For example, wherein African American subcontractor utilization reflects patterns of near exclusion, out of an overall 46% M/WBE subcontracting goal, the prime bidders may be required to obtain no less than 11% out of that 46% from subcontractors that are certified as African-American firms.) Segmented contract-specific subcontracting goals should also be weighted to the relative availability of M/WBE firms and the identified segments of M/WBE firms qualified to provide goods or services within the required sub-specialties; this provision should apply to both M/WBE prime bidders and non-M/WBE bidders. Project-specific goals should vary by project</p>	<p>M/WBEs); and PUMS regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	<p><i>each and every project.</i></p>
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<p>Professional Services (R/C-13A)</p> <p><i>M/WBE Segmented Subcontracting Goals for Professional Services (continued)</i></p>		<p>and be based upon realistic measurement of ready, willing, and able M/WBE firms that are available for the particular project. Documented excessive unjustified prices or poor performance by M/WBE subcontractors should be recognized as a basis for exclusion from bid and subcontracting goals analysis. The EBO Office or Goal Setting Committee should undertake analysis to set subcontracting goals and segmented subcontract goals on a project-specific basis.</p>		
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<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-14)</p> <p><i>M/WBE Vendor Rotation</i></p>		<p><u>Option 1:</u> Selective use of vendor rotation of pre-qualified panel of M/WBE Professional Services firms for smaller County contracts valued at less than \$100,000. Price for work is subject to negotiation with County based upon rates and estimated hours. Assignment of work tasks is rotated among this pre-qualified panel of M/WBE Professional Services firms. Periodically, M/WBE Vendor Rotation list is re-ordered from least cumulative dollars received to most cumulative dollars received by each firm in work tasks assigned within past year.</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study at pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or greater resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor underutilization of</p>	<p><i>Pro: Automated centralized bidder registration system combined with pre-qualification process will enable rotation of M/WBE firms to get a fair chance to prove capabilities on smaller projects and overcome bias against unknown firms. Facilitates building a track record to overcome County experience barrier.</i></p> <p><i>Con: Reduces competition in the short-run and may adversely affect cost. However, this risk is mitigated under Option 2. Note also, that for certain</i></p>

<p>Professional Services (R/C-14)</p> <p><i>M/WBE Vendor Rotation</i></p> <p>(continued)</p>		<p><u>Option 2:</u> To ensure there is price competition, for those professional services contracts valued at \$100,000 or less where price may be a factor in selection, price quotations must be solicited from the next three prequalified M/WBE vendors in rotation.</p>	<p>M/WBEs); and PUMS regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	<p><i>professional services contracts in Florida, the CCNA prohibits selection based solely upon low cost.</i></p>
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<u>Industry Specific Policy Option</u>	<u>MTA Recommendations</u>	<u>Additional Options</u>	<u>Relevant Findings / Justifications</u>	<u>Pros & Cons</u>
<p>Professional Services (R/C-15)</p> <p><i>Required M/WBE Quotations on Smaller Informal Contracts Valued Below \$100,000, and Required M/WBE Proposals for RFP Solicitations Under \$325,000</i></p>		<p>For smaller informal professional services contracts valued below \$100,000, and for other formal professional services contracts valued below \$325,000, require quotations or proposals to be submitted from at least two M/WBE professional services firms prior to contract award.</p>	<p>Significant underutilization of African American, Asian American, and WBE firms in Professional Services prime contracts of various sizes; (Study at pp. 7-1 to 7-27; Table 7.12; see also Study pp. 7-19 to 7-21; Table 7.12 reflecting significant disparities in award of CCNA professional services prime contracts valued at \$325,000 or greater resulting in significant underutilization of prequalified professional services firms owned by African Americans and Asian Americans; see also Study pp. 8-1 to 8-9 and Table 8.3 re: subcontractor</p>	<p><i>Pro: Automated centralized bidder registration system combined with pre-qualification process will enable rotation of M/WBE firms to get a fair chance to prove capabilities on smaller projects and overcome bias against unknown firms. Facilitates building a track record to overcome County experience barrier.</i></p> <p><i>Con: Reduces competition in the short-run and may adversely affect cost. However, this risk is mitigated by requirement for</i></p>

<p>Professional Services (R/C-15)</p> <p><i>Required M/WBE Quotations on Smaller Informal Contracts Valued Below \$100,000, and Required M/WBE Proposals for RFP Solicitations Under \$325,000</i></p> <p>(continued)</p>			<p>underutilization of M/WBEs); and PUMS regression analysis reflecting significant disparities adversely affecting business ownership rates, firm earnings controlling for comparable education, age, experience, and credit worthiness variables, and reflecting private sector discrimination against M/WBE professional services firms in unremediated markets. (Study pp. 9-1 to 9-20). Anecdotal evidence of good old boy networks, stereotypical attitudes against M/WBE firms by some County personnel, strong County bias favoring incumbent firms, disparate treatment in award of contracts. (Study at pp. 10-1 to 10-25).</p>	<p><i>multiple quotes. Note also, that for certain professional services contracts in Florida, the CCNA prohibits selection based solely upon low cost.</i></p>
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