

Addendum To My Opposition and Recommended Changes
To Proposed Legislation MC/PG 101-23

Greetings Legislators,

As an addendum to my previous communication sent on Thursday, February 9, 2023, please consider President Biden's Executive Order #13985 wherein he ordered the federal government to raise the disadvantaged business goal from 5% to 15% nationally. You will notice that a part of my request in my previous communication was to increase the disadvantaged business goal to 15% for Bi County-based businesses that are certified as Small Local Disadvantaged Businesses.

I am attaching a copy of the afore-referenced executive order as well as the fact sheet issued by the Presidential Administration so that it may be considered and viewed as a standard which we in the Union aspire to reach.

Thanks for your favorable consideration. Please see Executive Order 13985 and Fact Sheet Explaining the Reforms Goals attached.

DECEMBER 02, 2021

FACT SHEET: Biden-Harris Administration Announces Reforms to Increase Equity and Level the Playing Field for Underserved Small Business Owners

The federal government is the largest purchaser of goods and services in the world, buying everything from software and building construction to financial and asset management—making its procurement a powerful tool to advance equity and build wealth in underserved communities. Despite this, less than 10 percent of federal agencies' total eligible contracting dollars typically go to small disadvantaged businesses (SDB), a category under federal law for which Black-owned, Latino-owned, and other minority-owned businesses are presumed to qualify. Moreover, while women own roughly 20 percent of all small businesses economy-wide, less than 5 percent of federal contracting dollars go to women-owned small businesses.

Increasing federal spending with underserved businesses not only helps more Americans realize their entrepreneurial dreams, but also narrows persistent wealth disparities. According to [new analysis](#) from the White House Council of Economic Advisers, based on data provided by the Small Business Administration (SBA), differences in business ownership account for 20 percent of the wealth gap between average white and Black households.

For this reason, at the June 1 centennial of the Tulsa Race Massacre, President Biden announced a bold new goal: increasing the share of contracts going to small disadvantaged businesses by 50 percent by 2025 – an unprecedented target projected to translate to an additional \$100 billion to SDBs over 5 years. The announcement built on the President's Day One Executive Order 13985, which directed agencies to work to make contracting opportunities more readily available to all eligible firms and to remove barriers faced by underserved individuals and communities.

In addition, on November 18, the Administration launched its President's Management Agenda (PMA) Vision. The third PMA priority—*managing the business of government to build back better*—recognizes that fostering lasting improvements in the Federal acquisition system can create opportunities for underserved communities. The PMA Vision states, “By creating more opportunities for all types of businesses and underserved entrepreneurs to compete for Federal contracts, the Federal marketplace can serve as a platform to create a more equitable economy.”

Today, the Biden-Harris Administration is announcing a set of reforms to the federal procurement process to help meet the President's ambitious target of increasing the share of federal contracts to SDBs, advance the President's Management Agenda, and increase opportunity for all underserved businesses. Today's actions include:

- **For the first time, asking agencies to increase their goals so that governmentwide spending results in 11 percent of contracting dollars being awarded to small disadvantaged businesses, up from the current statutory goal of 5 percent.** This is the first step towards meeting the President's goal of ensuring that 15% of federal contracts go to SDBs by 2025.
- **Releasing, for the first time, disaggregated data of federal contracting spend by race/ethnicity of business owner, a powerful transparency and management tool.**
- **Implementing major changes to the federal government's use of “category management” to boost contracting opportunities for underserved small businesses.**
- **Increasing the number of new entrants to the Federal marketplace and reversing declines in the small business supplier base.**
- **Adopting key management practices to drive accountability and institutionalize achievement of small business contracting goals.**

For the first time, asking agencies create ambitious goals in order to exceed the existing statutory goal of 5 percent by spending 11 percent of Fiscal Year 2022 governmentwide procurement dollars on small

disadvantaged businesses. Small business contracting goals are a key element of our federal procurement system, driving priorities for nearly 40,000 federal contracting officers. Today's action will put agencies on a path to meeting the President's goal of increasing annual SDB spend from an average of 9.8 percent over the last 5 years to 15 percent by FY 2025. The reforms we are putting in place now will help ramp up the amount of money going to SDBs in the coming years and keep us on a path to meet the President's goal of an additional \$100 billion to SDBs over the next five years.

Over the course of the coming year, the federal government will also update goals for other "socioeconomic" categories of small businesses, including women-owned small businesses, service-disabled veteran owned small businesses, and HUBZone businesses.

Releasing, for the first time, disaggregated data of federal contracting spend by race/ethnicity of business owner, a powerful transparency and management tool. Today, the Administration is releasing, for the first time, disaggregated data of federal contracting spend by business owner race/ethnicity. For years, the federal government has relied on topline data to benchmark contracting spend to small businesses and socioeconomic small businesses. This data, while insightful, offers only a partial illustration of performance in reaching certain groups. For example, while we typically award roughly 10 percent of federal contracting dollars to SDBs, in FY 2020 just 1.7 percent went to Black-owned small businesses, 1.8 percent went to Hispanic-owned small businesses, and 2.8 percent went to Asian American and Pacific Islander-owned small businesses. Similarly, high-level data obscures inequitable geographic distribution of federal contracts. Beginning with FY 2020 data, the federal government will publicly release this disaggregated data on an annual basis so that procurement officials, business owners, and the American people can use it as a tool to track equity and progress over time. This data will also allow agencies to assess their performance across industries and sectors, helping them better target interventions to areas with the greatest opportunity for growth.

Introducing major changes to the federal government's use of "category management" to boost contracting opportunities for underserved small businesses. In recent years, the federal government has organized its buying practices for the majority of its contract spending using stewardship

principles of “category management.” This process helps agencies buy as an organized entity, rather than as thousands of independent buyers, which allows agencies to make informed buying decisions and eliminate redundant buying choices. However, an analysis of category management spending since 2017 reveals that “socioeconomic firms, a group that includes SDBs, women-owned, service disabled veteran-owned, and HUBZones, have received a proportionally lower share of contracts. To address this unintended consequence and increase support for these businesses, the Office of Management and Budget (OMB) is issuing revised guidance on the use of category management to help federal agencies conduct more equitable buying practices. This guidance:

- Gives agencies automatic “credit” under category management for all awards made to socioeconomic small businesses, beginning in FY 2022.
- Reinforces the importance of small business goal achievement as a key to advancing equity in procurement, especially when coupled with category management stewardship practices.
- Ensures that use of “Best in Class” solutions is balanced with decentralized contracts and other strategies that are necessary to increase diversity within agency supplier bases.
- Strengthens the voice for small business equity considerations in category management governance by making the SBA and the Department of Commerce (parent agency of the Minority Business Development Agency) voting members of the Category Management Leadership Council, the interagency governing body for category management activities.

Adopting key management practices to drive accountability and institutionalize achievement of small business contracting goals.

Advancing equity for socioeconomic businesses firms requires focused attention, proactive engagement, and execution by agency senior leadership. On November 18, the Administration launched the President’s Management Agenda (PMA) Vision, which recognizes that fostering lasting improvements in the Federal acquisition system can create opportunities for underserved communities. Consistent with this vision, the federal government will:

- **Hold leaders accountable for meeting small business contracting goals.** OMB is directing all agencies to include progress towards achievement of each of the socioeconomic small business goals as evaluation criteria in all performance plans for Senior Executive Service (SES) managers that oversee the acquisition workforce or agency programs supported by contractors.
- **Ensure agency small business contracting offices have direct reporting lines to senior leadership.** Federal Offices of Small and Disadvantaged Business Utilization (OSBDUs) play an important role by working with agency acquisition officials to increase contracting with small businesses; assisting small businesses in obtaining payments from an agency; and providing advice to agency senior leadership to expand access to the supplier base. OMB is directing all federal agencies to report to SBA and OMB their plans to ensure that OSBDUs have direct access to senior leadership.

Increasing the number of new entrants to the federal marketplace to reverse the decline in the small business supplier base. A recent report found that the number of new small business entrants to federal procurement decreased by 60 percent over the past decade. This trend is directly at odds with the Administration's equity goals and not only means fewer growth opportunities for small businesses, but weakened diversity and resilience of the federal supplier base. To reverse this trend, the Biden-Harris administration is tasking agencies with benchmarking the inclusion of new entrants in the federal marketplace and developing strategies for diversifying the small business supplier base. Agencies will work to increase transparency around future contracting opportunities to ensure that more small businesses have the opportunity to compete for them and enter the federal marketplace.

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JANUARY 20, 2021

Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Policy. Equal opportunity is the bedrock of American democracy, and our diversity is one of our country's greatest strengths. But for too many, the American Dream remains out of reach. Entrenched disparities in our laws and public policies, and in our public and private institutions, have often denied that equal opportunity to individuals and communities. Our country faces converging economic, health, and climate crises that have exposed and exacerbated inequities, while a historic movement for justice has highlighted the unbearable human costs of systemic racism. Our Nation deserves an ambitious whole-of-government equity agenda that matches the scale of the opportunities and challenges that we face.

It is therefore the policy of my Administration that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. Because advancing equity requires a systematic approach to embedding fairness in decision-making processes, executive departments and agencies (agencies) must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.

By advancing equity across the Federal Government, we can create opportunities for the improvement of communities that have been historically underserved, which benefits everyone. For example, an analysis

shows that closing racial gaps in wages, housing credit, lending opportunities, and access to higher education would amount to an additional \$5 trillion in gross domestic product in the American economy over the next 5 years. The Federal Government's goal in advancing equity is to provide everyone with the opportunity to reach their full potential. Consistent with these aims, each agency must assess whether, and to what extent, its programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups. Such assessments will better equip agencies to develop policies and programs that deliver resources and benefits equitably to all.

Sec. 2. Definitions. For purposes of this order: (a) The term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

(b) The term “underserved communities” refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of “equity.”

Sec. 3. Role of the Domestic Policy Council. The role of the White House Domestic Policy Council (DPC) is to coordinate the formulation and implementation of my Administration's domestic policy objectives. Consistent with this role, the DPC will coordinate efforts to embed equity principles, policies, and approaches across the Federal Government. This will include efforts to remove systemic barriers to and provide equal access to opportunities and benefits, identify communities the Federal Government has underserved, and develop policies designed to advance equity for those communities. The DPC-led interagency process will ensure that these efforts are made in coordination with the directors of the National Security Council and the National Economic Council.

Sec. 4. Identifying Methods to Assess Equity. (a) The Director of the Office of Management and Budget (OMB) shall, in partnership with the heads of agencies, study methods for assessing whether agency policies and actions create or exacerbate barriers to full and equal participation by all eligible individuals. The study should aim to identify the best methods, consistent with applicable law, to assist agencies in assessing equity with respect to race, ethnicity, religion, income, geography, gender identity, sexual orientation, and disability.

(b) As part of this study, the Director of OMB shall consider whether to recommend that agencies employ pilot programs to test model assessment tools and assist agencies in doing so.

(c) Within 6 months of the date of this order, the Director of OMB shall deliver a report to the President describing the best practices identified by the study and, as appropriate, recommending approaches to expand use of those methods across the Federal Government.

Sec. 5. Conducting an Equity Assessment in Federal Agencies. The head of each agency, or designee, shall, in consultation with the Director of OMB, select certain of the agency's programs and policies for a review that will assess whether underserved communities and their members face systemic barriers in accessing benefits and opportunities available pursuant to those policies and programs. The head of each agency, or designee, shall conduct such review and within 200 days of the date of this order provide a report to the Assistant to the President for Domestic Policy (APDP) reflecting findings on the following:

(a) Potential barriers that underserved communities and individuals may face to enrollment in and access to benefits and services in Federal programs;

(b) Potential barriers that underserved communities and individuals may face in taking advantage of agency procurement and contracting opportunities;

(c) Whether new policies, regulations, or guidance documents may be necessary to advance equity in agency actions and programs; and

(d) The operational status and level of institutional resources available to offices or divisions within the agency that are responsible for advancing civil rights or whose mandates specifically include serving underrepresented or disadvantaged communities.

Sec. 6. Allocating Federal Resources to Advance Fairness and

Opportunity. The Federal Government should, consistent with applicable law, allocate resources to address the historic failure to invest sufficiently, justly, and equally in underserved communities, as well as individuals from those communities. To this end:

(a) The Director of OMB shall identify opportunities to promote equity in the budget that the President submits to the Congress.

(b) The Director of OMB shall, in coordination with the heads of agencies, study strategies, consistent with applicable law, for allocating Federal resources in a manner that increases investment in underserved communities, as well as individuals from those communities. The Director of OMB shall report the findings of this study to the President.

Sec. 7. Promoting Equitable Delivery of Government Benefits and

Equitable Opportunities. Government programs are designed to serve all eligible individuals. And Government contracting and procurement opportunities should be available on an equal basis to all eligible providers of goods and services. To meet these objectives and to enhance compliance with existing civil rights laws:

(a) Within 1 year of the date of this order, the head of each agency shall consult with the APDP and the Director of OMB to produce a plan for addressing:

(i) any barriers to full and equal participation in programs identified pursuant to section 5(a) of this order; and

(ii) any barriers to full and equal participation in agency procurement and contracting opportunities identified pursuant to section 5(b) of this order.

(b) The Administrator of the U.S. Digital Service, the United States Chief Technology Officer, the Chief Information Officer of the United States, and

the heads of other agencies, or their designees, shall take necessary actions, consistent with applicable law, to support agencies in developing such plans.

Sec. 8. Engagement with Members of Underserved Communities. In carrying out this order, agencies shall consult with members of communities that have been historically underrepresented in the Federal Government and underserved by, or subject to discrimination in, Federal policies and programs. The head of each agency shall evaluate opportunities, consistent with applicable law, to increase coordination, communication, and engagement with community-based organizations and civil rights organizations.

Sec. 9. Establishing an Equitable Data Working Group. Many Federal datasets are not disaggregated by race, ethnicity, gender, disability, income, veteran status, or other key demographic variables. This lack of data has cascading effects and impedes efforts to measure and advance equity. A first step to promoting equity in Government action is to gather the data necessary to inform that effort.

(a) Establishment. There is hereby established an Interagency Working Group on Equitable Data (Data Working Group).

(b) Membership.

(i) The Chief Statistician of the United States and the United States Chief Technology Officer shall serve as Co-Chairs of the Data Working Group and coordinate its work. The Data Working Group shall include representatives of agencies as determined by the Co-Chairs to be necessary to complete the work of the Data Working Group, but at a minimum shall include the following officials, or their designees:

(A) the Director of OMB;

(B) the Secretary of Commerce, through the Director of the U.S. Census Bureau;

(C) the Chair of the Council of Economic Advisers;

(D) the Chief Information Officer of the United States;

(E) the Secretary of the Treasury, through the Assistant Secretary of the Treasury for Tax Policy;

(F) the Chief Data Scientist of the United States; and

(G) the Administrator of the U.S. Digital Service.

(ii) The DPC shall work closely with the Co-Chairs of the Data Working Group and assist in the Data Working Group's interagency coordination functions.

(iii) The Data Working Group shall consult with agencies to facilitate the sharing of information and best practices, consistent with applicable law.

(c) Functions. The Data Working Group shall:

(i) through consultation with agencies, study and provide recommendations to the APDP identifying inadequacies in existing Federal data collection programs, policies, and infrastructure across agencies, and strategies for addressing any deficiencies identified; and

(ii) support agencies in implementing actions, consistent with applicable law and privacy interests, that expand and refine the data available to the Federal Government to measure equity and capture the diversity of the American people.

(d) OMB shall provide administrative support for the Data Working Group, consistent with applicable law.

Sec. 10. Revocation. (a) Executive Order 13950 of September 22, 2020 (Combating Race and Sex Stereotyping), is hereby revoked.

(b) The heads of agencies covered by Executive Order 13950 shall review and identify proposed and existing agency actions related to or arising from Executive Order 13950. The head of each agency shall, within 60 days of the date of this order, consider suspending, revising, or rescinding any such actions, including all agency actions to terminate or restrict contracts or grants pursuant to Executive Order 13950, as appropriate and consistent with applicable law.

(c) Executive Order 13958 of November 2, 2020 (Establishing the President's Advisory 1776 Commission), is hereby revoked.

Sec. 11. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Independent agencies are strongly encouraged to comply with the provisions of this order.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,
January 20, 2021.