



National Minority Supplier  
Development Council

Advancing Economic  
Equity Together

August 31, 2022

U.S. Senator Ben Cardin  
Chairman  
United States Senate Small Business and Entrepreneurship Committee  
Washington, DC.

Dear Senator Cardin,

Thank you for the opportunity to provide feedback to The Parren J. Mitchell Equity in Federal Contracting Act of 2022 (8(a) Improvements Legislation) and per our discussion here are our the specific items we believe should be addressed:

- Page 3, Line 10 & Line 21: Disaggregate “Asian-owned small businesses” to “Asian American/Native Hawaiian owned small businesses” and “Asian Indian owned small businesses”
- Page 4, Line 23: Can “Small business concern owned and controlled by minorities” as a tie in back to Page 3, Line 17 & 19.
- Page 5, Line 12: A 1-year extension does not appear to yield much positive impact. We propose a 11 year or 12 period for the 8A program.
- The ramp up periods appear appropriate but Page 5, Line 17 seems to be a type and should be 6 years?
- Page 7, Line 17: add in with expertise in Federal Contracting “and/or certifications:”
- Page 17, Line 22: Propose add in an additional “A small business concerned owned and controlled by minorities”.
- Page 21, Line 8: modify to “controlled by women and minorities”.

A conversation with your team in mid-August concluded that the following two recommendations can be integrated into the introduced version of the bill:

- Page 3, Line 10 & Line 21: Disaggregate “Asian-owned small businesses” to “Asian American/Native Hawaiian owned small businesses” and “Asian Indian owned small businesses”
- Page 7, Line 17: add in with expertise in Federal Contracting “and/or certifications:”

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### 8a requirements for “outside employment”

The requirement of the 8(a) program is for business owners to spend 100% of their time operating the businesses. Though the aspirational intent is understandable, this policy as it applies to underserved and minorities creates disparities before businesses even apply for the 8a program. Many Minority Business Enterprise (MBEs) owners typically have multiple businesses or other employment in order to maintain a positive income and/or benefits for their families. Because the 8a certification process and typical time to gain a contract can take 2-3 years a business owner still must find a livable wage/income during this phase. Due to the COVID pandemic, many owners’ businesses lost revenue and had to find alternative ways to sustain their livelihoods via other employment. The wealth gap for minorities vs non-minorities continues to widen and the federal government must modify programs such as the 8(a) program for underserved communities to make progress toward economic wealth parity during these new economic challenging times.

A recommended proposal is to allow business owners to sustain other employment while operating an 8a business so long as the net worth requirement is still met during the 9-year 8a duration.

### **SBA Disaggregated Data:**

We want to commend the Administration and Congress with ensuring that there is transparency on federal contracting data by race and ethnicity. This type of open transparency is incredibly helpful with forming our policy agenda and providing valuable feedback to the federal government on improving access to contract equity for MBEs. With the U.S. projected to be a majority/minority country by 2044 (U.S. Census), the NMSDC’s goal is to facilitate \$1Trillion in contracting opportunities in the next five years to close the racial wealth gap.

### **Future Policy Considerations for MBE Contracting Equity:**

Beyond the civil injustices that have been protested across the country and the disenfranchisement of minority communities, there are distinct underlying issues that primarily center on economic disparity. Unemployment, low workforce readiness, lack of transportation infrastructure, a shortage of affordable housing, and social issues have negatively impacted minority communities nationwide. While MBEs are contributing to the economic vitality of these communities by addressing social issues in new ways, they must have the opportunity to develop capacity and entry points into the industries of tomorrow. The federal government must

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change economic development models that enable MBEs to grow and create jobs, serve as positive role models to disadvantaged youth, and expose residents to innovation and emerging industries to generate wealth creation. These business owners seek new opportunities that will allow them to engage with the entire community in order to make a broader impact.

Civic participation is critical to MBEs as their dedication goes beyond economic success. If we are to improve the government's ability to advance community conditions capable of deterring civil injustices and targeting of our law enforcement officers, then the federal response must be guided by interagency collaboration, law enforcement understanding, public investment and newer MBE contracting designations to provide economic equity.

We would like to provide a high-level overview and proposal to set a foundation for future deliberations on minority business federal contracting equity. The intent of this high-level concept is to share a possible concept for a federal designation for Minority Business Enterprises (MBEs) and universal certification at the federal level. Many state/local governments have precedent setting programs that designate MBEs for the purpose of growing public sector minority business opportunities. We believe that the formation of a federal MBE designation and certification will allow accountability of federal contracting but also provide a socio-economic tool to close the racial wealth gap in the United States.

The establishment of a MBE certification and designation system will ensure a system of accountability and success metrics when agencies define their diverse contracting goals. This is how many private sector Fortune 500 companies enable their own supplier diversity programs to enhance economic opportunities in corporate communities. Thus, if there is no defined business designation for MBEs there is no quantitative way to measure against contracting goals; provide accountability policies and ability to demonstrate economic progress with closing the racial wealth gap.

NMSDC welcomes the opportunity to begin a high-level dialogue and ideation with various members to discuss this policy proposal. We have outlined a very generic and broad conceptual proposal based on other state legislators from across the U.S. as a starting point for discussion. We have begun conversations with Senators Duckworth, and Hirano and plan to speak to Senators Cantwell, Warnock, and Blumenthal. Additionally, on the House side, we have spoken to Representatives Beatty, Waters, Garcia, and Cleaver.

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*MBE Designation and Universal Certification Conceptual Draft Policy Proposal Items:*

- Minority owned businesses are significantly underrepresented and have been denied equitable competitive opportunities in contracting. It is the intent of an MBE designation to mitigate societal discrimination and other factors in participating in public works and in providing goods and services and to delineate a policy so that an increased level of participation by minority-controlled businesses is desirable at all levels of government.
- The purpose and intent are to provide the maximum practicable opportunity for increased participation by minority owned controlled businesses in participating in federal contracting and the process by which goods and services are procured by federal agencies.
- For a MBE Designation to be executed, a federal authority must certify and authenticate any business that seeks to obtain the MBE designation similarly to the U.S. DOT DBE and the U.S. SBA 8(a) programs.
- The established “Agency” shall be the sole authority to perform certification of minority business enterprises. Certification by the federal authority agency will allow these firms to participate in programs for these enterprises administered by any federal agency.
- Once a business has a federal MBE designation it shall be accepted to any other public sector agency at the federal, state, and local levels. This will eliminate the burden that many MBEs face with hundreds of multiple certification processes with multiple state/local jurisdictions.
- Each federal agency shall comply with the annual goals established for that agency. Every federal agency shall also adopt a plan, developed in consultation with the Secretary’s office and a minority business advisory committee, to ensure that minority-owned businesses are afforded the maximum practicable opportunity to participate in the execution of public contracts directly and meaningfully for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority women owned businesses.
- All federal agencies must annually identify those:
  - (a) In the lowest quintile of utilization of minority contractors as a percentage of all contracts issued by the agency;
  - (b) in the lowest quintile of the dollar value awarded to minority and owned contractors as a percentage of the dollar value of all contracts issued by the agency; and
  - (c) that are performing significantly below their established goals, as determined by the agency. The agency must meet with each identified agency to review its plan and identify available tools and actions for increasing participation.

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- The certifying authority agency shall annually report to the President, the relevant Congressional oversight committee and any other review committee of all agencies on the progress/metrics of success with MBEs and disaggregated contracting data by race and ethnicity.

The positive economic impact that MBEs have with the American economy is real and cannot be ignored. It is a community that will grow economic prosperity for all Americans. In one of regional councils' latest economic impact study shows that closing racial wealth gap will, by the year 2050,

- Increase the U.S. GDP by \$8 Trillion
- Add \$2.6 Trillion of consumer spending
- Add over 9M jobs to the U.S. economy

It is imperative that new deliberate economic development tools be crafted to uplift minority communities and the utilization of federal contracting as a catalyst will be critical to bringing equitable prosperity for minority communities.

Thank you for your consideration and we look forward to our next opportunity to provide feedback and ideas on minority business contracting equity.

Sincerely,

A handwritten signature in black ink, appearing to read "Ying McGuire".

Ying McGuire  
Chief Executive Officer and President  
National Minority Supplier Development Council (NMSDC)

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