

TAKING RISKS:

LESSONS LEARNED FROM LOCAL GOVERNMENT INNOVATORS

**CULTURE,
COLLABORATION
AND CAPITAL:**
LEVERAGING
PROCUREMENT FOR
ECONOMIC EQUITY



A special project of



LIVING CITIES
INNOVATE • INVEST • LEAD

THE CASE FOR INCLUSIVE PROCUREMENT

Equity –

The Governmental Mandate for
Equal Protections

Good Government –

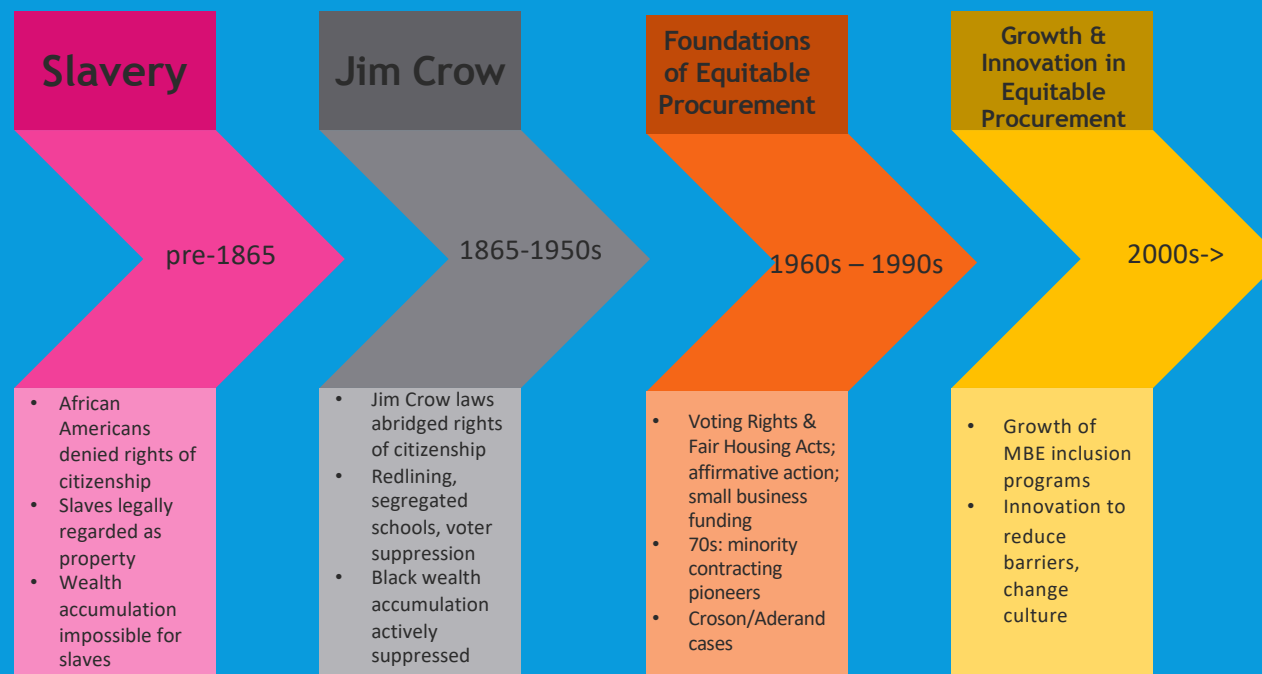
Increasing Government
Effectiveness

Economic Development –

The Impact of Addressing the
Racial Wealth Gap



Disparities in Procurement: The Historical Context



"Governments used policy to create inequality, so governments must also use policy to create equity." – Brion Oaks, Chief Equity Officer, City of Austin, Texas

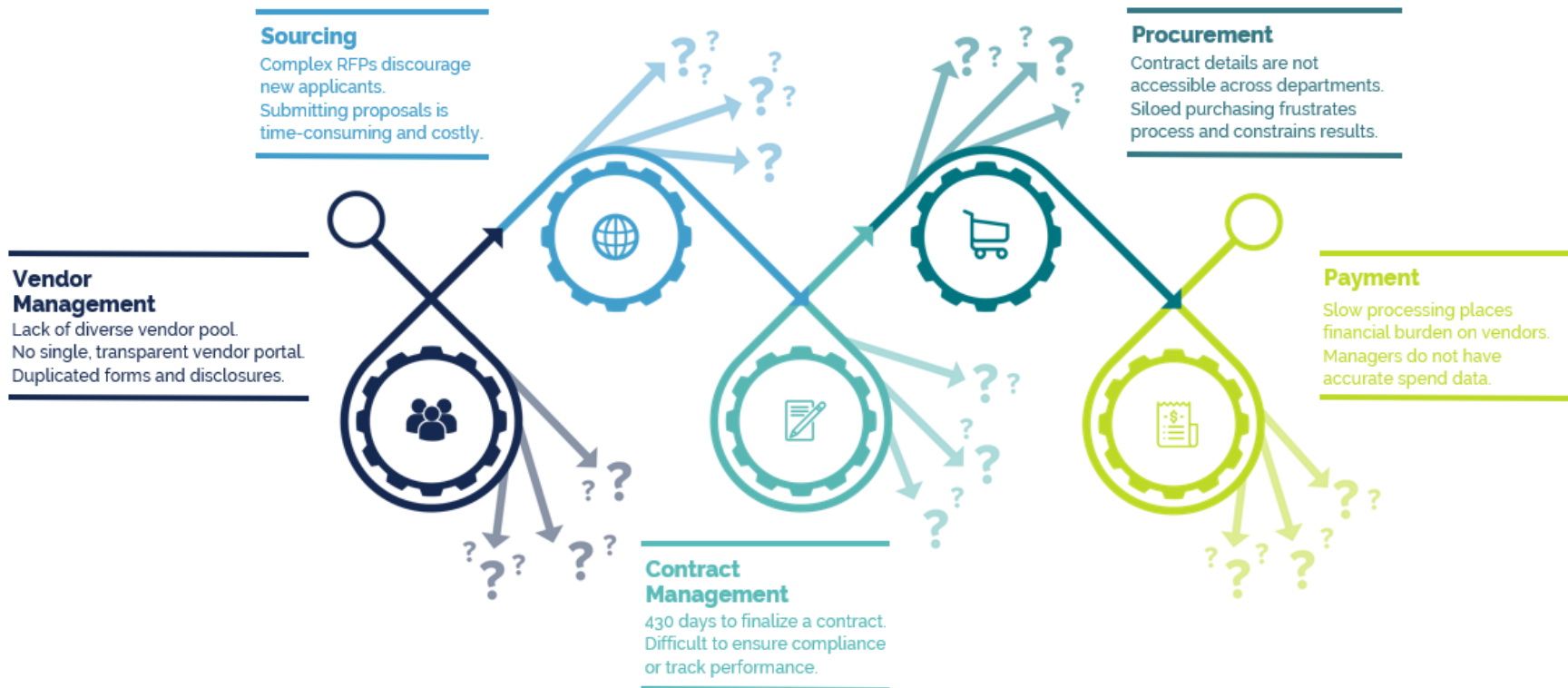
Local governments spend \$1.5 trillion a year on goods, services, and construction



CITY SPOTLIGHTS: 2018 CITY ACCELERATOR COHORT



Our flawed procurement process is the single greatest obstacle to achieving LA's operational objectives.





CITY TEAM LEADS



Nancy Rosado
Charlotte Business
INclusion Manager
City of Charlotte



Michael Ow
Chief Procurement Officer
City of Los Angeles



Catherine Kwiatkowski
Director of Public Affairs
Chicago Dept. of Procurement Services



Joann Massey
Director
Memphis Office of Business
Diversity and Compliance

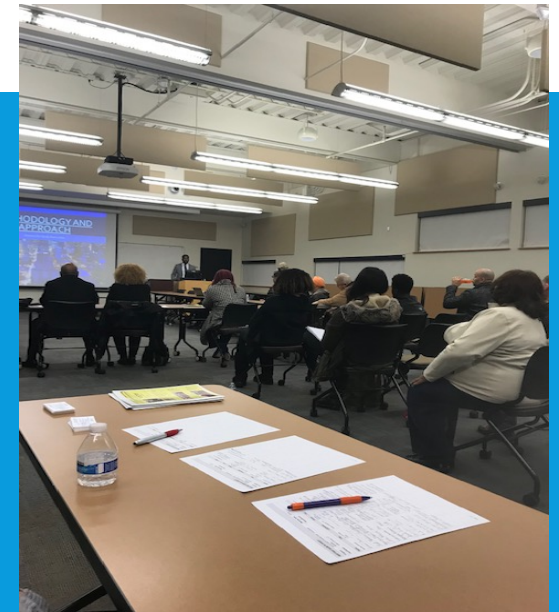


Aaron Szopinski
Policy Director
City of Milwaukee

GETTING STARTED

Addressing Equity with Intentionality:

- **Understanding the Policy/Legal Context**
 - Legal constraints
 - Using policy to promote equity
- **Disparity Studies**
 - City or Richmond v. J.A. Croson
 - The Utility in Disparity Studies
- **Stakeholder Engagement**
 - Who are your stakeholders and how to engage them?



LEGAL FRAMEWORK FOR REMEDIAL CONTRACTING PROGRAMS

The strict scrutiny standard is applied to any race based program involving government procurement of goods and services.

Strict scrutiny, the most stringent standard of judicial review used by U. S. courts, is a two-pronged test:

A “compelling governmental interest”

A “narrowly tailored” remedy

City of Richmond v. J.A. Croson Co.,
488 U.S. 469

A nighttime photograph of a city skyline, likely Chicago, with several skyscrapers illuminated against a dark blue sky. A solid blue horizontal banner is superimposed across the middle of the image, containing the title text in white. The bottom portion of the image shows a dense cluster of city buildings and streetlights.

CONTRACT COMPLIANCE 101

5 KEY STEPS TO COMPLIANCE



ASSESSMENT



OUTREACH



CERTIFICATION
& VERIFICATION



PROCUREMENT



MONITORING

ESSENTIAL COMPONENTS OF EFFECTIVE PROCUREMENT INCLUSION
PROGRAMS

ASSESSMENT OF MBE AVAILABILITY AND CAPACITY

Why?

Determination of what firms are available and capable of performing the scope of work.

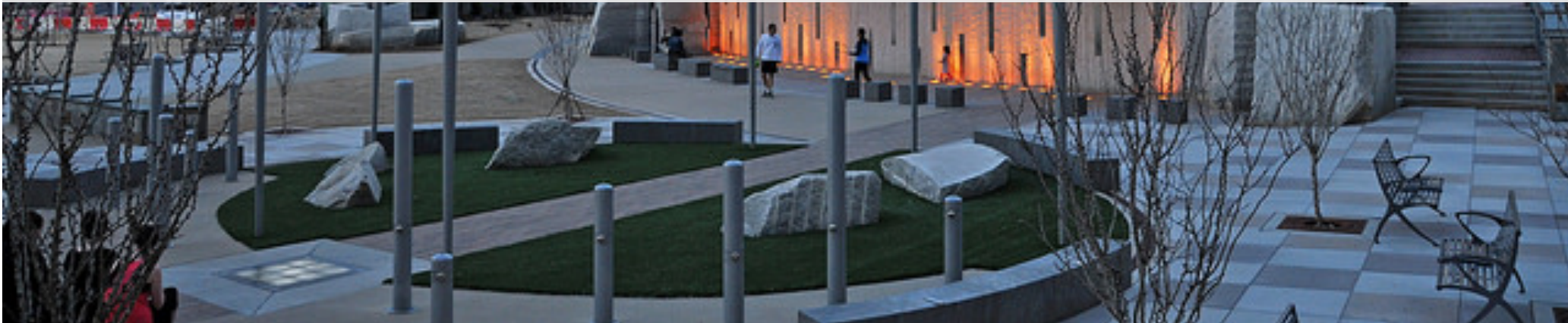
How?

1. Analyze existing laws and policies and their impact on procurement
2. Conduct an availability analysis or disparity study:
 - A legal review of purchasing policies and practices
 - Interviews with the appropriate procurement staff
 - Interviews with the local contracting community

A photograph of the Charlotte skyline at dusk, featuring several prominent skyscrapers with illuminated windows against a twilight sky.

THE CITY OF CHARLOTTE: TECHNICAL ASSISTANCE

Building vendor capacity through AMP UP Charlotte





OUTREACH

Why?

Identification and engagement of MBEs with the desire, knowledge and financial capability to provide services.

How?

Outreach from municipality to vendors and vendors to potential partners/subcontractors.

1. Conduct contract forecasting and stakeholder engagement
2. Communicate opportunities to its MBE business community, including organizations and businesses



THE CITY OF LOS ANGELES: VENDOR OUTREACH

Matchmaking with BuildWITH and TeamWITH



CERTIFICATION AND VERIFICATION

Why?

Verification of the race or ethnicity of firms to avoid fraudulent behavior in their diverse contracting programs (“Fronts” and “Pass-Throughs”)

Provides documentation to support determination of capacity, including the level of technical competence, capacity, financial capability, training needs and business acumen for each prospective MBE firm.

How?

Strong processes include:

1. Thorough documentation
2. Desk audits
3. Site visits
4. Review of “Commercially Useful Function”



THE CITY OF CHICAGO: PROCUREMENT PROCESS REFORM

Streamlining procurement to increase access and efficiency



PROCUREMENT

Why?

Development of carefully considered bid packages that support maximum opportunities for MBE participation.

How?

Pre-Bid

1. Breaking apart large contracts/bid packages
2. Solicitations and language clearly communicating MBE goals
3. Updates on status and timing of bid package release (ongoing outreach)

Bid Process


1. Use of MBE utilization plans
2. Submission of MBE subcontractor documents with the bid submission (to avoid bid shopping)
3. Bid incentives
4. Scoring MBE participation





THE CITY OF MEMPHIS: PROMPT SUBCONTRACTOR PAYMENT

Increasing capacity through access to capital



MONITORING

Why?

Protection for MBE firms from unfair or discriminatory treatment on work sites and proactive dispute resolution.

How?

1. One-on-one interviews with MBE firms to determine the status of their work.
2. Implementation of prompt payment procedures to increase working capital
3. Collection of monthly payment progress reports submitted by each contractor and;
4. Regular tracking of payments affidavits or certified payrolls to verify MBE subcontractors are paid for work performed.



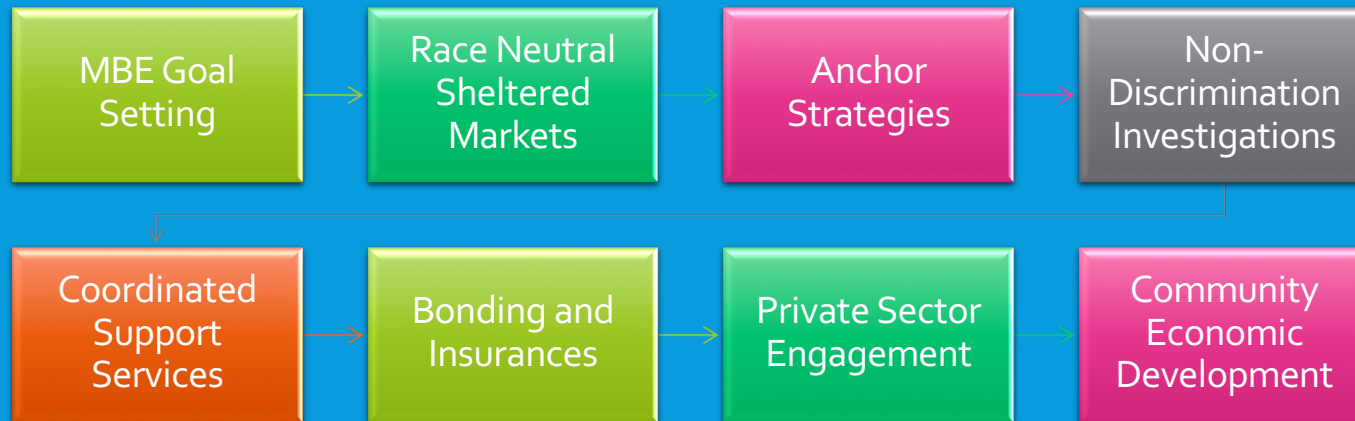


	PRE-BID	CONTRACT PROCUREMENT	CONTRACT ADMINISTRATION
Race Neutral	Contract Procurement Forecasting	Non-Discrimination Reviews	Contract Monitoring
	Vendor Outreach & Matchmaking	Streamlining the Bidding Process	
	Assessing the Needs of Diverse Businesses	Breaking Up Large Contracts	
	Technical Assistance Programs	Prompt Payment Programs	
	Financial Supportive Services	Rethinking Low-Bid Procurement	
	Joint Venture, Teaming & Mentor-Protégé Relationships	Sheltered Markets or Other Small, Micro, and Local Business Programs	

	PRE-BID	CONTRACT PROCUREMENT	CONTRACT ADMINISTRATION
Race Conscious	Joint Venture, Teaming & Mentor-Protégé Relationships	Good Faith Efforts (race-conscious)	Contract Compliance and Monitoring
		Participation Goals	
		Evaluation Preferences	
		Minority Business Distributorship Programs	



ADDITIONAL STRATEGIES THAT CAN PROMOTE MBE INCLUSION





Rodney K. Strong, Esq
Chairman and CEO

Role: Project Executive

- Former Director of Contract Compliance for the City of Atlanta, GA
- Nationally recognized expert in area of disparity research & supplier diversity program development.
- Project Manager for the first major municipal post-Croson disparity study
- Principal architect of the City of Atlanta's EBO Program, which became the national model for post-Croson MWBE programs
- Invited to testify before the U.S. Senate Committee on Small Business & Entrepreneurship



Sterling Johnson
Director of Public Policy

Role: Project Manager

- Experience in project management, community engagement, community economic development public policy
- Has served as Project Manager or Deputy Project Manager for fifteen (15) Disparity Studies or Consulting engagements.
- Holds undergraduate degree in Sociology from Furman University and M.P.A. with focus in Economic Development and Planning from Georgia State University.
- Certified Contract Compliance Administrator



<https://www.governing.com/cityaccelerator/>



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CITY ACCELERATOR
Promoting local government innovations that make a difference in the lives of city residents.

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FIELD TESTED RESOURCES

Inclusive Procurement

Lessons from Charlotte, Chicago
Los Angeles, Memphis and Milwaukee

Improving Procurement Processes to Promote Economic Equity

The implementation guide is designed to assist local governments to diagnose their challenges and identify solutions, drawing not only from the work of the City Accelerator, but also on the history of work conducted by trailblazers throughout the country.

CITY ACCELERATOR

CULTURE, COLLABORATION AND CAPITAL: LEVERAGING PROCUREMENT FOR ECONOMIC EQUITY

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