AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 118–385

PROMOTING OPPORTUNITY: THE NEED FOR TARGETED FEDERAL BUSINESS PROGRAMS TO ADDRESS ONGOING RACIAL DISCRIMINATION

FIELD HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

OF THE

UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

MAY 6, 2024

Printed for the use of the Committee on Small Business and Entrepreneurship

Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

56–458 WASHINGTON : 2024

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

ONE HUNDRED EIGHTEENTH CONGRESS

JEANNE SHAHEEN, New Hampshire, *Chair*
JONI ERNST, Iowa, *Ranking Member*

MARIA CANTWELL, Washington	MARCO RUBIO, Florida
BENJAMIN L. CARDIN, Maryland	JAMES E. RISCH, Idaho
EDWARD J. MARKEY, Massachusetts	RAND PAUL, Kentucky
CORY A. BOOKER, New Jersey	TIM SCOTT, South Carolina
CHRISTOPHER A. COONS, Delaware	TODD YOUNG, Indiana
MAZIE HIRONO, Hawaii	JOHN KENNEDY, Louisiana
TAMMY DUCKWORTH, Illinois	JOSH HAWLEY, Missouri
JACKY ROSEN, Nevada	TED BUDD, North Carolina
JOHN HICKENLOOPER, Colorado	

SEAN MOORE, *Democratic Staff Director*
MEREDITH WEST, *Republican Staff Director*

CONTENTS

MAY 6, 2024

OPENING STATEMENTS

	Page
Benjamin L. Cardin, U.S. Senator from Maryland	1
Chris Van Hollen, U.S. Senator from Maryland	6

WITNESSES

Ms. Natalia Luis, Co-Owner, M. Luis Construction and M. Luis Products, Silver Spring, MD	11
Prepared Statement	13
Ms. Tonya Lawson, President and CEO, Lawson Consulting, Fort Washington, MD	19
Prepared Statement	21
Ms. Ronnette R. Meyers, President and CEO, JLAN Solutions, Washington, DC	30
Prepared Statement	32
Mr. Gary Moore, Senior Business Consultant, Maryland MBDA Business Center, Baltimore, MD	35
Prepared Statement	37
Mr. Andres Bernal, Vice President, MGT Consulting, Cincinnati, OH	40
Prepared Statement	42
Mr. Gary Cunningham, Senior Advisor, The New School, New York, NY	43
Prepared Statement	45

ADDITIONAL LETTERS/STATEMENTS FOR THE RECORD

Joni Ernst, U.S. Senator from Iowa	
Statement dated May 6, 2024	70
Asian Americans Advancing Justice (AAJC)	
Statement dated May 6, 2024	73
Association for Enterprise Opportunity (AEO)	
Statement dated May 6, 2024	92
Capital Region Minority Supplier Development Council (CRMSDC)	
Statement dated May 8, 2024	96
Doles, Brenda, Healthcare Resolution Services, Inc.	
Statement dated May 20, 2024	102
Legal Defense Fund	
Statement dated May 6, 2024	104
Minority Business Enterprise Legal Defense and Education Fund, Inc. (MBELDEF)	
Statement dated May 19, 2024	120
Minority Business Enterprise Legal Defense and Education Fund (MBELDEF)	
Joint Statement With Eight Other Organizations	130
Missions Lenders Working Group	
Statement dated May 6, 2024	135
National Association of Women Business Owners (NAWBO)	
Statement dated May 6, 2024	137
National LGBT Chamber of Commerce (nglcc)	
Statement dated May 6, 2024	141
National Minority Supplier Development Council (NMSDC)	
Statement dated May 6, 2024	143

Page

Small Business Majority
Statements dated May 6, 2024 145
Trans Pacific Communications
Statements dated May 6, 2024 152
U.S. Black Chambers, INC
Statement dated May 6, 2024 155
White, LaTanya, Concept Creative Group, LLC
Statement dated May 6, 2024 159
Women Impacting Public Policy (WIPP)
Statement dated May 6, 2024 166

PROMOTING OPPORTUNITY: THE NEED FOR TARGETED FEDERAL BUSINESS PROGRAMS TO ADDRESS ONGOING RACIAL DISCRIMINATION

MONDAY, MAY 6, 2024

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS
AND ENTREPRENEURSHIP,
Bowie, MD.

The committee met, pursuant to notice, at 10:00 a.m., at Bowie State University, Student Center Ballroom, Student Center, 14000 Jericho Park Road, Bowie, MD, Hon. Ben Cardin presiding.

Present: Senators Cardin [presiding] and Van Hollen.

Also Present: Representative Ivey.

OPENING STATEMENT OF SENATOR CARDIN

Senator CARDIN. Good morning, everyone. The Small Business and Entrepreneurship Committee will come to order. I first want to thank Senator Shaheen and Senator Ernst, the Chair and Ranking Member of the Small Business Committee for allowing us to hold this field hearing. Having previously chaired the Small Business Committee, it is a great honor for me to chair this event with Senator Van Hollen and Congressman Ivey and a distinguished group of witnesses.

It could not be at a better location to hold this hearing, "Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination," than here at Bowie State University. To me this is the perfect place. Under the leadership of Dr. Breaux, this campus has been a real magnet for opportunities for small businesses. We recently opened the Women's Business Center here at Bowie State University. This the oldest of our Historically Black Colleges and Universities. We have the Business Innovation Center located here. This has been a real active campus for opportunities for underserved communities and small business opportunities.

Before we get started I want to recognize Dr. Breaux for her extraordinary leadership. She is one of our major players in Washington. We bring her there frequently. She has testified before our committees, and she is really a superstar, and we have her right here at Bowie State University.

Dr. Breaux. [Applause.]

STATEMENT OF AMINTA BREAUX, Ph.D., PRESIDENT, BOWIE STATE UNIVERSITY, BOWIE, MARYLAND

Dr. BREAUX. Thank you, Senator, and good morning, everyone. [Chorus of good mornings.]

Alright, we have coffee on the outside there.

Good morning and welcome to Bowie State University. I am indeed Aminta Breaux, the very proud 10th President at BSU, and I am so honored and pleased to welcome you here today and to serve as the host site for the U.S. Senate Committee on Small Business and Entrepreneurship field hearing, and to welcome you, Senator Van Hollen, Representative Glenn Ivey, and, of course, welcoming back our esteemed Chair for today, Senator Ben Cardin. You are no stranger, as none of you are, to Bowie State University, and we truly appreciate all of your support of higher education and especially for our HBCUs.

I just want to say a few words before I let you go on with the program for today. We are preparing for commencement that will take place on May 24th, and I want to thank you all for your support throughout this year. For over 150 years, our HBCUs have opened our doors to all in our society and provided a pathway to upward social economic mobility for our graduates and for their families.

And as many of you know, while HBCUs comprise just 3 percent of the higher ed institutions in the nation, we produce 20 percent of African American baccalaureate degrees and 25 percent of African American graduates in STEM. Additionally, our HBCUs have been shown to produce about $14.8 billion annually in economic benefit to our country, and HBCUs generate about 134,000 jobs for local and regional economies, according to one study.

And then Bowie State University, as I hope you all know by now, we are growing, we are thriving, as we are raising to excellence, the name of our strategic plan. But it is also the mantra by which we live each and every day to serve our students.

As a result of the extraordinary efforts of our faculty, staff, and student leaders we have recognized great achievements, including a total growth in enrollment by 2.1 percent and a 25 percent increase in graduate enrollment in 1 year. At the opening of this academic year, in the fall of 2023, we welcomed 6,400 students from 30 states, 37 foreign countries, and a total number of applications reached just about 13,000 for just 1,000 seats. Does that get a round of applause? [Applause.]

U.S. News and World Report ranks Bowie State University as number 16 among the more than 100 HBCUs in the nation. It also recognizes BSU as among the most innovative universities and as a top performer for social mobility. And we are listed among the nation's top graduate school programs in nursing, computer science, education, and public affairs.

And in addition to creating a pipeline of talent for the workforce, as you just heard from the Senate, we here at Bowie State University champion the spirit of entrepreneurship, recognizing it as a driving force for economic growth, for strengthening our community. It is our vision here at BSU to ensure that every student graduates with an entrepreneurial mindset, and some of the ways we help to inspire that entrepreneurial mindset include integration

entrepreneurship into the curriculums across the disciplines and offering entrepreneurship as a topic to our freshman year students as they come in to the university.

We offer a concentration in entrepreneurship and small business management in the College of Business, and we provide two post-baccalaureate supplemental programs with stackable credentials. One is an entrepreneurship 12-credit micro-credential and an 18-credit hour entrepreneurship certificate. And as you came into the campus, I hope you noticed the Entrepreneurship Living Learning Community that bridges the learning environments from the classroom to the residence halls, inspiring students to understand that learning happens everywhere. That Entrepreneurship Living Learning Community is home to over 500 students, and on any given day they can get up and see ideation to creation in their products and businesses. But most importantly again, we are helping to inspire them to have an entrepreneurial mindset to navigate this rapidly changing world.

I want to again thank Senator Cardin and Senator Van Hollen for your support when you were here not too long ago for the congressionally directed spending that brought out that center of excellence, and allowing for Bowie State University to lead the way for other HBCUs to develop 8 (a) government contracting programs. So can you please give the Senators a round of applause. [Applause.]

There are many more items to highlight, and the Senators know this president can go on for a while. But I know you have an agenda. Let me welcome the Committee, welcome all of our elected officials. I would like to acknowledge the mayor of Bowie, Mayor Tim Adams. Would you give him a round of applause please. [Applause.]

And finally, I invite you to see what I see here every day as we are racing to excellence, the great excellence among our faculty, staff, and students here at BSU. I know the weather is not as we had hoped, but nonetheless I hope you get out across the campus. It is a 300-acre campus here in Prince George's County, and a gem in Prince George's County.

Once again, welcome. I am Aminta Breaux, the very proud 10th president of Bowie State University, the oldest HBCU in the state of Maryland. Thank you. [Applause.]

Senator CARDIN. I think you all can see why we are so proud of Dr. Breaux, and thank you for the arrangement for this field hearing. It could not be at a better location, and we thank you for your hospitality.

You acknowledged the mayor of Bowie, Mayor Tim Adams. Tim, would you like to say a word? We want to be welcomed by you, so it would be nice.

STATEMENT OF TIM ADAMS, MAYOR OF BOWIE, MARYLAND

Mr. ADAMS. Thank you. I would simply like to quickly say thank you to Dr. Breaux. It is always a pleasure to be here on the campus of Bowie State University, as she said a number of times, the oldest HBCU in the state of Maryland. I would like to thank Congressman Ivey, Senator Van Hollen, and Senator Cardin, who is the Chair today.

I would like to just say that I want to say thank you, because as a resident of the state of Maryland I have closely followed your work and have been consistently impressed by your commitment to public service. You know, your tireless efforts in advocating for our community, needs, and championing important causes such as small businesses have not gone unnoticed. Your leadership and unwavering dedication to the betterment of our society are truly inspiring.

I would like to particularly express my appreciation for your work on truly supporting small businesses and advocating for them. Your commitment to small businesses has made a significant difference in the lives of countless individuals, including myself. Your ability to effectively communicate with constituents and listen to their concerns is commendable. It is clear that you genuinely care about the issues that affect our community, and your responsiveness and accessibility as a public servant have been truly remarkable.

Once again, I want to extend my deepest gratitude for your service and for representing our community with honor and integrity. Your commitment to public service sets a shining example for the future leaders and inspires me to be more engaged in our democracy.

Thank you, Senator Cardin, for your outstanding service to our community. I wish you continued success in all your future endeavors.

Senator CARDIN. Thank you. I appreciate it. [Applause.]

I also wanted to acknowledge the real workhorses that are here, our staff that really put together this hearing and worked with us on these small business issues, Sean Moore, who is the Staff Director of the Small Business and Entrepreneurship Committee; Shivani Pampati, who is my key person for this particular hearing; and Steve Chang. We thank the entire staff of the Small Business Committee for what they have done.

We are also joined by Steve Umberger and Larry Webb, who are the two directors of the offices, the regions that include the state of Maryland, so we thank you both for being with us today. And I want to acknowledge Terrance is here, representing Congressman Hoyer, who has been a great champion of small businesses and of course represents parts of Prince George's County, as well.

STATEMENT OF SENATOR CARDIN

Senator CARDIN. This is the right venue for this hearing. I want to take a moment to recognize that the topic we are discussing today is not an easy one. Racial discrimination has plagued our country since its inception. Let me just tell my colleagues, last night I saw the world premier of "Ain't No Back to a Merry-Go-Round," which is the story of the integration of Glen Echo Park, which is, of course, in our community. I recommend the movie to all of you. It was a real testament to the strength of a community to fight for integration in 1960. Those struggles are still continuing today. So I think it just motivated me more for why we are holding this hearing today.

Racial discrimination has plagued our nation since its inception, and unfortunately we have not been able to truly reckon with our

past in a way that completely breaks down the historical barriers that racial discrimination has created.

I want to particularly thank our small business owners with us today. This is not an easy task, and I applaud your bravery and commitment to discussing the facts that racial discrimination exists today, and that it directly impacts your ability to operate and grow you business. Not all business owners were as brave as you. Fear in discussing this topic is unfortunately a common sentiment and why this hearing is so critical.

So thank you again to the business owners here today for your willingness to tell the story in an attempt to protect and highlight the importance of targeted Federal programs, like the Small Business Administration's 8(a) program and the Minority Business Development Agency.

Attacks on programs across the Federal Government that level the playing field for minority communities are affecting every facet of our society, from education to small business. In the small business space we are witnessing a widespread and coordinated legal attack against public and private programs that aim to uplift minority small business owners and remedy disparities caused by racial discrimination. These programs provide tailored support for communities of color, to address the impact of racial discrimination that they continue to face. To say that I am disappointed by these attacks and court decisions would be a grave understatement.

I am trained by Parren James Mitchell, the first Black congressman we had in the state of Maryland. He was the former Chair of the Small Business Committee and used that opportunity to expand opportunity, providing the first set-asides for minority small businesses. He was my congressman when he was first elected to Congress, and he helped me a great deal when I was elected to Congress in 1987.

The Small Business Administration's 8(a) business development program was codified in the 1970s. It is a 9-year program that provides socially and economically disadvantaged small businesses with training, technical assistance, and contracting opportunities. This program has helped contractors from minority and underserved communities grow successful and sustainable businesses. Given the most recent lawsuits against this program, 8(a) applicants must now submit to the Federal Government explicit instances of intentional discrimination on the basis of their race in order to qualify for the program. This is not only invasive, but incredibly time consuming and costly for these business owners.

As our witnesses will attest, countless studies and other research have proven time and time again that disparities exist in minority business formations and ownership. Research has also demonstrated that systemic discrimination is the primary factor behind those disparities. Small business owners should be focusing on building their businesses and getting the support they need. Instead, minority applicants to the 8(a) program must once again do something that is all too familiar to them—prove themselves above and beyond what is normally expected.

Additional obstacles like this are stark reminders of the historical barrier we have rightly done away with, such as poll taxes and literacy tests, redlining, and so much more. These policies were

once considered by some to be reasonable standards, but have profound intentional negative impacts on Black and brown communities.

As Congress, we must do more. We must ensure the 8(a) program is not further stripped down through these legal attacks and work to not only build it back to what it was once, but also to improve it.

Most recently, the Minority Business Development Agency's business centers were challenged in the court. After more than 50 years in existence through executive order, I was proud to codify, on a bipartisan basis, the only agency explicitly dedicated to minorities in the Federal Government. My partner in this effort was Congressman Mfume in the House. Opponents of the agency argued that they agency's use of race in defining socially and economically disadvantaged was somehow unfair or unjustified. To put an injunction on business services that uniquely tailor to the needs of minority individuals is unconscionable.

These legal attacks threaten to reverse decades of progressive policies created to help address the injustice and discrimination that persists in our society and within the Federal Government. Without targeted Federal programs, we leave a large swath of our society behind, only strengthening historical barriers. It is important that we, as a country, recognize that when we exclude parts of our society we are actively undermining the social, political, and economic potential of our country.

I am honored to be holding this hearing at Maryland's oldest HBCU, focusing on how targeted Federal programs address the impact of racial discrimination and promote opportunity for minority communities.

We have an incredible group of witnesses that will join us in this discussion, but first, if I might, I am going to allow my two colleagues to make opening comments. I am pleased that both are joining me. For those, I am sure you know, Senator Van Hollen is not only a champion for small businesses, he chairs the Appropriations Subcommittee of the Small Business Administration. I think that is why we have our two regional directors that are here today. Senator Van Hollen is here to challenge their budget.

Senator Van Hollen.

STATEMENT OF SENATOR VAN HOLLEN

Senator VAN HOLLEN. Well thank you, Senator Cardin, and I want to start where Senator Cardin did, by thanking you, Dr. Breaux, and Bowie State University not only for hosting us today but for your amazing leadership. So it is great to be back on the campus of Maryland's oldest HBCU, and again, thank you.

Mayor Adams, thank you, as always, for the warm welcome to Bowie, and it was great that Senator Cardin and I were able to join you recently to provide some additional Federal funding to support the city of Bowie.

It is wonderful to be here with my colleague from the House, Glenn Ivey. We work very closely together on all issues, including small business issues and minority-owned business issues.

And I do just want to give a special word of thanks to my friend and colleague, Maryland's senior Senator, Ben Cardin. I think all

of you know that he has announced that he is not running for reelection. But as you can see what is happening today he has not slowed down one bit. And throughout his entire career in public service, he has always been a champion for small businesses and minority-owned businesses. That has been his record, that is who he is, and that is why today's hearing is so important. He has served for many years as the Chair of the Small Business Administration, the authorizing committee for small businesses, and he, of course, continues to serve on that committee. And like all of you here, we recognize that there is an ongoing threat and attack on the basic laws that provide for minority small businesses in response to historic discrimination. So thank you to Ben Cardin for being here. [Applause.]

Let me also join Senator Cardin in welcoming all of our witnesses today. Thank you for coming here to provide your insights on the unique challenges you have faced as small business owners. Thank you for coming here to share your expertise on the significance of programs like the Minority Business Development Agency and the SBA 8(a) program, and how they can help us, and continue to help us create a fairer, competitive environment for small business owners and for our economy.

Minority business owners continue to face long-standing systemic barriers in both the private and public sectors, even after decades of building programs to try to remedy this. Lack of access to capital, networks, and contracts remain ongoing barriers to success for many of these businesses. Yet small business owners, like all of you who have joined us today and so many across Maryland and the United States have pushed forward with resilience, fighting to establish yourselves in a whole variety of business sectors, and done so successfully. Entrepreneurs like yourselves have been swimming upstream to contribute to this economy through the work you do.

For centuries, governments at various levels have enacted policies and practices that systematically disadvantage minority entrepreneurs, from discriminatory landing programs. Like the redlining Senator Cardin mentioned, to zoning laws that stifled the growth of minority-owned businesses, the hand of government has often been used to reinforce existing inequalities rather than to dismantle them.

This discrimination has had a profound impact on the ability of minority small business owners to thrive. Denied access to capital, resources, and opportunities, many talented entrepreneurs have been unable to realize their full potential. They have faced higher hurdles in obtaining loans, accessing contracts, and navigating regulatory environments, all because of the color of their skin or their ethnic background.

Amidst this landscape there have been beacons of hope, programs like the Small Business Administration's 8 (a) program, and the Minority Business Development Agency. Thank you, Senator Cardin, for codifying that once and for all in law. Those programs, among others, have helped break down the barriers that we know exist. By providing access to capital, technical assistance, and contracting opportunities, these initiatives have empowered minority entrepreneurs to overcome the obstacles stacked against them.

The 8 (a) program, in particular, has been instrumental in leveling the playing field for minority-owned businesses. By offering set-aside contracts and subcontracting opportunities to small businesses owned by individuals who historically have been socially and economically disadvantaged, the program has opened doors of opportunity that were previously shut. It has helped minority entrepreneurs gain a foothold in the industries where they were once excluded, paving the way for greater economic inclusion and prosperity.

Similarly, the Minority Business Development Agency has been a life line for minority entrepreneurs seeking guidance and support. Through its network of business centers across the country, the agency provides technical assistance, access to markets, and strategic advice to help minority-owned businesses grow and thrive.

I look forward to continuing to work with Senator Cardin in this capacity on the Small Business Committee. As Senator Cardin mentioned, I chair the Subcommittee of the Appropriations Committee that funds the Small Business Administration, as well as the CDFI programs. They are such an important source of capital. I look forward to working with all of you as we confront the attacks that have been made and that are ongoing to these very, very important programs.

We have come a long way, but this is not the time to dismantle the programs that have been successful at breaking down those barriers and are needed today because those barriers remain in place.

Thank you all for being part of this discussion. Senator Cardin, again, thank you for convening this hearing.

Senator CARDIN. Thank you, Senator Van Hollen.

Our expert in the House of Representatives on the impacts of the court cases on the 8 (a) program and the Minority Business Development Agency is Glenn Ivey. He called me shortly after the court decision as to what we could do to try to remedy the situation. We are very fortunate to have his expertise in the House of Representatives as we look for ways to deal with the realities and impact of these court decisions, to make sure that we keep the tools available to help minority small businesses.

Congressman Ivey.

STATEMENT OF CONGRESSMAN IVEY

Mr. IVEY. Thank you, Senator. I appreciate that. And I do want to join in the chorus of, you know, I guess bemoaning a bit your forthcoming retirement.

Senator CARDIN. I am still here, guys. [Laughter.]

I know you all have seen a lot of ads on television, so you know there is an open spot.

Mr. IVEY. You know, when Michael Jordan retired they did a tour, essentially, so he would go play in different cities. I remember in one city they got him a rocking chair. So if you get a rocking chair, don't be surprised. We do want to make sure you are fully recognized for the outstanding work that you have done.

And Chris, it is great working with you on these issues, and so many others. You know, it is fantastic to come in. I have only been

in Congress for a year and change, but to join a team with this caliber of leadership and skill is a real honor.

And I do want to thank Bowie State. You know, you did a great job. The leadership you provided—I don't think you have been here so long, but you have really made a great impact already, and making sure that the university continues to move in the right direction.

And to Tim Adams, yes, he is the mayor of Bowie, but he is also a successful entrepreneur, in fact, maybe one of the most successful minority entrepreneurs in the country. And when Jolene Ivey, the chair of the County Council, and I did a joint hearing on this, Tim was one of the great witnesses on that proceeding that did a great job. So I am looking forward to hearing from the panel.

I just want to say a couple of things quickly, though. First of all, I see so many friends in the audience from the fights over the years. I first got into this in 1987, when I first came to the Hill. I think you had just gotten there. In fact, Jolene was working for you in 1987. And on the Small Business Committee, Congressman Conyers was on it. Congressman Mfume was on it, as well.

And so I remember that year. President Reagan had decided to attack the 8 (a) program, and he essentially tried to dismantle it. Wedtech was the case that they used as sort of the point of attack. And at the same time, they were trying to block effort, Congressman Mfume. Congressman Parren Mitchell had just left the Small Business Committee, but his leadership continued. In fact, I see the individuals from Minority Business Enterprise Legal Defense Fund, which he founded when he left. Talk about not missing a beat. He left Congress and he started MBELDEF like almost immediately.

But we fought those fights then, and we were relatively successful. We were able to preserve the 8 (a) program. In fact, there were some changes that I thought, some were beneficial, some were maybe less so. But it stayed, and it continued to move forward roughly in the form that it had.

And the MBDA bill, as Senator Cardin mentioned, well, that took a little while to get done, but it did get done. What was that, 2 years ago, I think it was, something like that? Huge achievement over a long term to make that happen. So a lot of that push came from Maryland. We have been the epicenter for these policy fights, in some respects, and I think that is going to continue, as you can see today.

But it is particularly heartbreaking then to look back on that history, and as soon as I get to Congress, and I hope it is not a causation or a correlation thing, but then we get the courts attacking these programs that we spent all these years building up and using. And it is especially problematic because it is not like these programs, like people were really getting over before they started attacking them. Yes, they were helpful. Yes, they were beneficial. But there were still challenges in the programs as they existed before these court cases, so we know we have got a long way to go, because we had a long way to go before these court cases even came down.

And then when *Ultima* came down last summer, I was heartbroken, really, because it really went to the heart of a lot of the

things we had been fighting so hard to get done. And it looked like, unfortunately, a sign of things to come because they are sort of gathering forces on the other side to continue these court attacks, and they are not stopping. We just had another one come through just the other day that is going to be kind of pushing this envelope along the wrong direction, in my view.

So, you know, I think it is critical for us to do a couple of things, and one is I am looking forward to hearing from you all. I know you can't learn when you are talking, so I am going to stop talking in a second.

But I do want to lay this out real quick, though, because I think it is important for us to think about recognizing the challenges that are there with respect to these court cases, recognizing some of the challenges that were growing for other reasons. For example, the concentration and consolidation of a lot of these contracts have made it harder for small businesses, in general, to get a chance to even compete for these, much less small minority businesses to compete, and have all the challenges that Ben and Chris laid out with respect to capital and credit and the like. So I think we have to figure out what to do with that.

Also, when we come back to this at the end, I think the question of where do we go from here I think is a big one. I think we have got some very good arguments we can make as far as why these programs should stay in place and why they need to continue to expand. On, in particular, from my perspective, the lessons we should have learned from the supply chain issues coming out of COVID, which is to the extent we can have businesses here in the United States that are doing these services as opposed to overseas, that is a great thing. If we can have minority businesses who are doing them here in the United States, and utilizing people who are not so much involved in the economic growth of the United States, that is even better piece.

And I think it is also critical for us to make sure that we expand the opportunities available so the American Dream, as we have known it—and we saw it flourishing before it got sort of cut off at the knees when some of these court cases came in.

So I do want to make sure that before we end the day we talk a little bit about things that we can do. The Congressional Black Caucus, you know, I appreciate Ben suggesting my role in that with respect to figuring out how to approach the White House, what to do with the courts, what to do with the Department of Justice, things that we can do to take on these challenges. And I think it is critical for us to make sure we do those things now rather than later.

Because the Biden administration has trillions of dollars coming out from a Federal contracting standpoint. This is the worst possible moment for us to get cut off from the ability to compete fully for those government contracts. It is generational wealth coming out. Some of these contracts, like some of the bridges and tunnels that you all have been hearing about on the news, those can turn businesses around and turn them into not only just small minority businesses but potentially primes and general contracts down the road.

So it is critical for us to fight this fight, keep it moving in the right direction, and I appreciate the leadership that you all have provided in this. And with that I will yield back, and I look forward to your testimony, and thank all of you all for coming today.

Senator CARDIN. Congressman Ivey, thank you for those comments. Your point is just so well taken. We need to engage all of the talent we have in our community for the full strength of America. There is no question about that. But it also provides a way of dealing with the gaps that we have in our community, the wealth gap. Small business entrepreneur opportunities for underserved communities allow us to be able to build some wealth equities in America. So I appreciate you mentioning both of those points.

I will now turn to our witnesses. Your full statements will be made part of the record without any objections, since there is no one here to object. [Laughter.]

I think we are safe on that. And you can proceed as you wish. In the committee room we have a 5-minute time. I don't see any timer here, so you are going to probably be relieved from that. But I would ask that you try to summarize in about 5 minutes to give us a chance to be able to have a discussion here.

I will introduce you as you speak, since there are six of you. It might just be easier to introduce you one at a time as you speak.

We will start with Ms. Natalia Luis, who is the CEO of M. Luis Construction and M. Luis Products. She has 30 years of experience operating her own businesses and guiding other businesses on their growth. Her story is a testament to perseverance and resilience. She is passionate about making an impact in her community, and we are proud to have her business in Maryland.

You may proceed.

STATEMENT OF NATALIA LUIS, CO-OWNER, M. LUIS CONSTRUCTION AND M. LUIS PRODUCTS, SILVER SPRING, MD

Ms. LUIS. Thank you, Senator. My name is Natalia Luis. Along with my sister, who is here with me today, I own and operate M. Luis Construction and M. Luis Products, companies based in Maryland that specialize in asphalt manufacturing, asphalt paving, concrete construction, and general contracting. I am here today because the programs that correct an even small amount of the discrimination that minorities and women face in business are essential to our survival and success.

My family has faced devastating discrimination from the beginning. Usually the discrimination is worse as we expand the business, challenging white male dominance in our construction industry. There have been all too many instances to recount, but I will give you a few examples.

Some of my competition has gone through the extreme of tapping my phones or posted big, tough guys outside of our business operations in an effort to intimidate us and our employees. We are proud that we have a workforce that looks like our community, but these bullies went to the extent of filming our employees and then posted a video on social media with the title, "Are these the type of people we want working in America?"

They even tried to get the Federal Government to put us out of business. Normally a business like ours will get one or two labor

audits every few years. We were hit with half a dozen in one year, all due to our competitors making false claims against us, that is that we were hiring illegal aliens. All the audits showed was that, on average, we were not only paying contractually required wages, but we were providing higher wages and better benefits to our multiracial, multiethnic, e-verified workforce.

Yet another instance was when we were seeking to work in one of our counties. We were in a large meeting with 15 to 20 high ranking officials when midway through the Director of Public Works and Transportation looked at us and said, referring to the other Portuguese-owned companies working in the county, "Why don't you and your cousins get together and figure out your bid because it seems like you don't know how to do math." This casual racial belittlement in a public forum directly undermines our business solely based on our minority status.

We have brought on board members and numerous outstanding professionals, many of whom happen to be white males. After about 18 months with us, one of them confided in my sister and I that while he was initially skeptical, he was astonished by the racial and gender biases we faced. His experience with our minority-run business brought challenges he had never faced before in his career.

Senators and Representative, the bottom line is this: discrimination against minority and women business owners is as despicable as it is pervasive. As I have detailed in my testimony, discrimination and the barriers it imposes affect the ability of our business to operate and receive contracting opportunities. We can and we will do our part to create a prosperous economy for all of us, but we need you to protect the MBE, WBE, DBE programs for victims of systemic discrimination and institutional racism. That is minorities, women, veterans, people with disabilities. We are all counting on you. Thank you.

[The prepared statement of Ms. Luis follows:]

The Testimony of Natalia Luis, Co-Owner of M. Luis Construction and M. Luis Products
Field Hearing of the U.S. Senate Committee on
Small Business and Entrepreneurship
May 6, 2024

Introduction:

My name is Natalia Luis. Along with my sister who is here today, I own and operate M. Luis Construction and M. Luis Products, companies based in Maryland. Our companies specialize in asphalt manufacturing, asphalt paving, concrete construction, and general contracting. We have facilities in Silver Spring, Rockville, Glen Burnie, Baltimore, and Clinton.

Family Background:

My parents, Manuel and Albertina, are Portuguese. Dad was born in 1941 into poverty and hard work. As the eldest of five siblings, he was expected to help feed his family, and thus was indentured as a house servant at the age of seven. He was nine years old when he got his first pair of shoes second-hand, a prized possession despite being two sizes too large. Through the years and a lot of difficult work, he was able to elevate himself and went on to work in clay mines, collect resin, harvest olives, work in rice fields, shepherd sheep, and then move on to various construction apprenticeships, which led him to Lisbon at the age of sixteen.

In 1963, after completing 28 months of compulsory, unpaid, military service, my father left Portugal for France to escape political and economic oppression under the authoritarian dictator Antonio de Oliveira Salazar. He was only 22. During his first attempt to escape, he was captured, returned to Portugal, tortured, and imprisoned. Eventually, he made a successful escape to France, arriving on November 17, 1964. During his journey, he had to cross fascist Spain, which was embroiled in a civil war. In order to get to France, my father walked from Portugal and was harbored by various shepherds whilst climbing through the Pyrenes. At this time, France welcomed all refugees seeking asylum from dictatorships. If you could find your way into the country, you were given immediate legal status and welcomed to work legally in France. He began working on December 3, 1964.

Even though people from Portugal were considered second-class citizens in France and were relegated to jobs as laborers and farmworkers, it was much better than watching his brothers and sisters starve in Portugal. Moreover, his sacrifice helped to feed his family back home which was the only reason he left Portugal in the first place. A few years later, my father returned to Portugal, married my mother, and brought her back to France with him, where my sister and I were both born.

Both of my parents were amazing entrepreneurs and hard workers. My father was an excellent craftsman. His supervisors soon realized that he had extraordinary math skills and could make complex construction calculations despite never having set foot in a classroom. My father was never afforded the basic human right of education. However, his math and construction skills were so extraordinary that his bosses sent him to school to learn elementary reading and writing and how to read blueprints. To this day, my father's handwriting is rudimentary at best.

My parents moved back to Portugal in 1974, after the April 25th military coup d'etat in hopes of making a life for themselves in their birth country. They were immediately disheartened to find that, instead of freedom and opportunity, Portugal had been engulfed by anarchy and was led by a government that embraced communism. It was no place to pursue their long-held dream of seeing their two little girls have a real chance at a good education. They applied for green cards from several countries, and, to their

relief, the United States came through first. On March 17, 1979, five years after their initial application, they were granted permission and our family moved to Kensington, Maryland.

It is important to know that in the five years my parents waited for permission to live legally in the United States, they had built out multiple successful businesses in Portugal. My mother was a natural businesswoman, starting an aviary of 3000 chickens that provided all the eggs for the surrounding villages. She also had a dairy business that provided milk for our village. She developed many businesses in agriculture, including animal husbandry, and the introduction of soybean production in the region. She eventually also established a successful ceramics business. The only reason they wanted to immigrate to the United States was to ensure that my sister and I would get a college education and help to fulfill their dream of leaving the world better than they found it. They left everything they had built behind to ensure our future. They did not speak English, nor did they understand the measuring system of their new country, as they used the metric system. For my father, whose career was built on math, this was yet another huge impediment to a smooth and successful transition. But he overcame it.

Imagine the courage required to move to a country with two young children and a wife, not understanding its language, its customs, and traditions. Leaving everything you know and have built behind – all to ensure that your daughters could get the education that you were denied. My parents came to the United States with two suitcases, a few hundred dollars in their pockets, and roundtrip tickets back home in the event it did not work out. I remember one time, when I was 8 or 9, in the dead of winter, when my mother came home, carrying groceries. She had cleaned two houses that day and taken several buses and still stopped to buy groceries and lug them home. I was so happy to see her that I ran to hug her. When I did, I could feel her exhaustion and heard the ice crackling in her hair as I held her tight. I will never forget that moment because I promised myself then and there that I would do everything I could to help my family succeed.

Before I say anything else, let's get one thing out of the way: Yes. I am Hispanic, from Hispania on the Iberian Peninsula of Europe, known today as Portugal and Spain. To be clear, when your name is Natalia Maria Domingues Luis, no one stops to ask if you where you are from before they start to discriminate. I realize that some think that Portuguese and Spanish people should not be considered minorities, but the fact is that we experience the exact same types of discrimination that any Portuguese- or Spanish-speaking country does. It is ever-present in our daily lives. I am here to testify today because programs that seek to correct an even a small amount of the discrimination that women and minorities face in business are essential to our survival and success.

History of Company:

After moving to the United States, my parents earned money to support our family however they could. Because of his construction skills, Dad worked in street repair construction and my mother did the back breaking work of cleaning other peoples' homes. The yearning to start a company came as a direct result of how unfairly my father was treated by his employers. From not receiving paid overtime for the 70 to 80 hours a week that he worked, to his employers not paying into the unemployment fund but deducting it from his paychecks – leaving him unable to collect unemployment during the harsh winter months when construction workers were unable to work due to weather.

For approximately five years, my mom and dad worked to start their own company, and in 1985, M. Luis Construction was born. My mom went to school to learn English and accounting at night and became the chief executive on the business side, while my dad was responsible for the artisanal work and outside operations. Even though my dad did not read or write in English, his extraordinary skills in math and my mom's business skills made it possible for them to develop a street repair business here. Our company was first certified as a disadvantaged minority business enterprise by the Maryland Department

of Transportation in 1992. Yes, it took my parents seven years to even realize that these essential protections existed for minority- and woman-owned businesses.

My sister, Cidalia, and I were involved in the business as soon as we turned 14 years of age. We would work in the summers, before and after school, and on weekends. Obviously that schedule prevented us from being able to participate in any academic or extracurricular activities, including joining any sports teams or watching the games, for that matter. It is something we still think about to this day as we raise our own children. We had to become responsible adults all too early. We helped prepare quotes and worked at project sites performing tasks such as seeding and mulching, and cleaning construction tools. We translated for our parents and were the chief sales force for the company. At fourteen.

We were both raised with a commitment to hard work, excellence, and high ethical and moral values. Frankly, we never needed a contract because our word was our contract. We also were raised to honor our culture, improve, and stand up for our community, and to not be a statistic or a burden on our society. In 2008, Cidalia and I bought the company from my parents, having long since completed college and, in Cidalia's case, graduate school. We are proud alumni of the University of Maryland College Park where we both received an extraordinary education. We were the first and second people from our village in Portugal to go to college. Those two graduations fulfilled my parents' dreams and justified their sacrifices all those years ago.

In 2010, my sister and I purchased an asphalt plant in Rockville, Maryland. We began the process of making M. Luis Construction a multi-divisional enterprise. It took us six years to negotiate the purchase. We did it in complete secrecy, knowing that our large multigenerational or multinational competitors, led mostly or completely by white males, would not tolerate an immigrant, Hispanic, woman-owned company rising to the status of a manufacturer. And they did not take it well. In fact, they, as a group, tried to crush our growth by denying us access to asphalt. Five years later, we leased another asphalt plant in Glen Burnie to support our expansion in Baltimore.

History of Discrimination:

My family has faced devastating discrimination from the beginning. There have been too many instances to recount them all but let me give a few examples and this is in no way an exhaustive list. It is important to understand that, historically, Portuguese people have faced devastating discrimination in this country. We have consistently been relegated to low wage jobs as laborers and have contended with all the stereotypes that go with this sort of second-class status. There are even ugly slurs specifically for Portuguese people. I will not repeat them here, but believe me, I have heard them a lot – and my parents heard them even more.

I want to be clear that I have dealt with pervasive discrimination. I hate to admit this, but some of it I have just learned to ignore and forget – no matter how hurtful it is. We could not run and grow our company if we spent our time focusing on every instance of bigoted behavior – it has become an expected, albeit always challenging, part of our daily lives. Do not get me wrong – not all white males are racist, sexist, or predatory. My sister and I have been the recipients of much kindness, mentorship, and respect by some of the industry's most influential and reputed white men. The problem is that too many white, male business owners still harbor bias and prejudice.

We have hired many amazing, top professionals that happen to be white and male. After working with us for about 18 months, one of them lamented to Cidalia and me that when he first came to work at M. Luis, he had initially doubted our assertions of the types of discrimination we face daily in our industry. He told us he was shocked by the artificial barriers that were placed in front of us solely based on gender bias and racial prejudice. He himself encountered additional challenges just by working with

us, something he had never experienced in his long, professional career. Honestly, it took a lot of courage for him to accept our job offer because in doing so, he knew he would face backlash and some ridicule for working in an immigrant company led by women. Actually, all of the white men in our company have experienced that same reputational risk.

Usually, discrimination is the worst as we are expanding the business or moving into new areas. Every time we start to challenge the status quo – that is the status quo of white, male dominance – we get hit with a new round of outrageous behavior. For instance, in the early 2000s when we began to bid as a general contractor, a prime in Baltimore City, several large white, male-owned companies came after us with everything they had. They tapped our phones. They went through our trash so frequently that we had to shred every document that left our office. They posted big, tough guys outside of our business and our temporary construction yards in an effort to intimidate us and our employees. We are immensely proud of the fact that we have a workforce that looks like our community, but these bullies filmed our employees on our job sites and then posted the video on social media with the question, "Are these the types of people we want working in America?"

Once we started to really compete, these big companies did even more to try to crush us. In the press, they would accuse of us "taking advantage of illegal workers." They even tried to harness the power of the federal government to put us out of business. Normally, a business like ours will get one or two federal labor audits every few years. As we proved ourselves to be both responsive and responsible contractors and began to consistently win and execute contracts, we were hit with over half a dozen federal labor audits *in one yea*r all as a result of our competitors making false claims against us. These audits are no joke – the average penalty from such an audit is $100,000. Fortunately, we are fair and compliant employers, and we were never fined, not a cent. All the audits showed was that, on average, we were not only paying contractually required wages, but we were providing higher wages and better benefits to our multi-racial, multi-ethnic *e-verified* workforce.

Still, the attacks were vicious and explicitly racial: their message was that as Hispanic people, we were hiring illegals and therefore deserved to be run out of business. To repeat: all our employees were and continue to be e-verified, even when it was not obligatory. They were trying to bully and intimidate our workers. It did not matter that they were working legally, they were threatened, and, in some cases, they were rightfully afraid. These are not the sort of attacks that white male-owned companies have to contend with.

After we bought the asphalt plant in 2010, things got even worse. They continued with all the other harassment they had been doing, and then did more. For a period of years, they put out the word in the construction community that they would put us out of business. One of their methods was to consistently and pervasively state that M. Luis was up for a liquidation sale. This led to destabilizing our labor force and some employees even quit because they had been fooled into thinking that we were not an economically viable company. They posted fake "for sale" signs on our new equipment at our job sites saying things like, "For Sale, No Offer Refused." This was brand new equipment.

During this period, all asphalt producers in Maryland refused to sell M. Luis any asphalt products from their plants, knowing that this would drive up our costs and make it harder for us to compete for jobs in geographical zones further away from our Rockville plant. They did this even though we had established excellent credit in previous work with their firms. An example of the hardship that this created was that we had to haul asphalt from Rockville to Baltimore City, tripling the hauling costs and severely reducing productivity rates, preventing our company from having a profitable outcome. Despite this artificially created difficulty, M. Luis won an urban asphalt paving award for Falls Road with asphalt that came from our Rockville plant.

Unfortunately, the theme of physical intimidation has not been restricted solely to our employees. I myself have been the victim of physical attacks. A few years ago, I was in a meeting in Baltimore City at the Department of Transportation to resolve systemic misogyny and harassment. As way of background, M. Luis is both a prime and subcontractor on various jobs in Baltimore City. On this occasion, M. Luis was made to endure the wrath of a city inspector who had worked tirelessly to make our lives miserable. In this case, the animosity may have been based more on the fact that I am a woman, rather than the fact that I am Hispanic. This inspector was making life so difficult for us and had prevented us from being paid for so long on one project that we began to document all our interactions with him so that we could bring the problem to the attention of his superiors. Finally, we asked for a meeting with the inspector and his bosses. We calmly detailed the problems we had been facing and he became enraged. At one point he lunged across the table to grab me. After witnessing this, the Director had that inspector restrained and removed from the room by his colleagues. Thankfully, the incident was enough evidence to keep him off our job sites for a period of two years. Since then, he has returned to our job sites where he continues to actively prevent us from working without hinderance and intimidation.

Discrimination is not always physical intimidation, sometimes it is an effort to belittle and to degrade. In this instance we were seeking to work in Prince George's County. There was a Director of Public Works and his deputy there who discriminated against us based on both race and gender. I remember one meeting in which it became clear that he and his team were going to make our lives as difficult as possible. We were in a large meeting, with 15-20 high-ranking county officials in the room (when we had initially asked about the nature of the meeting, we were told it was without consequence and only a few people from our company should attend). At about the midpoint of this meeting, the director looked at us and said (referring to the other Portuguese-owned companies working in the county), "Why don't you and your cousins get together and figure out your bid because it seems like you don't know how to do math." These words came from the leader of the transportation department.

Discrimination results in real loss of work and livelihood. It is not just emotionally harmful; it takes jobs away from us and money out of our pockets. And that means it also takes money away from our extraordinarily hardworking employees – a workforce that reflects our community in its diversity. I remember one period in which we lost four bids in one year in the City of Baltimore. Please understand, I am not saying we were outbid, I am saying that we lost four bids on which *we were the lowest, responsive, responsible bidder!* In this case, even though we were the lowest, responsive, responsible bidder, the contracts were given to a large, multigenerational, white, male-owned company. At this stage in our careers, Cidalia and I were still shockable. Whilst still at City Hall, and immediately after that boards and commissions meeting, we ran after the Director of the Department of Transportation and asked how this could possibly have happened. He turned to Cidalia and I and said: "You'll be fine girls. It astonishes me that no matter how many times you get knocked to your knees, you still keep getting back up." His sexual connotation was not only disgusting, but he uttered those words directly under the City Hall's dome. If a woman is not safe there, where can she be safe at all?

In another case at Boards and Commissions in Baltimore City, a white male-owned, multigenerational company – the same one that vigorously protested most bids being considered for award to M. Luis – was protesting a project awarded to M. Luis. They contended that M. Luis was not a woman-owned business. Their accusation was that my father solely ran the business and that my mom was a front. The mayor at the time was so fed up with the discussion that she asked if the owner of M. Luis Construction was present and could please stand up. When my mom, Albertina, stood up, the mayor stated, "well, that looks like a woman to me."

In yet another case, we were targeted by an Associate Director of Public Works and Transit in Prince George's County who did everything he could to keep us from working in the county. In fact, he was responsible for the fact that it took six years for us to become prequalified. When a local manufacturer

provided us with asphalt that did not meet county specifications, despite the fact that we rectified the paving at our own full cost, he disqualified us from paving and prevented us from winning contracts based on a single mistake made by a manufacturer outside of our company and despite the immediate correction made by our company at our own expense. Unfortunately for us, he preferred to work with the other two asphalt manufacturing/large paving contractors in the county, one of which was a white, male-owned, multigenerational company, and the other was a multinational company. He was white as well.

We have also been the victims of discrimination when larger companies, who feared that we would grow and compete against them, would go to other small MBE/WBE subcontracting companies and pressure them not to work with us. As an example, prior to purchasing our own milling machinery, we experienced an especially damaging type of forced collusion. Larger white, male-owned companies went to our milling subcontractors and told them that, if they worked as subcontractors for M. Luis, they in turn would refuse to subcontract with them – this forced our subcontractors to refuse to bid and work for us because they could not risk losing all their other contract work with these large, non-minority firms. This type of discrimination is especially egregious. It hurt us, it hurt the smaller milling companies, and it put the larger companies in a position where they could reduce competition, charge the government more, and drive-up prices, which all of us end up paying for with our taxes.

My parents worked so hard and sacrificed so much so that my sister and I would have a chance to succeed and an opportunity for a better life. We are the embodiment of the American dream. We make a positive difference in our community every day. But do not just take it from us. Ten years ago, President Obama came to our Rockville asphalt plant where he held an international press conference. In his words, when speaking about M. Luis Construction, he said, "so this company right here is full of folks who do right by each other. They don't try to see if they can work every angle. They don't lie about each other. They don't try to undermine each other. They understand they're supposed to be on the same team. You pitch in, you look out for one another. When somebody gets knocked down, you help them back up. You don't ask what can you get out of this, because you know that success doesn't depend on one of you, it depends on all of you working together."

Senator Cardin, the bottom line is this: discrimination against minority and women business owners is as pervasive as it is despicable. We will continue to work tirelessly to succeed despite it. But we need you to protect programs that help people who face systemic discrimination and institutional racism – minorities, women, veterans, people with disabilities. We can and will continue to do our part to create a prosperous economy for ALL of us, but we need you to protect MBE, WBE, and DBE programs and other programs that are intended to address discrimination.

Senator CARDIN. Well, thank you very much for your testimony. [Applause.]

Our next witness is Ms. Tonya Lawson, who is the President and CEO of Lawson Consulting. Her company works on innovative workplace solutions through automation and AI. She has over 20 years of experience working for Federal contractors and operating her own small business.

Ms. Lawson.

STATEMENT OF TONYA LAWSON, PRESIDENT AND CEO, LAWSON CONSULTING, FORT WASHINGTON, MD

Ms. LAWSON. Senator Cardin, Senator Van Hollen, Representative Ivey, esteemed guests, thank you for inviting me to testify today. My name is Tonya Lawson, and I own Lawson Consulting. I am honored to be here to address race discrimination against minority-owned businesses as a matter of paramount importance to minority entrepreneurs. I bring a perspective rooted in over two decades of experience in the Federal Government and private sector contracting. I am also a representative of Black American small business community that has faced discriminatory challenges for centuries and continues to encounter discrimination that limits our ability to grow and prosper. I would like to provide just a few examples.

A few years ago, I entered a partnership with a large majority-owned government contractor to collaborate on Federal contract with a small business/MBE requirement. Our team successfully secured the contract. Unfortunately, after 2 years of collaboration it became evident to me that this partnership would not foster my company's success or align with my core values. There were indications of discriminatory practices inside the larger company. Employees spoke openly about instances of discrimination against Black employees, including disparities in promotion rates, mentorship opportunities, and customer-facing roles. There was a pervasive sense among Black employees that they needed to exceed expectations significantly to advance, while white colleagues were systematically favored.

This year, at a recent small business development event, where networking plays a crucial role in fostering opportunities, I encountered a troubling instance of discrimination that highlights ongoing challenges faced by Black-owned businesses. As I awaited in turn in line to speak with a lead IT procurement representative, he abruptly turned away when it was my turn to talk to me, opting instead to converse with two white women who were not even in line. Simultaneously, he held up his index finger at me, in a dismissive gesture, indicating that I should wait.

The procurement representative initially was dismissive, but after my persistence to engage him in conversation he eventually was very impressed with my company's capabilities and core competencies, which focuses on process automation and artificial intelligence.

I am not alone in experiencing situations like this. Discrimination is pervasive, and it is effect are long lasting. It is a reminder of the barriers that we Black Americans so very often face in our businesses. The SBA 8 (a) and MBDA programs have been a life-

line for countless minority small businesses like mine, providing training, technical assistance, and access to Federal contracting opportunities.

Racism, discrimination, and gender discrimination still exist, especially for Black American business owners. Despite centuries passing since era of slavery, the remnants of racial inequality remain in our society. Supporting Black American businesses is not just about economic empowerment. It is about fostering a more inclusive and just society where everyone has a fair chance at pursuing the American dream. Thank you. [Applause.]

[The prepared statement of Ms. Lawson follows:]

May 6, 2024
Written Testimony-Senate Committee on Small Business and Entrepreneurship
Tonya Lawson

The Continued Struggle For Equality Of Black American Business Owners

Senator Cardin, Senator Van Hollen, and Representative Ivey, esteemed guests, and fellow advocates for small businesses and diversity in entrepreneurship.

My name is Tonya Lawson, and I am honored to appear before this esteemed committee to address a matter of paramount importance to small businesses and minority entrepreneurs across our nation. As the owner of a minority, woman-owned small business, and a passionate advocate for Small Businesses, I bring a perspective deeply rooted in over two decades of experience in federal government and private sector contracting.

Today, I stand before you not just as a business owner but as a representative of Black-American small business community that has faced historical challenges and continues to encounter barriers in accessing opportunities that are fundamental to economic growth and prosperity. The recent challenges to programs like the Small Business Administration's 8(a) Business Development program and the Minority Business Development Agency's (MBDA) Business Center programs are deeply concerning, as they threaten to dismantle crucial avenues of support for socially and economically disadvantaged entrepreneurs.

The SBA's 8(a) program has been a lifeline for countless small minority businesses, providing training, technical assistance, and access to federal contracting opportunities. While I am not in the 8(a) program myself, I've long considered joining the program, given the doors it could open for my business. Similarly, the MBDA's Business Center programs have played a vital role in empowering minority business enterprises (MBEs) with essential resources and guidance to navigate the complexities of business ownership and access capital for growth and expansion.

Considering recent court rulings and challenges to these programs, it is imperative that we recognize the enduring value they bring to our economy and communities. These programs are not just about leveling the playing field; they are about creating pathways to success, fostering innovation, and driving economic inclusion for all Americans.

In my testimony today, I will share insights from my own experiences as a Black American, woman business owner and highlight the critical importance of preserving and strengthening initiatives like the SBA 8(a) program and MBDA's Business Center programs. Racism, discrimination, and gender discrimination still exists, especially for Black American business owners. I urge this committee to consider the profound impact of these programs in addressing the barriers caused by discrimination and to work collaboratively to ensure that all entrepreneurs, regardless of background, continue to have the opportunity to have access and contribute to our nation's prosperity.

Facing Hate Head-On: Confronting Racial Slurs and Discrimination in Corporate America

In my twenties, while working in the private sector for a large publicly traded electronics company, I encountered a deeply disturbing incident that highlighted the stark realities of discrimination. As part of the credit department, I diligently assisted customers with the credit application process, ensuring smooth transactions and excellent service. One evening shift, I adhered to my scheduled hours, making it clear to colleagues that I needed to leave promptly at 9 pm. Despite this, a mature-adult white woman sales

representative insisted that I stay longer to assist her customer, disregarding my commitments. When I firmly declined, citing my prior arrangements, she resorted to using an offensive racial slur, calling me a "Nigger." The shock and hurt I felt were immediate and profound. In a moment of intense emotion, I reacted instinctively and slapped her in response to this deeply offensive language.

This incident revealed not only the racial animosity that still pervades our society but also the unequal treatment and lack of accountability faced by minority individuals. Rather than the company addressing the root cause of the conflict and the offensive behavior displayed by the sales representative, I was suspended and ultimately employment terminated. The lack of consequences for her actions and the swift punishment imposed on me sent a clear message about the systemic biases and injustices that Black Americans face in the workplace. It was a stark reminder that despite my hard work, dedication, and professionalism, I could still be targeted and penalized based on my race, while the offender faced no repercussions.

Regarding this incident, it's crucial to highlight the context and emotional impact that led to my reaction. Her use of a racial slur, specifically calling me a derogatory term, was not only deeply offensive but also created an intensely hostile environment. The immediate emotional distress caused by such a derogatory and racially charged insult cannot be overstated. It's important to note that I did not instigate this situation; rather, I was responding to a direct attack on my dignity and humanity.

In a professional setting, racial slurs are completely unacceptable and have no place in civilized discourse. The use of such language not only undermines professionalism but also perpetuates harmful stereotypes and discrimination. In this case, the slur used against me was particularly egregious and hurtful, evoking a strong emotional response.

Some might argue I was wrong for slapping the woman. They may label me as the aggressor. That I was the violent one. But I ask you to consider this, what would you have done, in your twenties, if someone hurled a racial slur, a direct attack on your dignity and humanity, in a professional setting? In that moment, as a young person in my twenties, confronted with such blatant racism, my initial reaction was not premeditated, however, it rocked me to my core. I was shocked and hurt that someone could demean me with such venom.

Being called the offensive "N-word" was a painful reminder of the deep-rooted history of racism and oppression that Black Americans had endured for centuries. The "N-word" originated during the dark era of slavery, this derogatory term was used to dehumanize and belittle Black people, depicting them as inferior and unworthy. Through the harrowing periods of Jim Crow segregation and the Civil Rights Movement, the "N-word" continued to serve as a tool of hate, a means of asserting white supremacy and reinforcing racial hierarchies and perpetuating racial injustices and systemic discrimination.

The weight of the "N-word" encompasses the horrors of slavery, where our Black ancestors faced unimaginable atrocities—they were treated as mere property, husbands were separated from their wives and children, Black woman were raped, they were whooped with chains and whips, hung from trees, mutilated, worked cotton fields from morning to night, they were told they were dump, ignorant and couldn't learn. Our men were targeted for privatized prison. It symbolizes a deliberate attempt to strip away the dignity, autonomy, and humanity of Black people. Being subjected to such hate speech evokes the profound pain and trauma experienced by countless Black individuals who endured hate crimes, violence, and systemic oppression throughout history.

So, when I was called the "N-word", I felt this sting of centuries of injustice and discrimination. It was a stark reminder of the dehumanization that my ancestors faced, the struggles they endured, and the sacrifices they made for future generations. This word is not just an insult, it is a manifestation of centuries of racism and hatred. No one should ever use or tolerate such language, as it perpetuates the cycle of pain and division. I wouldn't wish this level of hurt on anyone, and it's crucial for us to understand the impact of such words and work towards creating a more inclusive and respectful society.

Imagine being in my shoes, a dedicated young, loyal employee doing their job diligently, only to be met with a racial slur that cuts deep into your sense of self-worth. It's about the emotional impact of being dehumanized and degraded in such a manner. In that moment, my instinctive reaction was to defend my dignity and push back against the blatant racism I was subjected to.

Reflecting on the incident, I'm struck by how effortlessly the sales representative used the "n-word." Her casual delivery of such an offensive slur was astonishing to me. At the time, I was a young worker in my twenties, dedicated and enthusiastic about my job. The age difference between us was around 10-15 years, yet the ease and comfort with using such a derogatory term highlighted to me the lack of consequences she faced. Yes, I acknowledge that resorting to physical retaliation (a facial slap) wasn't the proper reaction, but it's crucial to grasp the emotional toll inflicted on me by such a derogatory term. It's not merely about the physical act of a slap; it's about the profound pain, hurt, and anguish caused by being targeted with hate speech in what should be a professional and respectful setting. It's important to note that the woman didn't sustain any lasting physical injury. However, the impact on me went much deeper and was long-lasting, striking at the core of my identity and dignity.

I am not alone in experiencing situations like mine. Discrimination is pervasive and its effects are long-lasting. It's a reminder of the barriers that we, Black Americans, face in our daily lives. This event underscores the ongoing need for government advocacy programs like the SBA 8(a) Business Development program and MBDA programs, which play a vital role in supporting businesses owned by socially and economically disadvantaged individuals.

From this experience, I've learned several key lessons that highlight the importance of such programs in fostering a fair and inclusive business environment. Here are the lessons learned:

- **Advocacy for Minority-Owned Businesses:** Recognizing the ongoing challenges faced by minority-owned businesses in combating discrimination underscores the critical need for government advocacy programs like the 8(a) Business Development program. These programs are indispensable in providing a level playing field for businesses owned by socially and economically disadvantaged individuals, ensuring fair opportunities for growth and success
- **Strategic Navigation of Discrimination:** Navigating instances of discrimination requires a strategic approach and the utilization of available resources. Programs like the SBA 8(a) program offer support and opportunities for growth, essential for small businesses to thrive in competitive environments.
- **Upholding Professionalism and Resilience:** Upholding professionalism and resilience in the face of discriminatory behavior is crucial for maintaining business integrity and reputation. Initiatives like the SBA 8(a) program promote ethical business practices and fair treatment for all entrepreneurs.
- **Seeking Recourse and Support:** Seeking recourse and support from appropriate channels, such as HR departments or advocacy programs like the SBA 8(a) program is essential in addressing and rectifying instances of discrimination within business partnerships.

- **Continuous Advocacy for Equity, Equality and Fairness:** Advocating for equity, equality and fairness in business interactions is a continuous effort that requires active participation and engagement. Programs like SBA 8(a) program empower entrepreneurs to challenge discriminatory practices and advocate for inclusivity and diversity in the business landscape.
- **Promoting Awareness and Education:** Educating stakeholders and promoting awareness about the impact of discriminatory language and actions fosters a culture of respect and inclusivity. Initiatives like the SBA 8(a) program contribute to creating a more equitable and supportive business environment for all entrepreneurs.

Navigating Racism: Experiencing Racial Discrimination in Business Partnerships

A few years ago, I entered into a partnership with a large government contractor that is owned and operated by individuals of Caucasian descent, a company with which I had a relationship. They initially showed support and willingness to mentor my small business, inviting me to collaborate on a Department of Defense (DOD) contract that included a small business/MBE requirement. As part of the proposal process, I contributed extensively by providing information about my company, including past performances, capabilities, and expertise. Our team successfully secured the contract.

Post-award, I expected discussions to commence regarding the specifics of our partnership, such as the allocation of technical resources, roles, responsibilities, and the number of full-time equivalents (FTEs) my company would provide. However, despite my repeated inquiries over two years, I received no response or clarity on these critical matters. I remained proactive, maintaining regular communication, and expressing my readiness to contribute to the team's success.

Disheartened by the lack of progress and meaningful engagement, I reached out to my small business advocate at the Small Business Administration (SBA) to seek assistance. After the SBA's review, it became apparent that the large business was not fulfilling its obligations outlined in the small business subcontract plan submitted during the proposal stage. Despite SBA intervention and discussions with the large business, the situation did not improve. Instead, the company ceased all communication with me, signaling a clear lack of genuine commitment to partnering with a qualified small business like mine.

Why do I believe this experience amounted to discrimination? Firstly, there were indications within the company's culture of discriminatory practices. Employees, including some of my supporters within the company, spoke openly about instances of discrimination against Black employees. These included disparities in promotion rates, limited opportunities for customer-facing roles, and a pervasive sense among Black employees of needing to exceed expectations significantly to advance within the company. Moreover, Black employees observed disparities in mentorship opportunities and succession planning, where white colleagues were systematically favored.

Ultimately, I made the difficult decision to disengage from the partnership after investing two years of effort and hope into building a strategic relationship. The company's failure to uphold its commitments, coupled with a corporate culture that seemed indifferent to diversity, equality, and genuine partnership with small businesses, made it clear that this was not an environment conducive to my success or aligned with my values. This

experience not only drained significant time, money, and effort but also potentially cost me other valuable opportunities and partnerships that could have contributed to the growth and sustainability of my business.

The lessons learned from this situation are profound and have guided my approach to business partnerships and advocacy for fair practices:

- **Accountability and Oversight**: The SBA must play an active role in holding large businesses accountable for meeting their small business subcontracting plans as outlined in contract requirements. This includes monitoring the allocation of funds and resources designated for small businesses, ensuring that these opportunities are not overlooked or redirected to non-compliant practices.
- **Importance of Due Diligence:** Conduct thorough due diligence before entering into partnerships, ensuring alignment not only in goals but also in values and commitment to diversity and fairness.
- **Advocacy and Collaboration:** Actively engage with advocacy organizations like the SBA to address issues of non-compliance and discrimination, leveraging their expertise and support to advocate for fair treatment.
- **Transparency and Communication:** Maintain open and transparent communication channels with partners, setting clear expectations and seeking regular updates to ensure mutual understanding and accountability.
- **Resilience and Adaptability:** Remain resilient in the face of challenges, recognizing when to pivot or disengage from partnerships that do not uphold ethical standards or support diverse and inclusive practices.
- **Heightened Awareness and Discernment:** The experience highlights the persistence of racism in business interactions. As a small business owner, it's essential to maintain a heightened level of awareness and discernment to detect early signs of discrimination or bias. This includes being attentive to subtle cues, language, and behaviors that may indicate underlying prejudices. As a minority business owner, I must continuously think about this. Why?

Systemic Bias Unveiled: Challenges Faced by Black American, Woman-Owned Business

A few years ago, I encountered discrimination while working on a subcontract for a civilian agency, providing project management services. Initially, I reported directly to the Interim CIO, a Black male professional, who recognized my competency and experience. I was brought onto the contract as a project manager to support a team of about 25 technical resources. As I began supporting the Interim CIO, the department and the team, everything seemed positive and productive.

However, when the permanent CIO, a white male professional, took over, the dynamics shifted. After a few months, the new CIO not only commended my work ethics and effort but also invited me to collaborate closely with him on special projects, recognizing my capabilities publicly. This recognition inadvertently triggered jealousy among some white male teammates, particularly a project manager who had a history of making disparaging comments about me to the CIO. I became aware of these conversations through other coworkers who shared the white teammates' complaints, revealing their jealousy and attempts to undermine my work ethics and reputation. Despite my unwavering dedication and hard work, these jealous colleagues started to influence the CIO's decisions, ultimately impacting my small business subcontract.

Over time, the team's disparagement escalated, leading to a decline in my interactions with the CIO and eventually, the early termination of my contract. The explanation given was budget concerns, but it became evident that this decision stemmed from the influence of jealous colleagues and a lack of leadership discernment from the CIO.

This experience left me feeling proud initially, to contribute meaningfully and collaborate effectively with the team. However, as the discrimination unfolded, I felt hurt, disappointed, and disillusioned. It was a clear case of racial and gender-based discrimination, where jealousy and undermining tactics prevailed over merit and professionalism.

The discrimination manifested in several ways. Let me explain:

- **Unequal Treatment:** Despite my qualifications and contributions, I faced unequal treatment compared to my white male counterparts. This included being overlooked for opportunities, receiving less recognition for my work, and facing undue scrutiny and criticism.
- **Undermining Tactics:** The jealous colleagues engaged in undermining tactics, such as spreading false rumors about my performance, questioning my abilities without merit, and attempting to discredit my reputation within the team and with the CIO.
- **Lack of Support:** Instead of addressing the discriminatory behavior and supporting a fair and inclusive work environment, the CIO and some colleagues chose to ignore or condone the discriminatory actions, further exacerbating the situation.
- **Emotional Impact:** The discrimination took a toll on my emotional well-being, leaving me feeling hurt, disappointed, and disillusioned. It created a hostile work environment where I constantly felt undervalued and undermined, impacting my morale and confidence.
- **Economic Impact:** The discriminatory actions ultimately led to the loss of the subcontract, resulting in a significant financial impact on my business and my family. This loss of revenue not only affected the sustainability of my business but also had direct implications for my ability to provide a stable income for myself and support my family, highlighting the real economic consequences of discrimination in business relationships.

The CIO's failure to address this discrimination and uphold equitable practices was disheartening. It not only affected my professional growth but also highlighted systemic challenges that black minority professionals often face in corporate environments.

The experience I just recounted highlights the pervasive challenges of racial and gender-based discrimination that persist in professional environments, even in agencies where diversity is valued. This incident underscores the importance of addressing systemic biases and promoting equity and fairness in the workplace. These lessons are particularly relevant to the Senate Committee on Small Business and Entrepreneurship as they consider policies and programs to support minority-owned businesses and combat discrimination in federal contracting. In reflecting on this incident, here are my take-aways:

- **Discrimination hinders productivity and innovation:** When discriminatory behaviors go unchecked, it creates a toxic work environment that stifles collaboration, productivity, and innovation. Agencies and leaders must actively address discriminatory practices to foster inclusive and high-performing teams.

- **Accountability is essential for fairness:** Government agencies and contractors must be held accountable for promoting diversity, equity, and inclusion. This includes implementing clear policies and practices to prevent and address discrimination, ensuring fair treatment for all employees and subcontractors.
- **Support for minority-owned businesses is crucial:** Programs like the SBA 8(a) Business Development program play a vital role in providing opportunities for socially and economically disadvantaged entrepreneurs. Continued support and advocacy for such programs are imperative to level the playing field and promote diversity in federal contracting.
- **Heightened Awareness and Discernment:** The incident emphasizes the need for small business owners to maintain a heightened level of awareness and discernment in professional environments. Being attuned to subtle signs of discrimination, such as disparaging remarks or biased treatment, is crucial to address issues early and advocate for fair treatment. This experience underscores the importance of recognizing and confronting discrimination, even in seemingly progressive workplaces.
- **Connecting the Dots – The Ongoing Presence of Racism**: Reflecting on this incident brought back memories of a deeply upsetting experience from my twenties when I was subjected to a racial slur, being called the "N-word". Those words left me feeling deeply devalued and disrespected. Fast forward fifteen years, and I found myself in a similar situation where a white male professional made me feel undervalued, unappreciated, and inadequate. However, this time around, I approached the situation with increased resilience and determination, seeking justice and accountability for discriminatory behavior.
- **Today, Racism Persists:** Racism is no longer as overt as it was in the 1960s when it was openly displayed through symbols like hoods and messaging on walls and businesses. Instead, racism today exists in more subtle and insidious forms, ingrained into the very fabric of American society. It often lurks beneath layers of privilege and systemic biases, making it challenging to address directly. Despite these challenges, I maintain hope and pray for progress, believing that we must collectively work towards a society where discrimination has no place, fostering a more just and equitable environment for all.

Impact of Discrimination on Business Opportunities

This year, at a recent small business development event, where networking plays a crucial role in fostering business connections and opportunities, I encountered a troubling instance of discrimination that highlighted ongoing challenges faced by Black-owned businesses. The event, bustling with exhibitors ranging from small to large corporations across various industries, offered a platform for networking and exploring potential business opportunities. As I eagerly awaited my turn to speak with the lead IT procurement representative, a white male professional, from a global pharmaceutical company, I observed a disheartening sequence of events. The representative, after engaging with three individuals ahead of me, abruptly turned away when it was my turn, opting instead to converse with two white woman who weren't in line. This blatant disregard left me feeling frustrated and overlooked. Despite attempting to draw his attention back to our conversation, I was met with a dismissive gesture (pointing his index finger at me signaling for me to wait) and a lack of acknowledgment.

The procurement representative initially was dismissive towards me, eventually was very impressed with my skills and knowledge area. He became very interested and engaged in the conversation as I shared my company's core competencies in automation and AI. I felt that he had dismissed me because I was black, for he spoke to the

male professionals and the white woman professionals with a sense of eagerness and joy. I had to get over an extra hurdle before he would talk to me and recognize my company's capabilities.

Despite these initial setbacks, I persisted in introducing my company's services and engaging the representative in a meaningful conversation about our automation and AI offerings. This demonstrated my determination and resilience in the face of adversity. Had I not pushed through and engaged the representative despite the dismissive behavior, it could have meant missed opportunities for my business. Networking events like these are critical for establishing partnerships, securing contracts, and expanding business reach. By actively participating and advocating for my company's services, I showcased our capabilities and expertise, potentially opening doors to new collaborations and projects. This incident highlighted the importance of perseverance and seizing opportunities, especially in environments where bias and discrimination may exist. It also reinforced the need for minority entrepreneurs to assertively pursue business opportunities and challenge discriminatory behaviors to create a more inclusive and equitable business landscape.

After reflection, the following take-aways underscore the urgent need for proactive measures to address bias and discrimination in business settings and promote inclusivity and fairness for all entrepreneurs.

- **Heightened Awareness and Discernment:** The experience underscores the need for heightened awareness and discernment among business leaders and representatives to detect and address early signs of discrimination or bias.
- **Accountability and Fair Treatment:** Government agencies and contractors must be held accountable for promoting diversity, equity, and inclusion in business interactions. Fair treatment for all entrepreneurs and subcontractors is imperative for fostering a level playing field.
- **Advocacy for Inclusive Policies:** Policies and programs supporting minority-owned businesses, such as the SBA 8(a) Business Development program, are essential for promoting diversity and combating discrimination in federal contracting.
- **Economic Implications:** Discriminatory practices can have significant economic impacts, affecting the sustainability of businesses and individuals' livelihoods. Addressing discrimination is not only a matter of fairness but also crucial for economic empowerment and growth.
- **Importance of Networking and Building Relationships:** Networking plays a crucial role in fostering business connections, uncovering opportunities, and building meaningful relationships. Creating an inclusive environment in networking settings is essential for promoting diversity and equal access to business opportunities.
- **Persistent Discrimination and Its Economic Toll:** Discrimination against minority-owned small businesses creates significant barriers, bias, and hurdles that hinder their growth and success. Beyond the immediate impact on individual opportunities, discrimination consumes valuable time and resources that could otherwise be invested in business development and innovation. The need to navigate discriminatory practices and overcome bias adds layers of complexity and challenges to everyday operations, diverting attention from core business objectives. This not only affects the morale and productivity of entrepreneurs but also has long-term economic repercussions, leading to missed opportunities, financial strain, and decreased competitiveness. Addressing discrimination is not just about fairness; it's about leveling the playing field and creating an environment where all businesses can thrive without unnecessary obstacles and setbacks.

Conclusion

In conclusion, the incidents detailed here shed light on the persistent challenges faced by Black-owned businesses in today's landscape. Discriminatory practices remain prevalent, as evidenced by the experiences recounted. Black America continues to grapple with the enduring effects of systemic racism, hindering progress and opportunities for business growth.

These narratives underscore the critical need for affirmative initiatives and programs like the SBA 8(a) and MBDA. These programs are not just about leveling the playing field; they are about rectifying historical injustices and providing equitable access to opportunities. The lessons learned from these experiences highlight the complexities and realities that Black minority businesses must navigate—issues of racism, fairness, and the fundamental right to access the same opportunities as their Caucasian counterparts.

As we advocate for the preservation and enhancement of these vital affirmative programs, we must also recognize the broader societal implications. Supporting Black-owned businesses isn't just about economic empowerment; it's about fostering a more inclusive and just society where everyone has a fair chance at pursuing the American dream of entrepreneurship. It is imperative that we continue to address these issues comprehensively and proactively to create a more equitable future for all.

Senator CARDIN. Ms. Lawson, thank you for your comments also. These are testimonies that need to be heard and documented, so we appreciate it very, very much.

I will now go to Ms. Ronnette Meyers. Ms. Meyers is the President and CEO of JLAN Solutions. JLAN Solutions provides management and training services to Federal, state, and local government agencies, and is a certified 8 (a) company. She has been publicly recognized on multiple occasions, including receiving the Biden-Harris Lifetime Achievement Award. Ms. Meyers also previously had a distinguished career in the Federal Government.

We look forward to hearing from you.

STATEMENT OF RONNETTE R. MEYERS, PRESIDENT AND CEO, JLAN SOLUTIONS, WASHINGTON, D.C.

Ms. MEYERS. Good morning. Thank you so much. Thank you, Senator Van Hollen, Senator Cardin, and Representative Ivey. Thank you all. My name is Ronnette Meyers. I am the President and CEO of JLAN Solutions.

My journey as an entrepreneur in government contracting, particularly within the 8 (a) program, has been profoundly shaped by confronting and overcoming both overt and subtle discrimination and adversity. This narrative is not just about my professional growth but also about an expose of the persistent barrier that minorities and women entrepreneurs frequently encounter, as well as how these barriers directly affect my business operations.

Before launching my business, my journey as a technical specialist within the Federal Government was married by discrimination from the outset. Early on, I faced questions from my boss that challenged not just my professional presence but also my racial and gender identity. "Why are you here? Why did they send you?" he asked.

Throughout my tenure I was isolated and marginalized. That is how I felt. The toxic environment became unsustainable, prompting me to seek new opportunities and embark on a journey of self-employment and entrepreneurship.

Transitioning to a government contractor role in Washington, D.C., I found a workplace that valued my skills, where I felt like a genuine sense of belonging, which gave me the inspiration to start my own company, JLAN Solutions, in 2010, and eventually, joining the 8 (a) program in 2018, a move that was fueled by ambition and resilience.

Yet this new beginning was quickly tempered by the harsh realities of entrepreneurship in a space where resources were unevenly distributed, and support for minority-owned small businesses like mine was minimal. My early partnerships with the majority-owned businesses were promising but ultimately disappointing. These collaborations, which I hoped would bolster my business' standing and visibility, instead left me feeling exploited and sidelined.

The first partnership I formed to secure an opportunity with a Federal agency disintegrated when the company's leadership unexpectedly withdrew the partnership due to my company being a minority small business. A professional rejection that felt personal and left me devastated. It was not just a setback. It was a deeply

personal blow that left me questioning my worth and my place in this industry.

The subsequent challenge came when another majority-owned business protested our successful contract bid, jeopardizing JLAN's financial stability and future growth. An employee from this company explicitly warned me about significant racial bias in the company, leading all of the minority-owned businesses to unite and address the situation through a collective letter. This protest highlighted the systematic challenges minority businesses encounter, from financial and structure barriers to discriminatory practices that hinder their success.

Recently, at a networking event in Virginia, I was one of a few Black women among predominantly white male peers. During the networking session it was clear to me and the other Black women that we were being dismissed by our peers. Our treatment was not a reflection of capabilities but of systematic biases, prejudices that continue to pervade our society.

The lessons of this journey are clear. While these experiences have undoubtedly strengthened my resolve, I cannot overlook the tangible losses that have been inflicted upon me and my family. They have taken away real opportunities, both financial and emotional.

Racial discrimination and the barriers it has imposed has often hindered my business operations and ability to receive contracting opportunities. Throughout these experiences, the role of the 8 (a) program has been twofold. It has been a crucial lifeline, providing access to opportunity otherwise out of reach, and it has been a constant reminder of the disparities that persist in the business world. Thank you. [Applause.]

[The prepared statement of Ms. Meyers follows:]

U.S. Senate Committee on Small Business and Entrepreneurship:
Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination

Written Testimony of Mrs. Ronnette Meyers
JLAN Solutions
Monday, May 6, 2024

My name is Ronnette Meyers, and I am the President and CEO of JLAN Solutions. My journey as an entrepreneur in government contracting, particularly within the 8(a) program, has been profoundly shaped by confronting and overcoming both overt and subtle discrimination and adversity. This narrative is not just about my professional growth but also an exposé of the persistent barriers that minority and women entrepreneurs frequently encounter, as well as how these barriers directly affect my business operations.

Before launching my own business, my career with the Federal Government took a transformative turn from administrative to technical roles. This shift was catalyzed by the support of a center director who sponsored my college education in technical fields, validating my potential and fueling my determination. However, my journey as a technical specialist was marred by discrimination from the outset. On my first day in a new position, I faced unsettling questions from my boss that seemed to challenge not just my professional presence but also my racial and gender identity. "Why are you here?" Why did they send you?" he asked. Throughout my tenure, I endured a consistent undercurrent of bias, which left me feeling isolated and marginalized. Despite my dedication and achievements, the toxic environment became unsustainable, prompting me to seek new opportunities and embark on a journey of self-empowerment and entrepreneurship.

Transitioning to a government contractor role in Washington, D.C., I found a workplace that valued my skills and where I felt a genuine sense of belonging. This positive change was significant, but the scars from my previous experiences were indelible. They served as a stark reminder of the challenges that lay ahead as I ventured into establishing my own company, JLAN Solutions.

Founding JLAN Solutions in 2010 under the 8(a) program was a dream fueled by ambition and the legacy of resilience passed down by my mother, a retired Chief Master Sergeant of the U.S. Air Force. Yet, this new beginning was quickly tempered by the harsh realities of entrepreneurship in a space where resources were unevenly distributed, and support for minority-owned small businesses like mine was minimal.

My initial forays into partnerships with Majority-Owned businesses were promising but ultimately disappointing. These collaborations, which I had hoped would bolster my businesses standing and visibility, instead often left me feeling exploited and sidelined. The first

partnership I formed to secure an opportunity within a federal agency disintegrated when the company's leadership unexpectedly withdrew the partnership due to my company being a minority small business, a professional rejection that felt personal and left me devastated. It wasn't just a setback; it was a deeply personal blow that left me questioning my worth and place in the industry.

The subsequent challenge came when another Majority-Owned business protested our successful contract bid, a move that jeopardized not just a significant financial opportunity but also the stability and future growth of JLAN. An employee from this company explicitly warned me about racial issues he observed, prompting all minority-owned businesses to unite and address the situation through a collective letter. This protest underscored the systemic obstacles faced by minority businesses, including financial, structural, and discriminatory barriers that can hinder our progress. This protest was not just a professional setback; it was emblematic of the larger systemic obstacles that minority businesses often face—obstacles that include not only financial and structural barriers but also discriminatory practices that can derail even the most promising ventures.

During a recent meeting in Virginia, I found myself among a group predominantly comprised of White males, with only two other black women, including myself, and another woman of lighter complexion. As the networking session commenced, it became painfully evident that we were being overlooked and dismissed by our peers. The palpable sense of isolation and exclusion weighed heavily on me, stirring up feelings of frustration, anger, and disbelief. Glancing at the other black woman, we shared a knowing look, silently acknowledging the shared experience of being marginalized. With a mutual understanding, we gravitated towards each other, seeking solace and solidarity in our shared identity. As we exchanged glances, we conveyed the unspoken question: "Do you feel the same sense of disregard and discrimination that I do?" With a heavy heart, she confirmed my suspicions, affirming that the dismissive treatment was indeed rooted in our race and gender. In that moment, I couldn't help but question: "Is it me, or is it us?" Yet, the answer was painfully clear – it was not a reflection of our worth or capabilities, but rather a stark reminder of the systemic biases and prejudices that continue to pervade our society.

Throughout these experiences, the role of the 8(a) program has been twofold: it has been a crucial lifeline, providing access to opportunities otherwise out of reach; and it has also been a constant reminder of the disparities that still exist in the business world. This dual reality drives my commitment to not only navigate these challenges but also to advocate for and support other minority and women entrepreneurs facing similar battles.

As I reflect on my journey, the lessons are clear. Each instance of discrimination, while painful, has left an indelible mark on my resilience and determination. While these experiences have undoubtedly strengthened my resolve, I cannot overlook the tangible losses they have inflicted upon me and my family. They've taken away real opportunities, translating to dollars out of my pocket and food off my family's table. It's a harsh reality that when individuals engage in discriminatory practices, they directly impact the bottom line of my company, resulting in significant losses and setbacks.

They have also deepened my commitment to breaking down the barriers that minority and women entrepreneurs face, ensuring a more equitable and inclusive industry for the generations to come. Racial discrimination, and the barriers it has imposed, has at times hindered my business operations and ability to receive contracting opportunities. However, I believe that my story, marked by both setbacks and successes, is a testament to the enduring strength and potential of those who continue to fight for their rightful place in the business world.

Senator CARDIN. Thank you for your testimony.

Mr. Gary Moore is the Senior Business Consultant with the Maryland MBDA Business Center. He has a background in sales, construction, and government, and is an entrepreneur himself. He has provided guidance and consultation to countless Maryland-based businesses, helping connect them to opportunities in networking, capital access, and more.

Mr. Moore.

STATEMENT OF GARY MOORE, SENIOR BUSINESS CONSULTANT, MARYLAND MBDA BUSINESS CENTER, BALTIMORE, MD

Mr. MOORE. Thank you. Good morning, Senator Cardin, Senator Van Hollen, and Representative Ivey. Thank you for inviting me to testify today.

My name is Gary Moore. I am the Senior Business Development Specialist for the Maryland Minority Business Development Agency under the U.S. Department of Commerce. I have been with the Maryland MBDA Business Center for over 7 years. My primary responsibility is to keep in alignment with MBDA's mission, which is to foster growth and global competitiveness of minority business enterprises.

In my role as a Senior Business Development Specialist for the MBDA I help clients gain access to networks, information, and resources, including programs like the SBA's 8 (a) business development program. I work with government agencies, institutions, and privately held corporations on behalf of center clients, advocating for access to capital, procurement opportunities, and providing them with overall strategic business consulting. Our center has directly serviced over 1,000 minority businesses, where I have heard countless stories of disparities in minority participation in private, state, and local procurement opportunities.

One of my MBE clients bid on a non-MBE project and was the lowest and most capable bidder. On any large project—this project was for over $3 million—you must present your qualifications, financials for bonding, references, and your capacity to do the work before the bid so that all that is left to do while conducting a low-bid meeting is verification of each line item.

When the client arrived at the meeting he knew the minute he walked in, by the prime's startled looks and subsequent questions, they were not expecting a person of color. Instead of conducting a normal low-bid meeting the questions shifted from the bid requirements to him as an individual. Statements were made such as, "You are very articulate," and questions were asked such as, "How did you grow your business to have a company in double-digit millions of revenue?" These are not statements and questions posed to Caucasian business owners I speak with.

Though my client was highly qualified to perform the work, had full bonding capacity of $3 million, and was the lowest bidder, it was given to someone else who was of Caucasian descent.

Focusing on our client as an individual and not the company's success and ability to perform the work is blatant discrimination. If an MBE is the most capable and is the lowest bidder, the MBE is in a good position to win the award when MBE participation is required. This is not the case when MBE goals are not present or

when primes are not held accountable to the goals. Before becoming certified, our client had difficulty getting work with prime contractors. Becoming certified has helped open doors for him in cases where MBE utilization requirements are in place.

Our clients believe that the impact of *Nuziard* v. *MBDA* ruling will hurt the same programs that have helped their businesses grow, despite the ongoing discrimination faced in obtaining capital and procurement opportunities. Our clients have expressed they don't need to have more of an opportunity than anyone else, just the ability to compete on a level playing field.

These stories reflect the wider discrimination and barriers that minority business owners face daily as it relates to denying MBE's access to capital, procurement opportunities, networks and resources, as well as adverse treatment by Caucasian prime contractors, both in private and public sectors.

I want to say that one of my clients' sentiments was this, that this is not in the spirit of America, where if you work hard and are in compliance with laws you can accomplish anything that you want and succeed. Thank you. [Applause.]

[The prepared statement of Mr. Moore follows:]

May 6, 2024
Written Testimony-Senate Committee on Small Business and Entrepreneurship
Gary Moore

Good morning Senator Cardin, Senator Van Hollen, and Representative Ivey; thank you for inviting me to testify today.

My name is Gary Moore; I am the Senior Business Development Specialist for the Maryland Minority Business Development Agency (MBDA) under the U.S. Department of Commerce. I have been with the Maryland MBDA Business Center for over seven (7) years. My primary responsibility is to keep in alignment with MBDA's mission which is to foster growth and global competitiveness of Minority Business Enterprises (MBE's).

In my role I work with government agencies, institutions and privately held corporations on behalf of Center clients; advocating for access to capital, procurement opportunities and providing them with overall strategic business consulting. Our Center has directly serviced over one thousand (1,000) minority businesses where I have heard countless stories of disparities in minority participation in private, state and local procurement opportunities. Not long ago, a major east coast company's project manager, who was Caucasian, told me a story of why they have not used any MBE's. This privately held company had a need for subcontractors for a particular project and invited several Caucasian companies and one (1) MBE to bid on their project. The MBE was unable to make the initial scheduled pre-bid site-visit. The project manager told the MBE that he would meet him on site on the day of the MBE's choosing. The MBE met the project manager on a Friday and was told the bid was due on the following Monday. The MBE was unable to turn in his bid within the short window of time. The project manager told me that they "just don't have any *luck* with MBE's", as if this was something he did not experience with Caucasian owned companies. I would like you to know, as a former successful contractor for over fourteen (14) years, Caucasian contractors miss site visits and deadlines for bids very often. The impact of the MBE not attending the pre-bid site visit is the prime company may not offer an MBE an opportunity again; and will continue to only use Caucasian companies for their projects. After looking at the Board of Directors and their leadership online, I found that they were all Caucasian males and one Caucasian female. The conclusion is their leadership, like many companies, lacks the importance of diversity and inclusion.

There are several multi-billion-dollar companies that have indicated they don't have a need to use MBE's as they are simply *"given"* awards by the federal government before projects go out to bid. For example: I work with many minority-owned businesses who are highly capable and experienced in their trade, as MBDA has parameters set as to whom can become a client of the Business

Centers. One of the Center's minority-owned companies had difficulty procuring work; we became aware that he did not have any certifications, which had not limited him from performing and being awarded contracts in the past as his work spoke for itself. The Maryland MBDA Business Center assisted him with becoming certified on all levels; federal, state, and local. Once certified, his company's revenue of $300,000 - $400,000 per year grew to over $6 million annually. As he told me, "Those certifications allowed me to grow. Without them I would have been stuck at my prior revenue levels." After assisting with obtaining his certifications the Center directed him to various projects that we believed would give him an opportunity for growth. His business grew as he began winning contracts for projects that required MBE utilization and he is currently working on all levels; federal, state and private projects that have specific goals to meet MBE utilization. As a Senior Business Development Specialist with the Maryland MBDA Business Center, I help clients gain access to networks, information, and resources – including programs like the SBA's 8(a) Business Development program. Certifications are essential to our clients as our client indicated that before becoming certified, relying solely on capacity and experience, "no prime would give him the time of day!" Suppliers would not sell to him, as the specifications on projects were proprietary, allowing only the larger primes and Caucasian subcontractors to bid on projects. Without an MBE goal, our client would not even be able to request a price from the supplier, and most often, would be given a higher price than his Caucasian counterparts.

Another MBE client bid on a non-MBE project as the lowest bidder. On any large project (this project was for over $3,000,000) you must present your qualifications, financials for bonding, references and your capacity to do the work before the bid so that all that is left to do while conducting a low bid meeting is verification of each line item. When the client arrived at the meeting he knew the minute he walked in, by the prime's startled looks and subsequent questions, they were not expecting a person of color. Instead of conducting a normal low bid meeting, the questions shifted from the bid requirements to him as an individual. Statements were made such as **"you're very articulate,"** and questions were asked such as **"how did you grow to have a company in double-digit millions of revenues?"** These are not statements and questions posed to Caucasian business owners I speak with. Though my client was highly qualified to perform the work, had full bonding capacity ($3MM) and was the lowest bidder, it was given to someone else who was of Caucasian decent. Focusing on our client as an individual, and not the company's success and ability to perform the work is blatant discrimination. If an MBE is the most capable, and is the lowest bidder, the MBE is in a good position to win the award when MBE participation is required. This is not the case when MBE goals are not present, or when primes are not held accountable to the goals. Before becoming certified, our client had difficulty getting work with prime contractors; becoming certified has helped open doors for him in cases where MBE utilization requirements are in place.

Access to capital is also very difficult for minority businesses and affects their ability to participate in commercial and public contracting opportunities. For example: a Center client was unable to obtain a line of credit increase from a bank that holds the mortgage on his business property, which they appraised, and has worked with for many years. He has only used 50% of his line of credit and is looking to increase it as he has a very large backlog of over $12M. This means he has $12M dollars in signed contracts for the year. He spoke to two of his Caucasian counterparts who work with the same bank and was told by them that the bank increased both of their lines of credit. The minority customer requesting the increase was in better position as his Caucasian counterparts as their backlog was of much less value, they had more debt, and companies had less revenues than

our client. Our client has never missed a payment on any loans or mortgage and has excellent credit.

Our clients believe that the impact of the Nuziard v. MBDA ruling will hurt the same programs that have helped their businesses grow, despite the ongoing discrimination faced in obtaining capital and procurement opportunities. Our clients have expressed they "don't need to have more of an opportunity than anyone else, just the ability to compete on a level playing field." Specific clients believe the court ruling is not in the "spirit of America," nor in the spirit of the MBE programs created to advocate for equality. "Why must we perform above and beyond anyone else, before they will even look at us?"

These stories reflect the wider discrimination and barriers that minority business owners face daily as it relates to denying MBEs access to capital, procurement opportunities, networks and resources, as well as adverse treatment by Caucasian prime contractors both in private and public sectors. I would like to reiterate our client's sentiments that this is not in the "spirit of America," where if you work hard and are in compliance within the law you can accomplish anything you want and succeed. To not hold others accountable to that dream will lead to the inability to leave a legacy of wealth to their children and erase all the work we have done, in service, to advocate on behalf of minority businesses in alignment with MBDA's mission of prosperity and growth for all.

Thank you,

Gary Moore

Gary Moore
Senior Business Development Specialist
U.S. Department of Commerce of Commerce, Minority Business Development Agency (MBDA) Maryland Business Center *owned & operated by L. S. Caldwell & Associates, Inc.*

Senator CARDIN. Thank you for your testimony.

Mr. Andres Bernal is the Vice President of MGT Consulting Group. He is a legal and quantitative researcher. His company is currently conducting a disparity study for Maryland. Mr. Bernal has extensive experience researching barriers and racial discrimination in Federal contracting space for minority-owned businesses.

STATEMENT OF ANDRES BERNAL, VICE PRESIDENT, MGT CONSULTING, CINCINNATI, OH

Mr. BERNAL. Thank you, sir. Good morning. Thank you Congressman Ivey, Senator Van Hollen, Senator Cardin for having me here today.

My name is Andres Bernal, and I am the Vice President of MGT. We are a nationally recognized public sector consulting firm. Since 1975, MGT has provided strategic, operational, and technological solutions to government and education agencies in all 50 states.

I have nearly 20 years of direct disparity, consulting, quantitative, and qualitative experience analyzing all aspects of public agency disparity research. In that time, I have authored or co-authored more than 100 reports of findings of whether or not race, ethnicity, and gender affects a person's ability to do business in a marketplace.

I have been asked to offer a few observations about historical trends that have emerged regarding how minority-owned businesses are utilized by public entities.

Findings from hundreds of disparity studies conducted by MGT and across the industry underscore a continuing opportunity for targeted supplier diversity programs to address underutilization of minority-owned businesses. Almost universally, the results from disparity research continue to show that MBEs are substantially underutilized, and that the markets where these MBEs are doing business are under-realizing their opportunity to expand their entrepreneurial sector of their economies and to broaden economic participation among MBEs.

When it comes to analyzing public contracting data, it is case law and industry standard to use what the law refers to as a "disparity index" to determine, statistically, if the race of business ownership influences a business's likelihood of availing itself of government contracting opportunities. This index calculates how much public entities utilize minority-owned businesses related to the availability of qualified MBEs in a given market area.

Looking at procurement data across the nation, what we see throughout many jurisdictions, historically, is that, despite some progress, MBEs are substantially underutilized across all goods and services categories, such as construction, professional services, and goods. In those rare instances in which there is parity in MBE utilization or even overutilization of MBEs, what we see is a concentration among several companies, rather than an indication that government agencies are consistently and broadly drawing upon the local pool of qualified MBEs.

Furthermore, when we look at the private sector business activity and dynamics, the following observations are typically seen. MBEs earn significantly less revenue than their majority-owned business counterparts, even when taking into account characteris-

tics such as level of experience, education, and number of employees.

The same dynamic we see when we are looking at the likelihood of MBEs to be self-employed compared to their majority counterparts. Studies after studies are showing the same thing that race, ethnicity, and gender impacts a person's ability to conduct business.

The culmination of my research including qualitative studies, disparity studies, regression analyses, continue to support the conclusion that public agencies across the nation have a significant opportunity to expand utilization of MBEs, thereby strengthening their local economies and their communities through broader utilization of qualified minority-owned businesses. Thank you. [Applause.]

[The prepared statement of Mr. Bernal follows:]

Good morning. My name is Andres Bernal, and I am the Vice President of Disparity Research for MGT, a nationally recognized public sector consulting firm. Since 1975, MGT has provided strategic, operational, and technology solutions to government and education agencies in all 50 States.

I have nearly 20 years of direct disparity study consulting, quantitative, and qualitative experience analyzing all aspects of public agency disparity research. In that time, I have authored or co-authored more than 100 reports of findings for clients regarding state and local governments' utilization of minority and women-owned businesses in public sector procurement of goods and services.

I have been asked to offer a few observations about historical trends that have emerged regarding how minority -owned businesses are utilized by public entities.

Findings from hundreds of disparity studies conducted by MGT and across the industry underscore a continuing opportunity for targeted supplier diversity programs to address underutilization of minority owned business enterprises (MBEs). Almost universally, the results from disparity research continue to show that MBEs are substantially underutilized, and that the markets where these MBEs are doing business are under-realizing their opportunity to expand the entrepreneurial sector of their economies and to broaden economic participation among MBEs.

When it comes to analyzing public contracting data, it is a case law and industry standard to use what the law refers to as a "disparity index" to determine, statistically, if the race of business ownership influences a business's likelihood of availing itself of government contracting opportunities. This index calculates how much public entities utilize minority owned businesses, relative to the availability of qualified MBEs in a given market area.

Looking at procurement data across the nation, what you see throughout many jurisdictions, historically, is that, despite some progress, MBEs are substantially underutilized across all goods and services categories-- such as construction, professional services, and goods. In those rare instances in which there is either parity in MBE utilization or overutilization of MBEs relative to majority-owned businesses, this is most often a phenomenon in which utilization of MBEs is concentrated among several companies, rather than an indication that government agencies are consistently and broadly drawing upon the total pool of qualified MBEs.

Furthermore, when we examine private sector business activity and dynamics, the following observations are typically seen:

- MBEs earn significantly less revenue than majority-owned businesses for similar business categories, even, when possible, influence from other characteristics is taken into account (e.g., level of education, business experience).
- MBEs are significantly less likely to be self-employed (i.e. owner-operated) compared to their majority-owned counterparts in nearly all market areas analyzed.
- Studies consistently find that race of firm ownership is statistically correlated to MBE vs. Majority-owned enterprise utilization.

The culmination of my research, including qualitative studies, disparity studies, regression analyses, continue to support the conclusion that public agencies across the nation have significant opportunity to expand utilization of MBEs, thereby strengthening their local economies and communities through broader utilization of qualified minority owned businesses.

Senator CARDIN. Thank you for your comments.

Gary Cunningham is the Senior Advisor with the Institute on Race, Power, and Political Economy at The New School. Mr. Cunningham works at the intersection of racial equity and entrepreneurship. He has vast experience providing business consultation to minority business owners as well as advocating for minority-owned businesses.

His former experience includes being the former President of Prosperity Now and the CEO of Minnesota MBDA Business Center.

Mr. Cunningham.

STATEMENT OF GARY CUNNINGHAM, SENIOR ADVISOR, THE NEW SCHOOL, NEW YORK, NY

Mr. CUNNINGHAM. Thank you, Mr. Chairman, Senator Van Hollen, and Congressman Ivey. I appreciate being here today.

One, I just want to thank you for holding this hearing at this critical juncture in our history as Americans.

I sit here today on the shoulders of many proud ancestors, including the Black Creek Freedmen from Muskogee, Oklahoma, that were in part responsible for creating Black Wall Street. Many of you might have heard of Black Wall Street. It sits as a pinnacle of what can be achieved by African Americans in this country, and it was destroyed in 1921, through a race riot that happened there many years ago. And I would argue that we still have similar conditions today, but may not be as vitriol as they were in 1921, but they exist.

We are at a critical juncture in our nation's history where many of our hard-fought gains to create a more perfect union, where everyone, no matter who they are, no matter what their background, can fully participate in the American Dream.

These issues are under assault and continuously, court case after court case, and we cannot turn back the hands of time in this country. The American promise or the American contract is built upon the idea that if you work hard, you apply yourself, you can move up on the economic ladder of success. I would argue that this is not the case, that all doors are not open for small businesses within this country, particularly those based on the color of someone's skin.

If we are to sustain our democracy it is important that we take action and continue to maintain what we have created, but also build upon what we created, so that all Americans, no matter what their skin color, no matter what their ethnic origins, can participate in our American democracy.

Despite the significant contributions of entrepreneurs of color to the U.S. economy, which includes the launching of over 50 percent of the new businesses that have been created in the last 10 years have been created by people of color, creating 4.7 million jobs, these entrepreneurs face systematic, systemic barriers to success. Access to capital, which has already been mentioned, creates a critical hurdle.

And there is study after study, both by the Federal Reserve and by private industry, that shows that entrepreneurs of color have been denied loans at nearly twice the rate of their white counter-

parts. The disparities in loan approval rates and higher interest rates charged to minority-owned businesses highlight the systematic challenges of access to financial systems that impede entrepreneurs of color from succeeding, in many cases.

Despite this, entrepreneurs of color have been a vital and critical lifeline for American industry and for our economies, particularly in local communities where they exist.

The government has a critical role in leveling the playing field. This historic discrimination in lending practices and unequal access to markets have curtailed the potential of minority entrepreneurs. Addressing these challenges head-on is not only a matter of equity but also economic necessity.

To dismantle these barriers, I propose not only to sustain but to expand the initiatives like the Minority Business Development Agency and the SBA's 8 (a) small business development program. Moreover, we must develop targeted financial products, such as grants and low-interest loans, especially designed to meet the unique challenges faced by minority entrepreneurs.

Finally, I would argue that the government bears a critical responsibility in not only breaking down systematic barriers but also opening up access to markets, to ensure the success not only of minority entrepreneurs but all entrepreneurs. We strive to build a more prosperous and inclusive economy. It is imperative that we leverage public and private sector solutions to empower these vital contributors to our nation's growth.

Let us pledge together to create a more inclusive and prosperous future for every entrepreneur in our nation, recognizing the indispensable role played by entrepreneurs of color.

Thank you very much, and I stand ready to answer any questions. [Applause.]

[The prepared statement of Mr. Cunningham follows:]

May 6, 2024

Written Testimony - Senate Committee on Small Business and Entrepreneurship

Gary L. Cunningham, Senior Advisor, Institute on Race, Power and Political Economy at The New School

Introduction

Chairman and honorable Members of the Committee, thank you for the opportunity to present strategies to combat the racial wealth divide and to support minority-owned firms. I am honored to be asked to provide input into your consideration of policies to grow and accelerate the success of businesses of color.

My comments draw on my many years of work in this field, including leadership in the CDFI movement, as a founding member of the African-American Alliance of CDFIs CEOs, the BlackBusiness Credit Initiative, and the Black Vision Fund. Additionally, I served as president of the Metropolitan Economic Development Association (MEDA), one of the highest performing minority business development centers in the country according to The U.S. Department of Commerce's Minority Business Development Agency for 4 consecutive years. I also operated the Federal Procurement Center pilot for MBDA providing technical assistance and trusted guidance to businesses of color seeking federal contracts. More recently, I served as President and CEO of Prosperity Now, a national organization focusing on racial and economic inequalities.

I am board chair of Momentous Capital and board member of the Association for Enterprise Opportunity, the largest microenterprise membership organization in the country. I also am a member of the Treasury Advisory Committee on Racial Equity.

Currently I am senior advisor to the Institution on Race, Power and Political Economy at The New School. Where we advance research and understanding of structural inequalities to identify innovative ways to promote equity and create a world that works equally well for everyone.

Today, I stand here proudly on the shoulders of my ancestors – the Black Freedmen of the Muskogee Nation in Oklahoma. The Black Creek Freedman who were in part responsible for the creation of Black Wall Street in the Greenwood District of Tulsa. Their resilience and entrepreneurial spirit in the face of systemic racism and exclusion laid the groundwork for what would become a symbol of Black economic empowerment and excellence. Despite the tragic destruction of Black Wall Street in 1921, the legacy of the Freedmen and their descendants continues to inspire our efforts to uplift entrepreneurs of color. Their struggles and triumphs underscore the importance of our work to ensure that entrepreneurs of color have the support and resources they need to thrive. As we discuss strategies to empower minority firms, let us remember the

enduring spirit of the Creek Freedmen and the vital role that Black entrepreneurship has played in our nation's history.

We are at a critical juncture in our nation's history, where many hard-fought gains toward creating a more inclusive union, where everyone—regardless of their background—can pursue the American Dream, are under assault. The American Promise is founded on the idea that through hard work and dedication, anyone can climb the economic ladder of success. I would argue that this is not only an economic imperative for our country, but that opening up doors of opportunity through small business and entrepreneurship for communities of color is key to sustaining our American democracy.

Our journey through a complex legal and socio-economic landscape underscores the urgency of our commitment to fostering an equitable business environment, which is crucial for the prosperity of our nation.

Historical Context of Minority Entrepreneurship

The history of minority entrepreneurship in the United States reflects a complex tapestry of resilience, innovation, and persistence against the backdrop of racial discrimination, segregation, and economic exclusion. Spanning diverse communities—African Americans, Asian Americans, Latinos, and Native Americans—each group's entrepreneurial journey has been uniquely shaped by its distinct challenges and contributions to the economic landscape.

This narrative of minority entrepreneurship is not just a chronicle of business development but also a profound testament to the enduring spirit of communities that have navigated systemic barriers. Whether facing overt policies of exclusion or subtler forms of bias, these entrepreneurs have consistently demonstrated remarkable ingenuity and determination. Their contributions enrich our understanding of the American economic story, highlighting the pivotal role of diversity in fostering a vibrant, inclusive marketplace.

Post-Civil War Era and African American Entrepreneurship

African American entrepreneurship has its roots in the period following the Civil War. During Reconstruction, African Americans began to establish businesses. However, the end of Reconstruction marked the beginning of the Jim Crow era, which imposed severe restrictions on African American life through enforced racial segregation and discriminatory laws. Despite these barriers, African Americans created thriving business districts, famously known as "Black Wall Streets" in several cities, such as the Greenwood District in Tulsa, Oklahoma.

The Jim Crow laws not only segregated African Americans but also limited their economic opportunities, forcing them to start and patronize their own businesses due to

racial exclusion from white-owned establishments. This period saw the rise of Black-owned banks, insurance companies, and other institutions as a response to exclusion from white-dominated financial services.

Redlining, a practice that began in the 1930s, systematically denied mortgage and business loans to residents in predominantly minority neighborhoods. This practice, along with other forms of economic discrimination, significantly hindered the ability of Black entrepreneurs to acquire capital and grow their businesses. The effects of redlining are still evident today, as minority communities continue to face significant disparities in business ownership and access to business resources.

Asian American Entrepreneurship and Immigration Challenges

Asian Americans have also faced significant hurdles due to discriminatory laws and practices. Early Asian immigrants, particularly the Chinese and Japanese, came to the United States in significant numbers during the 19th and early 20th centuries. They were met with hostility and legal barriers, such as the Chinese Exclusion Act of 1882, the first significant law restricting immigration based on nationality.

These restrictions curtailed their rights to own property and businesses. Nevertheless, Asian Americans managed to establish ethnic enclaves where they started businesses that catered primarily to their own communities. Over time, these enclaves became pivotal in nurturing the growth of Asian American businesses, which expanded beyond ethnic boundaries as legal and social hurdles were gradually dismantled.

Latino Entrepreneurship and Sector Concentration

Latino entrepreneurship has been shaped by both immigration patterns and the socio-economic conditions of Latino communities in the U.S. Historically, Latino businesses have been concentrated in sectors like agriculture, retail, and service industries. These businesses often emerged within tightly-knit communities, providing goods and services not only to fellow Latinos but also to other minority groups. The challenges faced by Latino entrepreneurs include language barriers, access to capital, and navigating legal frameworks for business, which were often compounded by racial and ethnic discrimination.

Native American Entrepreneurship and Economic Development Efforts

Native American entrepreneurship, often overlooked, has been hindered by systemic marginalization and land dispossession. Recent efforts have focused on tribal enterprises, including ventures like casinos that have become significant Native American business endeavors. Despite challenges, Native entrepreneurs engage in

various sectors such as agriculture, tourism, and crafts, contributing to the diverse landscape of entrepreneurship.

Current State of Minority-Owned Businesses in the U.S.

In examining the current landscape of minority-owned businesses in the United States, it becomes evident that these enterprises play a vital role in driving economic growth and innovation across diverse sectors. According to the US census, there are approximately 8 million minority-owned businesses contributing over $1 trillion annually to the economy, their impact underscores the entrepreneurial spirit and resilience within minority communities. Despite significant contributions, disparities persist relative to demographic proportions, highlighting challenges that hinder the full potential of these businesses. For example, Black Americans comprise approximately 12.4% of the US population, but represent only about 2.4% of all employer firm owners.

Growth Trends and Economic Contributions

Over the past decade, minority business enterprises have been at the forefront of new business creation, accounting for more than 50% of the two million new businesses started in the U.S. These ventures have created 4.7 million jobs, showcasing their substantial role in job creation and economic vitality. While there has been notable growth, disparities persist, especially concerning the representation of Black-owned businesses compared to their population share, indicating the need for targeted support and interventions to address underlying barriers.

Black owned businesses, in particular, have shown notable growth. Between 2017 and 2020, the number of Black owned businesses increase by 13.64% significantly more than the 0.53% increase in all businesses combined.

In addition, the revenue and employment figures for Black owned businesses have also seen significant increases from 2017 to 2021, Black firms' gross revenues soared by 43% and these businesses employed over 1.4 million people.

Sector-Specific Challenges and Opportunities

A substantial portion of minority-owned businesses are concentrated in low growth sectors like health care and social assistance. However, these businesses face systemic financial barriers that hinder their expansion and competitiveness in the market. Addressing these challenges requires a nuanced understanding of the sector-specific dynamics and the unique hurdles minority entrepreneurs encounter in accessing capital and resources.

Challenges Faced by Minority-Owned Businesses

The history of minority entrepreneurship in the U.S. is marked by resilience and innovation in the face of systemic racism and economic exclusion. Each group, while

facing unique challenges, has developed strategies to sustain and grow their businesses. The legacy of these entrepreneurial efforts is a testament to the crucial role that minority businesses play in the American economy, contributing not only to the economic diversity but also to the social and cultural richness of the nation.

Minority-owned businesses across various groups encounter persistent challenges in accessing capital, with disparities in loan approvals, funding amounts, and interest rates affecting their financial stability. Entrepreneurs of color face obstacles in securing adequate financing, limiting their capacity for investment and growth. Additionally, disparities in equity investments and venture capital further compound the financial challenges faced by minority-owned businesses, restricting their ability to scale and innovate within their industries.

Access to capital: Surveys, such as one conducted by Goldman Sachs, revealed that 37% of black small business owners report significant difficulties in accessing new capital – 14% higher than their non-Black peers, underscoring systematic bias.

Loan denial rates: reports from institutions like Intuit QuickBooks illustrate that 57% of Black business owners have been denied bank loans at least once during their start up phase. Rates are also significantly higher than experienced by their non-Black counterparts.

Cost disparities and business startups: on average, Black entrepreneurs face a higher initial financial burden, costing them approximately $5000 more to start a business compared to their non-Black peers.

Recent studies by the Federal Reserve have highlighted persistent disparities in financing approval and amounts between minority and non-minority-owned small businesses. According to the 2021 Report on Firms Owned by People of Color, based on the 2020 Small Business Credit Survey, Black- and Latino-owned firms applying for non-emergency financing were less than half as likely to receive full approval compared to their white counterparts, even when categorized as low credit risks. Specifically, while 48% of low-risk white-owned firms received all the financing they sought, only about 25% of similarly situated Latino-owned firms did.

Furthermore, a 2016 Federal Reserve study found that even among businesses approved for some level of financing, only 40% of minority-owned firms received the full amount they sought, compared to 68% of non-minority-owned firms. This data points to a broader trend where minority-owned businesses face not only higher hurdles in securing initial loan approvals but also receive lesser amounts than requested, underscoring the challenges these businesses encounter in accessing capital.

The Federal Reserve's findings suggest that these disparities are due in part to weaker banking relationships and structural barriers that disproportionately affect minority-owned firms.

Market Access and Growth Limitations

In addition to financial barriers, minority-owned businesses encounter significant obstacles in accessing markets, expanding their customer base, and penetrating established networks. Limited networking opportunities, geographic constraints, and sector concentration pose challenges to market diversification and growth opportunities. Overcoming these obstacles requires targeted initiatives to enhance market access, address customer biases, and provide resources for effective marketing strategies, enabling minority-owned businesses to compete and thrive in a competitive business environment.

The current state of minority-owned businesses in the U.S. reflects a dynamic landscape of growth, innovation, and resilience, tempered by persistent disparities and challenges. By understanding the unique contributions and obstacles faced by these enterprises, policymakers can implement tailored solutions to foster an inclusive economic environment where minority entrepreneurs can flourish, drive economic progress, and contribute meaningfully to the nation's entrepreneurial ecosystem.

Business owners of color, despite facing systemic challenges and biases, are making a substantial impact. Various studies support the assertion that Black entrepreneurship can significantly impact the racial wealth gap. However, the effectiveness and extent of this impact remain subjects of ongoing research and debate.

The Role of Entrepreneurship in Reducing the Racial Wealth Gap

The racial wealth gap in the United States is a significant and persistent issue, marked by substantial disparities in wealth between Black and white households. This gap has historical roots and has been exacerbated by systemic inequalities and discriminatory practices over centuries. Recent data shows that the median wealth for white households is significantly higher than for Black households, with the gap amounting to approximately $164,000. The median white household has about $189,000 in wealth, while the median Black household has around $24,000.

Addressing this racial wealth gap requires substantial economic investment. McKinsey & Company projects that closing the racial wealth gap, including supporting Black-owned businesses to achieve revenue parity with white-owned businesses, could potentially add between $1 trillion and $1.5 trillion annually to the U.S. economy by 2028. This projection accounts for the negative effect of the wealth gap on consumption and investment, suggesting that addressing it could significantly boost economic activity and growth.

Despite systemic challenges and biases, business owners of color are already making significant contributions. In his study "The 'Myth' That Black Entrepreneurs Can Reduce the Gap in Wealth between Black and White Families," William D. Bradford from Washington University argues that African American entrepreneurs can bridge the racial income gap. His research, published in "Economic Development Quarterly" in August 2014, analyzed family income data from 1999 to 2009 and showed that African American entrepreneurship significantly reduces income disparities between African

American and white families. Bradford found that African American entrepreneurs experience similar upward income mobility to their white counterparts. He also noted that self-employed entrepreneurs, regardless of race, tend to have higher income levels and upward mobility than those employed in the labor force.

Supporting this view, the Brookings Institution noted that the racial wealth gap in the United States widened during the COVID-19 pandemic, underscoring systemic challenges facing Black entrepreneurs and households. A study from Springer emphasized that entrepreneurial success is crucial for reducing the racial wealth gap. It highlights that improving the success rates of Black entrepreneurs by increasing access to capital, markets, and technical assistance is critical for the sustainability and growth of Black-owned businesses. The St. Louis Federal Reserve has highlighted that Black entrepreneurs face unique challenges that contribute to a racial entrepreneurship gap. Addressing these challenges could help Black entrepreneurs build wealth and strengthen their communities.

While entrepreneurship is not a panacea for closing the racial wealth gap, it can play a crucial role in addressing the issue. However, broader systemic challenges must also be addressed to fully unlock the potential of entrepreneurship in reducing racial wealth disparities.

Broadening the Spectrum of Financial Support

To address these challenges, it is crucial to broaden the spectrum of financial support available to minority-owned businesses beyond traditional loans. This can include equity investments, grants, and innovative funding mechanisms that are more inclusive and accessible.

Equity Investments

Minority entrepreneurs often face significant barriers in accessing venture capital and equity investments. Programs like Backstage Capital and Founders First Capital Partners are specifically designed to support underrepresented entrepreneurs by providing not just funding but also strategic advice and networking opportunities. These initiatives recognize the value of diversity in driving innovation and are committed to correcting the underrepresentation of minority-owned businesses in venture funding.

Grants

Grants provide an essential source of funding for minority-owned businesses because they do not require repayment, which can alleviate financial pressure. Numerous grants are available specifically for minority entrepreneurs, such as those offered by the U.S. Small Business Administration and private entities like the Pepper Start Up Grant for Blackwomen business owners. These grants can support various business needs, from startup costs to expansion efforts, without the burden of debt.

Community Development Financial Institutions (CDFIs)

CDFIs play a pivotal role in supporting minority-owned businesses by offering loans, investments, financial services, and technical assistance to underserved populations and communities. These institutions often provide more favorable terms compared to traditional banks and are more likely to understand and support the unique challenges faced by minority entrepreneurs.

Digital and Fintech Solutions

The rise of fintech has introduced new avenues for accessing capital. Digital platforms can offer alternative lending options that bypass traditional banking barriers. For instance, the Opportunity Project's initiative to develop digital tools helps minority businesses understand and access alternative business capital options, enhancing their ability to secure necessary funding.

Government and Nonprofit Programs

Several government and nonprofit programs are designed to facilitate access to capital for minority-owned businesses. For example, the Minority Business Development Agency (MBDA) offers various resources to help minority entrepreneurs secure capital and navigate the financial landscape. Additionally, programs like the SBA's 8(a) Business Development program provide business assistance, training, and support for government contracts, which can be a crucial growth area for these businesses.

Expanding the types of financial support available to minority-owned businesses is crucial for fostering an inclusive economic environment where diversity is seen as an asset rather than a barrier. By supporting a range of funding options—from equity investments and grants to innovative fintech solutions—stakeholders can help address the systemic barriers that have long hindered the financial success of minority entrepreneurs. This comprehensive approach not only aids in the immediate growth of minority-owned businesses but also contributes to the long-term vitality of the broader economy.

Remedying Persistent Discrimination

Diversity and inclusion business development programs transcends merely addressing historical injustices; it actively combats ongoing discrimination that still affects minority entrepreneurs today. Discriminatory practices in lending, barriers to networking, and unequal access to business opportunities continue to undermine minority business owners. These support programs provide essential support to these entrepreneurs, leveling the playing field and enabling true competition based on merit and innovation.

Economic Benefits Extend Beyond Beneficiaries

The economic justification for diversity and inclusion extends well beyond the immediate benefits to minority businesses. By fostering diversity in the business community, these

programs enhance innovation, stimulate competition, and drive economic growth. The success of minority-owned businesses leads to job creation and revitalizes economically underserved areas, yielding benefits for the economy at large.

Ethical Imperatives and Social Integration

From an ethical standpoint, diversity and inclusion is crucial for correcting deep-seated imbalances in a society that professes to value fairness and equal opportunity. Socially, these programs contribute to a more inclusive and diverse business landscape that mirrors our multicultural society. Diversity in business precipitates varied perspectives and solutions, essential for catering to a broad spectrum of consumer needs and addressing societal challenges.

Enhancing National Cohesion and Stability

Diversity and inclusion programs play a pivotal role in fostering national cohesion and social stability by mitigating economic disparities that can lead to social tension and conflict. By ensuring equitable economic opportunities, these programs promote inclusivity and fairness, foundational to societal harmony and long-term prosperity.

As legal interpretations and societal contexts evolve, the continued support and refinement of divers programs are imperative. These programs are vital not only for rectifying historical injustices but also for proactive equity in opportunity distribution. By steadfastly supporting and enhancing these initiatives, we ensure that minority-owned businesses flourish, thereby enriching our nation's economic landscape and forging a more just and equitable society.

In light of the challenges and opportunities outlined in the landscape of minority-owned businesses in the United States, it is imperative to ensure targeted policies that can effectively support and empower these enterprises. The following recommendations aim to enhance the growth, sustainability, and competitiveness of minority-owned businesses through strategic interventions and proactive initiatives:

Expansion of Federal Programs

1. **Increased Funding for Minority Business Development**: Allocate additional resources to programs like the Minority Business Development Agency (MBDA) to expand outreach, provide comprehensive business consulting services, and facilitate market expansion opportunities for minority entrepreneurs.

2. **Enhanced Access to Federal Contracts**: Implement initiatives that streamline the procurement process for minority-owned businesses, ensuring fair and equitable participation in government projects. Strengthening programs like the 8(a) Business Development program can enhance contracting opportunities and promote the growth of minority enterprises in federal projects.

Implementation of Lending Supports

1. **Targeted Financial Instruments**: Develop specialized financial products, including grants and low-interest loans tailored for minority entrepreneurs. These

financial instruments should address the specific needs and challenges faced by minority-owned businesses, providing crucial support for capital investments and business development.

2. **Increase Federal Partnerships with Minority Depository Institutions and Minority led CDFIs**: Foster collaborations between federal agencies and Minority Depository Institution and CDFIs to increase access to capital (not just debt capital) for minority businesses. Establishing lending partnerships can facilitate easier loan approvals, lower interest rates, and enhanced financial services tailored to the unique requirements of minority entrepreneurs.

Increased Contracting Opportunities with the Government

1. **Diversification of Supplier Networks**: Encourage government agencies to diversify their supplier networks by actively seeking contracts with minority-owned businesses. Implementing inclusive procurement policies can create more opportunities for minority entrepreneurs to engage in government projects and access a broader market for their goods and services.

2. **Capacity Building for Minority Contractors**: Provide capacity-building programs and training initiatives to enhance the competitiveness of minority contractors in bidding for government contracts. Offering technical assistance, mentorship, and resources can empower minority-owned businesses to navigate the contracting process effectively and secure lucrative opportunities.

Comprehensive Mentorship and Networking Programs

1. **Establish Mentorship Networks**: Create mentorship programs that connect established business leaders with aspiring minority entrepreneurs. These initiatives can provide valuable guidance, industry insights, and networking opportunities to support the growth and development of minority-owned businesses.

2. **Industry-Specific Networking Events**: Organize industry-specific networking events and conferences that facilitate connections between minority entrepreneurs, potential investors, and key stakeholders. Promoting collaboration and partnerships within sectors can catalyze innovation, growth, and market expansion for minority-owned businesses.

Tailored Support Programs for High-Growth Sectors

1. **Sector-Specific Support Initiatives**: Develop sector-specific support programs that cater to high-growth industries where minority businesses are prevalent. These initiatives should offer targeted resources, training, and financial incentives to foster innovation, competitiveness, and sustainability within key sectors.

2. **Technology and Innovation Grants**: Introduce grant programs that encourage technological advancement and innovation in minority-owned businesses. Providing funding for research and development, digital transformation, and technology adoption can enhance the competitive edge of minority enterprises in the evolving business landscape.

By implementing these policy recommendations, policymakers can proactively address the systemic barriers, financial constraints, and market challenges that hinder the full potential of minority-owned businesses. Empowering these enterprises through targeted support, inclusive programs, and strategic partnerships will not only drive economic growth and job creation but also foster a more equitable and vibrant entrepreneurial ecosystem that benefits diverse communities and advances the collective prosperity of the nation.

Conclusion

In reflecting on the rich tapestry of insights surrounding minority-owned businesses in the United States, it becomes evident that these enterprises embody resilience, innovation, and the enduring spirit of communities striving for economic empowerment. From the historical contexts of African American, Asian American, Latino, and Native American entrepreneurship to the challenges faced in accessing capital, navigating discriminatory laws, and expanding market reach, the journey of minority entrepreneurs is marked by both triumphs and obstacles.

As we navigate the current landscape of minority-owned businesses, marked by growth trends, sector-specific challenges, and financial disparities, it is imperative to recognize the substantial contributions and untapped potential of these enterprises. Policy recommendations aimed at enhancing support through targeted financial instruments, federal programs expansion, and comprehensive mentorship initiatives are crucial steps towards fostering an inclusive economic environment that empowers minority entrepreneurs.

The importance of continued support for agencies like the Minority Business Development Agency (MBDA) and programs such as the SBA 8(a) Business Development Program cannot be overstated. These entities play critical roles in leveling the playing field, providing minority business owners with access to much-needed resources including capital, contracts, and markets. The MBDA, for instance, serves as a dedicated advocate for minority entrepreneurs, offering technical assistance and fostering partnerships that amplify growth opportunities. Similarly, the SBA 8(a) program specifically helps small, disadvantaged businesses compete in the marketplace, enhancing their viability and capacity to grow.

In conclusion, the imperative of implementing effective policies to support minority-owned businesses aligns with national values of equity, justice, and economic sustainability. By embracing proactive interventions, advocating for equitable opportunities, and fostering an environment conducive to growth and innovation, we not only bridge the racial wealth gap but also catalyze overall prosperity and diversity within the American economic landscape. The journey of minority entrepreneurship is a

testament to the enduring spirit of entrepreneurship, the resilience of diverse communities, and the transformative power of inclusive economic policies. These efforts are essential not just for the success of minority entrepreneurs, but for the health and competitiveness of the entire U.S. economy.

Senator CARDIN. Thank you. Let me thank all six of our participants in this hearing. I think, Mr. Bernal, your research conclusions are, you have got the exhibits here that gave you the specifics that show that we have challenges, and that rather than removing those challenges that sometimes there are more obstacles put in the way of opportunity.

So yes, we could talk about one of the issues on contracting. We find discriminatory practices of contracting authorities trying to bundle contracts to make it impossible for minority businesses to have a fair chance at a prime contract. They have to come in as subcontractors. We also have the problems of established relations of agencies, and they don't want to open it up to additional opportunities. These are some of the challenges we have to deal with on contracting.

And then we have the challenges on financing. Senator Van Hollen already mentioned CDFI program, which is one area that we try to deal with the systemic challenges we have in the banking community of established customers. It is hard to break that cycle. And if you are a small business, is you are not as attractive as larger small businesses, and you are more likely to have minorities starting as smaller small businesses.

So all of that adds to the challenges that we have in the system. But I want to concentrate at least my first question on the effectiveness of the 8 (a) programs and MBDA, because that is the area I think we have the experts here to talk about. We recognize what the courts have done. We do not know the full impact of that yet. We are still trying to figure that out. But could you give us some examples or your observations as to whether the 8 (a) program has been effective in removing some of these barriers, and can it be improved, and what damage have the courts done to the 8 (a) program by its interpretation? Whoever wants to start on that. Ms. Meyers.

Ms. MEYERS. Sure. No problem. Thank you so much for that question. I will just start a little bit about my history. So my grandmother built a hair salon on the front porch of her house in Youngstown, Ohio, where I am from. My grandfather worked in a steel mill, and she had five children she needed to take care of, one was with Down syndrome, so it afforded her the opportunity to be home. But what it showed me or instilled in me was entrepreneurship. I did not know it back then, but that is what it instilled within me.

And then my mother is a 24-year United States Air Force veteran. When she retired from the Air Force she started her business in the government contracting space, and hence the legacy is already starting. And one day my mother and I sat down and we started having a discussion about how do we build generational wealth. How do we create legacy businesses, because we were not born into this.

After that discussion, JLAN Solutions was born, and I named JLAN after my four children—Jamie, Lenae, Asia, and Nia, because I wanted to instill entrepreneurship in them. And my daughter, Nia, my baby girl who is a rising junior at Pennsylvania State University, is here with me today.

And so 2½ of them have businesses now, because of this conversation, this strategy that we have built around entrepreneurship. My son is 100 percent disabled, but he also played basketball in high school, so he is a shooting coach, and he coaches people around the DMV. And I have another daughter who is a graduate, and she has a virtual assistance business, so she is helping people around. And then my baby girl, during COVID, learned how to braid. So at Penn State she is braiding everybody's hair. So we are instilling it in them.

But because of the 8 (a) program it has afforded us the opportunity to start creating generational wealth. It has afforded us the opportunity to start these legacy businesses. My ultimate goal is to get the children in the business—a couple of them are in there now—and have them learn this business, be able to utilize the 8 (a) program as we go on, because now family members are able to participate into this program.

But what it has taught me was business development. The 8 (a) program has a lot of programs to help with business development. And it has also given me access to training, leadership programs, and executive coaches, things that we would normally not receive for free. The APEX Accelerator, NMSDC programs like this have just been phenomenal in helping us with access to capital, grants, and contracting opportunities.

And now I am proud to say because of the 8 (a) program that I am now the prime contractor on the majority of my Federal Government work. [Applause.]

Thank you. The challenges still exist in the access to capital, but we are working on it. But the 8 (a) program has been great for me, my business, my family, and my legacy.

Senator CARDIN. Thank you. [Applause.]

Ms. Luis and Ms. Lawson, do you have any prime contracts or are you all partnership or subcontracts? Have you been able to break through with prime contracts with government?

Ms. LUIS. So maybe I can start on that. The majority of our work is now prime contracting. We were very deliberate in that journey because, as a subcontractor, it is harder to grow. It is harder to grow.

I did want to also say that, Mr. Gary, that there was one single day where as a prime contractor I lost four bids. That was not because I was not the low bidder—I was. In fact, we were the lowest responsible bidder. That contract inevitably ended up being awarded to a multigenerational, majority contractor, which was incredibly disappointing.

When we contract, we do not just look at the minimum requirements for MBE and WBE subcontracting opportunities. We actually have a mandate in our organization that we endeavor to always exceed with as much opportunity to the MBE and the WBE community as possible. But it has taken decades to get there, and only because of the support of the MBE and WBE programs have we been able to break through.

Senator CARDIN. Ms. Lawson.

Ms. LAWSON. Yes. Thank you for that question. My journey is a little different in that I have been doing government contracting and I have never been into the 8 (a) program. So yes, as some may

say that minority businesses need to pull themselves up from the bootstraps and just work hard and through merit that they will be able to accomplish certain things, and my journey has been a struggle. I have always been able to get subcontracting roles, never a prime.

A lot of times when—well, yeah, on many occasions when I am sitting down at the table I am the only Black female, Black small business owner and female small business owner, sitting at that table. And that is a big challenge to overcome the hurdles that are put in front of me when there is potentially bias in the decision-making process.

I have often thought to pursue the 8 (a) program, but I really wanted to do it on my own. But you know what? I was not really able to get to the level that I wanted to get. So as a result I am now considering. I see the benefit, I am very familiar with the 8 (a) program, I am familiar with the benefits that could be achieved from the 8 (a) program, going through the process of applying to the 8 (a) program.

So if this program continues to get watered down or taken away, given the fact that discrimination still exists in America, if this program goes away it would even make it more difficult for small businesses, minority businesses, women-owned businesses to achieve any kind of success.

Senator CARDIN. Thank you. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman, and thank all of you for your testimony here. I think you provide very strong and overwhelming evidence about the continuing need for the 8 (a) program and the MBDA programs and other programs, in order to level the playing field. Because as your testimony clearly points out we have ongoing discrimination, as you mentioned, Mr. Bernal, even with these programs in place. They are being underutilized, right. Minority-owned businesses are still underutilized compared to their potential, which means that we are not putting our full potential on the table. So I agree with you, Mr. Cunningham, about the need not only to preserve these programs but find ways to make them even more effective.

As I think many of you pointed out, not only is this important to have a fair shot and economic opportunity, but when there are more competitors that are out there, this is also good for the American taxpayer. We want more competition in order to ensure the taxpayers, as they go about choosing these businesses, have a fair chance, and to allow those businesses to get in the game, to get in the game.

So I do have a couple of questions with respect to the role that I hear some of your competitors are playing in trying to undermine your success. I think both Ms. Luis, I know Ms. Meyers, others have talked about some of the harassment, some of the false information put out there by competitors.

Can you talk a little bit more about how some of the primes that I guess are concerned that they are going to lose a contract to one of you, how they are undermining your efforts? Because as I listen to you, Ms. Luis, your testimony, it seems to me that if you have a pattern of a competitor making false allegations there we need to make sure there is some recourse there. And so I would be inter-

ested in comments from any of you about what patterns you see on that issue. Maybe we will start with you.

Ms. LUIS. Thank you, sir. So I will give you two examples today about patterns. We started as a subcontractor and slowly but surely, organically, grew, mostly because of majority contractor interference. When we started bidding on larger paving contractors, that is when the boxing gloves came out.

One of the ways that we were prevented from being successful, for instance, is, let's say I bid a mill and overlay program and I had smaller patching crew, and I depended on subcontractors to mill and overlay, and this happened. The larger contractors, the larger paving contractors would threaten the existing MBE and WBE subcontractors in that if those subcontractors bid to me or worked for me, they would remove all of their work, their contracted work, from them. So these smaller subcontractors refused to bid to us, and in the public sector where I bid most of the time you are outlining your MBE and your WBE participation. And it became very, very difficult to obtain that at the time, and also to complete our jobs. And we are under liquidated damages, so when there was any kind of delay in the schedule there was a very large financial hardship.

Another example is when we first purchased our asphalt plant in Rockville from Lafarge we had accounts with every major asphalt manufacturer in Maryland. We had good accounts. We purchased a lot of asphalt. It took us 6 years to negotiate that deal with Lafarge, under complete secrecy, but we got it. And when it was announced the response was extraordinary. It was almost unacceptable that an audacious female immigrant company would have the ability to purchase that plant.

Asphalt is temperature sensitive, so you want to work around plants that are nearby. When we purchased the plant, every single manufacturer refused to sell us asphalt. So we had to take asphalt from our Rockville plant, for instance to distances like City Center Baltimore. I would like to say that we won an award for Falls Road with our own asphalt from Rockville, but it was unnecessary because you can imagine it cost us three times, four times more in hauling. It obviously reduced the productivity rates. It increased overtime.

And so we are not economically viable for a number of years. And so we went ahead and leased our second plant in the Baltimore city area so we did not have that problem anymore.

Senator VAN HOLLEN. Well, thank you for shining a light on those, what I would have to believe are clearly abusive practices, and I guess the question is whether there is a way to make sure there is a penalty attached to unfair competition.

Does anybody else want to comment on this particular issue?

Ms. MEYERS. Absolutely. Thank you so much. I really would like to talk about the disparity or discrimination from large business to small, majority-owned to minority-owned small businesses.

Just a few years ago we were part of a team on a large bid for a government contracting opportunity in the IT space. The company won the bid. It was $650 million, and we had a workshare of $9 million. The contract was protested by another large business. The large business eventually acquired that company, and then it

took almost 2 years for us to even get work. Where, in my testimony, I talked about how all of the minority-owned businesses who were on that winning contract, we had to write a letter to the ombudsman in order to get work on the contract.

Because when large businesses, they do have a requirement to do, I believe, about 35 percent to small business, so they utilize us a lot to get work, but we do not necessarily see the work. It could come in year 2, 3, 4, or 5. We do not know. By then we may or may not still be in business. But they met their requirement. They checked the box at the beginning. But there is no real accountability, from my perspective, of what I have seen.

But when that other majority-owned company won the contract we got our subcontract agreement. Our agreement was for $4 million. And I questioned it. I said, "Wait. We have a $9 million workshare." And they stated, "Oh, you are a minority-owned firm. You are an 8 (a). You only qualify for $4 million, and that is all you get."

So you can imagine how I felt, because we are ready to staff up. You know, I have to talk to my staff, reduce our staff, because we were expecting to grow from this. This was our foot in the door. But like I said, we only had $4 million workshare.

And also, when I brought it to their attention, I talked to the vice president of the company because I was upset. And he said, "I apologize, but that is all we can do." So it makes me think that going forward I do not necessarily want to partner with this company anymore because of the way that they treat their small businesses.

And we like to show our customers who we are, what we do every month. We like to do program management reviews and highlight our employees and what they are doing. So we do this with this company. So buried into our contract states that they can hire our employees after 6 months. Early on I was young, naïve into the program, did not fully understand the contract, because at the time I could not afford an attorney at the very beginning. And so 6 months down the road they start hiring our employees, hired them on a Friday, did not tell us.

So on Monday, Tuesday I reached out to our employees and said, "Hey, you haven't input your timesheets." "Oh, well, they told us we work for them. We no longer had to input our timesheets." No notification to us. So, of course, me, I go back to the vice president and have a conversation and still, "Well, I'm sorry. It's in the contract."

So bottom line is we started with six people. We now have one. We were not a Tier 1 subcontractor, so we get what we get. It is really frustrating that we are still treated like this, and there is no real accountability.

I am sorry. I am a little emotional about that because it really hurts us as minority-owned businesses, and we are really trying to build something, to grow, and they are still hindering our growth.

Senator VAN HOLLEN. Do not be sorry. I would be emotional too. I would be mad as hell.

Ms. MEYERS. Yeah.

Senator VAN HOLLEN. This is one of the reasons we wanted to have this hearing. And again, thank you, Senator Cardin, for organizing it.

Senator CARDIN. Representative Ivey.

Mr. IVEY. I have more questions than I thought I was going to have so I apologize in advance.

The $4 million versus $9 million, I was just kind of curious. Did you approach the contracting officer about that? Did the government know about it, or were you concerned about approaching the CO, or how did that play out?

Ms. MEYERS. So we wrote a letter to the ombudsman, and the ombudsman got involved with the Office of Small Disadvantaged Business Utilization, the OSDBU, and then thereafter we started seeing work but our workshare did not change. No one has addressed the issue of the decrease in the dollar value.

Mr. IVEY. And what department was it?

Ms. MEYERS. Which department?

Mr. IVEY. Mm-hmm.

Ms. MEYERS. Transportation.

Mr. IVEY. Interesting. Okay. How long ago was that?

Ms. MEYERS. So we are in year 4.

Mr. IVEY. No. I mean, how long ago was it that this popped up? Was that 4 years ago?

Ms. MEYERS. Mm-hmm.

Mr. IVEY. Okay. Okay. I was going to ask about the new DOT rules that just came out, but I will set that to the side for the moment.

Prebid conference was one I had a question about, as well, and I guess this could be, well, not quite panel-wide. Mr. Bernal, I am going to come back to you in a minute.

Back before the *Ultima* decision and some of those, they would have the pre-bid conferences. Sometimes you ended up in a scenario where there were discussions that were had, maybe promises were made that were not kept down the road.

But I am kind of curious. To the extent there is a movement away from, by the government, minority-specific race classifications, what happens in the pre-bid conferences now on these issues? In other words, if you have a minority business, I guess back in the day there would be like 35 percent minority business utilization requirement. Is that still in place, or have they started moving away from those because of you are not supposed to be designated as a minority business anymore?

Ms. MEYERS. So I would probably have Ms. Luis answer that because for us the pre-bid conferences we go to are more on the IT side of the house, but construction is constantly pre-bid, and office movement opportunities are pre-bid. But for us they just kind of lay out what they are looking for, what the socioeconomic set-asides, if there is going to be a set-aside or if it is just for a large business. But they do tell us that before we get there of who is invited.

We can go in and we can as our questions, but once we come out, you know, you cannot speak to them anymore once the opportunity hits the streets. So then we actually go ahead and bid on the opportunity. But I think it is more prevalent in the construction realm.

Mr. IVEY. Ms. Luis.

Ms. LUIS. So from a Federal funding component I generally bid to the state, counties, municipalities, public/private sector, so I get the Federal spend indirectly. The number one reason that we started bidding as a prime and letting go of some of our subcontracting opportunities was because of those false promises. We would be written in, and then really not utilized, or if so, often they would come back after bid and try to renegotiate.

Over the years there has been a lot of clean-up of that, thanks to your efforts. There are jurisdictions that are much better at accountability than others. We try to stick to those. And as a prime contractor, you know, when we first opened up our plant, one of the difficult things for the minority- and women-owned business arena was that they were not granted credit at asphalt plants because the financial matrices that were used were similar to large banking. And so one of the things that we did is we removed all of that and our team had to come to Cidalia and I and tell us why they were not issuing credit to minorities and women-owned. And I think when we work as a community and we try to make sure that we are protectionists and we keep everyone at a fair play, then everything goes better. There has been improvement, for sure.

Mr. IVEY. Prompt pay. Again, this might be more of a subcontract question, but I had thought that, geez, the Prompt Payment Act was like in the '80s or sometime, but now that I am back in the middle of this stuff I am hearing complaints again about late payments that are being made, sometimes for, frankly—they appear to me to be for strategic reasons as opposed to some legitimate dispute about work that has been performed. I wanted to get a sense of if that is something that you are seeing, as well, if that is out there on the street too.

Ms. MEYERS. Definitely. You know, in the Federal Government, as a small business, the FAR states that they can pay us within 15 days, if we ask, and generally they do comply. But when you are a subcontractor there is a 45- to 60-day waiting period, where we have to be financially stable in order to support these efforts. The payments sometimes come in 45, sometimes in 60, sometimes in 70 days. We still have to reach out and say we haven't been paid, it is in our agreement that we are supposed to be paid on time, and we are still sometimes not paid on time.

It poses a challenge because they said, "Well, you know, our accounting system is set up this way," or "We haven't been paid from the government," when in actuality the government pays. But it is the primes that make us wait.

Mr. IVEY. Okay. Mr. Bernal, a couple of questions for you. I noticed in your testimony you talked about disparity indexes and sort of the scope of the studies that you do. It mentions in your testimony it looks like you focus primarily on state and local governments.

Mr. BERNAL. Mm-hmm.

Mr. IVEY. All right. Do you have any familiarity with studies that have been done that have targeted the Federal Government?

Mr. BERNAL. We do not do an overall Federal study, but there are DOT studies that are involved with the Federal Government. But one of the things that we always see in the studies, and it is

also because of case law, we need to be sure that when we are analyzing the issues, they are localized. What we see across all the studies is a corroboration of what everybody has said today, that race, ethnicity and gender impact a person's ability to do business in a certain jurisdiction.

And I think it is interesting to say, you know, when we look at these targeted programs, such as the 8 (a), we just finished a study for Baltimore that had an 8 (a) component, we do see progress. We see progress in the utilization of minority businesses, subcontractors and sometimes even prime contractors.

But one of the things I really want to lay on this, as well, is the economic impact that we see, as well. That is something that we have started really looking into, what is the economic impact of these programs. And all of what we see is that there is a true, quantifiable impact, a positive impact to communities, to overall communities, of having investments in these programs.

Mr. IVEY. One of the things that the judge in the *Ultima* case wrote was that—he did not necessarily base his finding on it ultimately, but he did question, or attack frankly, the studies that were underlying. Basically he said there is insufficient information from a records standpoint to justify the 8 (a) program continuing in the way that it was, in other words, race-based classification for admission into the program.

And you might not know what he had access to or not, but what kind of programs or studies are out there, and what would be your thought as to how the Federal Government could go about pulling together those sorts of records? And I guess he wanted specific to, they used to call them SI codes. What are they, NAICS codes now? Okay. I apologize for my oldness on that. But I think he wanted them specific to that too. So locality and also industry-specific would probably be important, and also they have to be relatively contemporary, I guess, based on what he said. He sort of argued that they were so old that they would not be applicable.

How should the Federal Government go about pulling that together, and to what extent is there information that is already out there along those lines?

Mr. BERNAL. And thank you, Congressman, for that question, and you are right. I cannot speak to what the judge had in that. But in my opinion I like to jokingly say, throw the kitchen sink at these court systems. And what I mean by that is we already have a lot of this data already, U.S. census data. That is a lot of the data that we use in our disparity studies to analyze the private sector. It looks at different levels of those NAICS codes throughout the entire nation. It looks at it by jurisdiction. It looks at it in different granularity. And we can use that to determine what is the impact of race, ethnicity, and gender on a person's ability to earn a certain level of business revenue, on the likelihood to be self-employed.

So the data is available. It just needs to be used, like you said, specifically to look at commodity code level, jurisdictional level, or even the entire nation.

Mr. IVEY. All right. Last set of questions, and I guess, Ms. Luis, these will be mainly for you. Bureau of Engraving is about to start construction a few miles from here, maybe five or six miles. It is a $1.5 billion project, roughly. And I am assuming here is going to

be a lot of asphalt, concrete, whatever, that is going to be needed there.

When we took a look, we called them up and asked them about what their goals were, and I think it was a 6 percent small business goal, which I thought was shocking. And we are doubling back to it, to make sure that I read that right, but a 6 looks like a 6. I am pretty sure.

Had you heard about that? Did you bid on it? And then the follow-up question is going to be—because we have got FBI coming, we have got, tragically, but, you know, it has to get done, Key Bridge is coming, the Baltimore Tunnel is coming. There is a lot of stuff that is coming in the very near future right here in Maryland. And I am sort of curious as to what you are seeing and what you think your chances are for participating in those.

What did they say, I think the bridge is going to be $1.7 billion, Engraving is $1.4, FBI is like $3.5 or something. So literally billions of dollars coming just within a few mile radius of here. What are you seeing? And if any of the others of you have any knowledge of that, you speak up too. But we will start with you, Ms. Luis.

Ms. LUIS. Sure. So on those larger projects I tend to be artificially bid out because we have two divisions to our company, two different companies. One is construction. The revenue cap is measured for retail road construction. For manufacturing it is based on number of employees. That is the test.

Mr. IVEY. Number of employees that have not been stolen away from your company, yeah.

Ms. LUIS. Yeah.

Mr. IVEY. I am sorry.

Ms. LUIS. No, it is okay. It is true.

When it comes to the DB factor, our business, even though I have fought this quite a bit, our business tends to be tested on revenue, and because it is a manufacturing plant, those revenues tend to put us out of the ability to compete within the DB market.

We like to obviously participate as much as possible, but we are typically subcontractors and utility organizations, such as WSSE or BGE or Washington Gas, DC Water, and whatnot. When it comes to the Federal spend I am relegated out.

Mr. IVEY. Anyone else?

Mr. MOORE. I would say that just about everything everyone said here this morning I hear on a daily basis, three or four times a day. And sometimes I feel like a little bit of a counselor, if you know what I mean, because you have to deal with especially the emotional part of it.

But with the infrastructure part we have had difficulty at the Maryland MBDA with even getting our foot in the door to talk to somebody. So if the Senator's office, or your office called, they would pick up the phone. And I would think that the MBDA and the U.S. Department of Commerce, they would pick up the phone for me too. But most of them know what the reason is why I am calling, and so I don't get any kind of communication back.

A lot of my client say—some of them do not even want to bid on it. They have already got that. You know, they know who the money is going to. Why should they even bother? And that is also

because that is things they see in their past and in their businesses.

So I have got to try and turn that around, and I am still knocking the door for those things. And hopefully with your help I will be able to get through and have somebody pick up the phone. That is all I want is a phone call and an opportunity to speak and introduce some of my clients, like M. Luis.

Ms. LUIS. If I could just add one small piece to that, I think one of the solutions is because these are such large contracts, I think one of the solutions is if the Federal space were willing to create reciprocity with local certifications, such as Prince George's County or MDOT, I think you would quickly get to that 35, 40-plus percent, because you have the businesses that are certified. It is getting through the DBE, that for those kinds of dollars typically the revenue cap inches everyone out.

Senator CARDIN. I can assure you that we heard you loud and clear, and we will very much be engaged. To Representative Ivey's point about the amount of public construction that will take place in the state of Maryland over the next few years, it is going to be dramatic. So we will absolutely be working with the MBDA, so we will do that.

I had one other point that I just wanted to raise and that is with the court challenges to the MBDA programs, your thoughts as to what Congress can do, what we can do, to make sure that the services that are provided there can continue. We know it is going to be a challenge, but we want to work with you in that regard.

It is not necessary for answering today, but we would appreciate your technical support in making that a reality. Mr. Cunningham, we also appreciate your help in that regard, with your experience in Minnesota. So any thoughts there, please let us know.

Mr. CUNNINGHAM. Mr. Chairman, thank you. I would say a couple of things. One is the MBDA is doing a fantastic job of working with the demand of contractors that are coming in to do work with the MBDA centers across the country. The issue is that there is just not enough staff. When I was in Minnesota at the MBDA center, one of the things we saw, we did a market analysis, and what we found was we were only serving about 19, 20 percent of the market that could have been served if we had enough staff. And we were already overloaded.

I think all of the MBDA centers are seeing this kind of demand, and that technical assistance and support that they are providing is critical for these folks to be successful in what they are doing.

So I would argue that the number one thing is that we have to increase the capacity of these organizations to do this work. This is not only just good for minority entrepreneurs; it is good for the country.

So I will stop there, Mr. Chairman.

Mr. MOORE. And I think the budget was cut $1.7 million.

Senator CARDIN. We are now in the appropriations cycle for fiscal year 2025, and that is one of our priorities is to try to help in regard to budget support. But as you know, the real challenge is in Representative Ivey's court as we try to get reasonable caps in the budget process, and this is one of the programs that are our priority. So we will be working with you in that regard.

I want to thank our witnesses. This has been extremely helpful. I want to acknowledge Carlton Atkinson, Roderick Lewis, and my staff for helping to put this all together today. I appreciate everyone's cooperation.

So let me just conclude by a quote from Parren Mitchell that my staff put in front of me, which I think is very appropriate to conclude this hearing. And this is quoting from Parren Mitchell. "If you believe in fighting racism you make a commitment for the rest of your life. There is no getting off that train. You can't say I'll put five years into fighting racism and now I'm finished. No. You are not finished. Our job is to fight it every day, to continue to shove it down, when it rises up, to shove it down even harder."

With that the hearing will stand adjourned, and we thank you all for the fight to make our country a better place. [Applause.]

[Whereupon, at 11:54 a.m., the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

Statement for the Record
Ranking Member Joni K. Ernst
U.S. Senate Committee on Small Business & Entrepreneurship
"Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination"
May 6, 2024

Thank you, Senator Cardin for bringing small contractors into the national spotlight. The ability of an entrepreneur to transform a dream into a real, tangible business is a testament to the undying American spirit and proof that this is still, after all, the land of opportunity. However, all small businesses face the same difficult tasks: managing workforce constraints; complying with often-conflicting and constantly-changing rules and regulations; and dealing with arcane and complex tax policies, to name a few. Adding to these daily challenges, small contractors have the additional burden of navigating the complex maze of federal bureaucracy, rife with its own unique set of demands, risks, and rewards. These realities exist for any small business, regardless of race, gender, or creed.

The current environment in which small contractors operate is, in fact, untenable. Multiple reports and studies have confirmed that small businesses are leaving the federal marketplace at a rapid pace, threatening the security and stability of this nation.[1] Procurement and acquisition trends, such as an overemphasis on contract consolidation and bundling activities, are resulting in a loss of small business contract opportunities. This loss

[1] Department of Defense, *Small Business Strategy* (2023), https://media.defense.gov/2023/Jan/26/2003150429/-1/-1/0/SMALL-BUSINESS-STRATEGY.PDF; Department of Defense, *National Defense Industrial Strategy* (2023), https://www.businessdefense.gov/docs/ndis/2023-NDIS.pdf; Department of Defense Office of the Under Secretary of Defense for Acquisition and Sustainment, Defense Pricing and Contracting, *Contract Finance Study Report* (April 2023), https://www.acq.osd.mil/asda/dpc/pcf/docs/finance-study/FINAL%20-%20Defense%20Contract%20Finance%20Study%20Report%204.6.23.pdf; National Defense Industrial Association, *Vital Signs 2023* (February 2023), https://www.ndia.org/-/media/sites/ndia/policy/vital-signs/2023/ndia_vitalsigns2023_final_v3.pdf?download=1?download=1

of opportunity, coupled with new and increasing regulatory and compliance burdens, creates an acquisition environment so hostile to small businesses it comes as no surprise to learn that the small business federal base has shrunk by approximately 36% over the past decade.[2] Data from the U.S. Small Business Administration (SBA) shows that the greatest rate of loss is found among all small business vendors generally, while in contrast, the number of small and disadvantaged business vendors enjoyed the highest growth rate, increasing in number by approximately 71% over the past decade.[3]

Allowing more Americans to access the dream of small business ownership is a goal we all share. Congress has, on a bipartisan basis, enacted various pro-growth, pro-small business policies and programs, including the SBA's 8(a) Business Development Program. The 8(a) Program helps small businesses develop, grow, and create jobs in their communities by leveraging powerful contracting tools, while simultaneously cultivating a new class of capable small business government contractors. It is prudent for the SBA to leverage the success of the 8(a) program to achieve these aims, uplifting business ownership on the basis of **true** social and economic disadvantage.

However, in helping Americans succeed we must remember to equally protect all Americans, not favor some over others based purely on their race, gender, or creed.

In closing, I urge my colleagues across the aisle to recognize that a rising tide lifts all boats, and we must remain vigilant, hyper focused on the larger problem at hand, the decline in the small business vendor base. It is my sincere hope that the SBA and the Department of

---

[2] This percentage difference was calculated by comparing the latest complete vendor data, the FY22 Small Business Vendor count (62,670), with the FY2012 Small Business Vendor Count (104355): https://datahub.certify.sba.gov/

[3] This percentage increase was calculated by comparing the latest complete vendor data, the FY22 Small Business Vendor count for SDBs (23260), with the FY2012 Small Business Vendor Count (13596). *Id.*

Commerce embody this approach, and redouble their efforts to assist business owners of all shapes and stripes, without preference, priority, or discrimination. I look forward to continuing to work to make sure that there is a place in our federal contracting environment for all of America's entrepreneurs.



Testimony of
John C. Yang
President and Executive Director
Asian Americans Advancing Justice | AAJC

for

Hearing on "Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination."

United States Senate
Small Business Committee
May 6, 2024

1620 L Street NW, Suite 1050, Washington, D.C. 20036 **T** 202-296-2300 **F** 202-296-2318 www.advancingjustice-aajc.org

I. Introduction

Government programs like the Small Business Administration's 8(a) program, and those provided by the Minority Business Development Agency ("MBDA"), are essential for remedying past discrimination against racial and ethnic minorities, including Asian Americans, helping the American economy thrive, and reinforcing our democracy. These programs ensure that minority-owned small businesses are able to survive and thrive, benefitting not only the businesses themselves but the communities they serve and the nation as a whole. Only through the inclusion of all sectors of our economy and all segments of the populace can the American economy and democracy flourish.

Unfortunately, like many other racial minorities in the United States, Asian Americans have faced centuries of explicit, government-sponsored discrimination, including racist immigration policies, restrictions on land ownership, efforts to eradicate Asian American small businesses, incarceration of Japanese Americans, and exclusion from government programs. That discrimination has interfered with economic opportunity, excluding Asian Americans from both equal dignity and status in American democracy and from equal participation in the economic life of the nation, to the detriment of all.

The legacy of past discrimination remains with us today in a multitude of forms, including unequal opportunities in the creation of businesses and greater difficulty in maintaining those businesses. Moreover, Asian Americans continue to face explicit government-sponsored discrimination and unequal opportunities to participate in government programs.

The reality of racial discrimination and inequality cannot be remedied by ignoring it. Only by recognizing that reality and consciously addressing it can the federal government begin to repair the harm it has caused to Asian Americans and others, both in the past and the present.

II. Organizational Information

Asian American Advancing Justice | AAJC ("Advancing Justice | AAJC") submits this written testimony to the Senate Small Business Committee in conjunction with its hearing, "**Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination**."

Advancing Justice | AAJC is a national 501(c)(3) non-profit organization founded in 1991 dedicated to advancing civil and human rights for Asian Americans, and to promoting a fair and equitable society for all. Advancing Justice | AAJC fights for our civil rights through education, litigation, and public policy advocacy and serves to empower our communities by bringing local and national constituencies together and ensuring that Asian Americans are able to participate fully in our democracy and the economic life of our nation.

We work closely with our Community Partners Network, a national collaboration of over 300 AAPI-serving community-based organizations (CBOs) across 37 states and the District of Columbia to increase regional and local capacity to elevate community voices nationwide.

As a founding member of the Asian Americans Advancing Justice (Advancing Justice) national affiliation, we partner with our affiliates — Advancing Justice | Asian Law Caucus, Advancing Justice | Atlanta, Advancing Justice | Chicago, and Advancing Justice | Southern California — to extend the reach of our programming and enhance the impact of our collective work. Advancing Justice | AAJC is a member of the National Council for Asian Pacific Americans, a coalition of Asian American & Pacific Islander national advocacy organizations. We are also a member of the Leadership Conference on Civil and Human Rights, comprised of over 200 national organizations working together to promote and protect the civil and human rights of all Americans.

III. History of Discrimination Against Asian Americans in the United States

Present-day discrimination against Asian Americans must be understood within the context of the long history of anti-Asian discrimination in the United States. Discrimination against Asian Americans has historically been rooted in the false stereotype of Asian Americans as "outsiders," "aliens," and "perpetual foreigners."[1]

---

[1] *See, e.g.*, Beth Lew-Williams, THE CHINESE MUST GO: VIOLENCE, EXCLUSION, AND THE MAKING OF THE ALIEN IN AMERICA (2021); Claire Jean Kim, *"Exclusion/Belonging"* in ASIAN AMERICANS IN AN ANTI-BLACK WORLD 17-122 (2023). Racial stereotyping of Asian Americans reinforces an image of Asian Americans as "different," "foreign," and the "enemy," leading to stigmatization of

Based on this perception, Asian Americans were long denied the rights held by U.S. citizens and the ability to participate fully in American democracy and the economic life of the country.

As early as the mid-19th century, Asian Americans faced discrimination. Chinese workers initially migrated to the United States to work in the gold mines, the agricultural and garment industries, and as laborers building railroads on the west coast.[2] The latter half of the 19th century marked a rise in anti-Chinese sentiment as Chinese immigrants were scapegoated for the lack of economic opportunity.[3] Asian immigrants faced significant race-based violence, such as the 1871 massacre of around twenty Chinese residents of Los Angeles.[4] Yet they often had little recourse, as some states would not allow Asian witnesses to testify against white defendants.[5]

Asian Americans, heightened racial tension, and increased discrimination. Spencer K. Turnbull, Comment, *Wen Ho Lee and the Consequences of Enduring Asian American Stereotypes*, 7 UCLA ASIAN PAC. AM. L.J. 72, 75 (2001); Terri Yuh-lin Chen, Comment, *Hate Violence as Border Patrol: An Asian American Theory of Hate Violence*, 7 ASIAN L.J. 69, 72, 74-75 (2000); Cynthia Kwei Yung Lee, *Beyond Black and White: Racializing Asian Americans in a Society Obsessed with O.J.*, 6 HASTINGS WOMEN'S L.J. 165, 181 (1995); Note, *Racial Violence Against Asian Americans*, 106 HARV. L. REV. 1926, 1930-32 (1993); *see also* Thierry Devos & Mahzarin R. Banaji, *American = White?*, 88 J. PERSONALITY & SOC. PSYCHOL. 447 (2005) (documenting empirical evidence of implicit beliefs that Asian Americans are not "American").

[2] *See* Office of the Historian, *Chinese Immigration and the Chinese Exclusion Acts*, https://history.state.gov/milestones/1866-1898/chinese-immigration ("Office of the Historian").

[3] Chinese immigrants faced a number of discriminatory laws ranging from foreign miner taxes, directed at Chinese gold miners, to anti-Asian business regulations. *See* Sucheng Chan, *Asian Americans: An Interpretive History,* TWAYNE'S IMMIGRANT HERITAGE OF AMERICA SERIES 46–47 (1991); Gordon H. Chang, GHOSTS OF GOLD MOUNTAIN: THE EPIC STORY OF THE CHINESE WHO BUILT THE TRANSCONTINENTAL RAILROAD 38–54 (2019); George Anthony Peffer, *Forbidden Families: Emigration Experiences of Chinese Women Under the Page Law, 1875-1882*, AM. ETHNIC HIST. J. 28, 28–46 (1986), https://www.jstor.org/stable/27500484.

[4] John Johnson, Jr., *How Los Angeles Covered Up the Massacre of 17 Chinese*, LA WEEKLY (Mar. 10, 2011), *available at* https://www.laweekly.com/how-los-angeles-covered-up-the-massacre-of-17-chinese/. *See generally* Jean Pfaelzer, DRIVEN OUT: THE FORGOTTEN WAR AGAINST CHINESE AMERICANS (2008).

[5] *E.g.*, *People v. Hall*, 4 Cal. 399, 405 (Cal. 1854) (barring testimony from Asian witnesses on ground that they were "a race of people whom nature has marked as inferior, and who are incapable of progress or intellectual development").

Anti-Asian scapegoating and prejudice resulted in the 1875 Page Act, which barred immigrants deemed as "undesirable" and primarily targeted Asians.[6] Rooted in anti-Asian sentiment, the bill intended "to stop the flow of the 'yellow peril' to American shores."[7]

Congress then passed the Chinese Exclusion Act and its progeny to deter immigration not only of "undesirables," but of all new Chinese immigrants. The Chinese Exclusion Act—the first U.S. immigration law to bar a specific ethnic group—effectively prohibited Chinese immigrants from coming to the U.S. for nearly 60 years.[8] The Act also barred all Chinese immigrants from becoming naturalized citizens.[9]

The Geary Act of 1892 extended the Chinese Exclusion Act of 1882 for another ten years.[10] This bill singled out Chinese individuals, requiring them to obtain "certificates of residence," and denied them the right to be released on bail upon application for a writ of habeas corpus. Chinese immigrants also could not bear witness in court.[11] Instead, only a "credible white witness" could testify for them.[12] Although economic security was touted as a reason for the Chinese Exclusion Act, the Act fit within a larger anti-Chinese movement intended to advance a racist agenda for white purity threatened by Chinese immigration.[13] Only in 2011 did the Senate introduce and pass a resolution recognizing the discriminatory nature of the Chinese Exclusion Act and other laws against those of Chinese descent in America.[14]

The Chinese exclusionary laws paved the way for other laws rooted in anti-Asian sentiment, and the Supreme Court issued harmful precedents by repeatedly upholding challenges to discriminatory laws and its progeny against Asian

---

[6] 18 Stat. 477, 43 Cong. Ch. 141.
[7] *See* Peffer, *supra*. n.3 at 29, 28–46.
[8] 22 Stat. 58, 47 Cong. Ch. 126.
[9] *Id.*
[10] Pub. L. No. 52-60, 27 Stat. 25.
[11] Maureen Fan, *An Immigrant's Story: Against a Wall of Exclusion*, S.F. CHRON. (Oct. 4, 2019), https://www.sfchronicle.com/opinion/article/An-immigrant-s-story-Against-awall-of-14494875.php.
[12] *Id.*
[13] Office of the Historian, *supra* n.2.
[14] S. Res. 201, 112th Cong. (2011) (enacted), *available at* https://www.congress.gov/bill/112th-congress/senate-resolution/201/text.

immigrants, establishing Congress' plenary power on immigration matters.[15] Later legislation such as the Naturalization Act of 1906,[16] which allowed only "free white persons" and "persons of African nativity or persons of African descent" to naturalize, also survived constitutional challenges from immigrants seeking to overturn discriminatory policies against Asian immigrants. Two key U.S. Supreme Court cases – *Ozawa v. U.S.* (1922) and *U.S. v. Thind* (1923) – held that Asian immigrants were not free white people and therefore, ineligible for naturalized citizenship.[17] The Immigration Act of 1924[18] expanded the reach of the Chinese Exclusion Act to prevent citizens from all Asian nations from immigrating to the United States, and these exclusionary laws remained in effect until they were repealed by the Magnuson Act in 1943.[19] Exclusionary laws changed the face of America. As a result, by 1960, only 877,934 Asian Americans lived in the United States.[20] That figure represented a mere half of one percent of the American population.[21]

Relying on these discriminatory federal citizenship laws, and invoking the same racist rationales, states began imposing severe restrictions on the ability of Asian Americans and Asian immigrants to purchase real property, often called "alien land laws." To clothe these laws with a patina of legitimacy, they did not mention Asian immigrants or residents specifically. Instead, they excluded persons "ineligible for citizenship"—as determined by federal law—from property ownership, which encompassed primarily Asian immigrants, who were excluded from citizenship under the discriminatory federal statutes discussed above.[22]

---

[15] *See, e.g.*, *Chae Chan Ping v. United States*, 130 U.S. 581 (1889).
[16] 4 Pub. L. 59-338, 34 Stat. 596.
[17] *See, e.g.*, *Ozawa v. United States*, 260 U.S. 178, 198 (1922) (Ozawa, a Japanese immigrant who had lived in the U.S. for over 20 years was "clearly ineligible for citizenship" because he "is clearly of a race which is not Caucasian"); *U.S. v. Thind*, 261 U.S. 204 (1923) (affirming cancellation of Indian national's U.S. citizenship due to fact he was not "free white person").
[18] Pub. L. 68-139, 43 Stat. 153.
[19] Pub. L. 78-199, 57 Stat. 600.
[20] Asian Americans Advancing Justice, Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander communities 20 (2019), https://www.advancingjustice-aajc.org/sites/default/files/2019- 06/1153_AAJC_Immigration_Final_Pages_LR-compressed.pdf.
[21] *Id.*
[22] *In re Admin. Order 2017-05-17*, 217 Cal. Rptr. 3d 730 (Cal. 2017).

California enacted the first such law in 1913, which restricted Asian immigrants from owning or leasing farmland. It then tightened these restrictions further in 1920 and 1923, prohibiting even American-born children of Asian immigrant parents or by corporations controlled by Asian immigrants.[23] As the California Supreme Court recognized in 1952, "the real purpose [of the alien land law] was the elimination of competition by alien Japanese [sic] in farming California land."[24]

Many other states followed suit, all of them motivated by anti-Asian animus, including Arizona (1917), Louisiana (1921), New Mexico (1922), Idaho (1923), Montana (1923), Oregon (1923), Kansas (1925), Utah (1943), Wyoming (1943), and Arkansas (1925 and 1943).[25] Though Arkansas' 1925 law restricted ineligible aliens, its 1943 law went even further, barring any "Japanese or a descendent of a Japanese [sic]"—including citizens—from "ever purchas[ing] or hold[ing] title to any lands" in the state.[26]

In 1925, Florida went so far as to amend its constitution to empower the legislature to exclude "ineligible aliens" from the right to "own[], inherit[], dispos[e] [of], possess[], [or] enjoy[] real estate." It was explicitly targeted at Asian—and specifically Japanese—immigrants,[27] though both legislators and state newspapers acknowledged there was no need for it.[28] The provision was "readopted during the 1968 revision of the Florida constitution,"[29] and not repealed until 2018, when the Florida Constitution Revision Commission proposed a successful referendum to remove the "discriminatory" language.[30]

---

[23] *Id.*
[24] *Fujii v. California*, 38 Cal.2d 718, 735 (1952)
[25] Dudley O. McGovney, *The Anti-Japanese Land Laws of California and Ten Other States*, 35 CAL. L. REV. 7, 7-8 (1947), *available at* https://www.jstor.org/stable/3477374?origin=crossref.
[26] *Id.* at 8-9; *see also Applegate v. Lum Jung Luke*, 173 Ark. 93, 95 (1927) (invalidating 1925 law as inconsistent with state constitution).
[27] *Florida to Vote on Alien Land Law*, THE NEW YORK TIMES 3 (Oct. 30, 1926) ("Its sponsors said the proposed amendment is aimed specifically at Japanese subjects."), *available at* https://timesmachine.nytimes.com/timesmachine/1926/10/30/104213831.html?pageNumber=3.
[28] Declaration of Rights Committee, Constitution Revision Commission, *Proposal Analysis* 4 (Dec. 20, 2017), a*vailable at* https://library.law.fsu.edu/Digital-Collections/CRC/CRC-2018/Proposals/Commissioner/2017/0003/Analyses/2017p0003.dr.pdf.
[29] *Id.*
[30] *Detzner v. Anstead*, 256 So. 3d 820, 824 (Fla. 2018).

These alien land laws had a tangible economic impact on Asian immigrants in the United States. In California, for example, Japanese immigrants saw a 47% decrease in total acres farmed in 1922–1924 as compared to 1918–1920, and a 23% decrease in the total number of farms owned by Japanese immigrants living in California during that period.[31] Though these laws were eventually repealed, history now echoes in a slew of alien land laws sweeping through the country, recently enacted or considered in California, New York, Texas, Louisiana, South Carolina, Alabama, and Florida, among others.[32]

At the same time, states and municipalities targeted other Asian-owned businesses. For example, many states excluded "foreign-born persons from practicing law unless they were eligible for citizenship."[33] As was the case with alien land laws, this restriction disproportionately affected Asian immigrants because federal law barred them from naturalization.

Other efforts were more explicitly racialized. Officials in San Francisco used an 1880 ordinance to shut down Chinese-owned laundry businesses in the city by denying such businesses licenses while granting them to others.[34] Around the same time, state and local legislators sought to "eliminate Chinese restaurants from the United States."[35] This "war"—as its proponents described it[36]—was driven by racism and xenophobia, including moral panics over opium, interracial marriage, and various other "threats" to the morality of white women.[37] A variety of states and cities "considered legislation or decrees banning white women from patronizing

---

[31] Masao Suzuki, *Important or Impotent? Taking Another Look at the 1920 California Alien Land Law*, 64 J. OF ECONOMIC HISTORY 125, 130-131 (2004), *available at* https://www.jstor.org/stable/3874944.

[32] Edgar Chen, *With New "Alien Land Laws" Asian Immigrants Are Once Again Targeted by Real Estate Bans*, JUST SECURITY (May 26, 2023), https://www.justsecurity.org/86722/with-new-alien-land-laws-asian-immigrants-are-once-again-targeted-by-real-estate-bans/.

[33] *In re Admin. Order 2017-05-17*, 217 Cal. Rptr. 3d 730 (Cal. 2017) (citing *Raffaelli v. Committee of Bar Examiners*, 7 Cal.3d 288, 291 (1972)); *see also Large v. State Bar*, 218 Cal. 334, 335 (1933) (rejecting constitutional challenge to rule and collecting cases); *In re Hong Yen Chang*, 84 Cal. 163 (Cal. 1890) (rejecting admission of Asian immigrant to state bar).

[34] *Yick Wo v. Hopkins*, 118 U.S. 356, 359 (1886)

[35] Gabriel J. Chin & John Ormonde, *The War Against Chinese Restaurants*, 67 DUKE L. J. 681, 683 (2018), *available at* https://scholarship.law.duke.edu/dlj/vol67/iss4/1/.

[36] *Id.* at 683.

[37] *Id.* at 698-707.

Chinese restaurants or being employed there."[38] Police targeted Chinese restaurants for raids and in some jurisdictions issued decrees barring "young white girls" from entering such establishments.[39] And municipal government officials discriminated against Chinese restaurants in licensing, zoning, and other regulatory enforcement.[40] Not until the mid-20th century approached did the effort to stamp out Chinese restaurants conclude.[41]

Amidst rising anti-Japanese hysteria during World War II, President Franklin D. Roosevelt issued Executive Order 9066, which authorized the forcible removal of people of Japanese ancestry from their homes and communities in the interest of "national security." As a result, approximately 120,000 U.S. residents of Japanese ancestry, half of whom were children, were incarcerated in federal detention. This constituted nearly the entire Japanese populations of California (99%), Oregon (87%), and Washington (88%).[42] About 2,000 people died in incarceration from a series of causes, including infectious diseases, bad sanitation, or even shooting by guards.[43]

Though never accused of any offense, and incarcerated without due process, the Supreme Court nevertheless upheld the laws and curfews implementing Executive Order 9066 against U.S. citizens of Japanese descent in a shameful series of opinions. *See, e.g.*, *Korematsu v. United States*, 323 U.S. 214 (1944); *Hirabayashi v. United States*, 320 U.S. 81 (1943); *Yasui v. United States*, 320 U.S. 115 (1943).

Even after incarceration ended, Japanese Americans struggled to recover due to the "very substantial economic losses" they suffered:

> Owners and operators of farms and businesses either sold their income-producing assets under distress-sale circumstances on very short notice

---

[38] *Id.* at 707-13.
[39] *Id.* at 713-16, 723-26.
[40] *Id.* at 716-23, 726-30.
[41] *Id.* at 682-83, 733.
[42] Aimee Chin, *Long-Run Labor Market Effects of Japanese American Internment during World War II on Working-Age Male Internees*, 23 J. OF LABOR ECONOMICS 491, 496 (2005), available at https://doi.org/10.1086/430285.
[43] Gisela Perez Kusakawa, *The Korematsu Legacy: "Stand up for what is right!"*, AAJC (Jan. 30, 2020), https://medium.com/advancing-justice-aajc/the-korematsu-legacy-stand-up-for-what-is-right-4a19c5af491d.

> or attempted, with or without government help, to place their property in the custody of people remaining on the Coast. . . . Homes had to be sold or left without the personal attention that owners would devote to them. Businesses lost their good will, their reputation, their customers. Professionals had their careers disrupted. Not only did many suffer major losses during evacuation, but their economic circumstances deteriorated further while they were in camp. The years of exclusion were frequently punctuated by financial troubles: trying to look after property without being on the scene when difficulties arose; lacking a source of income to meet tax, mortgage, and insurance payments. Goods were lost or stolen. Income and earning capacity were reduced to almost nothing during the long detention in the relocation centers, and after the war life had to be started anew on meager resources.[44]

Small businesses—one of the "major occupations" of those subject to incarceration—were especially affected. Facing incarceration, they were "forced by circumstances to accept low prices or abandon property or . . . to place the property in insecure storage."[45]

Subsequent research supports the conclusion that incarceration had substantial long-term adverse economic effects. One study concluded that Japanese incarceration "reduced the annual earnings of males by as much as 9%-13% 25 years afterwards."[46] Though the federal government eventually—in 1988—paid each survivor of incarceration a modest reparation, the amount provided fell "considerably short of compensating working-age male internees for lifetime earnings losses resulting from the labor market withdrawal induced by the internment [sic]."[47] Moreover, this did not take into account other financial losses

---

[44] Comm'n on Wartime Relocation & Internment of Civilians, PERSONAL JUSTICE DENIED 117-18 (1982), *available at* https://www.archives.gov/files/research/japanese-americans/justice-denied/chapter-4.pdf.
[45] *Id.* at 127-28.
[46] Aimee Chin, *Long-Run Labor Market Effects of Japanese American Internment during World War II on Working-Age Male Internees*, 23 J. of Labor Economics 491, 512-515 (2005), *available at* https://doi.org/10.1086/430285.
[47] *Id.*

incurred. Though the total value of economic losses is hard to quantify 80 years later, it is almost certainly staggering.

While the United States government incarcerated Japanese immigrants and Japanese Americans, it also excluded most Asians in the United States from the benefits of many New Deal programs. For example, most work-relief jobs under the New Deal required U.S. citizenship; yet at the time, Asian immigrants were unable to naturalize and as a result could not participate.[48] Likewise, the Home Owners' Loan Corporation ("HOLC")—a New Deal entity created to refinance home mortgages, promote home purchases, and limit foreclosures—subjected Asian Americans to the discriminatory practice of redlining, along with Black and Latinx Americans.[49] "Redlining" involved "grad[ing] neighborhoods based on their perceived mortgage-lending risk"[50]—if someone lived in a neighborhood designated as "high risk," they could not obtain a mortgage loan, even if they were otherwise qualified.[51] The risk assessments were driven in significant part by the racial composition of neighborhoods.[52] In California, for example, HOLC appraisers marked down neighborhoods with large numbers of Asian Americans, classifying them as "subversive racial elements."[53]

Asian Americans and Asian American-owned businesses continued to face overt, government-sponsored discrimination well into the late 20th century. For example, a 1970 study by the United States Commission on Civil Rights described the "negative and sometimes hostile attitudes" of government contracting specialists toward minority-owned businesses—including Asian-owned businesses: that they were "inefficient, sloppy, lacking in business acumen and knowledge of government

---

[48] Judy Yung, UNBOUND FEET: A SOCIAL HISTORY OF CHINESE WOMEN IN SAN FRANCISCO 185 (1995).
[49] *See generally* Richard Rothstein, THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA (2017).
[50] Ryan Best & Elena Mejia, *The Lasting Legacy of Redlining*, FiveThirtyEight (Feb. 9, 2022), https://projects.fivethirtyeight.com/redlining/.
[51] *See* Candace Jackson, *What Is Redlining?*, THE NEW YORK TIMES (Aug. 17, 2021), https://www.nytimes.com/2021/08/17/realestate/what-is-redlining.html.
[52] *Id.*
[53] Ryan Best & Elena Mejia, *The Lasting Legacy of Redlining*, FIVETHIRTYEIGHT (Feb. 9, 2022), https://projects.fivethirtyeight.com/redlining/.

processes, or [were] 'just a lot of extra bother.'"[54] One procurement officer even referred to "minority firms" as "leeches."[55]

IV. Contemporary Anti-Asian Discrimination in Business and Economic Opportunity

Unfortunately, anti-Asian discrimination is still with us today, including specifically in the arena of business and economic opportunity. For example, Asian Americans are less able to obtain business loans, and, when they are able to obtain a loan, it tends to be on less favorable terms than firms owned by white business-owners.[56] As a result, Asian American business owners are substantially more likely than white business owners to rely on "personal funds as the primary funding source for their businesses."[57]

Government Contracting

As a 2022 Department of Justice report observed, "discrimination hinders the ability of minority- and women-owned businesses to compete equitably for government contracts," such as through "(1) discrimination by procurement agencies and prime contractors, (2) exclusion from business networks, and (3) discrimination by bonding companies and suppliers." [58]

This conclusion finds support not only in numerous studies and reports,[59] but in the lived experiences of Asian American small business owners. A Korean immigrant business owner, for example, reported that his business had difficulty obtaining government contracts because "[c]ompared to the majority of white Americans who have had relatives and friends in the government sector and professional fields, we

---

[54] U.S. Comm'n on Civil Rights, *Minorities and Women as Government Contractors* ("The Commission Report"), 20 (1975), *available at* https://books.google.com/books?id=c8V-h3gRrfkC&pg=RA1-PA111&source=gbs_toc_r&cad=2#v=onepage&q&f=false.
[55] *Id.* at 20-21.
[56] U.S. Dep't of Justice, THE COMPELLING INTEREST TO REMEDY THE EFFECTS OF DISCRIMINATION IN FEDERAL CONTRACTING: A SURVEY OF RECENT EVIDENCE 30-34 (2022), *available at* https://www.justice.gov/crt/page/file/1463921/dl
[57] *Id.* at 33-34.
[58] *Id.* at 21.
[59] *Id.* at 21-26 (discussing quantitative research).

[Asian Americans] don't have those kinds of relationships."[60] He added "language barriers and cultural differences" also make fostering those kinds of relationships more difficult for him.[61] Others have encountered discrimination from prime contractors,[62] language and cultural discrimination,[63] and double standards.[64]

It is hardly a surprise, then, that Asian American-owned small businesses have long been underrepresented among recipients of government contracts. In 1997, an Urban Institute report concluded that Asian American-owned businesses, like other minority population groups, "receive a substantially lower proportion of government contracting dollars than would be expected, given their availability."[65] Little has changed since. A 2016 meta-analysis by the MBDA observed that minority business enterprises (MBEs) "typically secure a lower number and dollar amount of contracts in proportion to the number of available MBEs in a relevant market."[66] Other research, including reports by the Department of Justice, studies conducted by states and municipalities, and other subsequent findings, supports these conclusions.[67]

Another way that government-sponsored discrimination against Asian Americans manifests in contracting and grants is under the guise of "national security." For example, the Department of Justice's now-defunct "China Initiative" spurred federal authorities to profile Chinese American and immigrant scientists and researchers. In February 2020, FBI Director Christopher Wray called for a "whole-of-society" response to Chinese economic espionage and the threat of so-called "non-traditional collectors" (a euphemism for "spies") to encompass individuals of Chinese descent,

---

[60] Asian American Institute & Asian American Justice Center, OVERLOOKED: THE ASIAN AMERICAN CONTRACTOR EXPERIENCE 12 (2012).
[61] *Id.* at 13.
[62] *Id.* at 17-18.
[63] *Id.* at 3.
[64] *Id.* at 25.
[65] Maria E. Enchautegui et al., The Urban Institute, DO MINORITY-OWNED BUSINESSES GET A FAIR SHARE OF GOVERNMENT CONTRACTS? x, xi, 14 (1997), *available at* https://www.urban.org/sites/default/files/publication/67046/307416-Do-Minority-Owned-Businesses-Get-a-Fair-Share-of-Government-Contracts-.PDF.
[66] Minority Business Development Agency, CONTRACTING BARRIERS AND FACTORS AFFECTING MINORITY BUSINESS ENTERPRISES: A REVIEW OF EXISTING DISPARITY STUDIES iii (Dec. 2016).
[67] U.S. Dep't of Justice, *supra* n.56 at 16-19.

but more specifically, graduate students and researchers.[68] In a Senate Intelligence Committee hearing on world threats, Chinese students and academics, in particular, were painted as national security threats regardless of any wrongdoing.[69] This rhetoric, and the fixation on "non-traditional collectors" has the effect of focusing on people of Chinese descent, rather than on those actually committing state-sponsored acts of espionage.[70] Indeed, economic espionage or trade secret theft prosecutions have declined[71] and one in five people of Asian or Chinese descent charged are never convicted of any crime,[72] lending credence to concerns of "pretextual prosecutions" based on weak evidence and stereotypes that Asians are spies.[73]

According to a recent study of over a dozen former federal investigators, "distrust of people of Chinese heritage [too often] drives decision-making at the FBI and other U.S. security agencies."[74] In fact, the now-dissolved Investigations and Threat

---

[68] Dir. Christopher Wray, Federal Bureau of Investigation, *Responding Effectively to the Chinese Economic Espionage Threat, Remarks at the Department of Justice China Initiative Conference* (Feb. 6, 2020), https://www.fbi.gov/news/speeches/responding-effectively-to-the-chinese-economic-espionage-threat (testifying that "I would just say that the use of nontraditional collectors, especially in the academic setting, whether it's professors, scientists, students, we see in almost every field office that the FBI has around the country… So one of the things we're trying to do is view the China threat as not just a whole-of-government threat but a whole-of-society threat on their end.").

[69] Elizabeth Redden, *The Chinese Student Threat?*, INSIDE HIGHER ED (Feb. 15, 2019), https://www.insidehighered.com/news/2018/02/15/fbi-director-testifies-chinese-students-and-intelligence-threats.

[70] George Koo, *Fear of Chinese 'non-traditional collectors' strikes again,* ASIA TIMES (Feb. 15, 2019), https://asiatimes.com/2018/02/fear-chinese-non-traditional-collectors-strikes/.

[71] Eileen Guo, *In a further blow to the China Initiative, prosecutors move to dismiss a high-profile case,* MIT TECH. REV. (Jan. 15, 2022), https://www.technologyreview.com/2022/01/15/1043319/china-initative-gang-chen-mit/.

[72] *Id.*

[73] *See* Andrew Chongseh Kim, *Prosecuting Chinese "Spies": An Empirical Analysis of the Economic Espionage Act,* 40 CARDOZO L. REV. 749, 755 (2018); *see also Testimony of John C. Yang for Hearing on "Exposing the Dangers of the Influence of Foreign Adversaries on College Campuses,"* U.S. House of Representatives Committee on Education & the Workforce (July 13, 2023), *available at* https://edworkforce.house.gov/uploadedfiles/john_yang_testimony_for_house_subcommittee_on_higher_education_and_workforce_development.pdf.

[74] Kim, *supra* n.73 at 755.

Management Service of the Department of Commerce even engaged in investigations without proper authorization and with little oversight, disproportionately targeting Chinese or Southeast Asian individuals.[75] And Chinese scientists who work as federal employees and contractors appear to receive disproportionate scrutiny, and innocent familial or financial ties to China result in more denials of security clearances than is the case with respect to ties to any other country.[76]

These investigations have deprived scientists of Chinese descent of funding opportunities by casting a pall of suspicion over them. For example, Dr. Xiaoxing Xi, a Chinese American physics professor wrongfully accused of being a spy due to the FBI's failure to understand the technology on which he was working,[77] lost federal grants because he was under investigation. Prior to his improper arrest and prosecution, Dr. Xi had received nine federal grants—afterwards, in 2019, he had only two.[78] This is the reality for many Chinese scientists who are forced to tread carefully, wary of the government's broad scrutiny and easy conclusions of culpability.[79]

These policies demonstrate that anti-Asian racism still permeates government decision-making and result in ongoing discrimination in contracting decisions and awarding federal grants.

Discrimination in Government Responses to COVID-19

The federal government's response to the COVID-19 pandemic exacerbated matters for Asian American-owned small businesses. Asian American small business owners not only had to face the exigencies of the pandemic itself, but did so in the face of preexisting inequities, anti-Asian prejudice and disinformation, and barriers to

---

[75] Daniella Diaz, *Report Finds Little-Known Security Unit in Commerce Abused and Investigated Employees of Chinese or Southeast Asian Ancestry for Years,* CNN (July 17, 2021), https://www.cnn.com/2021/07/17/politics/commerce-department-senate-report/index.html.
[76] *Id.*
[77] Matt Apuzzo, *U.S. Drops Charges That Professor Shared Technology with China*, N.Y. Times (Sept. 11, 2015), https://www.nytimes.com/2015/09/12/us/politics/us-drops-charges-that-professor-shared-technology-with-china.html.
[78] Bloomberg Markets & Finance, *How the U.S. is Purging Chinese Americans from Cancer Research* (Jul. 12, 2019), https://www.youtube.com/watch?v=SBTroGMs-2w.
[79] *Id.*

accessing government assistance. These difficulties led to the failure of many Asian American-owned businesses: Within the first three months of the pandemic, the number of Asian American business owners dropped by 26%—higher than the national average of 22%.[80]

At the start of the pandemic, Asian American-owned small businesses were especially precarious, and therefore in particular need of government assistance.[81] As a Brookings Institution report in April 2020 observed, businesses owned by people of color—including by Asian Americans—were far more likely to face "immediate risk" from the pandemic, as opposed to "near term" or "long term" risk.[82]

Compounding these difficulties was the rise in anti-Asian hate, driven in substantial part by federal officials, including the President of the United States. These officials promoted the conspiracy theory that China intentionally released the virus and that Chinese Americans—and by extension Asian Americans more generally—were responsible for the pandemic. Over the course of months, then-President Donald Trump repeatedly referred to COVID-19—the World Health Organization's official designation—as the "Chinese virus," "China virus," or "Kung Flu," both on social media and at White House press conferences.[83] Other federal officials soon joined in. Senator John Cornyn, for example, assigned "blame" to China because it is home to a "culture where people eat bats and snakes and dogs and things like that."[84]

---

[80] U.S. Dep't of Justice, *supra* n.56 at 34-35 (citing Robert Fairlie, *The impact of COVID-19 on small business owners: Evidence from the first three months after widespread social-distancing restrictions*, 29 J. ECON. MANAG. STRATEGY 727 (2020), *available at* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7461311/).

[81] Sifan Liu & Joseph Parilla, *Businesses owned by women and minorities have grown. Will COVID-19 undo that?*, BROOKINGS INSTITUTION (Apr. 2020), https://www.brookings.edu/articles/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/; *see also* U.S. Dep't of Justice, *supra* n.56 at 26-27 (noting that "minority- and women-owned businesses are . . . less profitable" than "businesses owned by White men," and that "Asian-American owned firm[s]" specifically were generally less profitable than "a White-owned firm").

[82] Liu & Parilla, *supra* n.81.

[83] Angela R. Gover, et al., *Anti-Asian Hate Crime During the COVID-19 Pandemic: Exploring the Reproduction of Inequality*, 45 AM. J. OF CRIMINAL JUSTICE 647 (2020), *available at* https://link.springer.com/article/10.1007/s12103-020-09545-1.

[84] *Id.*

Statements like these created—according to one paper—"an atmosphere where it [was] socially acceptable to express and act on anti-Asian sentiment."[85]

As federal officials stoked anti-Asian attitudes, Asian Americans continued to face discrimination in virtually every area of life. A Pew Research Center report published in July 2020 revealed that a majority of Asian adults (58%) felt it was more common for people to express racist or racially insensitive views about people who are Asian than it had been before the COVID-19 outbreak.[86] And a June 2021 survey found that around 40% of Asian American and Pacific Islander[87] small business owners had been "blamed for the COVID-19 pandemic."[88]

Anti-Asian attitudes contributed to economic losses for Asian American-owned small businesses. According to a 2021 survey, 60% of Asian American small business owners expressed worry about "anti-Asian bias or hate crime happening to them, their business establishment or their staff."[89] Another study concluded that in 2020, "Asian restaurants experienced an 18.4% decrease in traffic (estimated US$7.42 billion lost revenue . . .) relative to comparable non-Asian restaurants[.]"[90]

Despite the urgent need for government assistance, access to it remained out of reach for many Asian American-owned small businesses.[91] One barrier, identified in a study of the greater New York City region, was the lack of available information

---

[85] Nathan Kar Ming Chan, et al., *COVID-19 and Asian Americans: How Elite Messaging and Social Exclusion Shape Partisan Attitudes*, 20 PERSPECTIVES ON POLITICS 618 (2022).

[86] Pew Research Center, *Many Black and Asian Americans Say They Have Experienced Discrimination Amid the COVID19 Outbreak* (July 1, 2020), https://www.pewresearch.org/social-trends/2020/07/01/many-black-and-asian-americans-say-they-have-experienced -discrimination-amid-the-covid-19-outbreak/.

[87] We refer to Asian Americans and Pacific Islanders collectively here in the context of data that do not disaggregate these communities, though recognize the myriad diversities among them.

[88] Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship, BACK TO BUSINESS: ARE AAPI SMALL BUSINESSES REBOUNDING FROM COVID-19? (Jun. 2021), *available at* https://www.nationalace.org/2021survey.

[89] Ahyoung Kim, et al., Asian American Federation, SMALL BUSINESS, BIG LOSSES 17 (2021), *available at* https://www.aafederation.org/wp-content/uploads/2021/05/Small_Biz_Survey.pdf.

[90] Justin T. Huang et al., *The cost of anti-Asian racism during the COVID-19 pandemic*, 7 NATURE HUMAN BEHAVIOUR 682 (2023), *available at* https://www.nature.com/articles/s41562-022-01493-6.

[91] Kim et al., *supra* n.89 at 10.

about government programs in the business owner's primary language.[92] Even beyond the New York City region, in-language information is essential for Asian Americans, many of whom have limited English proficiency ("LEP"): as of 2019, over 30% of Asian American adults were LEP, compared to only 1.4% of white adults.[93] The same study of the greater New York City region found LEP is even more common among Asian American small business owners, such as those self-employed in "taxi and ridesharing, food services, laundry services, nail and beauty salons," among whom LEP rates range between 66% (taxi and ridesharing) and 79% (laundry services).[94] The result was that nearly two-thirds (64%) of Asian American small business owners reported that "they did not have enough information about COVID-19 in a language they could understand."[95]

Government outreach also fell short because its reliance on "traditional communication chains such as Business Improvement Districts or Chambers of Commerce" failed to reach many Asian American business owners. According to one survey, 93% of Asian American small business owners "were not members of either a BID or Chamber of Commerce."[96] For example, in Philadelphia, one Cambodian restaurant owner said that "[i]nformation that is needed for survival, or information that is needed for economic stability, comes to our community too late."[97]

As a result, Asian American small businesses were significantly underrepresented among those receiving federal assistance, including via the Paycheck Protection Program ("PPP"). One analysis of PPP data found that "businesses located in majority-Asian American neighborhoods were less likely to receive PPP loans": in

---

[92] *Id.* at 11.

[93] Jennifer M. Haley, et al., Urban Institute, MANY ASIAN AMERICANS AND NATIVE HAWAIIAN/PACIFIC ISLANDER ADULTS MAY FACE HEALTH CARE ACCESS CHALLENGES RELATED TO LIMITED ENGLISH PROFICIENCY 1 (Dec. 2022), *available at* https://www.urban.org/sites/default/files/2022-12/Many%20AANHPI%20Adults%20May%20Face%20Health%20Care%20Access%20Challenges%20Related%20to%20Limited%20English%20Proficiency.pdf.

[94] Kim et al., *supra* n.89.

[95] *Id.* at 11.

[96] *Id.*

[97] Jack Tomczuk, *How PPP loans missed the mark with Philly's Southeast Asian business owners*, METRO PHILADELPHIA (Oct. 27, 2022), https://metrophiladelphia.com/ppp-loans-philadelphia-southeast-asian-business-owners/.

ZIP codes with "40 percent or more Asian American residents," around 57% of businesses received PPP loans; in ZIP codes with 40 percent or fewer Asian American residents, 68% of businesses received PPP loans.[98] Another analysis observed that in New York City, the ZIP codes where Asians constituted the largest share of the population received fewer PPP loans in 2020 than did other parts of the city; those same ZIP codes also saw relatively little assistance from the second round of PPP loans in 2021.[99] Moreover, "businesses in heavily-Asian zip codes—such as taxi services, restaurants, and beauty salons—tended to get less money" from PPP as compared to other areas.[100]

V. Conclusion

American democracy and the American economy work best when all can participate, both legally and practically. Unfortunately, Asian Americans have faced two centuries of exclusion from these pillars of American life. The severity of that discrimination has ameliorated over time, but nevertheless continues to this day, as do the effects of the harm already done.

To properly remedy past harms and to ensure an end to present discrimination, there must be a full accounting of, and conscious effort to address, both. The Small Business Administration's 8(a) program and the services provided through the Minority Business Development Agency are important steps to that end, providing essential assistance to Asian American and other minority-owned businesses.

---

[98] Kim et al., *supra* n.89.
[99] Amy Yee et al., *New York's Once-Thriving Asian Businesses Struggle to Recover from 4,000% Unemployment Spike*, Bloomberg (Oct. 28, 2021), https://www.bloomberg.com/graphics/2021-nyc-asian-american-recovery/.
[100] *Id.*



"Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination"

U.S. Senate Committee on Small Business and Entrepreneurship
May 6, 2024

** Testimony by Natalie Madeira Cofield, President and CEO**

Chairman Cardin, Senator Van Hollen, Congressman Ivey, and esteemed Members of the Senate Committee on Small Business and Entrepreneurship:

As an entrepreneur, advocate, and former Assistant Administrator for the U.S. Small Business Administration (SBA), I have witnessed firsthand the transformative power of programs like the 8(a) Business Development program in shaping the landscape of small business ownership in America. Today, I offer my testimony on the positive and negative aspects of participating in the SBA's 8(a) program, drawing from my extensive experience in the field of economic development and entrepreneurship.

The history of the SBA's 8(a) Business Development program traces back to the 1950s when the Small Business Act was implemented, with the aim of promoting the growth and development of small businesses across the United States. Recognizing the systemic barriers faced by minority-owned businesses, particularly those owned by socially and economically disadvantaged individuals, the program was expanded in 1968 to include a specific provision for minority-owned firms. Since then, the 8(a) program has evolved to become a cornerstone of the federal government's efforts to promote diversity and inclusion in contracting. Over the decades, the program has undergone revisions and enhancements to better serve the needs of underserved communities, including updates to eligibility criteria, contracting preferences, and mentorship requirements. Today, the 8(a) program continues to play a vital role in leveling the playing field for minority entrepreneurs, providing them with access to government contracts, technical assistance, and mentorship opportunities that are critical for their success.

The importance of the SBA's 8(a) program to underserved communities across the United States cannot be overstated. For decades, minority-owned businesses have faced systemic barriers to accessing capital, contracts, and other resources needed to thrive in the marketplace. The 8(a) program addresses these barriers head-on by providing a pathway to government contracting opportunities, which can serve as a catalyst for growth and economic empowerment. By participating in the program, minority entrepreneurs gain access to a wide range of benefits, including sole-source contracts, set-aside opportunities, and mentorship from experienced professionals.

These resources not only help minority-owned businesses compete more effectively but also contribute to the broader goal of building wealth and opportunity in underserved communities. As we look to the future, it is essential to continue supporting and strengthening programs like the 8(a) program to ensure that all entrepreneurs, regardless of background or circumstance, have the opportunity to succeed and thrive in the American economy.

The 8(a) program serves as a vital resource for underserved entrepreneurs, particularly those from minority backgrounds, by providing access to crucial resources, contracts, and mentorship opportunities. Through my tenure at the SBA and my involvement with organizations like the Association for Enterprise Opportunity (AEO), I have seen countless success stories of businesses that have thrived because of their participation in the program.

One of the most significant positive effects of the 8(a) program is its role in fostering economic empowerment and upward mobility among historically marginalized communities. AEO's research on Small Business Outcomes by Ethnicity underscores the importance of programs like 8(a) in leveling the playing field for minority entrepreneurs, who often face systemic barriers to accessing capital and contracts. By providing a pathway to government contracts and procurement opportunities, the 8(a) program empowers minority-owned businesses to compete on a more equal footing and achieve sustainable growth.

Furthermore, the mentorship component of the 8(a) program is invaluable in nurturing the next generation of diverse entrepreneurs. As CEO of Walker's Legacy, a platform dedicated to empowering women through entrepreneurship, I have seen the profound impact that mentorship can have on aspiring business owners. Through the 8(a) program, participants learn from seasoned professionals, gain valuable insights, and navigate the complexities of government contracting, ultimately positioning them for long-term success.

Mentorship and collaboration with regional partners are essential components of the success of the 8(a) program. Mentorship provides participants with invaluable guidance, support, and access to networks that can help them navigate the complexities of government contracting and grow their businesses sustainably. By fostering relationships with experienced mentors, 8(a) participants can tap into a wealth of knowledge and expertise, accelerating their learning curve and positioning them for greater success. Additionally, working closely with regional partners, including community-based lenders, non-profit organizations, and local government agencies, can further enhance the impact of the 8(a) program. These partners play a critical role in providing access to capital, technical assistance, and market opportunities, ensuring that 8(a) participants have the resources they need to thrive. By building strong partnerships at the regional level, we can create a supportive ecosystem that empowers entrepreneurs to overcome challenges, seize opportunities, and contribute to the economic vitality of their communities. AEO’s focus on regionalism, exemplified by its six dedicated regional councils, ensures that these collaborative efforts are coordinated

and strategic, maximizing the collective impact on local economies and fostering sustainable growth.

While the 8(a) program has undoubtedly had a positive impact on many businesses, it is not without its challenges and limitations. One of the primary concerns is the potential for over-reliance on government contracts, which can leave businesses vulnerable to fluctuations in federal spending and market demand. This issue is particularly relevant in light of recent budgetary constraints and uncertainties, which have underscored the importance of diversifying revenue streams and building resilience.

Additionally, there have been criticisms regarding the transparency and accountability of the 8(a) program, particularly in terms of contract allocation and oversight. As someone who has worked extensively in government and economic development, I recognize the importance of ensuring that taxpayer dollars are used effectively and equitably. Therefore, it is essential for policymakers and program administrators to implement robust monitoring mechanisms and accountability measures to prevent fraud, waste, and abuse within the program.

Moreover, while the 8(a) program has been instrumental in advancing minority entrepreneurship, it is not a panacea for addressing systemic inequalities in the business landscape. AEO's research on Small Business Revenue by Ethnicity highlights the persistent disparities in business revenue and profitability across different racial and ethnic groups, underscoring the need for broader structural reforms and investment in inclusive economic development initiatives.

Recommendations:

In conclusion, while the 8(a) program has played a significant role in promoting minority entrepreneurship and economic empowerment, there is still work to be done to maximize its effectiveness and address its shortcomings. As CEO of the Association for Enterprise Opportunity, I am committed to advocating for policies and programs that support the development of a more inclusive and equitable marketplace for underserved small businesses and entrepreneurs.

To that end, I offer the following recommendations:

1. Strengthen oversight and accountability measures to ensure transparency and integrity within the 8(a) program, including regular audits, evaluations, and reporting requirements.

2. Enhance access to capital and technical assistance for 8(a) participants to support their long-term sustainability and growth beyond government contracts.

3. Expand outreach and support initiatives to reach underserved communities and ensure equitable access to the benefits of the 8(a) program.

4. Foster collaboration and partnership between government agencies, non-profit organizations, and private sector stakeholders to maximize the impact of the 8(a) program and promote inclusive economic development.

I believe by implementing these recommendations and leveraging the lessons learned from the 8(a) program, we can continue to advance our collective mission of creating economic opportunity for all entrepreneurs, regardless of background or circumstance. Together, we can build a more vibrant, resilient, and inclusive economy that empowers individuals and communities to thrive.

Thank you for the opportunity to share my experience and testimony.

Nicole Madeira Cofield, President and CEO,
Association for Enterprise Opportunity

Written Testimony of
Sharon R. Pinder
President of the Capital Region Minority Supplier Development Council

U.S. Senate
Committee on Small Business – Field Hearing
Bowie State University May 8, 2024

Dear Senator Benjamin Cardin and Esteemed Members of the Senate Committee on Small Business and Entrepreneurship:

Thank you for this opportunity to provide testimony and share valuable information with you.

I am Sharon Roberson Pinder, President and CEO of the Capital Region Minority Supplier Development Council (CRMSDC). With a rich history dating back to 1972, CRMSDC is steadfast in its dedication to fostering the growth and success of minority-owned businesses in the Capital Region. We are deeply committed to advocating for policies that promote equity and inclusion in the business landscape.

Our organization also oversees two significant grants from the U.S. Department of Commerce and the Minority Business Development Agency (MBDA). These grants are instrumental in supporting the operation of the MBDA Business Center, Virginia, and the Capital Readiness Program. Both of these initiatives are pivotal in our mission to promote equity and inclusion in the business landscape.

The Capital Region Minority Supplier Development Council, one of twenty-three regional affiliates, stands out as a key player in the National Minority Supplier Development Council (NMSDC), the nation's sole minority business certifying body for the private sector. Our unique position allows us to connect our 1,700 major corporate members and 13,000 certified minority business owners, fostering diversification and innovation in their supply chains. This distinctive role underscores the relevance of our testimony today.

The establishment of the NMSDC is significant because it was founded on the principle of fostering economic development and wealth creation within minority communities. NMSDC's corporate founders envisioned that an employed and thriving minority business sector would generate income, which would, in turn, be spent by that community on products and services from corporate America. For an overview of CRMSDC's history, please watch this brief video: https://www.youtube.com/watch?v=7euJ7XSUz40.

The hearing's theme, "Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination," speaks directly to the heart of the challenges faced by minority entrepreneurs across our nation. Despite progress in some areas, racial discrimination continues to pose significant barriers to the advancement of minority-owned businesses, hindering their ability to compete on a level playing field.

Minority business programs are under attack in both the public and private sectors. Coinciding with recent actions to pass restrictive laws prohibiting DEI programs, there have also been specific attacks on supplier diversity programs and on programs aimed at helping improve the growth and performance of minority-owned businesses.

Various lawsuits have challenged programs such as the Minority Business Development Agency's Business Center and the 8(a) Business Development programs. These legal actions significantly impact the minority-owned contractors in our network, who depend on these initiatives to overcome unique barriers and survive in the marketplace.

These programs and initiatives are intended to address the economic disparity that is the result of past and existing discrimination. Programs like the 8(a), SDB, and DBE programs were created so the Federal and local governments, as well as private sector firms, could help small companies owned and operated by socially and economically disadvantaged persons develop their businesses, while also increasing the size and diversity of their supply chains.

In today's landscape, being certified as an MBE can unfortunately carry negative connotations, reminiscent of wearing a scarlet letter. Discrimination against minority businesses is magnified, casting a shadow of stigma upon them. However, without a level playing field, these businesses understand the uphill battle they face in competing with their counterparts.

In discussions with two African American female-owned businesses in Prince George's County, it became clear that their 2024 business plans included pursuing the 8a program. They saw it as an opportunity to diversify their client base and expand their horizons. However, recent events such as the Ultima lawsuit and the evolving requirements associated with the program narratives have prompted them to reconsider this strategy.

Access to Capital:
The minority businesses that we work with face prejudices and stereotypes when seeking finance or access to network/contracting opportunities. Specifically, as it relates to access to capital, a significant number of them report that they lack the foundational experience and are fearful when it comes to applying for loans. Because a great number of our businesses lack the finances that capture the attention of banks, they are unable to get the necessary coaching and assistance from already stretched banking professionals. This

was especially true during the COVID-19 Pandemic. Several of our minority-owned firms reached out to us to intervene on their behalf to get support from their local banks.

One of our minority businesses enrolled in our recently launched Capital Readiness Academy shared that he had just been turned down by a loan for operating capital. He believed that he was stereotyped, and no explanation was given for the denial. This Washington DC Cybersecurity Company has resorted to self-funding to grow its business.

A female minority-owned services company in Prince George's applied for a line of credit to provide operating capital as part of its business expansion. Although the company had been with its bank for years, it was also turned down without explanation.

One of our Virginia-based 8 (a) firms reported the following challenges she faces on a daily basis:

- Complex Procurement Processes: Government procurement processes are very resource-driving, complex, and can be unfair for small businesses. Navigating through proposal response requirements, meeting compliance requirements, and complex regulations are very daunting for small businesses. Mid-size and large businesses have proposal development departments with full-time staff to respond to proposals. "True" small businesses do not have the resources to do so.
- Unequal Competition: Small businesses often find themselves competing with larger, more established firms that may have greater resources and experience. For example, Joint Venture (JV) companies where large companies form a joint venture company with small businesses to capture small business set-asides opportunities. The Small Business Administration (SBA) used to have parameters for JVs limiting them to certain opportunities. Today, JVs can respond to any small business set-aside opportunities, including opportunities of $2M or less. This creates an uneven playing field and reduces the chances of "true" small enterprises securing government contracts. Another trend is contract consolidation.
- Financial Constraints: Small businesses may face challenges meeting the financial requirements for bidding on and executing government contracts, including bonding and insurance. Limited capital may also restrict their ability to participate in certain projects.
- Bureaucratic Hurdles: Bureaucratic red tape and lengthy decision-making processes within government agencies can delay contract awards. For small businesses, these delays can be financially burdensome and impact their overall operations or their ability to sustain their businesses.

- Subcontracting Barriers: Subcontracting can provide opportunities for small businesses; however, they often face barriers in establishing relationships with the Government customers. Building business relationships is crucial for accessing other subcontracting opportunities to expand capabilities and transition to becoming prime contractors.
- Cybersecurity Concerns: As government contracts increasingly involve digital components, small businesses may encounter challenges in meeting cybersecurity requirements. Ensuring compliance with evolving cybersecurity standards can be demanding for entities with limited IT and financial resources.

Bonding Concerns:
Lack of collateral is the main issue and understanding how bonds are structured. If businesses don't have assets that have equity or cash, they can't get the bond. If business owners don't have assets like housing to leverage, they can't get bonding. Some of our companies have even experienced bonding requirements on information technology contracts.

One of our minority-owned construction companies, located in Maryland, shared that bonding can be so incredibly expensive that they are relegated to always subcontract.

Unfair Specs:
Several of our firms located throughout the DMV have reported this as an experience. It is when proposals are written so closely aligned with the incumbent's skillset that it is cost-prohibitive to submit because of the high risks of not being successful. Requirements are written in such a way that the incumbent is the only one who can respond.

In lowest-bid type contracts, the cost of doing business is so high that it drastically cuts into their profit margins, but some will take the risk in desperation to survive.

Bid-Shopping:
One of our Baltimore-based IT firms has experienced this issue. This happens far too often when prime contractors ask for a bid for a proposal submission. Unfortunately, once the award is made, they never hear from the prime contractor. That prime contractor has possession of this information and numbers and shops them to other minority businesses to get a lower price. They also experienced it from a large healthcare firm. They were asked for their bid on several occasions. No communication or follow-up is conducted so you are left with the very real assumption that they only wanted to check the box.

In the private sector, these programs play a critical role in supporting minority-owned firms through mentorship and partnership, technical assistance, access to capital, and

contract access. They are essential to the continued growth of our business and our ability to drive economic growth in our local community.

In the Federal marketplace, these programs are the tools used to ensure the *"maximum practicable utilization"* of the available firms owned by socially and economically disadvantaged individuals, as required by law.

While the attack on federal programs to help minority businesses overcome bias in government contracting is an ongoing concern, we at CRMSDC also continue to pay very close attention to attacks on minority business programs in the corporate space.

Public policy and legal findings affect business behavior in the commercial marketplace. In addition to the formal court cases against private investment funds that aim to support diverse companies and cases against corporate supplier diversity and DEI programs, we are even hearing reports of activist shareholders objecting to any corporate spending on DEI programs (including supplier diversity) that "divert resources" to activities that "undermine the primary fiduciary responsibility of the corporate entity to maximize shareholder value." This coincides with 13 state attorneys general sending a letter to Fortune 100 companies – essentially threatening them against continuing their hiring, promotion, retention, and supplier diversity programs. This was then followed by 21 Attorneys General, led by the AG of Nevada, sending a letter making it clear that they did not stand with that position and did not support the baseless assertion that any attempts to address racial disparity are by their very nature unlawful.

There were already reports of a chilling effect; many corporations have already begun cutting back on DEI initiatives and funding based on concerns that they would make the company vulnerable to legal fights from other employees who believe the DEI programs discriminate against them and hurt their hiring, promotions, etc.

To put it bluntly, minority business programs are under sustained attack, which means that fair and open access to business opportunities for minority businesses is under attack. The Capital Region Minority Supplier Development Council has witnessed firsthand the resilience and ingenuity of minority entrepreneurs who strive to succeed despite facing systemic obstacles. However, these obstacles persist, limiting access to capital, contracts, and other critical resources necessary for business growth and sustainability.

Targeted federal business programs play a vital role in addressing these disparities and leveling the playing field for minority entrepreneurs. Initiatives such as the Minority Business Development Agency (MBDA) and its Business Center program, as well as the local and state MWOB programs, have demonstrated their effectiveness in providing technical assistance, access to capital, and procurement opportunities to minority-owned businesses.

However, more must be done to ensure that these programs are adequately funded, accessible, and responsive to the evolving needs of minority entrepreneurs. Additionally, there is a pressing need for greater enforcement of anti-discrimination laws and increased transparency and accountability in government contracting practices to combat ongoing racial disparities.

In conclusion, promoting opportunity and addressing ongoing racial discrimination in business requires a multifaceted approach that includes targeted federal business programs, robust enforcement of anti-discrimination laws, and proactive efforts to promote diversity and inclusion in government contracting. The Capital Region Minority Supplier Development Council stands ready to collaborate with policymakers, industry stakeholders, and community partners to advance these critical objectives and create a more equitable and prosperous future for all.

Thank you for the opportunity to share this testimony. I am happy to answer any questions you may have.

Sincerely,

Sharon R. Pinder
President & CEO

WRITTEN STATEMENT FOR THE RECORD BEFORE THE U.S. SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

PROMOTING OPPORTUNITY: THE NEED FOR TARGETED FEDERAL BUSINESS PROGRAMS TO ADDRESS ONGOING RACIAL DISCRIMINATION

Brenda Doles
Co-Founder, HealthCare Resolution Services, Inc
May 20, 2024

Dear Senator Cardin and members of the U.S. Senate Committee on Small Business and Entrepreneurship:

Thank you for the opportunity to provide a statement for the record regarding the need to address ongoing racial discrimination in targeted federal business programs supporting minority-owned businesses. My name is Brenda Doles, and I'm the co-founder of HealthCare Resolution Services, Inc (HRCS), a consulting firm in the health information management industry with nearly 30 years of experience in federal and private contracting.

First, I would like to share how thankful I am that targeted federal programs such as the U.S. Small Business Administration's (SBA) 8(a) and the Minority Business Development Agency (MBDA) exist to provide the support, guidance, and assistance for small, minority-owned businesses like mine. These programs have served as a launching pad to better position my business to work with federal agencies and departments, but they have also enabled me to get in touch and build relationships with prime contractors. In fact, my small business graduated from the SBA's 8 (a) program in 2009, which better prepared me to compete for federal contracts, set my business up for success and secure opportunities with the federal government.

However, it is concerning to see how recent developments in both the federal and corporate industries are impacting programs and initiatives that support underserved and disadvantaged communities. They come at a time when even the best of efforts to reach gaps in resources and funding are falling short of levelling the playing field for minority-owned businesses like mine.

In the last few years, I've seen a steep increase in certifications and requirements to be eligible for federal contracts. Some of those requirements, although understandable, are cost-prohibitive and time-consuming, which creates barriers for my business and other small businesses, leaving us behind and taking us out of the competition. What's more, this rise in contractor requirements and certifications for minority-owned businesses is laying bare a problematic trend—only older, well-established, and well-funded businesses can meet those requirements. This, in turn, pushes smaller businesses out of the competition and makes it harder for any new small business to enter the federal contracting space.

Despite the recent increase in compliance requirements, my business has met most of them, albeit not without setbacks. One of our longest-standing contracts with the U.S. Department of Defense, awarded to us for more than 15 years, recently implemented a new requirement for small businesses to have a line of credit from a traditional financial institution. Unfortunately, due to financial challenges related to the COVID-19 pandemic, our business line of credit was terminated. And while we had sufficient funds to fulfill the contract, the lack of a line of credit disqualified us from this crucial source of funding, creating a cash flow strain on my business.

Similarly, a recent requirement from a prime contractor mandated a $5 million cybersecurity insurance policy for my business to fulfill a contract. This requirement seems excessive for a small business, especially when our annual revenue is only $2 million a year. These are only two examples of how increases in compliance requirements are creating barriers for small businesses like mine to participate in federal contracting but are certainly not the only harm coming our way.

What's more troubling these days is the persistent contract bundling that's plagued the industry. The federal government, in their efforts to ensure minority-owned businesses can participate in the space, are

requiring prime contractors to meet certain goals for Minority Business Enterprises, Women Business Enterprises, and more. To ensure contractors can meet all the qualifications and requirements, federal agencies bundle different suppliers, big and small, so they can get a piece of the pie by combining their qualifications. But once that contract is awarded and the project starts, I never hear again from the prime contractor, they're not held accountable to using the minority business enterprises that they had promised to utilize. I call, send emails, visit their offices, and try to set up appointments, but they choose not to follow up and respond. By this time, I've already hired and purchased the equipment for said contract, making an investment that I never get back. Ultimately, the prime contractor, which is often a bigger business with more resources and funding, moves ahead and fulfills the entirety of the contract without my business or the other small businesses that were originally bundled into that contract. The prime contractor gets paid, and the sub-contractors, which hold a portion of the certifications and requirements of the initial contract, never do. So not only are we being pushed out of the contract, but we are losing thousands of dollars in equipment and staff because we didn't get to participate. This is an ongoing practice that's been the norm for years, which is detrimental to minority owned enterprises and is running us out of business. I've heard from other minority owners about the similar difficulties they've experienced.

Therefore, it's imperative for the federal government to step in and monitor their targeted programs serving minority-owned businesses, while also mandating reasonable requirements for smaller businesses that are trying to compete in federal contracting. Despite federal agencies' efforts of creating set-aside contracts for small businesses, we still have work to do to remove and address biases and discriminatory practices in these programs.

If the federal government is truly serious about building equitable federal contracts, agencies need to pay close attention to contract bundling, and create checkpoints and guardrails to prevent bigger businesses from stealing, using, and leveraging minority-owned businesses to win contracts.

Thank you for your time.

Sincerely,

Brenda Doles
Co-Founder
HealthCare Resolution Services, Inc.



Written Testimony of Jin Hee Lee
Director of Strategic Initiatives
NAACP Legal Defense and Educational Fund, Inc.

Submitted to the U.S. Senate Small Business Committee
In Connection with the May 6, 2024 Hearing Entitled
"Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination"

I. Introduction

Thank you for holding this important hearing on discrimination against small business owners of color in federal contracting.

As the Supreme Court explained four decades ago, "[i]t is beyond dispute that any public entity, state or federal, has a compelling interest in assuring that public dollars, drawn from the tax contributions of all citizens, do not serve to finance the evil of private prejudice."[1] Yet nearly forty years later, less than 2 percent of federal contracting dollars go to Black-owned businesses.[2] even though 9 percent of small businesses are owned by Black people.[3] As the witnesses at the hearing testified, these racial disparities in federal contracting do not result from a lack of qualified businesses. Rather, they are the product of pervasive discrimination against Black and other business owners of color.

For generations, the federal government both actively and passively participated in this discrimination by, among other things, encouraging racial discrimination in housing and lending; denying Black people equal access to government benefits; perpetuating racial wealth gaps through federal tax policy; and failing to remedy public and private discrimination through adequate civil rights enforcement. As a result, Black business owners face persistent barriers in access to financial and social capital that prevent them from starting and sustaining their businesses and hinder their ability to compete on a level playing field in their respective markets.

Racial discrimination that persists and is not fully remediated hurts the U.S. economy and threatens the stability of our multiracial and multiethnic democracy. To prosper as a nation, we must continue to invest in remedial initiatives like the U.S. Small Business Administration's 8(a) program to ensure that taxpayer dollars ameliorate, rather than exacerbate, racial inequality.

Founded in 1940 by Thurgood Marshall, LDF is the nation's oldest civil rights law organization.[4] LDF was launched at a time when the United States' aspirations for equality and due process of law were stifled by widespread, state-sponsored racial inequality. For over eight decades, LDF has been at the forefront of shaping the legal meaning of the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution, most notably through its watershed victory in *Brown v. Board of Education*. LDF has also always endeavored to ensure Black people's equal access to economic opportunity. To that end, LDF has litigated numerous economic justice cases[5] and filed *amicus* briefs supporting remedial federal contracting

---

[1] *City of Richmond v. J. A. Croson Co.*, 488 U.S. 469, 492 (1989).

[2] Press Release 24-41, U.S. Small Business Admin., Biden-Harris Administration Awards Record-Breaking $178 Billion in Federal Procurement Opportunities to Small Businesses (Apr. 29, 2024), https://www.sba.gov/article/2024/04/29/biden-harris-administration-awards-record-breaking-178-billion-federal-procurement-opportunities.

[3] U.S. SMALL BUSINESS ADMIN. OFF. OF ADVOCACY, FREQUENTLY ASKED QUESTIONS (Mar. 2023), https://advocacy.sba.gov/wp-content/uploads/2023/03/Frequently-Asked-Questions-About-Small-Business-March-2023-508c.pdf.

[4] LDF has been fully separate from the National Association for the Advancement of Colored People (NAACP) since 1957.

[5] *See, e.g., Lewis v. Chicago*, 560 U.S. 205 (2010); *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971); *Sniadach v. Fam. Fin. Corp.*, 395 U.S. 337 (1969); *Mandala v. NTT Data, Inc.*, 88 F.4th 353 (2d Cir. 2023); *Pickett v. City pf Cleveland*, No.: 1:19 CV 2911 (N.D. Ohio); *Taylor v. City of Detroit*, 368 F.Supp.2d 676 (E.D. Mich. 2005); *Hall v. Coburn Corp. of Am.*, 26 N.Y.2d 396 (N.Y. 1970); *Russell v. Coburn Corp. of Am.*, 298 N.Y.S.2d 893 (N.Y. App. Div. 1969); *Cline v. Credit Bureau of Santa Clara Valley*, 1 Cal.3d 908 (Cal. 1970).

programs.[6] LDF's mission has always been transformative: to achieve racial justice, equality, and an inclusive society.

II. The Federal Government Has Engaged, and Continues to Engage, in Active and Passive Discrimination Against Black People.

For decades, the federal government has engaged in active and passive discrimination against Black people that continues to limit their ability to start and sustain their businesses. These actions, both past and present, include direct encouragement of housing and lending discrimination, denial of equal access to government benefits, tax policies that perpetuate the effects of these discriminatory policies, and inadequate civil rights enforcement that permits racial discrimination to continue. While the federal government may have ended some of its egregious conduct, it has never taken sufficient action to remedy the substantial harm that reverberates to this day and continues to limit the opportunities of Black people throughout the country.

A. *Housing Discrimination*

Over the course of multiple decades, the federal government played a direct role in encouraging racial discrimination in housing and mortgage lending, intentionally devaluing Black-owned homes and discouraging lending in predominantly Black neighborhoods. At the same time, during the New Deal, federal programs dramatically expanded access to financial services, particularly through the rapid dissemination of low-cost credit to homeowners.[7]

The federal government's discriminatory housing policies, known as redlining, denied people of color—especially Black people—access to mortgage refinancing and federal underwriting opportunities.[8] In the 1930s, the Federal Home Owners Loan Corporation (HOLC) created maps to assess the risk of mortgage refinancing and set new standards for federal underwriting.[9] These maps assessed risk, in part, based on a neighborhood's racial composition, designating predominantly Black neighborhoods and other neighborhoods of color as hazardous.[10] The Federal Housing Administration, which covered the insurance of over one-third

---

[6] Br. of NAACP Legal Defense & Educational Fund, Inc., et al., as *Amicus Curiae, Rothe Development, Inc. v. U.S. Dep't of Defense & U.S. Small Business Admin.*, No. 15-5176 (Jan. 28, 2016 D.D.C.); Br. of NAACP Legal Defense & Educational Fund, Inc., as *Amicus Curiae, Dynalantic Corp. v. U.S. Dep't of Defense, et al.*, No. 95-2301 (Jan. 19, 2005 D.D.C.), 2005WL3803518;

[7] Written Testimony of Janai Nelson, President and Director-Counsel, NAACP Legal Defense and Educational Fund, Inc., *Fairness in Financial Services: Racism and Discrimination in Banking: Hr'g Before the Senate Banking Comm.*, Dec. 1, 2022; Mehrsa Baradaran, *Jim Crow Credit*, 9 UC IRVINE L. REV. 887, 888-89 (2019), *available at* https://scholarship.law.uci.edu/ucilr/vol9/iss4/4.

[8] *Id.*

[9] Danyelle Solomon, et al., *Systematic Inequality: Displacement, Exclusion, and Segregation How America's Housing System Undermines Wealth Building in Communities of Color*, CTR. FOR AM. PROGRESS (Aug. 2019), https://www.americanprogress.org/wp-content/uploads/sites/2/2019/08/StructuralRacismHousing.pdf; Testimony of Richard Rothstein, Distinguished Fellow of the Economic Policy Institute and Senior Fellow, Emeritus, NAACP Legal Defense and Educational Fund, Inc. on behalf of himself and Sherrilyn Ifill President and Director-Counsel NAACP Legal Defense and Educational Fund, Inc. Before the U.S. Senate Committee on Banking, Housing & Urb. Affairs, *Separate and Unequal: The Legacy of Racial Discrimination in Housing* 6 (Apr. 13, 2021), https://www.naacpldf.org/wp-content/uploads/LDF-Testimony-Senate-Banking-Racial-Discrimination-in-Housing_FINAL.pdf.

[10] BRUCE MITCHELL & JUAN FRANCO, NAT'L CMTY. REINVESTMENT COAL., HOLC "REDLINING" MAPS: THE PERSISTENT STRUCTURE OF SEGREGATION AND ECONOMIC INEQUALITY (Mar. 20, 2018), https://ncrc.org/holc/.

of the U.S. mortgage market by the middle of the century,[11] later developed similar maps.[12] In doing so, the federal government codified and perpetuated the racial stereotype that residents of color were financially risky and a threat to local property values. As a result, just two percent of the $120 billion in Federal Housing Administration (FHA) loans distributed between 1934 and 1962 went to nonwhite families.[13]

The federal government took additional steps to discourage lending to borrowers and communities of color.[14] For example, the FHA's 1939 Underwriting Manual explicitly prohibited lending in neighborhoods that were changing in racial composition.[15] The FHA also instructed appraisers to focus on the uniformity of neighborhoods, with the presumption that the highest value would be assigned to all-white neighborhoods,[16] and to investigate "areas surrounding a location . . . to determine whether incompatible racial and social groups are present, for the purpose of making a prediction regarding the probability of the locations being invaded by such groups."[17] In a 1941 memorandum concerning St. Louis, Missouri, the Federal Housing Administration similarly warned that "the rapidly rising Negro population ha[d] produced a problem in the maintenance of real estate values."[18] These racist views were then explicitly incorporated by the appraisal industry and reinforced in appraiser manuals through the mid-1970s.[19] Finally, the Federal Housing Administration refused to guarantee mortgages for developers who were building subdivisions unless the deeds included racially-restrictive covenants, effectively blocking development of integrated suburban communities.[20]

Institutionalized housing discrimination persisted for decades, compounding and legitimizing private bias and barring Black people from building inter-generational wealth through home ownership. In its 1961 report, the U.S. Commission on Civil Rights documented numerous discriminatory housing and lending practices, from requiring Black borrowers to make higher down payments and adopt faster repayment schedules, to refusing to approve loans on the basis of applicants' race.[21] Due to these discriminatory acts, many borrowers of color could only access credit in the form of a high-cost loans or contract sales[22] that imposed higher costs in

---

[11] KRISTEN BROADY, ET AL., BROOKING INST., AN ANALYSIS OF FINANCIAL INSTITUTIONS IN BLACK-MAJORITY COMMUNITIES: BLACK BORROWERS AND DEPOSITORS FACE CONSIDERABLE CHALLENGES IN ACCESSING BANK SERVICES (2021), https://www.brookings.edu/research/an-analysis-of-financial-institutions-in-black-majority-communities-black-borrowers-and-depositors-face-considerable-challenges-in-accessing-banking-services/.

[12] RICHARD ROTHSTEIN, THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA (2017).

[13] *Id.* at 7.

[14] *Id.* at 8-10.

[15] *See* DALTON CONLEY, BEING BLACK, LIVING IN THE RED: RACE, WEALTH, AND SOCIAL POLICY IN AMERICA 37 (2010); *see also* DOUGLAS MASSEY & NANCY DENTON, AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS 54 (1993).

[16] Scott N. Markey, Planning Spatial Obsolescence: Racial Capitalism, the Home Owner Loan Corporation, and the Production of Racialized Devaluation (University of Georgia, May 2023) https://s3.amazonaws.com/na-st01.ext.exlibrisgroup.com/01GALI_UGA/storage/alma/7F/B2/E8/80/6D/F3/3C/2B/80/CD/5C/69/02/22/E4/F5/MarkleyScottPHD.pdf?response-content-type=application%2Fpdf&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Date=20230814T171800Z&X-Amz-SignedHeaders=host&X-Amz-Expires=119&X-Amz-Credential=AKIAJN6NPMNGJALPPWAQ%2F20230814%2Fus-east-1%2Fs3%2Faws4_request&X-Amz-Signature=10a706d255334ae3127bf1c0574e5a2e38d93bceb3820af15e4140bcf0c340031.

[17] NAT'L FAIR HOUS. ALLIANCE, ET AL., IDENTIFY BIAS AND BARRIERS, PROMOTING EQUITY: AN ANALYSIS OF THE USPAP STANDARDS AND APPRAISER QUALIFICATIONS CRITERIA (2022), https://nationalfairhousing.org/wp-content/uploads/2022/02/2022-01-28-NFHA-et-al_Analysis-of-Appraisal-Standards-and-Appraiser-Criteria_FINAL.pdf.

[18] Conley, *supra* note 15, at 37.

[19] *Id.*

[20] HEATHER MCGEE, THE SUM OF US 80 (2022).

[21] U.S. COMM'N ON CIV. RTS., BOOK 4: HOUSING (1961), https://www2.law.umaryland.edu/marshall/uscr/documents/cr11961bk4.pdf.

[22] Baradaran, *supra* note 7, at 893.

exchange for limited, if any, home equity—if they could access credit at all. Moreover, these acts devalued the equity that Black people accumulated in their homes.

Today, lenders continue to engage in redlining by refusing to provide credit services to individuals living in communities of color.[23] For example, a 2018 study of 61 metro areas across the country found that Black and Latinx homebuyers were more likely to be denied a conventional mortgage than their white counterparts, even when they: 1) made the same amount of money; 2) tried to borrow the same amount of money; and 3) wanted to buy in the same neighborhood.[24] A 2022 FDIC study likewise found that Black borrowers are more likely to be denied home loans and pay higher interest rates than white borrowers, even when controlling for other factors.[25] A report by the National Association of Real Estate Brokers published that same year found similar results.[26] In several cases, banks have allegedly redlined some of the same neighborhoods that were first redlined by HOLC maps in the 1930s.[27]

Racial bias and disparities in home valuations also remain a persistent problem. For example, a 2021 Federal Housing Finance Agency review of appraisals found that appraisers made many overt and indirect references to race, ethnicity, and other prohibited and irrelevant traits in their appraisal reports.[28] That same year, researchers at Freddie Mac analyzed millions of appraisals submitted for purchase transactions and found unexplained racial disparities in the percentage of properties that received an appraisal value lower than the contract price (the "appraisal gap").[29] This appraisal gap is more likely to occur in census tracts with predominantly Black or Latinx residents, and this racial gap increases as the concentration of Black or Latinx individuals increases, even when controlling for structural and neighborhood characteristics.[30] Noted fair housing researcher Dr. Junia Howell similarly found in her 2023 analysis of FHFA data that appraisers assess homes in predominantly white neighborhoods at double the value than similar homes located in neighborhoods of color with the same socioeconomic status and

---

[23] *E.g.*, Press Release, U.S. Dep't of Just., *Justice Department Secures Over $31 Million from City National Bank to Address Lending Discrimination Allegations* (Jan. 23, 2023), https://www.justice.gov/opa/pr/justice-department-secures-over-31-million-city-national-bank-address-lending-discrimination.

[24] *The Community Reinvestment Act: Assessing the Law's Impact on Discrimination and Redlining: Hearing Before the Subcomm. on Consumer Prot. and Fin. Insts. of the H. Comm. on Fin. Servs.*, 116th Cong. 14-15 (2019) (statement of Aaron Glantz, Senior Reporter, Reveal From the Center for Investigative Reporting), *available at* https://www.congress.gov/116/meeting/house/109303/witnesses/HHRG-116-BA15-Wstate-GlantzA-20190409.pdf.

[25] Stephen Popick, *Did Minority Applicants Experience Worse Lending Outcomes in the Mortgage Market? A Study Using 2020 Expanded HMDA Data*, FED. DEPOSIT INS. CO. (June 2022), https://www.fdic.gov/analysis/cfr/working-papers/2022/cfr-wp2022-05.pdf?source=govdelivery&utm_medium=email&utm_source=govdelivery.

[26] Debra Kamin, *Discrimination Seeps Into Every Aspect of Home Buying for Black Americans*, N.Y. TIMES (Nov. 29, 2022), https://www.nytimes.com/2022/11/29/realestate/black-homeowner-mortgage-racism.html?smid=tw-nytimes&smtyp=cur.

[27] Press Release, U.S. Dep't of Justice, Justice Department Reaches Significant Milestone in Combating Redlining Initiative After Securing Over $107 Million in Relief for Communities of Color Nationwide (Oct. 19, 2023), https://www.justice.gov/opa/pr/justice-department-reaches-significant-milestone-combating-redlining-initiative-after.

[28] Chandra Broadnax & James Wylie, Fed. Hous. Finance Agency, Reducing Valuation Bias by Addressing Appraiser and Property Valuation Commentary (Dec. 14, 2021), http://www.fhfa.gov/Media/Blog/Pages/Reducing-Valuation-Bias-by-Addressing-Appraiser-and-Property-Valuation-Commentary.aspx.

[29] Melissa Narragon, et al., *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals*, FREDDIE MAC ECON. & HOUS. RES. NOTE (Sept. 2021), http://www.freddiemac.com/fmac-resources/research/pdf/202109-Note-Appraisal-Gap.pdf.

[30] *Id.*

comparable amenities.[31] Unfortunately, appraisal bias is increasing, rather than decreasing, with racial inequality in appraised values rising 75 percent over the last decade.[32]

B. *Discrimination in Government Benefits*

At the same time that it encouraged housing discrimination, the federal government also deliberately excluded Black people from other government benefits that offered economic security and a pathway to the middle class, including wage protections under the Fair Labor Standards Act, Social Security, and unemployment insurance.[33] These bills were structured to conform to the policy preferences of racist Southern members of Congress, who demanded that the bills uphold racial hierarchies by devolving authority to the states or excluding Black people entirely.[34]

The Servicemen's Readjustment Act—commonly referred to as the GI Bill—offers one of the starkest examples of state-sanctioned discrimination against Black people with respect to government benefits. After World War II, the federal government provided veterans with unemployment insurance, educational benefits, low-cost mortgages, and low-interest loans. However, 1.2 million Black veterans were denied equal access to many of these benefits despite serving their country during that conflict.[35] Like other New Deal legislation, the GI Bill "was deliberately designed to accommodate Jim Crow," shifting implementation to states and private entities and limiting federal oversight.[36]

Although the GI Bill made veterans eligible for low-interest home loans with no down payment, veterans first had to convince local banks to lend to them—yet banks denied the overwhelming majority of loans to Black veterans who were eligible for this government benefit.[37] According to historian Ira Katznelson, "In New York and the northern New Jersey suburbs, fewer than 100 of the 67,000 mortgages insured by the GI bill supported home purchases by non-whites."[38] In Mississippi, just two out of 3,229 U.S. Department of Veterans' Affairs-insured mortgages went to Black servicemembers seeking to finance a home, business, or farm in the first three years of the program.[39] Racially-restrictive covenants and redlining further limited where Black veterans could buy a home.[40]

Similarly, local Veteran Affairs officers, who had to approve GI bill benefits, made it difficult for Black veterans to access educational benefits or decreased the value of these benefits by steering them away from predominantly white, four-year colleges and toward vocational and

---

[31] JUNIA HOWELL & ELIZABETH KORVER-GLENN, APPRAISED: THE PERSISTENT EVALUATION OF WHITE NEIGHBORHOODS AS MORE VALUABLE THAN COMMUNITIES OF COLOR (2022), https://static1.squarespace.com/static/62e84d924d2d8e5dff96ae2f/t/6364707034ee737d19dc76da/1667526772835/Howell+and+Korver-Glenn+Appraised_11_03_22.pdf.

[32] Debra Kamin, *Widespread Racial Bias Found in Home Appraisals*, N.Y. Times (Nov. 2, 2022), https://www.nytimes.com/2022/11/02/realestate/racial-bias-home-appraisals.html.

[33] IRA KATZNELSON, WHEN AFFIRMATIVE ACTION WAS WHITE: AN UNTOLD HISTORY OF RACIAL INEQUALITY IN TWENTIETH-CENTURY AMERICA (2005).

[34] *Id.*

[35] Peter C. Baker, *The Tragic, Forgotten History of Black Military Veterans*, NEW YORKER (Nov. 27, 2016), https://www.newyorker.com/news/news-desk/the-tragic-forgotten-history-of-black-military-veterans.

[36] KATZNELSON, *supra* note 33, AT 113.

[37] EQUAL JUSTICE INITIATIVE, LYNCHING IN AMERICA: TARGETING BLACK VETERANS 38 (2017).

[38] Ira Katznelson, When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America 140 (2005).

[39] *Id.*

[40] *See* DEDRICK ASANTE-MUHAMMAD, ET AL., THE ROAD TO ZERO WEALTH: HOW THE RACIAL WEALTH DIVIDE IS HOLLOWING OUT AMERICA'S MIDDLE CLASS 15 (2017).

other non-degree programs.[41] Veterans who tried to use their benefits to study at segregated educational institutions were denied certain opportunities that were only available to white students.[42] Historically Black Colleges and Universities were underfunded and so overwhelmed by the influx of Black applicants that they had to turn tens of thousands of veterans away.[43] Ultimately, according to historian Hilary Herbold, "the segregationist principles of almost every institution of higher learning effectively disbarred a huge proportion of Black veterans from earning a college degree."[44]

In effect, the federal government provided a massive transfer of wealth and opportunity to white veterans while denying Black veterans similar wealth and opportunities. As a result, the cash equivalent of Black veterans' GI Bill benefits was only 40 percent of what white veterans received,[45] a difference in value of $170,000 per veteran in today's dollars.[46]

C. *Discrimination in the Federal Tax Code*

The federal government has perpetuated the racial wealth gaps created by its discriminatory policies through provisions in the federal tax code that allow white taxpayers to accumulate and retain capital at higher rates than their Black counterparts despite substantial evidence of these racially disparate impacts. For example, the federal tax code generally taxes income from investments (such as stocks, businesses, or real estate) at lower rates than income from salaries or wages.[47] These benefits are some of the largest federal tax expenditures, imposing a cost of nearly $150 billion per year on taxpayers in 2023.[48] Yet this policy disproportionately benefits wealthy white people,[49] who are more likely to own these kinds of investments.[50] According to a 2023 study by the U.S. Department of the Treasury, an estimated 92 percent of the tax value of the preferential treatment of these assets went to white families, even though white families represent only 67 percent of all families in the United States.[51] A 2022 study by a team of economists found that the racial disparities resulting from this preferential tax treatment of investment assets are driving the current racial wealth gap.[52]

---

[41] Aaron Morrison & Kat Stafford, *Veterans Day legislation targets GI Bill racial inequities*, AP NEWS (Nov. 11, 2021), https://apnews.com/article/lifestyle-business-veterans-affairs-world-war-ii-discrimination-b2d02e6030ef44e798d4e2d4165ae13e.

[42] Erin Blakemore, *How the GI Bill's Promise Was Denied to a Million Black WWII Veterans*, HISTORY (Apr. 20, 2021), https://www.history.com/news/gi-bill-black-wwii-veterans-benefits.

[43] *Id.*

[44] Hilary Herbold, *Never a Level Playing Field: Blacks and the GI Bill*, J. OF BLACKS IN HIGHER EDUC. 104, 107 (1994).

[45] Morrison & Stafford, *supra* note 41.

[46] *Id.*

[47] Tax Pol'y Ctr., Key Elements of the U.S. Tax System: How are capital gains taxed?, https://www.taxpolicycenter.org/briefing-book/how-are-capital-gains-taxed (last updated Jan. 2024).

[48] URBAN INST. & TAX POL'Y CTR., HOW THE FEDERAL INCOME TAX SYSTEM CAN WORSEN RACIAL DISPARITIES (Feb. 14, 2024), https://apps.urban.org/features/federal-income-tax-system-can-worsen-racial-disparities/.

[49] Assistant Secretary for Tax Policy Lily Batchelder & Deputy Assistant Secretary for Tax Analysis Greg Leiserson, U.S. Dep't of Treasury, Disparities in the Benefits of Tax Expenditures by Race and Ethnicity (Jan. 20, 2023), https://home.treasury.gov/news/featured-stories/disparities-in-the-benefits-of-tax-expenditures-by-race-and-ethnicity

[50] Urban Inst. & Tax Pol'y Ctr., *supra* note 48.

[51] Julie-Anne Cronin, et al., *U.S. Treasury Dep't, Tax Expenditures by Race and Hispanic Ethnicity: An Application of the U.S. Treasury Department's Race and Hispanic Ethnicity Imputation* (Jan. 4, 2023), https://home.treasury.gov/system/files/131/WP-122.pdf

[52] Ellora Derenoncourt, et al., *Wealth of Two Nations: The U.S. Racial Wealth Gap, 1860-2020*, NAT'L BUR. ECON. RES. (June 2022), https://www.nber.org/system/files/working_papers/w30101/w30101.pdf

D. *Inadequate Civil Rights Enforcement*

Finally, the federal government has failed to live up to its obligation to enforce federal civil rights laws, as the agencies charged with enforcement have never received sufficient funding or other necessary resources to do so.

While many civil rights laws permit enforcement by private parties, federal agencies have the broadest authority to enforce antidiscrimination laws in financial services, housing, employment, and other areas, as well as the unique ability to issue guidance and regulations to help covered entities comply with their legal obligations. Federal agencies also have additional investigative authority that is not available to private parties, such as subpoena power.

Yet these agencies are chronically underfunded and lack sufficient staff or other resources to investigate and respond to civil rights complaints, bring agency-initiated charges and systemic litigation, and issue affirmative civil rights policy guidance.[53] In its first comprehensive analysis of federal civil rights enforcement in 1970, the U.S. Commission on Civil Rights (the Commission) found "a number of [54]

While the federal government has made some progress in the decades since 1970, the failure to satisfy its enforcement obligations unfortunately continues to this day. In 2002, the Commission found that its "reviews of civil rights implementation, compliance, and enforcement at several agencies over the past decade revealed a system that was often unequal to the task."[55] Nearly 20 years later, in 2019, the Commission likewise found that federal "agencies generally lack adequate resources to investigate and resolve discrimination allegations within their jurisdiction, leaving allegations of civil rights violations unredressed."[56] In some cases, these resource constraints have worsened with time. Several agencies—including the Department of Justice's (DOJ) Civil Rights Division, which enforces fair lending laws in conjunction with other agencies, and the Department of Labor's Office of Contract Compliance Programs, which enforces federal contractors' affirmative action requirements— experienced a decrease in funding requests and allocations between FY 2016 and FY 2018, even as they fielded an increasing number of complaints.[57] In fact, five agencies were forced to cut staff during that time period.[58] Similar funding issues continue in federal agencies to this day: the number of staff at the U.S. Department of Education's Office of Civil Rights, for example, was cut in half between 1981 and 2022, even though that agency received more than six times as many complaints in 2022 as in 1981.[59]

Federal agencies' resource constraints have a significant impact on civil rights enforcement. Without sufficient resources, agencies generally do not meet their goals for timely investigation of complaints, including those filed by individuals who may have been significantly harmed from racial discrimination.[60] Some investigations can languish for years, ultimately

---

[53] U.S. COMM'N ON CIVIL RIGHTS, ARE RIGHTS A REALITY? EVALUATING FEDERAL CIVIL RIGHTS ENFORCEMENT (2019), https://www.usccr.gov/files/pubs/2019/11-21-Are-Rights-a-Reality.pdf [hereinafter ARE RIGHTS A REALITY?].

[54] Letter of Transmittal from Rev. Theodore M. Hesburgh, C.S.C. Chair, with fellow Commissioners and Staff Director, U.S. Comm'n on Civil Rights, to U.S. President and U.S. Congress in Federal Civil Rights Enforcement Effort: A Report, 1970, p. ii, http://www2.law.umaryland.edu/marshall/usccr/documents/cr12en2.pdf.

[55] U.S. COMM'N ON CIVIL RIGHTS, TEN-YEAR CHECK-UP: HAVE FEDERAL AGENCIES RESPONDED TO CIVIL RIGHTS RECOMMENDATIONS? VOLUME ONE: A BLUEPRINT FOR CIVIL RIGHTS ENFORCEMENT (2002), http://www2.law.umaryland.edu/marshall/usccr/documents/tenyrchekupvol1.pdf.

[56] ARE RIGHTS A REALITY?, *supra* note 53.

[57] *Id.*

[58] *Id.*

[59] U.S. DEP'T OF ED. OFF. OF CIV. RTS., FY 2022 ANNUAL REPORT TO THE PRESIDENT AND SEC. OF ED. (2023), https://www2.ed.gov/about/reports/annual/ocr/report-to-president-and-secretary-of-education-2022.pdf.

[60] ARE RIGHTS A REALITY?, *supra* note 53.

diminishing their effectiveness as witnesses, documents, and other evidence disappear with time. Indeed, the U.S. Equal Employment Opportunity Commission told the Commission that "it 'can only file lawsuits in a very small number of the charges where [EEOC] find[s] reasonable cause to believe that there was discrimination.'"[61] Similarly, the DOJ Civil Rights Division's enforcement actions decreased by 23.7 percent between FY 2016 and FY 2018 during the Trump Administration.[62] During this time, federal agencies also initiated fewer regulatory actions, rolled back civil rights rules, and repealed guidance, severely impacting civil rights enforcement that already had been severely deficient.[63] Despite the reversal of some of these harmful policies, federal agencies remain underfunded and under-resourced.[64]

As much as strong enforcement regimes promote deterrence, inadequate enforcement invites noncompliance. For example, weak enforcement of fair lending laws has likely contributed to the persistence of redlining that continues to disadvantage Black individuals' access to credit. In 1977, Congress passed the Community Reinvestment Act (CRA) to address America's systemic denial of credit services to Black and other communities of color. The CRA requires regulators to assess a financial institution's record of "meeting the credit needs of the entire community, including low- and moderate-income [LMI] neighborhoods."[65] Yet, as described above, banks continue to fail to meet the needs of Black borrowers and communities, even within LMI neighborhoods, and maintain their longstanding discriminatory practices.[66] Despite these lasting disparities in lending, 98 percent of banks nevertheless pass their CRA exams.[67]

Much of the disadvantages experienced by Black-owned businesses are directly attributable to the federal government, which has yet to fully remediate its past acts of explicit racial discrimination and continues to implement policies that perpetuate the harms from that discrimination. Thus, present-day barriers to opportunities for Black business owners are not products of chance in a free marketplace, but instead entrenched inequalities that are directly connected to the federal government's own complicity in acts of racial discrimination. The federal government should not allow these inequalities to persist.

III. **Black Business Face Significant and Unfair Barriers Resulting from Government Discrimination.**

As a result of past and ongoing discrimination, unequal economic systems deprive Black people of the financial and social capital they need to create and sustain successful businesses. Barriers include lack of access to wealth, loans, and investments, causing Black-owned businesses to start with less funding and more debt, to encounter more obstacles to growth, and be more

---

[61] *Id.*
[62] *Id.*
[63] *Id.* at 58-60 (detailing testimony); Sherrilyn Ifill, *President Trump's First Year Was an Affront to Civil Rights*, TIME (Jan. 17, 2018 3:42 PM EST), https://time.com/5106648/donald-trump-civil-rights-race/; The Leadership Conference on Civil & Hum. Rts., Trump Administration Civil and Human Rights Rollbacks, https://civilrights.org/trump-rollbacks/ (last visited May 13, 2024).
[64] U.S. DEP'T OF ED. OFF. OF CIV. RTS., *supra* note 59.
[65] 12 U.S.C. § 2903(a)(1).
[66] LINNA ZHU, ET AL., SHOULD THE COMMUNITY REINVESTMENT ACT CONSIDER RACE? 10 (2022), https://www.urban.org/sites/default/files/2022-04/should-the-community-reinvestment-act-consider-race_1.pdf. *Id.* at 10.
[67] *Better Together: Examining the Unified Proposed Rule to Modernize the Community Reinvestment Act: Hearing Before the Subcomm. on Consumer Prot. and Fin. Insts. of the H. Comm. on Fin. Servs.*, 117th Cong. 2 (2022) (statement of Seema Agnani, Executive Director, National Coalition for Asian Pacific American Community Development), https://financialservices.house.gov/uploadedfiles/hhrg-117-ba15-wstate-agnanis-20220713.pdf.

likely to fail than white-owned businesses. These barriers do not result from the fundamentals of the business or the acumen of the owner, but rather ongoing discrimination.

A. Lack of Access to Loans and Investments

Access to capital—whether through bank loans or investments—is essential to small business creation and success. Yet Black small business owners are not able to obtain funding from banks and other investors at the same rates as white businesses, limiting their ability to start and succeed. These disparities exacerbate the harms of the racial wealth gap by limiting Black people's ability to utilize external financing opportunities outside of their own wealth.[68]

Black-owned businesses struggle to access bank loans. According to the Federal Reserve, creditworthy Black-owned firms were 7 percent less likely to get approved for business loans overall, and 20 percent and 17 percent less likely to obtain credit at large and small banks, respectively, than other businesses, even when controlling for business characteristics and performance.[69] Furthermore, when Black-owned businesses are approved for financing, it is often at substantially lower levels than white-owned businesses. For example, the Federal Reserve found that only approximately 14 percent of Black small business owners and 19 percent of Latinx small business owners received all the financing they sought from banks in 2021, compared to 34 percent of white small business owners.[70] Similarly, Black-owned businesses received loans through the Paycheck Protection Program that were approximately 50 percent smaller than white-owned businesses with similar characteristics.[71]

Banks often require Black business owners to take additional steps to secure a loan—actions that they do not ask white business owners to take. A 2019 study published in the Journal of Public Policy and Marketing found that 73 percent of Black loan applicants were asked to provide financial statements for their businesses, compared with only 50 percent of white applicants with comparable profiles.[72] The study also found that 31 percent of Black applicants were asked to provide their personal W-2 forms, while no white applicants received such a request.[73]

In addition, Black founders of businesses receive minimal funding from venture capital and other outside investors at every stage of growth. In 2022, for example, Black founders received only 1 percent of total venture capital funding; Black women founders received only 0.1

---

[68] KRISTEN BROADY, ET AL., BROOKING INST., AN ANALYSIS OF FINANCIAL INSTITUTIONS IN BLACK-MAJORITY COMMUNITIES: BLACK BORROWERS AND DEPOSITORS FACE CONSIDERABLE CHALLENGES IN ACCESSING BANK SERVICES (2021), https://www.brookings.edu/research/an-analysis-of-financial-institutions-in-black-majority-communities-black-borrowers-and-depositors-face-considerable-challenges-in-accessing-banking-services/; Mels de Zeeuw & Brett Barkley, *Mind the Gap: Minority-Owned Small Businesses' Financing Experiences in 2018*, CONSUMER & CMTY. CONTEXT, A FED. RESERVE SYST. PUB., Vol. 1, No. 2, p. 16 (Nov. 2019), https://www.federalreserve.gov/publications/2019-november-consumer-community-context.htm.

[69] DANA M. PETERSON & CATHERINE L. MANN, CITI GPS, CLOSING THE RACIAL INEQUALITY GAPS: THE ECONOMIC COST OF BLACK INEQUALITY IN THE U.S. 61 (2020), https://www.citigroup.com/global/insights/citigps/closing-the-racial-inequality-gaps-20200922.

[70] ANN MARIE WIERSCH, ET AL., U.S. FED. RESERVE SYS., THE SMALL BUSINESS CREDIT SURVEY 2022 REPORT ON EMPLOYER FIRMS 18 (2022).

[71] Rachel Atkins, et al., *Discrimination in lending? Evidence from the Paycheck Protection Program*, 58 SMALL BUS. ECON. 843 (2022).

[72] Sterling A. Bone, *Shaping Small Business Lending Policy Through Matched-Pair Mystery Shopping*, 38 J. of Publ. Pol'y & Marketing 391-399, https://doi.org/10.1177/0743915618820561.

[73] *Id.*

percent.[74] Black-owned businesses also receive less total funding, with white male founders receiving over $210 million compared to $91.1 million for businesses owned by Black, Latinx, and other underrepresented businesses owners combined.[75] In 2023, the amount of venture capital funding for Black-owned businesses declined precipitously, falling 71 percent nationally.[76] This decline was nearly double the overall decline in venture capital funding.[77]

As a result of this discrimination, Black business owners are less likely to rely on bank loans to launch their business than white entrepreneurs, and are more dependent on capital from friends, family, and their own personal resources[78]—even though these sources tend to yield less capital and are disproportionately less available due to the racial wealth gap.[79]

B. Lack of Access to Wealth

Due to government-sponsored discrimination and practices that limit wealth accumulation and devaluation of assets, Black people have less wealth than white people. These disparities limit the resources Black people have on hand to start their businesses and sustain them through hard times.

As a result of past and modern-day redlining and other unfair discriminatory practices, the gap in home ownership between Black and white individuals is wider now than it was in 1968, when Congress passed the Fair Housing Act (FHA).[80] In 2023, only 44 percent of Black people owned a home, compared to 72.7 percent of white people, and Black homeowners and renters are more cost-burdened than other racial groups.[81]

The racial wealth gap also continues to grow.[82] According to a 2023 analysis by the Federal Reserve's Survey of Consumer Finances, the median white household owns $240,120 more in wealth than the median Black household.[83] This persistent racial wealth gap held even as median

---

[74] McKinsey & Co., Underestimated start-up founders: The untapped opportunity (Jun. 23, 2023), https://www.mckinsey.com/featured-insights/diversity-and-inclusion/underestimated-start-up-founders-the-untapped-opportunity.

[75] *Id.*

[76] J. Scott Trubey, *Venture funding of Black startups in U.S., Atlanta withers, data show*, Atlanta J.-Const. (Feb. 29, 2024), https://www.ajc.com/news/business/huge-drop-in-vc-funding-of-black-owned-startups-in-us-and-atlanta-report-says/DGCP22KEMZBNDASTONGCCXA5XQ/.

[77] Chris Metinko & Gene Teare, *Drop In Venture Funding To Black-Founded Startups Greatly Outpaces Market Decline*, Crunchbase News (Feb. 27, 2024), https://news.crunchbase.com/diversity/venture-funding-black-founded-startups-2023-data/#:~:text=The%20decline%20in%20capital%20to,%25%2C%20according%20to%20Crunchbase%20data.

[78] Peterson & Mann, *supra* note 69, at 59-60.

[79] *Id.* at 59.

[80] Brad Blower et al., Nat'l Cmty. Reinvestment Coal., Adding Robust Consideration of Race to Community Reinvestment Act Regulations: An Essential and Constitutional Proposal (2021), https://ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/#ftnref7.

[81] Nat'l Assoc. of Realtors, 2024 Snapshot of Race and Home Buying in America (2024), https://cdn.nar.realtor/sites/default/files/documents/2024-snapshot-of-race-and-home-buying-in-america-02-20-2024.pdf?_gl=1*1u2pfb2*_gcl_au*MjA2Njk1ODY1NS4xNzE1MTA4NzY1.

[82] *See* Tom Shapiro et al., LDF Thurgood Marshall Inst. & Inst. on Assets and Soc. Pol'y at Brandeis Univ. The Black-White Racial Wealth Gap 5 (2019), https://tminstituteldf.org/wp-content/uploads/2019/11/FINAL-RWG-Brief-v1.pdf; Andre Perry, et al., *Black wealth is increasing, but so is the racial wealth gap*, Brookings Inst. (Jan. 9, 2024), https://www.brookings.edu/articles/black-wealth-is-increasing-but-so-is-the-racial-wealth-gap/.

[83] Bd. of Gov. of the Fed. Reserve Syst., Greater Wealth, Greater Uncertainty: Changes in Racial Inequality in the Survey of Consumer Finances, Accessible Data, https://www.federalreserve.gov/econres/notes/feds-notes/greater-wealth-greater-uncertainty-changes-in-racial-inequality-in-the-survey-of-consumer-finances-accessible-20231018.htm#fig1 (last updated Oct. 23, 2023).

wealth increased overall by $51,800 from 2019 to 2022 because of the ongoing gaps in homeownership rates, as well as racial disparities in business and stock equity.[84] Gaps in stock equity are due, in part, to equally pervasive employment discrimination, which relegates Black people to lower wage jobs in less lucrative industries compared to white people with similar levels of education,[85] as well as industries that do not offer stock or pension benefits.[86]

C. *Consequences for Black Businesses*

As a result of persistent barriers to equal access and opportunities, Black-owned businesses face an uphill battle to survive. Many Black-owned businesses fail at early stages: While 20 percent of Black people start businesses, only 4 percent of these businesses survive the start-up stage[87]—the lowest survival rate of all new business[88] These negative outcomes are, in part, a consequence of undercapitalization. Black entrepreneurs start their businesses with approximately one-third the capital of white entrepreneurs, which amount to$35,000 compared to $107,000[89] According to a 2016 report by the Kauffman Foundation, "Black entrepreneurs . . . are almost three times as likely as whites to have profitability hurt by lack of access to capital and more than twice as likely as whites to have profits negatively impacted by the cost of capital.[90]

Black-owned businesses also struggle to grow and thrive. A disproportionate number of Black-owned businesses have no employees, and their growth is unfairly limited by inadequate access to wealth, loans, networks, and other resources. While the number of Black-owned businesses grew between 2017 to 2021, their overall share of employer businesses—i.e., businesses with at least one employee other than the owner-operator—remains low.[91] Although Black Americans made up 14.4 percent of the population in 2021, they represented only 2.7 percent of employers.[92] By contrast, white Americans made up 72.5 percent of the population but owned 82 percent of employer businesses.[93]

Black-owned businesses are also in more precarious financial positions. Even before the COVID-19 pandemic, "58 percent of Black-owned businesses were at risk of financial distress . . . compared with about 27 percent of white-owned businesses."[94] Black-owned businesses also earn

---

[84] Perry, et al., *supra* note 82.
[85] Ashley Jardina, et al., *The Limits of Educational Attainment in Mitigating Occupational Segregation Between Black and White Workers*, Nat'l Bureau of Econ. Research (Aug. 2023), https://doi.org/10.3386/w31641.
[86] PETERSON & MANN, *supra*.note 69, at 48.
[87] David Baboolal, et al., *Building supportive ecosystems for Black-owned US businesses*, MCKINSEY INST. FOR BLACK ECONOMIC MOBILITY (Oct. 29, 2020),
https://www.mckinsey.com/industries/public-sector/our-insights/building-supportive-ecosystems-for-black-owned-us-businesses.
[88] U.S. Small Business Admin, Frequently Asked Questions, *supra* note 3.
[89] *Id.*
[90] ALICIA ROBB & ARNOBIO MORELIX, EWING MARION KAUFMANN FOUNDATION, STARTUP FINANCING TRENDS BY RACE: HOW ACCESS TO CAPITAL IMPACTS PROFITABILITY: ANNUAL SURVEY OF ENTREPRENEURS DATA BRIEFING SERIES (2016), https://www.kauffman.org/wp-content/uploads/2019/12/ase_brief_startup_financing_by_race.pdf.
[91] Andre M. Perry, et. Al., *Closing the Black employer gap: Insights from the latest data on Black-owned businesses*, BROOKINGS INST.,
https://www.brookings.edu/articles/closing-the-black-employer-gap-insights-from-the-latest-data-on-black-owned-businesses/.
[92] *Id.*
[93] *Id.*
[94] CLAIRE KRAMER MILLS & JESSICA BATTISTO, FED. RESERVE BANK OF NEW YORK, DOUBLE JEOPARDY: COVID-19'S CONCENTRATED HEALTH AND WEALTH EFFECTS IN BLACK COMMUNITIES (2020), https://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses.

lower revenues and are overrepresented in low-growth, low-revenue industries, such as food service and accommodations.[95]

Without sufficient business networks, Black-owned businesses are also underutilized. According to a 2016 study by the Minority Business Development Agency (MBDA), the median share of contract dollars awarded to Black-owned businesses across five key industries—architecture and engineering, construction, goods and supplies, professional services, and other services—was 4 to 44 percent of contractors' availability, compared with 49 to 61 percent for white-owned businesses.[96]

IV. Racial Inequality Unduly Suppresses U.S. Economic Growth.

Racial inequality and discrimination in economic opportunities limit America's economic growth and competitiveness in the global economy. As Deputy Secretary of the Treasury Wally Adeyemo noted, "The exclusion of communities of color from the ladder of economic opportunity holds back economic growth for the entire country. Pursuing racial equity is a vital opportunity to drive innovation and boost growth across the U.S. economy."[97] Remediating the obstacles that artificially suppresses the success of Black small businesses would help the U.S. economy grow by trillions of dollars.

Racial segregation limited U.S. economic growth throughout American history, particularly in the Jim Crow South. Racial segregation in southern states drove educated Black and white people to leave the region and travel northward,[98] creating a drain of human capital and entrepreneurship. Southern lawmakers often rejected proposals that could have improved the regional economy, such as investments in education, in order to adhere to the racial hierarchy.[99] State-sanctioned racial violence undercut economic growth, destroying prosperous Black communities and causing severe economic losses.[100] This violence also decreased innovation and technological advancements in the region: Research by economist Lisa Cook found that riots and lynchings "depressed patent activity among blacks by more than 15 percent annually" across the country, and "conflict and hate-related violence, and the resulting uncertainty in property-rights enforcement . . . [,] may substantially affect the level, direction, and quality of inventive activity and economic growth."[101] As a result, the economy in the South became dependent on low labor costs, with limited incentives for innovation and development, leading to economic stagnation.[102] By contrast, reductions in racial occupational segregation and other forms of discrimination led to economic growth. Recent research by economists Chang-Tai

---

[95] David Baboolal, et al., *supra* note 87.

[96] MINORITY BUSINESS DEV. AGENCY, CONTRACTING BARRIERS AND FACTORS AFFECTING MINORITY BUSINESS ENTERPRISES: A REVIEW OF EXISTING DISPARITY STUDIES (2016), https://www.mbda.gov/sites/default/files/migrated/files-attachments/FINAL-MBDA-Disparity-Report-Summary.pdf.

[97] DEPUTY SECRETARY WALLY ADEYEMO, U.S. DEPARTMENT OF THE TREASURY THE AMERICAN RESCUE PLAN: CENTERING RACIAL EQUITY IN POLICYMAKING (2021), https://home.treasury.gov/system/files/136/American-Rescue-Plan-Centering-Equity-in-Policymaking.pdf.

[98] ROBERT A. MARGO, RACE AND SCHOOLING IN THE SOUTH, 1880-1950: AN ECONOMIC HISTORY (1990).

[99] Vanessa Williamson, *The Long Shadow of White Supremacist Fiscal Policy*, TAX POL'Y CTR. (Nov. 4, 2020), https://www.taxpolicycenter.org/publications/long-shadow-white-supremacist-fiscal-policy-0.

[100] Alex Albright, et al., *After the Burning: The Economic Effects of The 1921 Tulsa Race Massacre*, Nat'l Bureau of Econ. Res. (July 2021), https://www.nber.org/system/files/working_papers/w28985/w28985.pdf.

[101] Lisa D. Cook, *Violence and Economic Activity: Evidence from African American Patents, 1870 to 1940*, 19 J. OF ECON. GROWTH 221 (2014), https://lisadcook.net/wp-content/uploads/2014/02/pats_paper17_1013_final_web.pdf.

[102] Vanessa Williamson, *Democracy is good for the economy. Can business defend it?*, Brookings Inst. (Apr. 29, 2024), https://www.brookings.edu/articles/democracy-is-good-for-the-economy-can-business-defend-it/; Richard Hornbeck & Suresh Naidu, *When the Levee Breaks: Black Migration and Economic Development in the American South*, 104 AM. ECON. REV. 963 (2014), https://www.aeaweb.org/articles?id=10.1257/aer.104.3.963.

Hsieh, Erik Hurst, Charles I. Jones, and Peter J. Klenow shows that up to 40 percent of growth in the U.S. GDP per capita between 1960 and 2010 can be attributed to increases in the shares of women and Black men working in highly skilled occupations.[103]

Today, racial discrimination continues to hurt the U.S. economy. According to a 2020 study by Citi, the United States' aggregate economic output would have been $16 trillion higher since 2000 if we had closed racial gaps in wages, access to higher education, lending, and mortgage access.[104] Researchers at McKinsey estimated that the racial wealth gap alone will cost the U.S. economy between $1 trillion and $1.5 trillion between 2019 and 2028—4 to 6 percent of the projected GDP in 2028.[105] By contrast, financial institutions could earn approximately $2 billion annually in additional revenue if Black Americans had the same access to financial products as white Americans, and up to $60 billion annually in additional revenue if Black Americans reached full wealth parity.[106] Finally, equal parity in Black and Latinx business ownership compared to their share of the population, as well equalization of their business revenues with those of their peers, would generate an additional $1.6 trillion and $2.3 trillion respectively[107] and create millions of jobs per year.[108]

V. Our Multiracial and Multiethnic Democracy Depends on an Inclusive Economy that Gives Everyone the Opportunity to Thrive.

Ultimately, racial inequality is not only bad for the economy; it is anathema to a functioning democracy. As President Biden recognized, "the ideal of equal opportunity is the bedrock of American democracy."[109] Systems that exclude people from economic opportunity and social mobility based on race are inherently unequal; exclusion, in turn, can impact how people experience and think about the validity and integrity of political institutions and processes.[110] While most research has focused on how economic inequality—which itself is driven by race in the United States—reduces support for democracy, exposure to systemic racial inequality has similar effects.

Extensive research has shown that economic inequality is associated with less support for democracy in principle and practice, reduced institutional trust, and lower levels of civic engagement—all of which threaten the stability of democratic institutions.[111] The United States has substantially higher income and wealth inequality than almost any other developed nation,

---

[103] Chang-Tai Hsieh, et al., *The Allocation of Talent and U.S. Growth*, 87 ECONOMETRICA 1439 (2019).
[104] PETERSON & MANN, *supra* note 69, at 7.
[105] Nick Noel, et al., *The economic impact of closing the racial wealth gap*, MCKINSEY & CO. (Aug. 13, 2019), https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap.
[106] Aria Florant, et al., *The case for accelerating financial inclusion in black communities*, McKinsey Inst. for Black Econ. Mobility Ex. 3 (Feb. 25, 2020), https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-case-for-accelerating-financial-inclusion-in-black-communities
[107] MCKINSEY & CO., *supra* note 74.
[108] PETERSON & MANN, *supra* note 69, at 4.
[109] The White House, Advancing Equity and Racial Justice Through the Federal Government, https://www.whitehouse.gov/equity/ (last visited May 14, 2024).
[110] BARBARA CRUIKSHANK, THE WILL TO EMPOWER: DEMOCRATIC CITIZENS AND OTHER SUBJECTS (1999).
[111] In the discussion below, we rely on research examining subjective as well as objective measures of economic inequality. Economic inequality can be captured by objective measures like the GINI coefficient, which reflects income distribution per capita or individual income. However, subjective measures of inequality, often captured by surveys, provide more insight into the relationship between economic inequality and democracy. Subjective measures elucidate how individual perceptions of inequality facilitate the relationship between economic inequality and political attitudes and behaviors.

and that inequality is growing at a faster rate than in many other democracies.[112] And, as discussed above, these income and wealth disparities disproportionately fall along racial lines.[113]

Economic inequality fosters feelings of distrust between groups, making it difficult for people to come together to identify and advance policies that benefit the whole community: people with more wealth want to keep what they have, while those at the lower end of the economic scale feel insecurity about what they do not have.[114]

Subjective experiences of economic inequality decrease democratic support and corrodes institutional trust, regardless of one's political ideology.[115] Perceived income inequality makes people with less wealth feel incapable of influencing policy and government, thus reducing trust in democratic institutions.[116] These perceptions are corroborated by research demonstrating that politicians are more responsive to wealthier constituents—which, given the connection between wealth and race in America, means constituents who are disproportionately white.[117] Research has further shown that rising perceptions of economic inequality coincide with more support for radical and autocratic forms of governance[118] and facilitates increasing desires for an authoritarian leader and the proliferation of conspiracy theories.[119]

Support for democracy similarly declines when people become aware of not only economic inequalities but systemic racial inequalities.[120] In a 2022 study, researchers conducted both quantitative and qualitative analyses using data from original and existing surveys to identify the impact of racial inequality on democratic legitimacy in the mass public.[121] They found that learning about the systemic inequalities confronting Black people undermined support for and

---

[112]Anshu Siripurapu, *The U.S. Inequality Debate*, Council on Foreign Relations (Apr. 20, 2022 5:14 pm EST), https://www.cfr.org/backgrounder/us-inequality-debate; CONGRESSIONAL BUDGET OFFICE, THE DISTRIBUTION OF HOUSEHOLD INCOME, 2018 (2021), https://www.cbo.gov/system/files/2021-08/57061-Distribution-Household-Income.pdf.

[113] In addition to gaps in wealth, Black people also earn less income than similarly-educated white people and are more likely to experience disruptions in employment. *See, e.g.*, Jardina, et al., *supra* note 85; Valerie Wilson & William Darity Jr., *Understanding black-white disparities in labor market outcomes requires models that account for persistent discrimination and unequal bargaining power*, ECON. POL'Y INST. (Mar. 25, 2022), https://www.epi.org/unequalpower/publications/understanding-black-white-disparities-in-labor-market-outcomes/.

[114] RICHARD WILKINSON & KATE PICKETT, THE SPIRIT LEVEL: WHY GREATER EQUALITY MAKES SOCIETIES STRONGER (2010).

[115] Sarah Engler & David Weisstanner, *The threat of social decline: income inequality and radical right support*, 28 J. of European Pub. Pol'y 153 (2021), https://doi.org/10.1080/13501763.2020.1733636; Jolanda Jetten, et al., *Consequences of economic inequality for the social and political vitality of society: A social identity analysis*, 42 POLITICAL PSYCH. 241 (2021), https://onlinelibrary.wiley.com/doi/abs/10.1111/pops.12800; Jazmin L. Brown-Iannuzzi, et al., *Political Action in the Age of High-Economic Inequality: A Multilevel Approach*, 11 Soc. Issues & Pol'y Rev. 232 (2017), https://doi.org/10.1111/sipr.12032;
Jonathan Krieckhaus, et al., *Economic inequality and democratic support*, 76 J. OF POLITICS 139 (2014), https://doi.org/10.1017/S0022381613001229.

[116] Simon Bienstman, et al., *Explaining the 'democratic malaise' in unequal societies: Inequality, external efficacy and political trust*, 63 European J. of Political Res. 172-191 (2024), https://doi.org/10.1111/1475-6765.12611.

[117] TASK FORCE ON INEQUALITY AND AMERICAN DEMOCRACY AMERICAN POLITICAL SCI. ASSOC., AMERICAN DEMOCRACY IN AN AGE OF RISING INEQUALITY (2004), https://www.apsanet.org/portals/54/Files/Task%20Force%20Reports/taskforcereport.pdf (summarizing research); ADAM LIOZ, DEMOS, STACKED DECK HOW THE RACIAL BIAS IN OUR BIG MONEY POLITICAL SYSTEM UNDERMINES OUR DEMOCRACY AND OUR ECONOMY (2014), https://www.demos.org/sites/default/files/publications/StackedDeck2_1.pdf.

[118]Engler & David Weisstanner, *supra* note 115; Jetten et al., *supra* note 115.

[119] Jetten et al., *supra* note 115.

[120] Jane Morgan, et al., *Racial Inequality and the Fragility of Democracy: How Unequal Citizenship Threatens Democratic Legitimacy* (Feb. 10, 2022), https://www.wpsanet.org/papers/docs/Morgan,%20Christiani,%20and%20Kelly_Racial%20inequality%20and%20the%20Fragility%20of%20Democracy_2022_02_10.pdf.

[121] *Id.*

satisfaction with democratic governance, among both Black and white respondents regardless of partisan affiliation. The researchers also found that satisfaction with democracy is lower when there are deeper economic divides between Black and white residents; this dissatisfaction emerges among white as well as Black survey respondents. This research echoes earlier studies which found that racial inequality undermines trust in the institutions of government and provokes alienation from conventional democratic practices like voting, particularly for Black people and other underrepresented and under-resourced populations.[122]

VI. Conclusion

Active and passive discrimination by the federal government continues to impede economic opportunity for Black-owned small businesses, preventing them from competing equally with their white counterparts. The federal government's decades-long failure to acknowledge and remediate systems of inequality, much of which can be directly attributed to the federal government's own actions, weakens our economy and undermines our democracy, given the illegitimacy of any political system that denies equal access to opportunity on the basis of race. We therefore urge Congress and the Administration to continue to invest in remedial measures that will help undo the harm caused by the federal government's complicity in creating present-day inequalities for Black-owned businesses and ensure that federal tax dollars do not perpetuate racial discrimination.

Thank you.

[122] *Id.* (citing studies).

The Statement of the



Minority Business Enterprise Legal Defense and Education Fund, Inc.

Before the U.S. Senate Committee on
Small Business and Entrepreneurship
"Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination"

May 19, 2024

Esteemed members of the Committee, thank you for holding this hearing. Before we begin, we want to recognize and thank Senator Cardin for his leadership on minority business issues over the years. We are especially grateful for the fact that he has been such a strong supporter of civil rights and ending discrimination throughout his time in public office. Senator Cardin was kind enough to *close* this hearing with a quote of MBELDEF's founder, Congressman Parren J. Mitchell. We want to *begin* our testimony with a quote from Senator Cardin from his opening statement at this very hearing:

> Racial discrimination has plagued our country since its inception. Unfortunately, we have not been able to truly reckon with our past in a way that completely breaks down the historical barriers of racial discrimination. Those struggles continue today and directly impact minority business owners' ability to operate and grow.

With these simple, eloquent sentences, Senator Cardin reveals that he understands something that too many others choose to ignore: businesses owned by people of color face more formidable challenges than businesses owned by white men because minority-owned businesses are the victims of race discrimination.

The reality is, however, that many people do not understand the myriad ways that this discrimination poses obstacles for minority entrepreneurs and minority business owners. Starting and growing a successful business is profoundly difficult. In order to fully understand the challenge for people who are Black, Hispanic or Latinx, Asian American, or Indigenous one must understand how racial discrimination enters the equation at every stage of the process.

MBELDEF has been fighting for the legal rights of minority business owners for over forty years. We have interviewed, counseled and represented minority business owners and entrepreneurs in court, in Congress, in regulatory contexts and in informal settings. Our work has spanned the public and private sectors at the federal, state and local levels. Over that time, we have learned a lot about how race discrimination impacts minority business owners and entrepreneurs. We have developed a deep expertise in a subject area that we devoutly wish did not exist.

The appalling truth is that the overwhelming majority of minority business owners can relate at least a few disturbing stories about the race discrimination they have endured. Still, many of them are unwilling to tell their stories due to fear of retaliation by customers and the risk of reputational damage by those who will accuse them of "playing the race card." Make no mistake, the reticence to speak out is not a simple matter of wanting to preserve existing relationships, contracts or market share. Business owners never have the luxury of thinking only of themselves and their own families; they have employees, investors and communities depending on them. Even when they are willing to absorb the personal pain of talking about some of their most debasing and humiliating experiences with race discrimination, sometimes they feel they simply cannot because too many lives and livelihoods are depending upon them.

Over the years, MBELDEF has sometimes stepped in to be the voice of these businesses. We know in detail the severity and the pervasiveness of the race discrimination they confront. The following provides a small portion of the various types of discrimination about which we have heard directly from minority business owners. Some business owners have experienced just a few of these types of bias. Most have experienced many of these different types of discrimination. It is the extremely rare minority business owner who reports never having to confront discrimination at all.

Race Discrimination in Starting a Business:

Successful business ownership requires education and training – in some cases many years of it. Over half of U.S. business owners are age 55 or older.[1] This means that the majority of today's business owners today attended elementary and secondary schools in the 1970s and 1980s (or earlier) that were still sharply segregated, often with the active participation of government actors at every level.[2] For people of color, that often meant severely under-resourced schools. Those same future business owners, if they chose to apply to college or professional school were less likely to be accepted than their white counterparts and less likely to be able to afford to attend. These problems in education, as well as difficulty in accessing credit and mortgages, were compounded by the legacy of racially discriminatory aspects of the federal government's G.I Bill even though it was enacted decades before today's cohort of business owners applies to attend institutions of higher education.[3]

For business ownership in many industries, the most common form of training comes from "working your way up" and gaining more and more advanced skills in a particular field or industry on the job. Here again, minority business owners report to us that they consistently confronted discrimination. In some contexts, this has meant employment discrimination based on race that has led to reduced salaries and opportunity for advancement and hostile and degrading working conditions and environments. In other contexts, aspiring minority entrepreneurs have historically been the victims of race discrimination by unions and apprenticeship programs that have prevented them from being able to obtain the same job experience and skills as their white competitors.

Another way in which discrimination based on race disadvantages minority business owners has to do with the unfairness in the way that public and private research and development (R&D) funding is distributed among institutions of higher learning. Minority Serving Institutions (including but not limited to Historically Black Colleges and Universities (HBCUs), High Hispanic Enrollment (HHE) institutions and Tribal Colleges and Universities (TCU)) receive a tiny fraction of public and private R&D investment.[4] This disparity, rooted in historical discrimination for which the federal government is directly responsible, reduces the opportunity for minority students (and future entrepreneurs) to participate in cutting-edge research, discovery

---

[1] https://www.census.gov/library/visualizations/2020/comm/business-owners-ages.html
[2] Business owners who are 75 years in 2024, started kindergarten the year that *Brown v. Board of Education* 347 U.S. 483 (1954) was handed down by the Supreme Court.
[3] Ira Katznelson, When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America 125-140 (2005).
[4] https://ncses.nsf.gov/pubs/nsb202326/patterns-of-academic-r-d-spending

and the development of intellectual property (patents, for example) in the rapidly growing and expanding fields of science and technology. It also reduces the funding available for minority graduate students and post-doctoral research fellows.[5]

The discrimination in education in training and R&D investment has a direct negative impact on the ability of aspiring minority business owners to earn the money needed to start a business. Of course, this only compounds an existing and egregious racial wealth gap rooted in historical discrimination by both public and private actors. That same racial wealth gap translates directly into the fact that people of color have fewer personal assets and are less likely to have family members who are available to invest in or support a start-up. Moreover, past and present discrimination in social networks and institutions (social clubs, business associations, civic organizations, etc.) has further isolated aspiring business owners and limited their access to potential private investment. We have repeatedly heard from minority businesses who told us that the country club or civic association in their community was both where a lot of business got done, and was either officially or unofficially closed to them based on the color of their skin.

Home equity is another source of capital that is dramatically reduced for minority business owners by race discrimination. Red-lining has sharply limited the value of the homes owned by many people of color[6] as compared to white homeowners and that has a direct impact on their ability to start a business. And these policies were also compounded by the racially discriminatory aspects of the federal G.I. Bill.[7] It is crucial to understand that red-lining and the racial discrimination in the G.I. Bill were both explicitly sanctioned by the federal government and many state and local governments. Many of the business owners we represent report to us that the only source of start-up capital initially available to them was the value of their home. In some cases, aspiring business owners sought to tap that value through home equity lines of credit and mortgages, and in other cases business owners were obliged to use their homes as collateral for business loans (often when such collateral was not required of white business owners). Again and again, we have heard from business owners that the artificially low value of their home made it impossible to obtain the loans that they needed. We have also heard stories of the stress, fear and sense of helplessness they felt at having to secure a needed business loan with the home their family depended on.

While access to capital through friends, family, personal assets and community members is limited by current discrimination and the present-day effects of past discrimination, so too is access to capital through banks and other financial institutions. There are thousands of pages of recent studies documenting the statistics that demonstrate discrimination in business lending based on race. But what we hear at MBELDEF are not the statistics, but the stories of frustration and humiliation that cause business owners to either give up or agree to outrageous interest rates that become one more threat to their business survival.

Over and over again, we meet minority business owners who don't apply for loans because they fear they will be rejected. And when they do apply, their fears are often proven correct and they

---

[5] https://ncses.nsf.gov/pubs/nsb202326

[6] https://research.stlouisfed.org/publications/page1-econ/2021/09/01/neighborhood-redlining-racial-segregation-and-homeownership

[7] Katznelson, at 163-164.

are rejected more often than their white counterparts with the same assets, balance sheet and credit risk. Even when their applications are accepted, they are forced to provide more documentation and more collateral than white business owners. Moreover, they receive less than the full amount they requested more often than white borrowers – and they pay higher interest rates than white borrowers. This type of discrimination is both infuriating and demoralizing, causing many business owners to give up before they ever get started. Every one of these discouraged business owners represents an engine of economic growth that never had the opportunity to bring jobs and wealth to their community and our nation.

Race Discrimination in Owning a Business:

In many ways, once a business owner has made it through the start-up phase, the discrimination only gets worse. In this context it is important to understand how hard-working, confident and self-reliant most business owners are. They go into business precisely because they want to build something special and productive that they can call their own. They are not people who want to take time out to file complaints or lawsuits alleging discrimination and mistreatment. Most of the time, they don't even want to talk about discrimination until it has become so overwhelming that they have no choice. The last place they want to be is in court – they want to be building their businesses. Still, the barrier posed by discrimination is sometimes too formidable to overcome. When that happens their families, their employees, their communities and our nation lose real opportunity and wealth.

As witnesses in this hearing testified, when minority business owners have the temerity to try to break through existing barriers, the reaction is usually swift and ferocious. Certainly, business involves competition, and new market entrants are rarely treated with kid gloves. But the reaction that greets new minority businesses is an order of magnitude less friendly. Business owners we work with tell us stories of prime contractors and customers in the public and private sectors who had previously been collegial and professional on the phone or through e-mail only to become markedly less so when they meet face-to-face for the first time. Sometimes the realization that a business owner is a person of color leads to a withdrawal of an opportunity on the spot. This type of overt racial discrimination is so common that some minority business owners tell us that they end up having to assign white employees specifically to handle client interface. Minority businesses have even related to us that some of their clients refuse to deal with the minority owner at all and will only work with the white subordinate. Frequently those same white employees tell us that they are often mistaken for the owner even when the minority owner is present. In fact, many white employees of minority-owned businesses recount that they never fully understood how pervasive racism against people of color is until they started working for a minority-owned firm.

The specifics of how race discrimination during business deals plays out differs from case to case, but there are a lot of recurring themes. For instance, most minority business owners relate stories of Old Boy Networks from which they are excluded but through which vital information and access flows. In both the public and private context, minority businesses have explained that "who you know" sometimes dictates whether you learn about contracts or other opportunities at all. Certainly, access to information about upcoming contracts or plans for the future that have not yet been advertised are frequently only available through these informal networks and

minority business owners report being intentionally excluded. Interestingly, as racial attitudes change (albeit slowly), some minority business owners report that one of the ways they learn about discrimination is from white competitors who have become friends. These relationships give minority business owners a window on what is being done to undermine them and confirms the intentionality of behavior that previously might have seemed ambiguous.

An additional area in which intentional racial discrimination plays an insidious role involves the prices minority business owners must pay for bonding, insurance and, just as in the start-up phase, credit. In all of these areas, minority-owned businesses report not only that they have trouble finding bonding and insurance agents who will take their business, but also that when they do, they are expected to pay higher rates than white-owned companies with equal or lessor balance sheets, books of business or credit ratings – solely based on their race. As has been documented in many studies, some of this discrimination in bonding and insurance has roots in the federal government condoned red-lining that also led to the undervaluing of homes in communities of color. But it is also rooted in stubborn discriminatory attitudes about the competence and capacity of minority-owned businesses. Business owners report to us that they often confront incredulity that they can perform well and complete jobs – even when they have done so many times in the past. These attitudes in turn lead to race discrimination in access to credit, insurance and bonding and the rates that they must pay for each.

Race Discrimination in Contracting, Operation and Deals:

Some of the ugliest racial discrimination happens during the process of actually doing business. Minority business owners report being intentionally excluded for discriminatory reasons from the formal and informal networks though which business opportunities are announced. Without timely notice of an opportunity to bid or pitch new business, minority businesses cannot succeed. Moreover, even when minority businesses learn in time of business opportunities, there are significant roadblocks thrown into their path through racially discriminatory and predatory business practices including, for instance, supply pricing discrimination. Minority business owners report to us that they know they are facing discrimination in pricing because they have actually tested their suspicions. Some report having a white employee or colleague call the same wholesaler or manufacturer and ask for prices on the same items – and get a lower price. When confronted, wholesalers and manufacturers often claim something about "preferred customer pricing" even when the white employee had never purchased from that company before.

Minority businesses also report being subject to racially discriminatory "bid shopping" where they do all the painstaking and often expensive work of preparing a bid, pitch or proposal only to have the customer turn around and reveal their work product to a competitor – often a majority male owned company. This practice is made all the more harmful where there is an anti-competitive understanding between the customer and their preferred supplier that the difference in price between the minority-owned company's lower bid and the majority owned company's higher bid will ultimately be made up in change orders, price adjustments or future contracts.

Bid shopping when used in this way is both racially discriminatory and an anti-competitive form of collusion. But very large majority-owned companies and other customers have been known to go much further in colluding to exclude – or drive out of business – minority contractors. During

this hearing we heard how very large construction companies tried to drive a company out of business by warning subcontractors with which they sometimes work not to work with the minority company. The explicitly threatened "or else" is that if the subcontractors work with an up-and-coming minority-owned business they will be cut out of all future work with the larger prime contractor. In some contexts, that is essentially the equivalent of threatening those subs with extinction. We have also heard of situations where there are more actors involved in the collusion including materials suppliers, bonding companies and even financial institutions. Very large companies have huge amounts of power to influence other actors in their industry just by threatening to withhold future work. All of this is sometimes known, or even reported, to government entities that rarely take action.

Do unfair restraints of trade like bid shopping and collusion between competitors happen to non-minority companies too? Of course they do. But the information we have been receiving for years from minority-owned companies (and sometimes their majority allies who are also affected) is that these anti-competitive practices are more frequently targeted at minority-owned firms for reasons of racial animus. It's crucial to understand that the results of this behavior are less competition and higher prices. These practices don't just hurt minority-owned companies, they hurt our entire economy. Moreover, when any type of restraint of trade occurs on public sector projects, they drive up prices to the public and are a waste of scarce taxpayer dollars.

Unlike collusion, some types of discriminatory practices aimed at minority-owned companies involve very public actions by public and private customers alike. Again, at this very hearing we heard reports of government entities denying prime contracts to a minority and woman-owned business despite the fact that her business was the lowest responsive and responsible bidder. Minority-owned businesses report that this is common. Sometimes they are simply denied the contract, despite being the low bidder, and the contract is given to a larger white-owned company. Sometimes, the government entity announces that the whole contract must be re-bid for murky and non-transparent reasons.

Something similar happens even more frequently in cases where the minority-owned company is a subcontractor. In these instances, in jurisdictions where there are remedial minority business programs in place to encourage primes to use minority sub-contractors, prime contractors will commit to the government agency and the minority-owned businesses at bid time that they plan to use a minority-owned company for some percentage of the work on the contract. When it comes to actually performing the contract, minority companies often report that they see far less work than was promised and sometimes none at all. Again, this very type of behavior was detailed by a witness at this hearing. When good remedial minority business programs are in place, this behavior is often explicitly prohibited – but still it occurs and recourse is usually limited. If the prime contractor is very large and works regularly with the government agency, that agency may look the other way or accept questionable explanations from the prime as justifications for reducing the work flowing to minority-owned businesses.

Another way that racially biased prime contractors, customers and government entities harm minority-owned companies is by slowing down payments. Minority-owned companies are disproportionately smaller than white-owned companies and, as we have discussed, they have fewer assets and less access to loans and credit. Under these circumstances a prime contractor or

malign government agency can do catastrophic damage to a minority-owned firm simply by paying very late. Sometimes these actions are accompanied by the discriminatory application of more exacting inspections on minority companies or the demands that work be re-done several times. Under these circumstances, the joy of winning an opportunity can quickly turn into the loss of a business, often with very few places to turn for recourse or help.

Similarly, larger competitors hoping to keep small minority firms "in their place" have often turned to weaponizing federal, state and local labor, licensing and tax audits as a way of injuring smaller minority-owned businesses. Again, one of the witnesses in this very hearing spoke about having been subject to several intrusive audits in one year at the same time as she was trying to break into a new geographic territory. Sadly, we often hear that government agencies used this way are either appallingly clueless about the fact that their compliance programs are being manipulated in racially discriminatory schemes – or they are actively complicit. Rarely have we heard of any large company being punished or even warned for filing, or causing the filing of, false and frivolous complaints targeting minority-owned businesses.

It's important to remember that often all of these racially discriminatory acts take place against the backdrop of racially stereotypical attitudes about the competence, capacity, and quality of work of minority businesses and their employees. These racially biased views often lead to double standards in the way that the work of minority-owned companies is evaluated. We have heard from both minority-owned businesses and even their non-minority allies, that racist inspectors and compliance officials are common in both the public and private sectors and that they repeatedly criticize and nit-pick when reviewing work by minority-owned businesses, demanding changes that they would never request from established white-owned companies. These reports come from every industry and area of the nation. In some cases, this has been reported to us as simple racial animus. In other cases, it appears to be part of more organized efforts to drive minority businesses off jobs or out of business. When any company is forced to redo work it adds cost to their project, in some industries that additional cost is enough to make a contract go from profitable to unprofitable.

In some areas and some industries, the conditions go well beyond stereotypical attitudes and involve overtly racist environments that include tolerance of racial slurs and racist symbols, intimidation, equipment sabotage and violence. These types of working conditions are both frightening and utterly exhausting for the minority-owned firms that are victimized. Minority business owners who try to compete in these environments exhibit enormous bravery, but the costs to both their psychic and physical well-being, and to their businesses, are enormous. We have heard reports of the aggressive use of racial slurs and taunts for Black and African American, Latinx and Hispanic, Asian Americans and Indigenous people. We have also heard accounts of the use of nooses, dead animals hung by nooses from equipment, racially offensive pictures and props, the sabotage or destruction of equipment and materials, and the threatening and intimidation of minority employees. And finally, in some cases we have had reports of threats of violence and actual violence against minority business owners and their employees.

Finally, we hear constantly from minority business owners that white-owned businesses that rave about their work on public contracts rarely or never solicit them to work on private contracts. This is a serious problem and essentially locks minority-owned businesses into public sector

work where they have at least some protections provided by minority contracting programs and prevents their expansion into the, often more lucrative, private sector. One very successful minority construction contractor memorably recounted a story to us in which he described a discussion with a white-owned prime contractor who had just finished praising his work and telling him how delighted they were to work with him. This minority subcontractor asked the prime: "Can I just ask one thing? If my work is so excellent, why do you never invite me to bid on any of your private work?" The white prime looked genuinely baffled and said: "But I don't *have to* use you on private contracts."

Growing a Business to Scale

With all of this as background, it is remarkable that any minority businesses succeed at all, but they do. Brilliant, hard-working and ambitious men and women of color across our nation have worked hard to build businesses and some of them have even been able to grow large enough to become leaders in their fields and communities. But it would be wrong to end our discussion about racial discrimination in business without making clear that all of the racial discrimination we have discussed is arguably worse for medium-sized and larger minority-owned businesses. First of all, these larger, more successful businesses are in a better position to actually compete with the larger majority-owned companies and so they are seen as more of a threat. Second, for the most part, larger companies usually do not have access to even the minimal protections provided by remedial minority business programs.

We have worked with many successful business owners who voice intense frustration about trying to continue to grow their business beyond a certain point. Once businesses approach the size and personal net-worth caps that most minority or disadvantaged business programs impose, they face a very stark choice: take their foot of the gas to keep their businesses small enough to continue to claim the small amount of protection that MBE-type programs provide, or keep growing and risk being annihilated by competition with businesses that are exponentially larger on top of all of the discrimination we have discussed above. Because business owners are generally hard-wired to continue to innovate and evolve, most choose to try to compete with businesses that are much larger and stronger – but the path is never easy.

It is ironic that against this background, not only do large white-owned and publicly traded companies have an enormous built-in advantage, but in some cases, they get special treatment that gives them additional unearned advantages. We have already mentioned the ambiguous and unevenly applied "preferred customer" programs and privileges that are common in the private sector. Moreover, advantages for larger, almost always white-owned or publicly traded, companies are ingrained in government and large private contracting at every level. The bundling of contracts into very, very large contracts for which only the largest companies can bid is one way this happens. Another way it happens is when governments let very long-term contracts or limit the bidding on "indefinite delivery/indefinite quantity" contracts only to very large companies or only to companies that are large enough to bid on every job under such a contract. Finally, the federal government itself has long had at least one policy – the Defense Industrial Base Policy[8] – that is literally designed mostly to keep huge defense contractors in

[8] https://crsreports.congress.gov/product/pdf/R/R47751

business and profitable in perpetuity in case our country has need of their services in times of war.

No one disputes the need for our nation to maintain its military readiness. Indeed, we believe our readiness would be enhanced if we included a more diverse group of contractors in the Defense Industrial Base. Our democracy must be ready to defend itself against those who would try to undermine our cherished freedoms and ideals. But one of our nation's most cherished ideals is that everyone in America deserves the equal protection of our laws. Indeed, most people in our nation agree that discrimination based on race is not just morally wrong, it is corrosive to our democracy. And yet, our nation has a long history of race discrimination against businesses owned by Black, Hispanic and Latinx, Asian American and Indigenous people. Surely some small fraction of the money spent to ensure that huge defense companies remain flush and ready could be allocated to remedy the discrimination that has plagued minority-owned companies throughout our nation's history.

Thank you.

The Joint Statement of the Minority Business Enterprise Legal Defense and Education Fund, Democracy Forward, Latino Justice PRLDEF, PolicyLink, Asian Americans Advancing Justice, the Southern Poverty Law Center, the Lawyers' Committee for Civil Rights Under Law, the National Urban League, and the Leadership Conference on Civil and Human Rights before the U.S. Senate Committee on Small Business and Entrepreneurship "Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination" May 20, 2024



















On behalf of the Minority Business Enterprise Legal Defense and Education Fund, Democracy Forward, Latino Justice PRLDEF, PolicyLink, Asian Americans Advancing Justice, the Southern Poverty Law Center, Lawyers' Committee for Civil Rights Under Law, the National Urban League, and the Leadership Conference on Civil and Human Rights we submit this testimony in connection with the Senate Committee on Small Business & Entrepreneurship's May 6, 2024 hearing "Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination," and ask that you enter it into the record.

Senator Cardin and members of the U.S. Senate Committee on Small Business and Entrepreneurship, thank you for holding this important hearing on the persistent and pervasive racial discrimination experienced by businesses and including our statement for the record. While remedial government programs like the Small Business Administration's 8(a) program have come under attack by extremist, anti-civil rights organizations, these programs remain a necessary and lawful means to address ongoing racial discrimination and one way to help ensure a more level playing field for minority business owners and entrepreneurs.

We cannot begin our testimony without expressing our gratitude for Senator Cardin's career-long efforts to help move our nation closer to its aspiration of racial justice and equality under the law. His steadfast commitment and unwavering kindness will be sorely missed.

There is currently a well-financed, highly-coordinated effort by the extremist anti-civil rights legal movement to reverse decades of progress towards greater racial equity. This effort seeks to undermine various programs that provide remedial assistance to people of color—assistance that was enacted in response to centuries of racial discrimination. These legal attacks include especially pointed efforts to dismantle federal programs intended to remedy discrimination against businesses based on the race and ethnicity of their owners. These same legal actors are also proposing legislation to silence all discussion about race and efforts to address racism in schools, workplaces and by government agencies at the state and local level across the nation.[1] Indeed, the two strategies are linked: they seek to erase knowledge about and discussion of race discrimination as a tactic in their mission to eliminate programs intended to remedy discrimination. Despite voluminous quantitative and qualitative evidence of intentional discrimination against minority-owned businesses, these groups have announced their plans to take down any program or policy that provides even a small amount of remedial assistance for minority business owners and entrepreneurs. As noted, minority business owners have faced and continue to face race-based discrimination.[2]

---

[1] Sarah Schwartz, *Who's Really Driving Critical Race Theory Legislation? An Investigation,* Ed Week (Jul 19, 2021), https://www.edweek.org/policy-politics/whos-really-driving-critical-race-theory-legislation-an-investigation/2021/07.

[2] *See, e.g.,* Pacific Legal Foundation, Ending State-Based Racial Discrimination Model Policy, https://pacificlegal.org/wp-content/uploads/2022/04/6-PLF-Ending-State-Based-Racial-Discrimination-Model-Policy.pdf.

To be clear, none of the programs under attack, including the 8(a) and Minority Business Development Agency business development programs at the heart of today's hearings, have yet eradicated discrimination based on race or its effects. But these programs have made important progress toward leveling the playing field and provide crucial assistance to minority business owners and entrepreneurs who are severely disadvantaged by both current discrimination and the present-day effects of past discrimination. Without these programs, our nation cannot make progress toward ensuring that all people in our nation have a full and fair opportunity to establish and grow businesses and participate equally in our economy regardless of race or ethnicity.

As this hearing has demonstrated, there remains serious and pervasive intentional discrimination against minority-owned businesses. Indeed, numerous Congressional hearings over decades have revealed that people of color – specifically Black and African American, Latinx and Hispanic, Asian American, and Indigenous people – continue to face discrimination in every aspect of our society. Likewise, discrimination that specifically targets business owners of color and minority entrepreneurs has been painstakingly and repeatedly documented by Congress.[3]

The evidence of racial discrimination in the context of small business previously submitted to Congress has included quantitative evidence of statistically significant racial disparities in both public contracting and the private sector.[4] More recent studies likewise reveal that racial inequities remain pervasive. For instance, a recent report of the Federal Rail Administration found both qualitative and quantitative evidence of racial discrimination in both the public and private sectors across all major U.S. industries, with a special emphasis on industries related to rail.[5] Additionally, Congress has received hundreds of disparity studies documenting statistical inequities showing racial discrimination against businesses owned by people of color from states and localities from across the nation.[6]

As the testimony before this Committee at this hearing, and at hearings in the past, has evinced, the racial discrimination experienced by minority business owners goes beyond the cold,

---

[3] See, e.g., *The Compelling Interest for Affirmative Action in Federal Procurement: A Preliminary Survey*, 61 Fed. Reg. 26,050 (May 23, 1996); *Compelling Interest for Race- and Gender-Conscious Federal Contracting Programs: An Update to the May 23, 1996 Review of Barriers for Minority- and Women-Owned Businesses* (2010) *(See Minority Contracting: Opportunities and Challenges for Current and Future Minority-Owned Business: Hearing before Subcomm. on Gov't Mgmt., Org. and Procurement of the House Comm. on Oversight & Gov't Reform*, 111th Cong., 2d Sess. (2010) (testimony of David A. Hinson, National Director, Minority Business Development Agency, U.S. Dep't of Commerce)); Notice of Report on the Lawful Uses of Race or Sex in Federal Contracting Programs, 87 Fed. Reg. 4955 (Jan. 31, 2022) (U.S. Dep't of Justice, *The Compelling Interest to Remedy the Effects of Discrimination in Federal Contracting: A Survey of Recent Evidence* (2022)).

[4] *See, e.g.,* Testimony of Dr. Jon Wainwright, *Driving Equity: The U.S Department of Transportation's Disadvantaged Business Enterprise Program,* a hearing before the Committee on Transportation and Infrastructure of the U.S. House of Representatives, H. Hrg 116-64, at 40; Expert report of Dr. Jon Wainwright in *Ultima Servs. Corp. v. U.S. Dep't of Agric.*, (E.D. Tennessee 2:20-cv-0004) submitted to the record during this hearing.

[5] Federal Rail Admin., U.S. Dep't of Trans., Report to Congress Concerning Minority- and Women-Owned Small Businesses in Industries Related to the Rail Transportation Sector (2023), https://railroads.dot.gov/sites/fra.dot.gov/files/2023-01/Disparity%20Report%2020230111_0.pdf

[6] *See, e.g.*, Statement of Chairman Peter DeFazio, *Driving Equity: The U.S. Department of Transportation's Disadvantaged Business Enterprise Program,* a hearing before the Committee on Transportation and Infrastructure of the U.S. House of Representatives, H. Hrg 116-64, Sept. 23, 2020 at 3.

impersonal statistics and overwhelmingly represents intentional discrimination. Again and again, business owners have come before this Committee and other committees of Congress and related their own experiences with race-based discrimination. These stories are hard to hear and reflect some of the most humiliating and degrading experiences these business owners have endured. The courage it takes to come forward and tell these stories should not be underestimated. At this hearing alone, witnesses have submitted testimony that they have been subject to racial slurs, denied contracts even when they were the lowest bidder, and bullied and intimidated by public officials and private corporate officials alike. These stories have echoes in many other hearings, both recent and from years past, and they also mirror the personal qualitative accounts included in the many disparity studies before Congress.

There is also significant evidence that the federal government itself has caused some of the discrimination that has prevented minority-owned businesses from succeeding. While this is true in a number of contexts, it has been especially harmful in the crucial area of business lending and credit where people of color have long suffered from unequal access to capital. One especially important example involves the federal government's historical role in red-lining, which has caused property owned by racial and ethnic minorities to be artificially undervalued and has worsened segregation and community disinvestment.[7] This is especially a problem for minority-owned businesses seeking to use their residence as collateral for business loans.

Given the undeniable evidence of rampant racial discrimination faced by minority business owners, the overwhelming majority of federal courts of appeals that have considered the constitutionality of federal programs to assist minority owned businesses and entrepreneurs of color have found those programs to be facially constitutional or have dismissed constitutional challenges on procedural grounds. For example, every federal circuit court that has considered the constitutionality of the U.S. Department of Transportation's Disadvantaged Business Enterprise program since it was revised in the aftermath of *Adarand Constructors, Inc. v. Pena*,[8] has found that program to be facially constitutional.[9]

Recently, a few district court judges, incorrectly importing precedent that applies to higher education into the minority contracting context, have begun to undermine federal remedial efforts that assist minority owned businesses. However, as multiple circuit courts have long made clear, the Supreme Court's opinions in *City of Richmond v. J.A. Croson Co.* and *Adarand*[10] remain good law. These *applicable* precedents firmly permit the continuation of federal, state, and local

---

[7] *See, e.g.,* RICHARD ROTHSTEIN, THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA (2017);Testimony of Richard Rothstein, Distinguished Fellow of the Economic Policy Institute and Senior Fellow, Emeritus, NAACP Legal Defense and Educational Fund, Inc. on behalf of himself and Sherrilyn Ifill President and Director-Counsel NAACP Legal Defense and Educational Fund, Inc. Before the U.S. Senate Committee on Banking, Housing & Urb. Affairs, Separate and Unequal: The Legacy of Racial Discrimination in Housing 6 (Apr. 13, 2021), https://www.naacpldf.org/wp-content/uploads/LDF-Testimony-Senate-Banking-Racial-Discrimination-in-Housing_FINAL.pdf.

[8] 515 U.S. 200 (1995).

[9] *Adarand Constructors, Inc. v. Slater,* 228 F.3d 1147 (10th Cir. 2000); *Sherbrooke Turf, Inc. v. Minnesota Dept. of Transp.*, 345 F.3d 964 (8th Cir. 2003); *W. States Paving Co. v. Wash. State DOT*, 407 F.3d 983 (9th Cir. 2005); *N. Contracting, Inc. v. Illinois*, 473 F.3d 715 (7th Cir. 2007).

[10] *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995).

programs, designed to remedy racial discrimination against minority business owners and entrepreneurs.

As a nation, we are facing a generationally defining moment in which what we do to uplift and safeguard the ability for all people to thrive will determine whether democracy will prevail. Indeed, democracy depends on a government that works for all people and seeks to remedy and remove barriers to opportunities for people and communities. Yet, progress in many communities, institutions, and halls of government to further racial and gender equity, and other forms of diversity and inclusion has been met with harmful and aggressive, anti-civil rights attacks, as evidenced by testimony we heard in this hearing. Efforts to remedy discrimination and ensure that America's vast resources are available to all are not just in the interest of minority business owners and minority entrepreneurs. Economic inequality, especially when based on race, undermines the stability, validity, and productivity of our nation. We must work collectively to make progress toward equality for all. There is no more compelling reason for our nation to recommit itself to ending racial discrimination and all forms of discrimination than the need to safeguard our democracy.

Thank you.



Mission Lenders Working Group

Building Success in Underserved Communities

Statement for the Record Submitted to the
Senate Small Business and Entrepreneurship Committee

For the hearing:
"Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination"

Monday, May 6, 2024

Submitted on behalf of the Mission Lenders Working Group

Senator Cardin and members of the committee, on behalf of the Mission Lenders Working Group (MLWG), I write to thank you for convening a hearing focused on ensuring that all small businesses, particularly minority-owned businesses, can access the full range of resources they need to be successful. While the hearing was primarily focused on protecting and strengthening efforts to ensure that minority-owned businesses have access to federal contracting opportunities, witnesses also spoke to the barriers that too many minority and female entrepreneurs, especially those who are under-resourced and/or seeking to launch a new business, continue to encounter as they try to secure responsible and affordable financing for their venture. Our statement is focused on the SBA's Community Advantage (CA) program and how CA lenders (now CA SBLCs) have intentionally increased SBA-backed lending to under-resourced businesses and underserved communities - including increasing lending to under-resourced Black-owned and Hispanic-owned businesses.

The SBA initiated the CA pilot in 2011 using its authority to establish temporary pilot programs.[1] The CA pilot was explicitly created to increase lending to underserved businesses by granting select mission-driven, non-bank lenders the authority to offer an SBA guarantee on loans of up to $350,000 to small businesses unable to access a conventional bank loan even with the backing of a conventional 7(a) guarantee. CA lenders are required to deliver at least 60% of their CA loans to businesses in "underserved markets," currently defined by SBA to be a business entity that is a start-up, Veteran-owned, located in an Empowerment Zone or Enterprise Community, a HUBZone, a Low-to-Moderate Income (LMI) community, an Opportunity Zone, or a rural area.

In 2015, the MLWG network was organized as a way for CA lenders to share best practices as mission-focused lenders that are intentionally targeting under-resourced businesses. Members see their organizations as a coalition and stewards of the CA program with a shared commitment to financing, supporting, and sustaining underserved and underbanked small businesses. The lenders in the working group represent a diverse cross-section of the CDCs, CDFIs, and Microlenders participating as CA lenders including some of the largest CA lenders in terms of volume as well as smaller lenders, rural-focused lenders, and lenders targeting underserved urban centers, but all are seasoned lenders and all are purposefully financing, supporting and sustaining underbanked businesses.

CA lenders understand that access to capital is critical to the success of *any* small business. The 2022 Federal Reserve Small Business Credit Survey reported that applicant firms owned by people of color were about half as

[1] SBA, "Community Advantage Pilot Program," 76 Federal Register 9626, February 18, 2011. In identifying this authority, SBA referenced 15 U.S.C. §636(a)(25) and 13 C.F.R. §120.3.

likely as white-owned applicant firms to receive all the financing they sought.[2] In addition, businesses owned by people of color faced more financial and operational challenges than their white-owned counterparts and often were less successful at obtaining the funding needed to weather the effects of the pandemic.[3] The 2023 Federal Reserve Report on Employer Firms further highlighted that of the applicants seeking loans, lines of credit, and cash advances, Black-owned were among those least likely to be fully approved in 2022. For most firm categories, financing approval rates declined from pre-pandemic levels.[4]

The CA program has been successful in addressing the financing gap facing small businesses and emerging entrepreneurs that the SBA deemed to be in underserved markets for purposes of the CA pilot. While Black-owned or Hispanic-owned businesses are not considered to be "underserved" for purposes of meeting the 60% target for CA lenders, SBA-backed lending to these businesses has increased significantly with the introduction of the CA program. In FY 2023 alone, 800 CA loans, including 5 CA Lines of Credit were approved, for a total of $141 million with an average loan size of $177,000.[5] Of the 795 CA loans approved, Black-owned businesses received 157 loan approvals (19.7%), and were to Hispanic-owned businesses received 70 loan approvals (8.8%). In FY 2023, conventional SBA 7(a) lenders made 56,562 loans for $27.37 billion with 4,414 (7.8%) approvals for Blacked-owned businesses and 6,815 (12%) approvals for Hispanic-owned businesses.

The SBA recently certified 30 new lenders to participate in the CA program which brings the total number of CA SBLCs to 141. One of the new CA SBLCs is Baltimore Community Lending (BCL), a Maryland-based and focused Microlender and CDFI dedicated to delivering responsible, affordable lending products to help low-income, low-wealth, and other disadvantaged people and communities join the economic mainstream. In 2023, before becoming a CA SBLC, 87% of BCL's small business loan approvals were to minority-owned small businesses, 52% went to women-owned small businesses, and 52% went to start-up businesses. We focus on BCL's lending track record to highlight their work as a community-based lender intentionally developing and delivering products and services to address the needs of neighborhood businesses in their under-resourced markets.

The CA model works and is powerful for reaching under-resourced communities and underbanked small businesses and entrepreneurs - including Blacked-owned and Hispanic-owned businesses that are not - at least not yet- bankable. We appreciate Senator Cardin's leadership and support for promoting opportunity and recognizing the need for federal programs that seek to break down barriers and help create a level playing field where all aspiring entrepreneurs, including under-resourced minority-owned businesses, can access the tools they need to launch, grow and sustain a business. The MLWG looks forward to working with you and your colleagues to protect and strengthen federal programs - like CA - that do just that.

---

[2] Board of Governors of the Federal Reserve System (U.S). "Small Business Credit Survey (SBCS): 2022 Report on Firms Owned by People of Color." Fed Small Business. https://www.fedsmallbusiness.org/survey/2022/2022-report-on-firms-owned-by-people-of-color. Page 15.

[3] "2022 Report on Firms Owned by People of Color: Based on the 2021 Small Business Credit Survey." 2022. *Small Business Credit Survey*. Federal Reserve Banks. https://doi.org/10.55350/sbcs-20220629

[4] "2023 Report on Employer Firms: Findings from the 2022 Small Business Credit Survey, page 18." 2023. *Small Business Credit Survey*. Federal Reserve Banks. https://doi.org/10.55350/sbcs-20230308

[5] SBA 7(a) and 504 Summary Report Dashboard for FY23 https://careports.sba.gov/views/7a504Summary/Report?%3Aembed=yes&%3Atoolbar=no



Statement for the Record

Lisa Brunet
CEO
DLZP Group, LLC

U.S. Senate Committee on
Small Business and Entrepreneurship

Date:	May 6, 2024
Time:	10:00 AM
Location:	Bowie State University
Topic:	Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination



Senator Cardin and other Members of the Committee thank you for the opportunity to share my story.

As a female Asian, I have faced discrimination all my life. Until you face discrimination or racism firsthand, it is hard to believe that it happens. In fact, according to the Harvard School of Public Health, 31% of all women say they have been discriminated against when applying for jobs due to their gender. The same research showed that more than a third (35%) of Asian Americans report personally experiencing people making insensitive or offensive comments or negative assumptions about their race or ethnicity. Despite the statistics, I never anticipated facing discrimination while trying to work with the federal government.

In 2019, I was certified by the U.S. Small Business Administration for 8(a). As you already know, Congress established the 8(a) program as a nine-year program created to help firms owned and controlled by socially and economically disadvantaged individuals. Businesses like mine receive training and technical assistance to bolster our ability to compete effectively in the American economy. In addition, the SBA works with federal agencies to promote using 8(a) businesses to ensure equitable access to federal procurement opportunities. I was excited to join this group of companies, and I understood it did not mean it would be a free ticket to federal contracts.

At first, everything was going great. In March 2020, right before the world shutdown, I was given a contract from an agency we spoke with for the past year. Then, the 8(a) world turned upside down. COVID changed the dynamics entirely. The federal government shifted to working from home without in-person meetings. Without in-person meetings, all our contacts disappeared, and the long-term relationships developed over countless meetings vanished. My contacts were no longer accepting meetings to talk, and overnight, I went from having regular touchpoints with select agencies to now being a number.

In 2021, I began attending events when everything started opening back up. Unfortunately, these events were not the same as just two years prior. Moreover, many of the agencies I met with in 2019 were not open to meeting at all. It did not take me long to realize that I needed to change my strategy. It was happening in my work world, and my personal world backed up my intuition. For example, I spoke with Representatives from Texas on behalf of a nonprofit about rare diseases. The Representatives were happy to meet and always responded to my letters. Then, on behalf of the 10,000 Goldman Sachs Small Business Program as a minority business owner, when I tried to engage with the Hill, the meetings were canceled with the representatives repeatedly, and I never received responses to my letters. All of this told me if I wanted to make any headway in the federal sector, I needed someone who had the connections and was part of that "network." I was actively looking for the right person, and after doing the research, I realized I needed a Caucasian male to be my point of contact to build out my work with the federal government.

Thus, in the fall of 2021, a seasoned male Caucasian Business Development Representative was looking to transition from his current position to a socio-economic firm. His position before joining



ours was with another small business he helped grow, but he had experience with large prime vendors before then. He was an older male with all the right connections, so I hired him to start at the beginning of 2022. Within a couple of months, he met with agencies through his contacts. We attended a Federal Contracting Conference together where many of the executives from various federal agencies go, and it was apparent that having a Caucasian male representing a female Asian 8(a) firm was the way to make traction at the federal level. He was the first hand everyone shook, and I waited in the wings for the introduction. While the contracts did not come flowing in, it was very apparent that I needed a Caucasian male to make headway again and develop contacts to lead to new contracts.

This was not just one instance. There are many events that I attend where people assume that I am an employee and not the owner of the company. Caucasian men constantly question me about my expertise in running a company and my background. It is worse with certain agencies that do not have a diverse leadership staff. I attended an industry day last June, of which 70% were Caucasian men from other vendors, large primes, and leadership. Even though I was invited to attend since we were SMEs in the area they spoke about, I felt highly unwelcome.

To date, I have had four contracts with the federal government, and currently, we are trying to be a subcontractor on another project. Still, our business relationship is turning into a bunch of broken promises. We worked on the proposal, and during the response phase, the documentation mentioned that we would receive four resources to start with, with the numbers to increase after the first six months of the contract. We mentioned we did not have a facility clearance, and not everyone on our team had it. The large prime said that was not a problem and they would work with us to ensure our team was on the project.

We are in the final phase before the contract award and have been asked to submit our resources. They have changed the requirements and are no longer willing to work with us to get team members' clearance. They have also changed the resources we can submit. They have given us an opportunity to submit additional resources, but they are extremely specialized. One of our resources who has worked for this agency and worked on their implementation was rejected without explaining why he was not a fit.

When we reached out to some of the people in the specialized field, a number of them said they heard directly from the large prime about the opportunity over a month ago. They felt that the large prime was pushing their weight around to get them to sign directly with the large prime vs going with a sub-contractor.

However, despite the constant hurdles and hoops we jump through, I believe that despite the chaos that ensued post-COVID, the 8(a) program was the only entry point for an Asian women business owner like me. The federal government must continue programs to keep our nation's economy vibrant. Moreover, they need to expand them and include more set-asides for these businesses to ensure we can continue playing a role in the procurement system.



I am just one story out of many I hear from fellow women business owners in the National Association of Women Business Owners. For decades, we have been working tirelessly to ensure that women, especially minority women, can reach a level playing field in the federal marketplace.

I appreciate you taking the time to listen to my story. I hope this knowledge helps move the women business owner economy forward because we are indeed the engines of our economy.

National LGBT Chamber of Commerce (NGLCC)
Statement for the Record
U.S. Small Business Committee on Small Business and Entrepreneurship

May 6, 2024

The National LGBT Chamber of Commerce (NGLCC) respectfully submits the following statement for the record in response to the Senate Committee on Small Business and Entrepreneurship hearing held on Monday, May 6, 2024, regarding the 8(a) field hearing.

The 8(a) Business Development Program stands as a crucial cornerstone for diverse small businesses, including LGBTBEs, seeking to expand their operations by engaging with the federal government. Through the 8(a) program, LGBT+ small businesses have gained access to federal contracts, mentorship programs, networking opportunities, and business development assistance that they may not have pursued or accessed otherwise.

These aspects of the 8(a) program are vital for leveling the playing field for diverse-owned businesses that might otherwise encounter barriers when entering the federal marketplace.

The 8(a) program serves as a vital resource for LGBT-diverse owned businesses. 8(a) certified firms have access to a number of free and low cost resources from boot camp training, networking opportunities and educational webinars that can help them access capital and grow their businesses when they may otherwise struggle to do so. Access to capital remains a top concern for LGBT owned small businesses, as they are less likely to receive funding that they apply for compared to other demographics. This was especially true during the pandemic, when 1 in 6 LGBT owned firms reported that they had received none of the pandemic relief that they applied for, compared to 1 in 10 non-LGBT owned firms. That said, federal contracting can serve as an important revenue stream for LGBT owned firms amidst a challenging lending market.

In conversations with members of the NGLCC network, we heard from the owner of an 8(a) certified LGBTBE owned firm. She shared instances where she felt compelled to conceal aspects of her identity, particularly her sexual orientation, due to not feeling welcomed or supported in various contracting settings. These experiences were emotionally and mentally taxing for her, as living authentically is significant, as it is for most of us. For this member, having to conceal her sexuality felt personal and despite her professional credentials, it made her question her place in

the federal contracting arena. Even as discrimination can be subtle and challenging to identify, it has lasting impacts that translate into missed or lost opportunities, discouraging diverse-owned businesses from pursuing contracting opportunities.

Feedback from our members also indicated that despite the program's benefits, improvements are needed to better serve diverse-owned businesses. Some members expressed reluctance in disclosing their 8(a) certification to clients and prospective investors due to fears that it may negatively impact their businesses. Additionally, members shared that while the program offers valuable networking opportunities, graduates often leave with an insufficient professional network and limited opportunities to leverage their certification to grow their businesses.

Regarding the reluctance of 8(a) firms to disclose their certification, members specifically expressed concern that potential investors and clients would make unfair assumptions about the capacity of an 8(a) certified firm to execute on a project. That said, there are misconceptions regarding the 8(a) program that stem from systemic bias towards the businesses that utilize the program to help prepare their businesses to prepare themselves for contracts.

The 8(a) Business Development Program is a vital resource for diverse-owned businesses, preparing them for contracting opportunities in the public and private sectors while addressing challenges that stem from discrimination. It provides meaningful opportunities for firms to prepare for larger contracts despite certain limitations.

NGLCC appreciates the opportunity provided by the Senate Committee on Small Business and Entrepreneurship to offer feedback on this critical issue. We look forward to being a resource as the Committee continues to explore solutions that create more opportunities for LGBT+ owned businesses.



National Minority Supplier Development Council
Statement for the Record
Senate Committee on Small Business and Entrepreneurship
U.S. Small Business Administration, U.S. Small Business Administration 8(a) Field Hearing - May 6, 2024
Bowie, Maryland

The National Minority Supplier Development Council (NMSDC) values the opportunity to provide insights on the U.S. Small Business Administration (SBA) 8(a) Business Development Program, underscoring the pivotal role it plays in combating racial discrimination within federal contracting.

The 8(a) Business Development Program is essential because it addresses the systemic racial discrimination and biases that minority-owned businesses frequently encounter in the federal contracting space. For instance, Ronnette Meyers, president and CEO of JLAN Solutions, faced both overt and subtle discrimination throughout her career, from unsettling questions about her presence in technical roles to being marginalized and dismissed during professional networking sessions. These discriminatory practices hindered her ability to secure contracts, build partnerships, and grow her business. Without the 8(a) Program, minority entrepreneurs like Meyers would struggle even more to overcome these barriers, as the it offers vital access to government contracts, enhances networking and mentorship opportunities, and provides targeted outreach and education. It not only helps level the playing field but also empowers minority-owned businesses to build credibility, gain economic stability, and achieve long-term success.

The 8(a) Program contributes to leveling the playing field for minority-owned businesses that often encounter systemic barriers in the competitive federal marketplace. By providing access to government contracts specifically reserved for program participants, the program offers these businesses a revenue stream and an opportunity to establish credibility and build a performance track record that is often out of reach due to racial and economic disparities.

While the 8(a) Program is not without its limitations in fully eradicating racial discrimination, it is a vital component of helping minority-owned enterprises overcome the unique barriers and challenges they face. Members of our community report experiences of isolation and subtle biases, often as a result of racial discrimination, which affects their ability to secure contracts and effectively network within the industry. These challenges are not exclusive to the 8(a) Program but are pervasive throughout the federal contracting space. As a result, many businesses face significant barriers to growth, including difficulties in accessing capital and other critical resources. Moreover, discrimination is not limited to race. Gender, age, and disability biases also play a role in limiting opportunities. Even participation in the 8(a) Program does not fully shield members from these systemic issues, highlighting the need for broader, more inclusive reforms to support minority-owned businesses in overcoming these obstacles.

These issues highlight the need for continual improvements to address and mitigate the impact of such discrimination. The 8(a) Program has been instrumental in promoting economic diversity and empowerment among minority-owned businesses, offering numerous benefits that help MBEs overcome

barriers:

- **Enhanced Monitoring and Accountability:** It ensures greater transparency in how contracts are awarded. Regular audits and mandatory reporting by federal agencies on their contracting practices with minority-owned businesses are essential to identify and address racial biases. This accountability helps create a fairer distribution of opportunities for MBEs, highlighting the importance of maintaining and strengthening these measures within the program.
- **Expanded Networking and Mentorship Opportunities:** It offers MBEs unique networking and contracting opportunities that might otherwise be inaccessible. By enhancing mentor-protégé programs, minority business owners gain access to and learn from successful entrepreneurs in their field. Structured and intentionally inclusive networking opportunities provided by the program are vital for the growth and success of MBEs, underscoring the positive contributions of the program.
- **Targeted Outreach and Education:** Many minority-owned businesses are not fully aware of the 8(a) Program or how to navigate its complexities. Its targeted outreach and educational workshops empower these businesses with the knowledge needed to leverage the program effectively. By increasing awareness and understanding, more MBEs can take advantage of the resources and opportunities available to them, demonstrating its critical role in supporting MBEs.

While the 8(a) Program offers significant support to MBEs, broader reforms in federal contracting are necessary to combat the impact of racial discrimination and support minority-owned businesses in overcoming systemic barriers. Its success exemplifies how targeted initiatives can foster economic inclusivity, emphasizing the need to protect and recognize the importance of it in the broader landscape of federal contracting.

This program remains critical for promoting economic diversity and empowerment among minority-owned businesses. However, to realize its full potential in combating racial discrimination, continued updates are essential. NMSDC is eager to collaborate with the Senate Small Business Committee, the SBA, and other stakeholders to refine and strengthen the program, ensuring it effectively addresses the barriers faced by minority business enterprises today. While more can be done, the 8(a) Program is a powerful catalyst for economic inclusivity and a model for overcoming systemic racial barriers in federal contracting. It is essential to protect and recognize its importance in supporting MBEs.

SMALL BUSINESS MAJORITY

WRITTEN STATEMENT FOR THE RECORD BEFORE THE U.S. SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

PROMOTING OPPORTUNITY: THE NEED FOR TARGETED FEDERAL BUSINESS PROGRAMS TO ADDRESS ONGOING RACIAL DISCRIMINATION

May 6, 2024
John Arensmeyer
Founder & CEO, Small Business Majority

Dear Chair Shaheen, Ranking Member Ernst, and members of the Committee on Small Business and Entrepreneurship:

As a leading representative of America's 33 million small businesses, Small Business Majority is pleased to provide written testimony to the U.S. Senate Committee on Small Business and Entrepreneurship regarding efforts to preserve, protect, and expand programs targeting minority entrepreneurs.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our nine offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enables us to educate stakeholders about keys issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

Minority entrepreneurs face disproportionate barriers when it comes to achieving the American Dream, despite their presence and contributions to our economy. According to recent data from the U.S. Census Bureau, there are approximately 12 million minority-owned businesses in the U.S., both employer and non-employer firms, which contribute over $2 trillion to the economy annually.[1] [2] However, the barriers these entrepreneurs face due to centuries of systemic challenges and racial discrimination have historically stood in the way of their success. Whether through efforts to obtain and utilize sustainable, responsible, and transparent capital products, or through efforts to win contracts with the federal government, minority business enterprises (MBEs) oftentimes are forced to rely on the help of programs curated to meet their unique needs to drive their business forward.

As an organization that represents a network consisting of over two-thirds of MBEs, Small Business Majority continues to see these challenges, driven by racially motivated discrimination, play out in real time. When it comes to accessing capital, according to a nationwide report from 2021, small business owners of color have encountered more setbacks when obtaining capital than their white counterparts.[3] While 1 in 5 (19%) of small business owners overall obtained less financing than they sought, this number was higher among Asian Americans and Pacific Islanders (AAPI) (36%), Black (31%), and Latino (26%)

[1] "Census Bureau releases new data on minority-owned, veteran-owned and women-owned businesses." U.S. Census Bureau. October 26, 2023. https://www.census.gov/newsroom/press-releases/2023/annual-business-survey-employer-business-characteristics.html.
[2] "Census Bureau releases nonemployer business data by demographic characteristics of owners." U.S. Census Bureau. February 8, 2024. https://www.census.gov/newsroom/press-releases/2024/nonemployer-business-data.html.
[3] "Small businesses struggling to access capital, harming their financial recovery." Small Business Majority. February 17, 2021. https://smallbusinessmajority.org/our-research/access-capital/small-businesses-struggling-access-capital-harming-their-financial-recovery.

small business owners.[4] Similarly, while 18% of small businesses, overall, were denied a loan, the rates of loan denials were higher among people of color: 32% of Black, 23% of Latino, and 22% of AAPI business owners were denied funding. This data points towards the larger-than-imaginable capital and opportunity gaps faced by so many members of our communities. Therefore, underscoring a need for targeted, meaningful investment to MBE communities will help bring them closer to parity with their counterparts in other demographic groups.

MBEs also face significant challenges when seeking to compete for federal contracts and opportunities. For example, the U.S. Small Business Administration's (SBA) FY22 data estimated that small, minority-owned firms only received 9.62% of all contract awards, compared to 16% of contracts that went to white-owned firms (larger firms received over 74% of all contract awards), compounding this disparity further. This is concerning as the U.S. government is the largest purchaser of goods and services in the world. In fact, the government is projected to spend over $750 billion in contracts this year alone.[5] The federal government is also increasing its spending thanks to the Bipartisan Infrastructure Law, which directs even more funding and creates opportunities for contractors to work with the government. However, this historic funding will not reach the smallest, most disadvantaged entrepreneurs without targeted support from federal agencies to break into the networks they need to achieve success in such a difficult sector. It is not surprising then that certain agencies whose mission it is to serve the interests of minority entrepreneurs cite a lack of access to networks critical to succeed. For example, a report conducted by the MBDA in 2016 found that 86% of minority-owned businesses cited a lack of networks as an exclusionary factor to obtaining federal contracts.[6] For these dollars to truly make an impact, it is critical that the government continues to invest in and strengthen its small business set-aside programs, setting up small and minority-owned contractors for future success.

The examples we share here, including barriers to capital and contract opportunities, are only two small instances that demonstrate the disparities MBEs continue to face, and in today's political climate, their challenges are worsening. In the wake of the 2023 Supreme Court's affirmative action ruling, programs across the country that have historically served marginalized communities continue to face setbacks. By way of legal or philosophical challenges, some of these programs are no longer able to support the communities that need them most. Some recent examples of action taken against these programs include attacks on private funds designed to support minority groups, such as the lawsuit filed against Fearless Fund, blocking the venture fund from supporting grants to Black women-owned businesses.[7] Another challenge against government sponsored programs include the SBA 8(a) business development program, a program geared at providing access to procurement opportunities for small and disadvantaged businesses.[8]

In another recent attack, the Minority Business Development Agency (MBDA) was challenged due to the definition of socially and economically disadvantaged used by the agency and a U.S. District Court Judge ruled against MBDA.[9] The MBDA is the only federal agency with minority in its name and is dedicated to supporting the development and expansion of MBEs which are essential to building a thriving and equitable economy. As business formation has surged over the past three years, the agency has been a proven lifeline for many entrepreneurs seeking to start and grow their businesses in our nation's most under-resourced communities. Their mission is critical to addressing the historic barriers that these

---

[4] Ibid.
[5] "Contract spending is set to grow across the board in 2024." Federal News Network. November 7, 2023. https://federalnewsnetwork.com/contracting/2023/11/contract-spending-is-set-to-grow-across-the-board-in-2024/.
[6] "The Compelling Interest to Remedy the Effects of Discrimination in Federal Contracting: A Survey of Recent Evidence." https://www.justice.gov/crt/page/file/1463921/dl?inline
[7] "Grant program for Black women comes under tough questioning in key anti-DEI lawsuit." Associated Press. January 31, 2024. https://apnews.com/article/fearless-fund-dei-corporate-diversity-backlash-lawsuit-2196b5086012b427393c77a3807d4d64.
[8] In the 8(a) decision, a court ordered that SBA's presumption of social disadvantage was unfair for other businesses (largely, white-owned firms) trying to compete for the very limited set-aside dollars to support small, underserved firms. This ruling is representative of a broader attack on programs that are designed to lift marginalized communities from the depths of systemic racial barriers to success. https://www.sba.gov/document/policy-guidance-impact-recent-court-decision-ultima-servs-corp-v-dept-ag-ed-tenn-use-8a-program
[9] "MBDA ruling is a disappointing setback for underserved small businesses." Small Business Majority. March 6, 2024. https://smallbusinessmajority.org/press-release/mbda-ruling-disappointing-setback-underserved-small-businesses.

businesses face. The ruling was representative of yet another striking blow to the small business owners in our network from underserved and minority communities that these programs seek to provide targeted services to. If the MBDA is unable to continue serving the communities it was created to serve, the consequences of removing that support would be detrimental to the fabric of our economy.

In the corporate sector, attacks on Diversity, Equity, and Inclusion (DEI) initiatives continues to grow. Companies that once stood in support of racially targeted programs in the wake of the murder of George Floyd have walked back their commitments in double-time. For example, recent data by Revelio Labs shows that companies like Zoom, Meta, Tesla, DoorDash and others, made cuts to their DEI programs in the wake of affirmative action lawsuits.[10]

Even more concerning, the U.S. House of Representatives dissolved its Office of Diversity and Inclusion this year. [11] The provision to halt DEI initiatives rode quietly on legislation that provided last-minute, buzzer-beater funding to the government preventing a shutdown for the remainder of FY24. The clear trickle-down and chilling effect of the dismantling of systems that protect and serve minority communities across the country following last year's affirmative action case are only the beginning. Therefore, it's imperative for our federal government to act now and play a key role in reversing this damage. Now is the time to double-down on our efforts to protect, expand, and invest in programs serving minority-owned businesses and minority entrepreneurs. The attacks on DEI initiatives and programs specifically targeting minority-owned businesses and entrepreneurs have led to an overall apprehensiveness within the business community that we serve. From partners to our business owners, without action from the government to protect these programs, communities fear they will be left out of the opportunity to connect with the resources and assistance they need to grow.

As an advocate for America's small business community and a fervent supporter of programs designed to provide equitable opportunities for entrepreneurs, Small Business Majority stands in unwavering support of programs that specifically target minority-owned businesses and combat the impacts that racial discrimination has plagued our economy for centuries. Due to a continuing onslaught of historic and current injustices, minority communities need extra support, guidance, and access to resources to start and operate their businesses. As an advocate for what we call "real small businesses," solopreneurs, and minority-owned enterprises, we know too often that race has stood in the way of potential success. Equity initiatives are key to leveling the playing field for underserved and disadvantaged entrepreneurs, and we cannot afford to keep losing support infrastructures for these communities. To that end, our nation is made up of many different communities, cultures, and backgrounds, and we must meet entrepreneurs where they are rather than provide them with a one-size-fits-all approach when it comes to government support and programming.

Below, we detail some ways in which they government can uphold its commitment to equity by continuing to invest in programs that are critical to the success of all entrepreneurial ecosystems.

1. **Commit to provide the funding support and capacity needed for proven programs such as the MBDA and SBA so they can continue reaching entrepreneurs of all backgrounds.** While the MBDA and SBA programs are only two examples of government-led initiatives, we urge the government to do more by way of direct funding to agencies, and through the intentional act of protecting and bolstering programs that target underserved communities to ensure all may compete on a level playing field. As the data shows, disparities remain despite the available opportunities. To ensure that business owners who want to work with the government can do so or can gain the understanding and guidance needed to navigate federal opportunities, more must be done to strengthen and protect the MBDA (and its contracting programs) and the SBA's 8(a) program. We have worked with many business owners who have seen a great deal of success from utilizing programs designed to uplift underserved small businesses. For example, an

[10] "As DEI gets more divisive, companies are ditching their teams." The Washington Post. February 18, 2024. https://www.washingtonpost.com/business/2024/02/20/corporate-diversity-job-cuts/.
[11] "U.S. House Office of Diversity and Inclusion to be disbanded as part of government spending bill." U.S. House Office of Diversity and Inclusion. March 25, 2024. https://diversity.house.gov/2024/03/25/us-house-office-of-diversity-and-inclusion-to-be-disbanded-as-part-of-government-spending-bill/.

8(a) graduate on our board of directors is an experienced government contractor – this business owner has the 8(a) program to point back towards that built the foundations of their procurement success many years ago. To ensure that success stories continue to underscore their importance to the minority business ecosystem, key programs must continue to be supported federally. It is the federal government's duty to provide the services and support needed for disadvantaged communities to thrive and this includes expanding and protecting the successful programs designed to reach communities that are all too often at a racial or systemic disadvantage.

2. **Ensure that federal procurement opportunities are available and accessible to all by expanding and evaluating set-aside programs for MBEs.** Each agency is tasked with the responsibility of serving disadvantaged and underutilized small businesses through their Offices of Small and Disadvantaged Business Utilization (OSDBU) or similar departments. These divisions are tasked with the goal of increasing the utilization of small contractors and assisting small and disadvantaged business enterprises in the pursuit of opportunity to work with the federal government. We believe these programs must be strengthened and held accountable on their equity initiatives to bridge opportunity gaps between communities. Similarly, we urge Congress to protect and strengthen set-aside programs by ensuring that all MBEs gain access to the same opportunities as their counterparts. To ensure MBEs have a fair shot at tapping into historic opportunities to work with the government through recent landmark legislative investments, we encourage Congress to hold agencies accountable to increasing the small business spend across all MBE groups through targeted outreach, technical assistance, and resources tailored to meet the needs of specific communities.
3. **Ensure accountability across federal programs that serve minority business communities.** Ensuring that programs that are designed to help our small business communities are held accountable on their goals will increase their effectiveness and dollar for dollar value. A good example of accountability in government programs can be seen in recent SBA efforts to disaggregate its contracting data by racial group. Shedding light on the disparities faced by certain communities is critical to developing public policy solutions that prevent these disparities from growing further. We urge Congress to ensure that agencies are taking a closer look at their spending and contracting habits, measuring the economic impact of the invested dollars in small, MBEs across the nation.
4. **Develop strong reporting requirements for programs to demonstrate impact and sustain public support.** Recognizing that each member of Congress represents the needs of their constituents, more must be done to show taxpayers the value of supporting minority programs, and this starts with strong data collection. We must ensure that programs supporting minority communities are measurable, impactful, and continue to shape a feedback dialogue between public and private entities to inform their success moving forward. Demonstrating a clear link between targeted investment and increasing success rates in MBE communities will be paramount to ensuring that these programs can continue to operate and provide services to those who need them.
5. **Push forward with efforts to shed light on racially motivated disparities and barriers across the small business ecosystem.** For the government to be a leader in this space, agencies and leaders in Congress should remain at the forefront of encouraging more transparency in our economy. Unfortunately, data collection efforts to help our nation's decisionmakers understand the current landscape are under attack, as demonstrated by legal pushback on the Consumer Financial Protection Bureau (CFPB)'s move to implement section 1071 of the Dodd-Frank act in its small business lending data collection initiative.[12] While this example is just one instance of how legal barriers are hindering a more transparent economy, it represents the tip of the iceberg concerning attacks on equity across the country and the world.

[12] "Court issues nationwide stay of CFPB's Section 1071 Small Business Lending Rule." Greenberg Traurig. October 30, 2023. https://www.gtlaw.com/en/insights/2023/10/court-issues-nationwide-stay-of-cfpbs-section-1071-small-business-lending-rule.

> We believe that without access to comprehensive data on how MBEs fare in today's economy, attacks on key programs designed to address discrimination will persist, ultimately hindering the effectiveness of programs both public and private.

Small Business Majority recognizes that the federal government plays a critical role in understanding and addressing the disparities and inequities faced by minority communities. While we outline a few programs that work to bridge some of these inequities in this testimony, we know that there are many other programs–both public and private–that remain at risk of failing to achieve their full economic potential. When it comes to business ownership, a cornerstone of the American Dream, it is critical that the government continues to invest in communities that historically face barriers to success. We thank you for the opportunity to comment on these critical issues and welcome the Committee's efforts to ensure that our federal programs are meeting the needs of America's diverse small businesses. For any questions or additional information, please contact Government Affairs Director, Alexis D'Amato at adamato@smallbusinessmajority.org.

Sincerely,

John Arensmeyer
Founder & CEO
Small Business Majority

SMALL BUSINESS MAJORITY

TESTIMONY OF HYACINTH TUCKER

FOUNDER & CEO, THE LAUNDRY BASKET LLC

Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination

May 6, 2024

Dear Chair Shaheen, Ranking Member Ernst, and members of the Senate Committee on Small Business and Entrepreneurship, thank you for providing the opportunity to submit a written statement for the record regarding the discrimination faced by minority contractors. As the founder of The Laundry Basket LLC, I've experienced firsthand the challenges and barriers that minority-owned businesses encounter in the entrepreneurial landscape.

One notable incident of systemic discrimination occurred when seeking financing to expand my business operations. Despite having a solid business plan and a track record of success, I faced significant hurdles in securing loans from traditional financial institutions. After extensive research on typical lending practices and speaking with other small business owners in my network, I learned I was being subjected to higher interest rates and stricter lending criteria compared to my non-minority counterparts. Not only did lenders express skepticism about the viability of my business model, despite providing ample evidence of its potential success, but I also found the loan application process itself seemed more rigorous and burdensome compared to what my non-minority counterparts reported. This unequal treatment not only hindered my ability to grow my business but also highlights the economic disparities within the community.

Another example of bias occurred during the bidding process for a lucrative contract with a major corporate client. Despite submitting a competitive proposal that met all the requirements, I was ultimately passed over in favor of a larger, non-minority-owned firm. The questions I was asked when interviewed by a panel of decision makers implied a lack of confidence in my ability to deliver on the contract despite there being clear evidence I could. Throughout the evaluation process, I was subject to remarks and microaggressions from the client that led me to believe the decision was influenced by implicit biases and preconceived notions about the capabilities of minority-owned businesses. This experience highlighted the systemic barriers faced by minority contractors and shows the need for greater diversity and inclusivity in procurement practices.

The recent attacks against equity-based programs in both the public and private sectors only serve to make these challenges worse. Programs such as the 8(a) Program and the Minority Business Development Agency play a crucial role in leveling the playing field and providing opportunities for minority entrepreneurs to thrive. Any attempts to shut down or undermine these programs not only threaten the progress made towards equity and inclusion, but also hinder the economic growth and prosperity of our communities.

It is important policymakers and stakeholders recognize the importance of addressing discrimination and promoting diversity and inclusion in the business ecosystem. By encouraging an environment that supports and uplifts minority-owned businesses, we can encourage untapped potential, drive innovation and create a more equitable economy for all.

I hope my testimony can shed light on the experiences of minority contractors and serve as a catalyst for meaningful change. I am committed to working alongside policymakers, advocacy organizations and my fellow entrepreneurs to advance policies and initiatives that promote equity and opportunity for all.

Thank you once again for the opportunity to contribute to this important conversation. Please do not hesitate to reach out if you require any further information or assistance.

Sincerely,

Hyacinth Tucker
Founder & CEO
The Laundry Basket LLC



TransPacific Communications
Statement for the Record
Senate Committee on Small Business and Entrepreneurship

Field Hearing: Promoting Opportunity: *The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination*

On behalf of TransPacific Communications (TPC), I'm pleased to share the following statement for the record in response to the Senate Committee on Small Business and Entrepreneurship field hearing, Promoting Opportunity: *The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination* held on May 6, 2024.

TransPacific Communications is an 8(a) Certified Business and has more than 20 years of expertise in Cross-Cultural Communications, translation and interpretation, DEIA, coaching, consulting and media training. We are an Economically Disadvantaged Woman Owned Small Business (EDWOSB) and have worked in the public and private sectors. We have been 8(a) certified since September 25, 2018.

Throughout TPC's experience as an 8(a) firm, I have gained access to contracting opportunities that I may not have otherwise had access to as a woman-minority owned firm. I have also had the opportunity to build professional relationships through networking and industry events. However, I cannot overlook significant challenges I have endured within the federal contracting space as a result of my race that have cost me time, capital and deep emotional pain. The 8(a) Business Development Program, despite its flaws, is an important program, and it serves a crucial purpose, which is to help minority owned firms like mine access contracting opportunities.

In the 6 years since TPC received 8(a) certification, there have been several instances in which we've experienced discriminatory treatment at the hands of contracting officers who have not upheld the values of the SBA's 8(a) policy, causing me to lose contracting opportunities and to question my worth in this space. There are systemic barriers that minority-women owned firms face in federal contracting, and the 8(a) program is a much needed mechanism to reduce them. Even still, there are instances of discriminatory practices that persist and have a negative impact on minority-women owned firms.

For example, when we first became certified, TPC had spent considerable time and effort developing an 8(a) contract with a federal agency. It was disheartening to learn that after putting forth such effort, that the contract was nearly botched because the agency unexpectedly

canceled the contract. Then, I found out through different channels that we lost the contract because the contracting officer forgot about it and decided to cancel it. That experience was awful enough on its own, but does not compare to the treatment I received from the contracting officer after I discussed this incident with the Director of Contracting and Procurement for the agency, and eventually provided suggestions to improve the 8(a) program in a Congressional testimony. I used my Congressional testimony to let the agency know that I was worth it – and only then was our 8(a) contract revived. In response to my taking action, I received a phone call from the contracting officer who forgot about our contract to let me know that he was not pleased that I had met with the Director of Contracting and Procurement. He screamed and yelled at me, intimidating and threatening in early October of 2019. I was shaken after the call. I had never been abused by anyone in such a verbally violent manner, let alone a stranger, and a government official. When I told an SBA liaison about this call, they responded “that’s just how he is.” We have only 9 years in the 8(a) program and we lost an entire year due to this type of unprofessional and discriminatory behavior toward an Asian American small businesswoman.

In another instance, TPC was approached by an agency working group to create a Diversity, Equity, Inclusion and Accessibility (DEIA) report given our firm's expertise on DEIA. We were asked to prepare this report in advance of a new contracting official coming on board, and after spending several months conducting a careful review of the agency’s practices and procedures, we presented a thorough report. Upon review by the agency working group that asked us to write the report, we were asked to redact much of the ‘unfavorable’ information we found in our review. The agency working group wanted to present a positive report and implied that if we didn’t redact specific elements of the report, that we would suffer reputational risk. This experience left me feeling deeply conflicted, as I didn’t want to have a ‘black mark’ on my firm, but I also wanted to ensure that discriminatory practices were identified and addressed.

When working with the same team, I could not help but notice that the entire working group was comprised of white women, with the exception of one Black woman. At one point, I was also warned to reassign the employee (who was a Black woman) whom I had assigned to work with this agency working group because in their words, “you need to look like the client”. In this case, the “clients” were white women.

One more example I will share happened in October 2022. I met a programming officer at an agency summit and after I’d shared some background on my firm in addition to the importance of translation, she shared that she was getting ready to put on webinars and was looking for a translation. I built a strong connection with the program officer, and she came to trust and rely on TPC due to our translation capabilities. She sought help with a Scope of Work (SOW) for a translation project. Sensing a chance for TPC's 8(a) sole-source, I provided an SOW, which she accepted. However, another agency's CO, unaware of 8(a) advantages, engaged in extensive inquiries but ultimately dismissed our capabilities. Despite the program officers' endorsement, they chose a problematic vendor for their second webinar. Later, the program officer informed me that their agency decided to advertise the SOW solely on GSA, inaccessible to TPC. This outcome left us disheartened after months of effort, despite leveraging OSDBU support from another department. Following this setback, on the advice of an OSDBU officer, I sent a

compelling letter to the agency and to the agency asking them to reconsider and open up for fair competition and to include 8(a). To my surprise, the agency's response was both disrespectful and hurtful. To add insult to injury, I noticed agency staff saved the letter under the name "TransAtlantic" which is of course miles apart from TransPacific. It shows how much or how little care was taken in response to my concerns. Feeling saddened, defeated and demoralized, my faith in working in federal space took a severe beating. The adage "You can't fight the City Hall" came to remind me how broken the system can be, despite all the support and access TPC has and the proper channels we have followed.

TransPacific Communications experience in federal contracting stands as a testament to the complexities and challenges faced by women-minority owned businesses within the federal contracting landscape. While our journey as an 8(a) Certified Business has been marked by both successes and setbacks, it is clear that systemic barriers and discriminatory practices persist, hindering the full realization of equal opportunities. Our experiences underscore the vital role of thoughtful and intentional efforts, including the 8(a) program, to address racial disparities and discrimination in federal contracting.

US BLACK CHAMBERS, INC
THE NATIONAL VOICE OF BLACK BUSINESS

"Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination"

U.S. Senate Committee on Small Business and Entrepreneurship
May 6, 2024

Testimony of Ron Busby, Sr., President and CEO of U.S. Black Chambers, Inc.

Chairman Cardin, Senator Van Hollen, Congressman Ivey, and esteemed Members of the Senate Committee on Small Business and Entrepreneurship:

Thank you for the opportunity to address this critical concern today before you. My name is Ron Busby, Sr., and I proudly serve as the CEO of the United States Black Chambers, Inc. (USBC). It is an honor and humble duty to speak with you and shed light on the pervasive issue of discrimination within the Small Business Administration's 8(a) government contracting program.

It is my belief that the 8(a) program is designed to provide a pathway for disadvantaged small businesses to compete for federal contracts. The program holds tremendous promise as a catalyst for economic growth and community development. Despite its righteous intentions, this program has been peppered with systematic imbalance and barriers that have disproportionately impacted minority-owned businesses, more specifically Black entrepreneurs.

At its core, the SBA 8(a) program was established with the intention of empowering small businesses owned by socially and economically disadvantaged individuals. By offering specialized assistance, including business development support, access to capital, and contracting opportunities, the program aimed to enable these businesses to compete on a more equitable basis in the federal marketplace. For Black-owned businesses, which have historically faced systemic barriers to economic advancement, the 8(a) program represented a means of overcoming institutionalized discrimination and achieving greater financial independence and success.

The significance of the SBA 8(a) program for Black businesses cannot be overstated. It serves as a pathway for entrepreneurs seeking to navigate the complexities of government contracting, which can often be daunting and inaccessible without the program's support. By providing that pathway to federal contracts, the program offers Black-owned businesses a unique opportunity to grow and scale their operations, expand their customer base, and create jobs within their communities. Moreover, the program's emphasis on mentorship and networking enables participants to build

valuable relationships and learn from experienced industry professionals, further enhancing their long-term prospects for success.

As a cornerstone of the economic engine driving America forward, the SBA 8(a) program, in principle, embodies the potential construct of equity, opportunity, and inclusivity. By empowering Black-owned businesses to compete and thrive in the federal marketplace, the program not only strengthens the economic vitality of minority communities but also fosters innovation, diversity, and resilience within the broader business landscape. As we continue to strive for a more just and prosperous society, the SBA 8(a) program remains a critical tool for advancing economic empowerment and realizing the full potential of Black entrepreneurship in America.

In the 1980s, I embarked on my journey with the 8(a) program. Taking the reins of my family's janitorial business, I encountered a pivotal opportunity through a connection I made with a participant who was exiting the program in Oakland, California. The initial contract presented itself in an unlikely location—a neglected auxiliary building nestled in the toughest part of town; an assignment spurned by other companies. Despite the daunting task requiring a workforce of at least 40 individuals, my team fell short in numbers. However, we rose to the challenge, delivering exceptional results with precision and efficiency.

This endeavor marked the catalyst for remarkable growth in my business, catapulting revenues from $3M to $7M almost overnight. With newfound confidence and resources, I expanded my reach, pursuing contracts across the nation, including prestigious opportunities at Ft. Bragg military base and beyond. The transformative impact of the 8(a) program is evident in the success stories it has fostered, notably contributing to the success of numerous black businesses.

Throughout my tenure at the USBC, I have borne witness to the resilience and entrepreneurial spirit of Black business owners who strive to succeed against formidable odds. Yet, too often, their efforts are derailed by a system that fails to provide them with a level playing field. From arbitrary denial of certification to unequal access to contracting opportunities, the barriers faced by Black entrepreneurs in the 8(a) program are not merely obstacles to business growth—they are injustices that consistently perpetuate economic disparities and hinder our nation's progress.

In my role as President and CEO of U.S. Black Chambers, Inc., I regularly encounter the frustrations of well-prepared members encountering hurdles in securing government contracts. The process is bogged down by redundant inquiries, leading to unnecessary complexity and depriving many qualified businesses of opportunities.

Illustrating the severity of the issue, not a single black-owned firm has secured a contract in the multi-million-dollar CHIPS program, aimed at bolstering the nation's semiconductor capabilities and workforce. Despite our integral role in the American entrepreneurial landscape, equitable opportunities are elusive.

In addition, the transition of the 8(a) program from regional to national exacerbates matters, allowing companies from distant locales to vie for contracts across the country, irrespective of local ties or logistical feasibility. This shift fosters cutthroat competition, with the government prioritizing cost over quality and sustainability.

Furthermore, the government's sluggish payment process poses a significant challenge. The six-month delay between contract commencement and fund disbursement strains the financial resources of many businesses, jeopardizing their viability and potentially leading to closure.

Overall, the current landscape highlights systemic barriers hindering the participation and success of Black-owned businesses in government contracting, underscoring the urgent need for reform and a more equitable playing field.

The most recent data, as of 2020, highlights the necessity of programs like 8(a) in fostering economic empowerment. Black business owners, leveraging federal contracting opportunities, garnered a lowly 1.67% of the available funds. I wholeheartedly believe that black business owners can handle access to a larger percentage of the total spend.

I must also emphasize the critical role that the 8(a) program plays in closing the wealth gap that persists in our society. The ability to secure government contracts through this program not only generates revenue for participating businesses but also enables them to build capacity, invest in infrastructure, and position themselves for long-term success. This, in turn, translates into wealth creation for Black entrepreneurs, their families, and their communities—a crucial step towards economic equity and prosperity.

It is essential to underscore that the benefits of the 8(a) program extend far beyond individual businesses. When Black-owned businesses thrive, they create jobs, stimulate economic growth, and contribute to the vitality of our communities. This ripple effect is especially pronounced in underserved areas where entrepreneurship can serve as a significant catalyst for revitalization and opportunity.

As we look to the future, it is incumbent upon policymakers and stakeholders to preserve and strengthen the 8(a) program, ensuring that it remains a robust and effective tool for advancing economic empowerment and narrowing disparities. This includes measures to streamline the application process, enhance technical assistance and training, and increase access to capital and resources for program participants.

In conclusion, the 8(a) program at the SBA is not just important; it is indispensable to the Black-owned business community and the broader goal of closing the wealth gap. Efforts to weaken or undermine this program must be met with firm opposition, as they run counter to the principles of equity, opportunity, and economic justice. I urge this committee to stand with us in championing the 8(a) program and its mission of fostering a more inclusive and prosperous economy for all.

I always say that America is greatest when we can **ALL** participate.

Thank you for your attention to this critical concern, and I look forward to effective policy improvements and the sustainability of the SBA's 8(a) program as a part of the entrepreneurial and economic engine in America.

Ron Busby, Sr. CEO, U.S. Black Chambers, Inc.

Written Testimony of

LaTanya White, Ph.D., M.B.A.
Founder & Principal Researcher
Concept Creative Group, LLC

United States Senate
Committee on Small Business and Entrepreneurship

Field Hearing

Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination

Senator Cardin, Senator Van Hollen, and Representative Ivey, and Members of the Senate Committee on Small Business and Entrepreneurship:

As a fellow advocate for inclusive opportunities for small businesses and entrepreneurship, it is again an honor to be of service by contributing to your efforts to amplify *The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination.*

I am Dr. LaTanya White, founder and principal researcher of Concept Creative Group, LLC. I have nearly 14 years of providing training and technical assistance to socially and economically disadvantaged individual (SEDI) entrepreneurs. My experience as includes serving as a Certified Business Analyst with the Florida Small Business Development Center Network at FAMU as well as working in different capacities with the Minority Business Development Agency Business Center and Capital Readiness Programs.

My experiences working directly with SEDI entrepreneurs have given me a unique perspective on their struggles and triumphs. For instance, during my tenure as an entrepreneurship educator at Florida A&M University, I encountered numerous students who, despite their aspirations, faced significant barriers due to their backgrounds. One student in particular, majoring in Allied Health Sciences, expressed disbelief at the possibility of owning a business, underscoring the need for exposure to entrepreneurship as a viable path for all disciplines and backgrounds.

This professional experience coupled with my highly-sought after keynote speaking and training workshops by inclusive entrepreneur support organizations has positioned me to create impact for more than 10,000 SEDI entrepreneurs over the course of my career. Even with this extensive background and deep insight, my expertise in the space of fostering economic mobility and closing the racial wealth gap was cemented through my doctoral research on the lived experience of first-generational wealth creation for SEDI entrepreneurs.

I: Economic Injury: The Connection Between Discrimination and the Racial Wealth Gap

In my research, I found that both quantitative and qualitative evidence suggests that this group faces uniquely complex barriers, often caused by structural and systemic discrimination. America's economic vitality and global competitiveness depend on harnessing all entrepreneurial talent. Access to financial and social capital have been shown to speed up the pathway to entrepreneurial success; however, for SEDI entrepreneurs, pervasive racial discrimination are significant obstacles. The timeline below provides a brief overview of some of the systemic barriers that have hindered the aspirations of Black entrepreneurs:

- **1874— Failure of the Freedman's Bank**: With the collapse of the Freedman's Bank, more than 72,000 Black Americans lost their entire life savings. Congress initially

refused to reimburse the depositors but eventually did reimburse about of them. Other depositors never received any restitution. The emotional damage that this created can be seen in the high levels of unbanked and underbanked Black communities. The mistrust of the American banking system as a result of this deepened the economic injury of Black entrepreneurs during the COVID-19 pandemic where it has been widely documented that, due in large part to Black founders not having banking relationships, PPP loans were not granted to Black business owners.

- **1896– Ruling of Plessy v. Ferguson:** The vestiges of the landmark case that legalized racial segregration in 1896 can still be felt and can be seen in the lower levels of psychological safety among Black entrepreneurs in spaces that do not welcome, celebrate and center their contributions. The impact of this produces lower levels of social capital among Black and other socially disadvantaged founders, thus contributing to the lower levels of financial and venture capital they receive.

- **1935– Federal Housing Administration Redlining Activities:** The FHA's practice of only insuring homes that were in White-only neighborhoods—the practice of redlining—has significantly impeded the ability of socially and economically disadvantaged families to generate and transfer wealth. Research makes a direct connection between the economic mobility of homeowners and the economic paralysis of those who had historically been denied equitable housing opportunities[1]. Many SEDI entrepreneurs are unable to access venture financing because they have not had successful rounds of Friends and Family fundraising. This is due in large part to those families having experienced discrimination in their home buying journeys.

- **1940– Stuart's Theory of Economic Detours:** While recent data shows the gap between business revenue generated by SEDI business owners and their White American counterparts, research shows this to have been documented as early as the 1940s. When M.S. Stuart, a White male economist, studied the revenues of insurance firms owned by Black and White business owners, he determined that the Black-owned firms where generating significantly less revenue due to their race[2]. Stuart referred to this as Economic Detours, where based on the outcomes of Plessy v. Ferguson and redlining, the customer bases of the Black-owned firms were mainly comprised of Black customers. These same Black customers were experiencing discrimination in the labor market and, if they were employed, they were significantly underpaid. With lower levels of discretionary incomes, these customers could only afford to purchase insurance policies

[1] Rothstein, R. (2017). *The color of law: A forgotten history of how our government segregated America.* Liveright Publishing.
[2] Stuart, M. S. (1940). *An economic detour: A history of insurance in the lives of American Negroes.* Wendell Malliet & Co.

with the lowest premiums and the lowest values, thus generating lower levels of revenue for Black owners.

II: How SEDI Entrepreneurs Experience the Racial Wealth Gap

I considered what might be a significant underlying cause of the racial wealth gap: the absence of intergenerational wealth transfers in Black business families. The general concern of my research focused on the intersection of race, wealth, and entrepreneurship. The study was based on the phenomenal wealth gap between the 1% of the United States' population who hold nearly $2 trillion in wealth and the remaining 99%[3]. Staggering statistics show that White families have 22 and 41 times more wealth compared to the median Latinx and Black families, respectively[4]. Further, researchers estimated that it would take 242 years for Latinx and Black families to match the average wealth that White American families had in 2016[5]. Black and Latinx household wealth increased by triple-digit percentages between 2013 and 2016, by $1,700 and $4,300, respectively. Their White American counterparts benefited from a 17% uptick, which increased their wealth by more than $20,000 during the same time frame[6].

In an analysis of the Characteristics of Business Owners Survey, researchers found that Black entrepreneurs had lower social capital levels than other minority and non-minority entrepreneur groups[7]. They relied on data from the survey to assess the percentage of Black business owners that had entrepreneurial relatives, training and experience in family businesses, sources of debt and equity, minority customers and employees and marital status to determine as contributors to the levels of social capital held by Black entrepreneurs.

From my work with SEDI entrepreneurs in a wide range of industries, I know that these factors carry a heavy burden for them, especially for first-generation wealth creators. This group is less likely to have received training and experience in a family business which would provide them with the levels of entrepreneurial pre-exposure that have been proven to produce entrepreneurial persistence. Black entrepreneurs are less likely to have access to funding from their families, given the barriers to wealth building that Black families have faced, including those due to America's tax policies[8].

---

[3] Collins, C. (2012). *99 to 1: How wealth inequality is wrecking the world and what we can do about it.* Berrett-Koehler Publishers, Inc.

[4] Collins, C., Asante-Muhammad, D., Hoxie, J., & Terry, S. (2019). *Dreams deferred: How enriching the 1% widens the racial wealth divide.* Institute for Policy Studies.

[5] Nieves, E., & Asante-Muhammad, D. (2018). *Running in place: Why the racial wealth divide keeps Black and Latino families from achieving economic security.* Prosperity Now. https://prosperitynow.org/resources/running-in-place

[6] *ibid.*

[7] Fratoe, F. A. (1988). Social capital of Black business owners. *The Review of Black Political Economy*, 16(4), 33–50. https://doi.org/10.1007/BF02892164

[8] Brown, D. A. (2021). *The whiteness of wealth: How the tax system impoverishes Black Americans—and how we can fix it.* Crown.

As American wealth becomes concentrated into fewer and fewer hands, the data reveals that one third of the 400 wealthiest Americans inherited their wealth from the entrepreneurial endeavors of earlier generations in their family[9]. Historical data show that 75% of household wealth can be attributed to capital gains on intergenerational inheritances[10]. From the brief historical account of systemic oppression and racism faced by SEDIs builds a relatively short bridge to how the racial wealth gap began, how it is perpetuated, and why it continues to widen.

The recent attacks on diversity, equity, and inclusion (DEI) initiatives have exacerbated challenges for SEDI entrepreneurs. Uplifting SEDI entrepreneurs allows us to hear silenced voices and address power imbalances, as current research indicates. My doctoral research on intergenerational wealth transfer in Black business families underscores the transformative potential of a comprehensive, evidence-based approach to entrepreneurship education and policy.

IV. Key Findings: The Transformative Power of Dynastic Wealth™

Marginalized business families often lack exposure to succession planning strategies, also due to discrimination. Given the lack of representation of attorneys of color, especially in the tax and estate planning fields, these families rarely have access to legal professionals who do not exclude them based on their lower levels of wealth. Without understanding the value and importance of packaging, protecting, and passing down their assets, generation after generation find themslved in the cycle of starting from scratch each time. My research highlights the importance of integrating succession planning into entrepreneurship education and technical assistance. This generative approach ensures businesses thrive across generations, contributing to long-term economic stability.

Dynastic Wealth™, a framework that emerged from the research I conducted[11], offers a comprehensive approach to business development and entrepreneurship, nurturing both quantitative and qualitative forms of wealth through the lens of belonging, racial access, context and equity. In my doctoral research, I found evidence for the necessity of contextualizing entrepreneurial education and training within the lived experience of SEDI founders.

Entrepreneur support organizations that center inclusion in their programming have leveraged my research in their entrepreneurial outcomes for SEDI founders. A sample of those organizations include the American Association of Blacks in Higher Education; Capital

---

[9] Collins, C., & Hoxie, J. (2018). *Billionaire bonanza: Inherited wealth dynasties of the United States. Institute for Policy Studies*. https://ips-dc.org/wpcontent/uploads/2018/11/Billionaire-Bonanza-2018-Report-October-2018-1.pdf

[10] Wolff, E. N. (1992). Changing inequality of wealth. *American Economic Review*, 82(2), 552–558. https://www.jstor.org/stable/2117460?seq=1

[11] White, L. (2022). *Dynastic and Generative Intent for First-Generation Black Wealth Creators in a Modern Racial Enclave Economy*. https://aura.antioch.edu/etds/758

Readiness Program grantee M. Gill & Associates; Blackstone LaunchPad at Florida A&M University; Blackstone LaunchPad at the University of Buffalo; Fulbright Association; IGNITE! Central; Keller Center at Princeton University; Kukua Institute; Office of Strategic Partnerships at the National Museum of African American History and Culture; Pennsylvania State University; Prosperity Now; RL Engineering & Tech Solutions, Rotary Club of Washington, D.C.; Russell Innovation Center for Entrepreneurship; and the U.S. Department of State.

The framework for Dynastic Wealth™ accounts for this and emphasizes:

- **Economic Mobility:** By focusing on wealth transfer and succession planning, Dynastic Wealth™ addresses the root causes of the racial wealth gap, equipping entrepreneurs with knowledge and resources to build sustainable businesses for future generations.

- **Community Development:** Entrepreneurship should uplift communities. Dynastic Wealth™ fosters a community-centric approach, encouraging entrepreneurs to invest in and support their local economies.

- **Policy Advocacy:** Effective policy is crucial for creating an enabling environment for SEDI entrepreneurs. This includes advocating for policies that promote equitable access to capital, protect DEI initiatives, and support comprehensive entrepreneurship education.

V. Policy Recommendations

Based on my background as a TA provider and expert in SEDI entrepreneurship, I recommend the following to promote opportunity and address ongoing racial discrimination in targeted federal business programs:

- **Informed Technical Assistance:** Expand programs like the MBDA and 8(a) to provide technical assistance, mentorship, and training that has been informed by qualitative research on the lived experiences of SEDI entrepreneurs, as well as quantitative research. This will hep TA providers to better understand and address the unique challenges faced by these program participants.

- **Accountable Inclusion:** Strengthen and protect inclusion initiatives by at the federal level, ensuring that all federal contracting programs prioritize diversity and inclusion, and provide incentives for private sector companies to adopt similar practices.

- **Succession Planning Education**: Integrate succession planning into all federal entrepreneurship and business development programs, providing resources and training to

help SEDI entrepreneurs develop long-term strategies for business continuity and intergenerational wealth transfer.

- **Research and Data Collection:** Invest in qualitative research to continuously assess the impact of federal programs on SEDI entrepreneurs, using this data to inform policy decisions and ensure that programs remain responsive to the evolving needs of marginalized communities.

V. Conclusion

We are approaching both the largest shift in wealth and the largest demographic shift in history. It has been proven that entrepreneurship and the entrepreneurial exposure can create an accelerated pathway to wealth. Without federal programs such as the Minority Business Development Agency and the 8(a) Program, SEDI entrepreneurs will be locked out of opportunities to grow their businesses. This will produce economic injuries for their families and communities that will be felt for generations, further widening the racial wealth gap.

America's future prosperity relies on an inclusive entrepreneurial ecosystem. Addressing systemic barriers and maintaining targeted federal business programs will foster economic mobility, close the racial wealth gap, and enhance our global competitiveness. I urge you to consider this evidence-based account of the need to continue federal programs such as the MBDA and 8(a) as they have been proven to promote equity and opportunity for all entrepreneurs.

Thank you for the opportunity to contribute to this important discussion. I look forward to remaining an active participant in working together to create a more equitable economic future.

WOMEN IMPACTING
PUBLIC POLICY

Women Impacting Public Policy
Statement for the Record
Senate Committee on Small Business and Entrepreneurship

8(a) Field Hearing - May 6, 2024
Bowie, Maryland

Women Impacting Public Policy (WIPP) respectfully submits the following Statement for the Record in response to the Senate Small Business Committee hearing held on May 6, 2024, 8(a) Field Hearing.

The Small Business Administration's 8(a) Business Development Program is an important resource for socially and economically disadvantaged small businesses that have entered and sought to enter the federal contracting space. In many cases, these businesses, including those owned by Black, Hispanic, women, or LGBTBEs, may not have had the ability to otherwise secure federal contracting opportunities. While the program is not without its flaws, it still serves as a crucial resource for socially and economically disadvantaged individuals as a means for these individuals to increase access to capital, scale their businesses, and grow their professional networks.

The 8(a) program provides opportunities for women-minority owned firms to participate in contracts that would otherwise go to large, majority-owned firms and helps to prepare them to participate in unrestricted competition. Benefits include experience with contract negotiations, compliance, delivery, CPARs, and ratings, to name a few. In addition to the benefits that 8(a) provides, it serves as the standard for how minority-owned firms are treated, and by extension, how women-owned firms are treated in federal contracting. We recognize the importance of contracting set-aside programs like the 8(a) program for the broader community of small socially and economically disadvantaged business owners. There is still a great need for the 8(a) program given the barriers that women and minority-owned firms continue to face in accessing federal contracts.

Network Building

The barriers to entry for women-minority owned businesses are vast, especially as it relates to building a network in the federal contracting space. Women-minority owned firms are capable of building professional networks; however, the reality is, if a business owner has not had the opportunity to engage with the 'right' individuals in the contracting space, it becomes more challenging to cultivate those relationships. It's virtually impossible to get an audience at any Federal Agency without past performance and an existing relationship. In discussions with our membership, we've heard instances where women-minority owned firms are not taken seriously, which often translates to being ignored by program officers despite attempts to make a connection.

With that being said, women, including women of color who lack strong professional networks face an exceptionally uphill battle towards breaking into the contracting space. Given that the federal government is the world's largest buyer of goods and services, accessing this marketplace should not pose as much of a challenge for businesses seeking growth.

When women-minority owned businesses struggle to navigate the federal contracting space, they are often directed to the Office of Small and Disadvantaged Business Utilization (OSDBU) as a point of entry. While OSDBUs can provide support, they are limited in their capacity to assist women-minority owned businesses in competitive bidding for contracts. It becomes a vicious cycle of unsuccessful attempts to win business and the inability to get on vehicles that would help them win business without having the necessary relationships. The best entry point to federal contracting is subcontracting, and to do that, women and minority businesses need a network of small and large companies that will work with them.

The 8(a) program allows firms to begin developing their professional networks within the contracting space, in addition to building on experience that they can leverage in the future as they bid on contracts. 8(a) provides a wealth of resources for businesses, including courses, bootcamps and networking opportunities to help prepare them to take on contracts after graduating from the program.

Lack of Accountability for Prime Contractors

Small businesses, especially WOSB and 8(a) WOSB, can be disadvantaged by relationships with prime contractors. There is intense pressure to provide lower than market rates to join prestigious teams, and there is no guarantee that the promised work will be granted to the small business – especially on large IDIQs and BPAs. Collaboration with prime contractors is crucial for any business aiming for success in the contracting realm. Little to no accountability when primes are late on payments, pull work, or otherwise prevent small businesses from executing a contract can result in severe consequences for women-minority owned businesses, including reputational risk,

the inability to secure additional lines of credit, or lay off employees. Majority owned firms intentionally seek out some firms specifically because of their small disadvantaged status, and far too often they offer a contract to a woman-minority owned firm, only to turn around and give the contract to a majority-owned firm that they already have a relationship with.

While 8(a) does not solve this problem, it still represents a significant barrier to growth for WOSBs and 8(a) WOSBs. Participating and graduating from the 8(a) program can help women businesses build relationships with primes that they wish to work with, though there is no guarantee that they won't encounter primes that don't prioritize small business growth.

Why the 8(a) Program is Necessary:

The 8(a) program provides women-minority owned businesses, especially those owned by Black, Hispanic, AAPI women, a path to compete for government contracts despite the hurdles they face to enter the contracting space. For women-minority owned businesses that don't have the foundation in place to become a certified business, 8(a) provides the tools needed to leverage certification for their enterprises. It also helps to level the playing field for women and minority-owned firms to compete with larger firms. At the end of the day, women, especially Black women and women of color have to work twice as hard, whether it's furthering their education, building nearly perfect credit scores, or increasing their assets to secure lines of credit equal to what their white, male counterparts can qualify for without having to put forth the same efforts.

While we acknowledge that the 8(a) program was not created to exclusively support women-owned businesses, we recognize that the program is critical for the entire minority-owned business community, which intersects with the woman-owned community. Even in the wake of the Ultima decision, the 8(a) program continues to propel women-minority owned firms to success. WIPP will continue to support the program as a vehicle to bring more women-owned firms into the WOSB program, to reach and exceed the federal government's 5% contracting goal for WOSBs.

The following documents were submitted to the record for the field hearing held on May 6, 2024, entitled "Promoting Opportunity: The Need for Targeted Federal Business Programs to Address Ongoing Racial Discrimination." For any documents that do not currently include a link, please contact the Senate Committee on Small Business and Entrepreneurship to receive a copy of the report.

Barkley et al.; Federal Reserve Bank of Cleveland; November 2017; Report on Minority-Owned Firms; https://www.fedsmallbusiness.org/reports/survey/2017/2017-report-on-minority-owned-firms

Battisto, et al; Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis and San Francisco; February 3, 2021; 2021 Report on Employer Firms: Based on the 2020 Small Business Credit Survey; https://www.fedsmallbusiness.org/reports/survey/2021/2021-report-on-employer-firms

Battisto, et al; Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis and San Francisco; April 15, 2021; 2021 Report on Firms Owned by People of Color: Based on the 2020 Small Business Credit Survey; https://www.fedsmallbusiness.org/reports/survey/2021/2021-report-on-firms-owned-by-people-of-color

BBC Research & Consulting; California Department of Transportation; August 6, 2021; Availability and Disparity Study Report 2021; https://www.mbda.gov/california-availability-and-disparity-study-report-2021-0

BBC Research & Consulting; City of San Diego; July 2021; 2020 City of San Diego Disparity Study; https://www.sandiego.gov/sites/default/files/city_of_san_diego_disparity_study_report_-_final.pdf

BBC Research & Consulting; Commonwealth of Virginia; January 2021; 2020 Commonwealth of Virginia Disparity Study; https://www.mbda.gov/commonwealth-virginia-disparity-study

BBC Research & Consulting; Idaho Department of Transportation; July 2021; 2023 Idaho Transportation Department Disparity Study; https://itd.idaho.gov/wp-content/uploads/2023/07/CR_2023_Disparity_Study.pdf

BBC Research & Consulting; Montana Department of Transportation; October 2022; 2022 Montana Department of Transportation Disparity Study; https://www.mdt.mt.gov/other/webdata/external/CivilRights/DBE/2022_Disparity_Study.pdf

BBC Research & Consulting; State of Oregon; November 2023; 2023 State of Oregon Disparity Study: Final Report; https://www.oregon.gov/das/Docs/2023%20State%20of%20Oregon%20Disparity%20Study%20Final%20Report_November%2016%202023.pdf

Chow; Minority Business Development Agency, Office of Policy Analysis and Development; June 2022; The Probability of Winning Federal Contracts: An Analysis of Small Minority Owned Firms; https://www.mbda.gov/probability-winning-federal-contracts-analysis-small-minority-owned-firms#:~:text=MBDA's%20analysis%20finds%20that%20on,other%20small%20firms%20winning%20contracts.

Collette Holt & Associates; Harris County, Texas; June 2020; Harris County Disparity Study 2020; https://deeo.harriscountytx.gov/Portals/18/Documents/HarrisCountyDisparityStudyFinal2020.pdf

Corcoran, et al.; Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis and San Francisco; March 8, 2023; 2023 Report on Employer Firms: Findings from the 2022 Small Business Credit Survey; https://www.fedsmallbusiness.org/reports/survey/2023/2023-report-on-employer-firms

de Zeeuw; Federal Reserve Bank of Atlanta; December 2019; Small Business Credit Survey Report on Minority-Owned Firms; https://www.atlantafed.org/community-development/publications/partners-update/2020/01/200108-report-on-minority-owned-small-businesses

Johnson, et al.; Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis and San Francisco; March 7, 2024; 2024 Report on Employer Firms: Findings from the 2023 Small Business Credit Survey; https://www.fedsmallbusiness.org/reports/survey/2024/2024-report-on-employer-firms

Mason Tillman Associates, Ltd.; City of St. Petersburg; April, 2021; City of St. Petersburg Final Report: Disparity Study; https://cms5.revize.com/revize/stpete/Business/Economic%20Development/docs/City%20of%20St.%20Petersburg%20Disparity%20Study%20Report.pdf

MGT Consulting Group; Alaska Department of Transportation and Public Facilities; March, 2021; Disadvantaged Business Enterprise Disparity Study: Final Report; https://dot.alaska.gov/cvlrts/pdfs/Alaska-DOTPF-1-0-Final-Report-March-2021.pdf

MGT Consulting Group; City of Baltimore and Housing Authority of Baltimore City; August 26, 2022; City of Baltimore 2022 Disparity Study

MGT Consulting Group; City of Dallas; July 31, 2020; Availability and Disparity Study; https://dallascityhall.com/departments/sbcworkforcedev/PublishingImages/Pages/freshstart-employment-program/City%20of%20Dallas%20-%20Availability%20Disparity%20Study%20-%20July%2031,%202020.pdf

MGT Consulting Group; City of New York; May 2018; City of New York Disparity Study; https://www.nyc.gov/assets/mwbe/business/pdf/NYC-Disparity-Study-Report-final-published-May-2018.pdf

MGT Consulting Group; State of Delaware; March 29, 2022; 2022 Disparity Study: State of Delaware; https://mymarketplace.delaware.gov/results-de/documents/disparity-report-2022.pdf

MGT Consulting Group; Washington Suburban Sanitary Commission; 2022; 2022 Disparity Study; Washington Suburban Sanitary Commission; https://www.wsscwater.com/disparitystudy

Mills and Battisto; Federal Reserve Bank of New York; August 4, 2020; Double Jeopardy: Covid-19's Concentrated Health and Wealth Effects in Black Communities; https://www.fedsmallbusiness.org/reports/survey/2020/double-jeopardy

Misera and Perlmeter; Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis and San Francisco; June 16, 2023; 2023 Report on Startup Firms Owned by People of Color: Findings from the 2022 Small Business Credit Survey; https://www.fedsmallbusiness.org/reports/survey/2023/2023-report-on-startup-firms-owned-by-people-of-color

Perry, Stephens and Donoghoe; The Brookings Institute; January 9, 2024; Black wealth is increasing, but so is the racial wealth gap; https://www.brookings.edu/articles/black-wealth-is-increasing-but-so-is-the-racial-wealth-gap/

Premier Quantitative Consulting, Inc.; Minority Business Development Agency; December, 2016; Contracting Barriers and Factors Affecting Minority Business Enterprises A Review of Existing Disparity Studies; https://archive.mbda.gov/news/news-and-announcements/2017/01/contracting-barriers-and-factors-affecting-minority-business.html

U.S. Department of Justice, Civil Rights Division; U.S. Department of Justice; January 20, 2022; The Compelling Interest to Remedy the Effects of Discrimination in Federal Contracting: A Survey of Recent Evidence; https://www.justice.gov/crt/page/file/1463921/dl

Wainwright; U.S. Department of Agriculture, U.S. Small Business Administration; February 4, 2022; Report of Defendant's Expert

Wiersch and Misera; Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis and San

Francisco; June 29, 2022; 2022 Report on Firms Owned by People of Color: Based on the 2021 Small Business Credit Survey; https://www.fedsmallbusiness.org/reports/survey/2022/2022-report-on-firms-owned-by-people-of-color

Wiersch, et al.; Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis and San Francisco; February 22, 2022; 2022 Report on Employer Firms: Based on the 2021 Small Business Credit Survey; https://www.fedsmallbusiness.org/reports/survey/2022/2022-report-on-employer-firms

###

