



COLORADO
Department of Local Affairs
Division of Local Government

Identifying Barriers to Historically Underutilized Businesses in Local Government Procurement

Colorado Revised Statute 29-1-1501

SMART ACT REPORT

January 1, 2023



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Background

This report concludes the Department's requirements under Colorado Revised Statutes (C.R.S) Section 29-1-1503(3)(b), which requires the Department to report its findings regarding the pilot program to identify barriers to entry for Historically Underutilized Businesses (HUBs) in local government procurements. The requirements are indicated in the C.R.S. excerpt below:

Section 29-1-1503. Identifying barriers to entry for Historically Underutilized Businesses in local government procurement - pilot program.

(1) No later than August 13, 2021, the department of local affairs shall establish a pilot program to help local governments identify perceptual and substantial barriers to entry for historically underutilized businesses in local government procurement. The department of local affairs shall ensure that the local governments that opt in to the pilot program are representative of the local governments that intersect the rural, urban, and suburban geographies of the state and are representative of the varying types of local governments.

The pilot program must include at least five diverse local governments.

(2) The local governments participating in the pilot program shall:

- (a) Identify program implementation needs, such as labor and technology;
- (b) Determine the appropriate size contracts that would benefit from a program;
- (c) Determine the appropriate type of contracts that would benefit from a program, such as, construction or service contracts, or short-term or long-term contracts;
- (d) Establish a reasonable threshold for the amount of a local government's operating budget that should be allocated to the establishment and maintenance of a program;
- (e) Understand the available program software and costs;
- (f) Determine how we can standardize the data across local governments to being submitted to the state;
- (g) Determine the required minimum participation goals or participation benchmarks of historically underutilized businesses to determine if the local government's program is fair;
- (h) Determine which types of historically underutilized businesses, as specified in section 29-1-1502 (1)(b), appear to be more or less impacted;
- (i) Create a sample program that all local governments may use and articulate the necessary steps to build a program; and
- (j) Help articulate program goals and targets, such as determining why a program is important for the local government and what outcomes the local governments wish to see from program implementation.

HUBs are defined in the statute as businesses that are at least 51% owned and controlled, in both the management and day-to-day business decisions, by one or more individuals who are:

- A. United States citizens or permanent residents; and
- B. One or more of the following:
 - (I) Members of a Racial or Ethnic Minority Group;
 - (II) Non-Hispanic Caucasian Women;
 - (III) Persons with Physical or Mental Disabilities;



- (IV) Members of the Lesbian, Gay, Bisexual, and Transgender Community; or
- (V) Veterans.

Process Summary

As indicated in the 2022 SMART Act report, The Department of Local Affairs' Division of Local Government created a pilot program that included sixteen (16) diverse local governments that varied by size, type and geography. The Division also conducted a qualitative study of Colorado local governments' practices and interaction with regards to HUBs using a University of Colorado-Denver student's capstone project and a survey to local governments.

Absent an existing program, system, or funding, this final report is based on the capstone project in conjunction with consultation from the expanded pilot program local governments. Their input informed an additional local government survey, resulting in core findings for each of the Statutorily required, enumerated tasks indicated below.

a. IDENTIFY PROGRAM IMPLEMENTATION NEEDS, SUCH AS LABOR AND TECHNOLOGY

Current Support: From research of existing programs, it appears HUB assistance at the state government level connect state programs or very large Front Range local governments to HUBs. Examples are OEDIT's [Minority Business Directory](#) and State Purchasing and Contracts Office; the latter has a platform that explains how small businesses may enhance their competitive edge for state procurement opportunities, the former appears to have some vetting. Based on the findings of the capstone project and a subsequent survey of local governments, the most frequently mentioned source for finding contractual arrangements is Bidnet. The local government's own webpage, the platform Govspend, social media, and newspapers (required for special district construction projects >\$60,000) were also mentioned. For goods, sources like Amazon were mentioned.

Opportunities: The Pilot Program participants and the survey indicated the need for stronger marketing of the current systems and an improved statewide website for HUBs, categorized by services and goods that would be intelligible to local governments, and perhaps by region. Also a statewide website where local governments may advertise RFPs or RFQs directly to vetted HUBs would be helpful. Smaller, less resourced local governments also indicated a lack of staff capacity to develop and manage a local program.

b/c. DETERMINE THE APPROPRIATE SIZE CONTRACTS THAT WOULD BENEFIT FROM A PROGRAM; & DETERMINE THE APPROPRIATE TYPE OF CONTRACTS THAT WOULD BENEFIT FROM A PROGRAM, SUCH AS, CONSTRUCTION OR SERVICE CONTRACTS, OR SHORT-TERM OR LONG-TERM CONTRACTS;

The survey DOLA sent in November 2022 asked local governments, "what types of contracts would most benefit from a program that helped connect local governments to HUBs?" The most frequent response was construction. But other opportunities such as IT services, signage, planning/architectural design, and all-of-the-above - "Any, they need to throw their hat in the game to be considered."



The possible types of goods local governments purchase is vast and varies widely. To illustrate, the United Nations Standard Products and Services Code ([UNSPSC](#)), described as “an open, global, multi-sector standard for efficient, accurate classification of products and services” lists thousands of commodity class categories.

Colorado local governments are diverse, ranging from a single-service water distribution provider for fewer than 100 homes to full-service cities and counties with over a half million in population. The wide variety of local government services means the needs for contracting for goods and services are broad as well.

Therefore, our research reveals that limiting any program to certain types of goods and services may not be useful or desirable to local governments.

d. ESTABLISH A REASONABLE THRESHOLD FOR THE AMOUNT OF A LOCAL GOVERNMENT'S OPERATING BUDGET THAT SHOULD BE ALLOCATED TO THE ESTABLISHMENT AND MAINTENANCE OF A PROGRAM;

Colorado local governments are very diverse in size and services, and correspondingly, their administrative capacity is as well. While large urban or suburban jurisdictions could perceivably establish and provide individual programs, most Colorado local governments are relatively small. The median population for a municipality in Colorado is 1,387 (Town of Parachute), and the median population for a county is approximately 15,050 (Grand/Las Animas Counties).

Similarly, annual revenues and budgets vary widely, from a few thousand dollars for very small special districts, to several billion dollars for the City and County of Denver. A dedicated budget line item of even 1% would have little effect for an all-volunteer fire or recreation district, but constitutes a robust program with full-time staff within the City and County of Denver.

Participants indicated due to the variables above, and the absence of an existing HUB certification or organized means for local governments to connect with certified HUBs, a one-size-fits-all approach would be challenging.

e. UNDERSTAND THE AVAILABLE PROGRAM SOFTWARE AND COSTS;

As far as DOLA or the surveyed local governments know, no statewide program exists where HB21-1168-defined HUBs are vetted and linked or otherwise make themselves known to local governments seeking their goods and services; nor a system where local governments may post RFQs or RFPs. Very large Front Range local governments, such as the City & County of Denver, have programs that both boost HUBs' viability and encourage prospective procurement with HUBs (although these are not defined as “HUBs” and are spread over several separate programs). The City & County of Denver also posts RFPs on its website. But outside of a few very large local governments, programs associated with HUBs were not identified. Based on the qualitative research, most Colorado local governments lack the capacity for a robust software based program. But the existence of state and local programs,

and the success of frequently identified procurement sites like Bidnet may provide a template for which an existing system is augmented.

Program participants were not able to identify available software or costs to manage a tracking system for HUB utilization. It should be noted that BidNet, which is widely used, does allow businesses to register and be identified as minority-owned, women-owned or veteran owned businesses. The certification process is done by the business and does not impose a cost on the local government.

f/g. DETERMINE HOW WE CAN STANDARDIZE THE DATA ACROSS LOCAL GOVERNMENTS TO BEING SUBMITTED TO THE STATE; & DETERMINE REQUIRED MINIMUM PARTICIPATION GOALS OR PARTICIPATION BENCHMARKS OF HISTORICALLY UNDERUTILIZED BUSINESSES TO DETERMINE IF THE LOCAL GOVERNMENT’S PROGRAM IS FAIR

Local governments frequently reported within the capstone and Department’s research that they do not currently collect information on whether a vendor they use is a HUB, and they do not have a centralized platform to advertise RFPs and/or RFQs to HUBs.

Participants indicated a centralized platform would provide an opportunity to standardize voluntary data collection across the state. They also questioned if perhaps the HUBs themselves could report successful procurement contracts through the Office Of Economic Development and International Trade. It was noted that many local governments do not have the capacity nor resources to create or purchase software systems for procurement and implementing a Statewide mandate would be costly. Participants noted local priorities and resources vary widely across local governments, and mandating data collection to the state may not be supported.

The program participants did not determine how this data could be standardized nor determine goals or benchmarks.

h. DETERMINE WHICH TYPES OF HISTORICALLY UNDERUTILIZED BUSINESSES, AS SPECIFIED IN SECTION 29-1-1502 (1)(b), APPEAR TO BE MORE OR LESS IMPACTED;

Participants noted that a challenge for any program that tries to increase historically underutilized business participation in procurement is simply defining what a “HUB” is. Terms like disadvantaged, minority-owned, and similar descriptions are used with goals that are common to those of HB21-1168 but focus on different segments of those included in the bill. Even a more recent “HUB” bill, SB22-163, defines a historically underutilized business in differing parameters than HB21-1168: omitting veterans, LGBTQ, and carving out exceptions for Asian Americans. Further, local governments might determine a locally unique definition.

Participants noted, in order to standardize data for any program, a consistent definition might be necessary. They did not further determine what types of business appear to be impacted due to the lack of current data available.



i. CREATE A SAMPLE PROGRAM THAT ALL LOCAL GOVERNMENTS MAY USE AND ARTICULATE THE NECESSARY STEPS TO BUILD A PROGRAM; AND

The participants indicated notable core findings that could be incorporated into a fully-funded program. A “sample program” and “necessary steps” were not created. The participants noted if a sample program were to be created, it would need to take challenges and opportunities into consideration:

- Hesitancy engaging with HUBs due to perceived legal liability/unintended discrimination
- Perceived differences in language/technical lexicon
- Local governments expressed absence of local/community HUBs
- Apprehension towards a state HUB procurement mandate due to either lack of resources or geographic isolation
- Often simply procuring any business is a challenge, so procuring specifically with a HUB may not be a high priority of the local governments surveyed
- Local governments surveyed by the Department noted that reliability was the highest priority (4.75/5) when procuring goods and services, averaging higher than next-highest average of “best price” (4.5/5) in the department’s survey
- Local governments stressed the inability to communicate opportunities as a major barrier to procurement with HUBs; either due to lack of a statewide directory of HUBs or a means for advertising RFPs and RFQs directly to them
 - Creation of a “single statewide platform for RFPs/opportunities” (3.88/5) and “HUB vendor/contractor list by service or product” (3.92/5) scored highest on the “What would help your local government engage more with HUBs” section question
- Despite the challenge of low priority scores for procurement with HUBs, local governments are interested in training, sample procurement policies, and/or standardized best practices to develop more inclusive procurement policies
- Neither business licensing (1.88/5), nor insufficient insurance (2.76/5) were seen as a significant barrier to procuring with HUBs

j. HELP ARTICULATE PROGRAM GOALS AND TARGETS, SUCH AS DETERMINING WHY A PROGRAM IS IMPORTANT FOR THE LOCAL GOVERNMENT AND WHAT OUTCOMES THE LOCAL GOVERNMENTS WISH TO SEE FROM PROGRAM IMPLEMENTATION.

Local governments expressed openness to any additional procurement opportunities with reliable businesses. The capstone project core finding, and the Department’s survey appears to confirm, that the existence of a statewide website for vetted HUBs, categorized by services and goods that would be relevant to local governments, combined with a means for local governments to advertise procurement opportunities would be mutually beneficial for both local governments and HUBs. Participants expressed an interest in collaborating with the State to further develop resources to support their local efforts.



Conclusion and Reflections:

While this pilot research was limited in scope, it did provide some useful insights into the challenges of inclusive procurement processes. While there are systems in place to identify and certify Historically Underutilized Businesses, and local governments can advertise opportunities that include HUBs, there are opportunities for improvement in the connection between HUBs and local government procurement agencies.

Before the State makes significant investments in any new ‘systems’, it would be prudent to work with existing structures within OEDIT’s Minority Business Office. Rather than focusing on systems or programs, it may be more prudent to start with a strategy utilizing existing state expertise within OEDIT or outside consultants to improve existing systems to make it easier for local governments to target HUBs and continue the work the state is already doing to help HUBs access bidding networks. Much of this strategy would focus on communication and training on what currently exists in addition to identifying opportunities for systemic improvement.

Survey results also indicated that while there is a desire to attract more HUBs, resources for smaller governments are limited and in some cases there are not sufficient contractors in the area. Any strategies developed must take these limitations into consideration and local governments should be at the table in developing strategies for expanding opportunities.

Potential next steps in this area could include procuring an external evaluator to develop specific strategies and next steps in consultation with the appropriate stakeholders and looking to other States for best practices and lessons learned in the area of inclusive procurement practices. Stakeholders should include minority businesses, local governments, the Minority Business Office, and State procurement experts.
