

Emerging Technologies Subcommittee Recommendation to the
Federal Communications Commission's
Advisory Committee on Diversity for Communications in the Digital Age:

Recommendation on Procurement Issues

Adopted by the full Committee, June 10, 2008

On July 9, 2008, a quorum of the Subcommittee on Emerging Technologies (Russell Frisby, Chair; Marie Long, Andrew Schwartzman and David Honig) met in Washington and interviewed the following subject matter experts: Ronald Johnson, President, Ronson Network Services, Christopher Powell, Executive Vice President, Human Resources, Scripps Networks, and David Porter, Executive Director, Walter Kaitz Foundation.

Procurement is vital to industry ownership and employment diversity because the experience and financial backbone derived from service as a contractor or subcontractor enables companies to migrate into ownership of FCC-licensed services, to incubate entrepreneurs who also become licensees, and to train personnel who migrate into positions of authority in FCC licensees.

As part of the 1992 Cable Act, Congress enacted 47 U.S.C. §554(d)(2), which requires a cable system to: “(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and (F) analyze the results of its efforts to recruit, hire, promote, and use the services of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program.”

The implementing regulation, 47 C.F.R. §76.75(e), provides that a cable system must “Encourage minority and female entrepreneurs to conduct business with all parts of its operation. For example, this requirement may be met by: (1) Recruiting as wide as possible a pool of qualified entrepreneurs from sources such as employee referrals, community groups, contractors, associations, and other sources likely to be representative of minority and female interests.”

These provisions appear dormant. Tens of billions of dollars are spent annually by cable, wireless and wireless carriers on capital expenditures – particularly engineering, furnishings, installation and construction, as well as programming and operating services. Disadvantaged businesses, including minority owned businesses, rarely are full partners in procurement.

Therefore, the Commission should issue a notice of proposed rulemaking that would examine:

1. Statutory authority (see, e.g., 47 U.S.C. §§151, 257 and 309(j)) for adopting procurement requirements similar to that in 47 C.F.R. §76.76(e) for other FCC-regulated industries, including broadcasting, wireline, wireless and satellite
2. The extent and nature of potential contracting opportunities in FCC-regulated industries
3. Barriers to entry and inclusion faced by minority and women contractors
4. How the agency can encourage and ensure compliance with its procurement rules
5. Implementation of the “analyze the results of its efforts” clause of 47 U.S.C. §554(d)(2)(F) and, particularly, whether to require regulates to report publicly on the extent and nature of their minority and female procurement contracts.