

CITY OF OAKLAND

AGENDA REPORT

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TO: SEP 30 2009 PM 2:48
2009 OCT - 1 PM 2:50
Office of the City Administrator

SUBJECT - Dan Lindholm

FROM: Department of Contracting and Purchasing

DATE: October 13, 2009

RE: **Informational Report on Annual Participation by Local and Small Local Business Enterprises (L/SLBE) on City Contracts for Fiscal Years 2007/2008 and 2008/2009**

SUMMARY

This report is a summary of the Local and Small Local Business Enterprise (L/SLBE) participation achieved on City of Oakland contracts awarded in Fiscal Years 2007/2008 and 2008/2009 that were monitored by the Department of Contracting and Purchasing (DCP).

FISCAL IMPACT

This is an informational report only. Therefore, no fiscal impacts are included.

BACKGROUND

The Department of Contracting and Purchasing (DC&P), Social Equity Division, is responsible for the implementation, monitoring, and enforcement of the City of Oakland's 20% Local and Small Local Business Enterprise (L/SLBE) Program; 50% Local Employment Program (LEP); 15% Oakland Apprenticeship Program; Living Wage Ordinance (LWO); Equal Benefits Ordinance; and other polices and regulations required by the City, State and/or Federal governments.

The City of Oakland's current Local and Small Local Business Enterprise (L/SLBE) Program was developed in order to stimulate economic opportunity for local residents and businesses. The intent of the L/SLBE program is to increase the number of Oakland certified businesses participating in City contracting; increase the circulation of City dollars within the Oakland community to stimulate a stronger economic base; and to promote the development of Oakland certified businesses through joint ventures, and mentor/protégé relationships.

KEY ISSUES AND IMPACTS

Local and Small Local Business Enterprise Program

The Local and Small Local Business Enterprise Program (Program) requires 20% minimum participation of certified Local Business Enterprises (LBE) and Small Local Business Enterprises (SLBE). The 20% L/SLBE requirement must be met with a minimum participation of 10% LBE and 10% SLBE or 20% SLBE.

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Public Works Committee

CED Committee

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The 20% L/SLBE participation requirement applies to all construction contracts valued at \$100,000 or more and all professional services contracts valued at \$50,000 or more. All construction contracts below \$100,000 and all professional services contracts below \$50,000 must include outreach to a minimum of three L/SLBE firms. In the case of construction contracts where trucking is warranted, 20% of the total trucking dollars must be allocated to L/SLBE truckers.

The 20% L/SLBE requirement can be waived or set from 19% to 0% when there are not at least three certified businesses listed in the industry, trade or profession that constitutes a major category of the project scope of work. The awarding authority requests an availability analysis if there is reason to believe that the availability of certified businesses is not sufficient to meet the 20% requirement. Requests for availability analyses are made prior to issuing a Notice Inviting Bids (NIB), Request for Proposals (RFP), or any other solicitation.

The Program establishes a threshold of \$100,000 for determining the application of the minimum 20% L/SLBE requirement. For informal construction contracts valued under \$100,000 75% of the work must be awarded to local firms. A threshold of \$50,000 has been established for determining the application of the 20% L/SLBE requirement. For informal professional services contracts valued under \$50,000, 75% of the work must be awarded to certified local firms.

The L/SLBE program also provides incentives for the participation of certified firms. Bid discounts and preference points are earned at a rate of one percent (1%), or one (1) preference point, for every 10% of contract dollars allocated to certified firms.

The City strongly supports "Mentor-Protégé" agreements as a key component of the L/SLBE Program because they help build capacity in underutilized service areas. Agreements are reviewed on a case-by-case basis and earn five (5%) preference points for mentor protégé relationships with a certified SLBE. A written mentor-protégé agreement must be completed by both the mentor and the protégé and must be executed before a notary public. The agreement must delineate the rights and responsibilities of each mentor and protégé. The parties must agree to enter into the relationship for the life of the project.

Joint Venture (JV) Agreements are also a key component of the L/SLBE program and are strongly encouraged. Non-certified firms that bid or compete for City contracts may form a relationship with a certified SLBE business to compete for contracts as a joint venture. Approved joint ventures relationships can earn up to a 5% bid discount, or five (5) preference points.

Tables 1 and 2 summarize the L/SLBE participation achieved for the fiscal years 2007/08, and 2008/09 in both construction and professional services.

As shown in Table 1, in fiscal year 2007/08, the City awarded a total of \$200,398,067 dollars in construction services. The City achieved a total of 34% L/SLBE participation with 17% in LBE and 17% in SLBE. For fiscal year 2007/08, the minimum 20% requirement was exceeded by fourteen percent (14%).

In fiscal year 2008/09, the City awarded a total of \$146,552,155 dollars in construction services. The City achieved a total of 39% L/SLBE participation with 15% LBE and 24% SLBE. For fiscal year 2008/09, the minimum 20% requirement was exceeded by 19%.

For the two year reporting period, the City spent a total of \$346,950,222 and achieved a total of 38% L/SLBE participation; 18% over the minimum 20% requirement. Table 1 includes all construction contracts reviewed by Social Equity regardless of dollar threshold.

Table 1: Construction Services

Fiscal Year	Total Contract Dollars		LBE Utilization		SLBE Utilization		Total L/SLBE Utilization	
	Dollars	%	Dollars	%	Dollars	%	Dollars	%
2007/2008	200,398,067	100%	33,224,397	17%	34,618,555	17%	67,842,952	34%
2008/2009	146,552,155	100%	21,603,002	15%	35,166,812	24%	56,769,814	39%
Totals and Percentages	\$346,950,222	100%	\$54,827,399	15%	\$69,785,367	23%	\$124,612,766	38%

As shown in Table 2 in fiscal year 2007/08, the City awarded a total of \$29,852,474 dollars in professional services. The City achieved a total of 32% L/SLBE participation with 16% in LBE and 17% in SLBE. For fiscal year 2007/08, the minimum 20% requirement was exceeded by fourteen percent (14%).

In fiscal year 2008/09, the City awarded a total of \$24,467,843 dollars in professional services. The City achieved a total of 31% L/SLBE participation with 21% LBE and 10% SLBE. For fiscal year 2008/09, the minimum 20% requirement was exceeded by eleven percent (11%).

For the two year reporting period, the City spent \$54,320,317 and achieved a total of 30% L/SLBE participation; 10% over the minimum 20% requirement. Table 2 includes all professional service contracts regardless of dollar threshold and includes purchases that did not go through a formal compliance analysis by the Social Equity Division.

Table 2: Professional Services

Fiscal Year	Total Contract Dollars		LBE Utilization		SLBE Utilization		Total LBE/SLBE Utilization	
	Dollars	%	Dollars	%	Dollars	%	Dollars	%
2007/2008	29,852,474	100%	4,841,820	16%	4,614,900	15%	9,231,720	32%
2008/2009	24,467,843	100%	5,200,500	21%	2,326,680	10%	7,257,500	31%
Totals and Percentages	\$54,320,317	100%	\$10,042,320	18%	\$6,941,580	13%	\$16,489,220	30%

Overall, the City of Oakland achieved local business participation in excess of the minimum 20% with a total of \$124,612,766 (38%) spent with local certified construction firms and approximately \$16,489,220 (30%) spent with local certified professional services firms.

The 20% minimum requirement is the key influencing factor in these accomplishments.

SUSTAINABLE OPPORTUNITIES

Economic: Many economic benefits are realized as a result of the City's social equity policies. Local and Small Local Businesses and Local residents benefit from the programs.

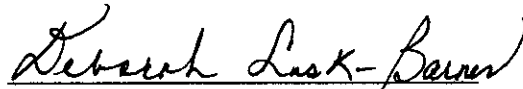
Environmental: No environmental impacts have been identified.

Social Equity: The policies described in this report help to ensure the inclusion of L/SLBE and Oakland residents on City funded projects, which in turn results in opportunities for local businesses and residents.

ACTION REQUESTED OF THE CITY COUNCIL

This is an informational report only and no action is requested.

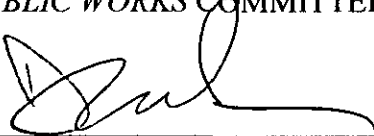
Respectfully submitted,



Deborah Lusk Barnes, Director
Department of Contracting and Purchasing

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APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:



Office of the City Administrator