

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2007 AUG 30 PM 5: 34

TO: Office of the City Administrator  
ATTN: Deborah A. Edgerly  
FROM: Department of Contracting and Purchasing  
DATE: September 11, 2007

**RE: A Report and Recommendations on the Contents of the City's Contract  
Compliance Analysis Format.**

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**SUMMARY**

A compliance analysis is a summary of the results of the City's Request For Proposals (RFP) and Notice Inviting Bids (NIB) processes. The Public Works Committee requested a report on the information included in the compliance analysis

The compliance analysis is a pre-contract award assessment of the levels of "proposed" local business participation. The compliance analysis is typically attached to the council agenda report for the purpose of providing greater details of the degree to which each business proposes to satisfy compliance with the Local/Small Local Business Enterprise Program (L/SLBE).

The analysis also provides a summary of compliance with the Equal Benefits Ordinance (EBO) and a general overview of the company's past compliance with the City's Local Employment and 15% Apprenticeship policies.

The compliance analysis format was designed to reflect at-a-glance the following information:

- A list of contractors and consultants,
- The level of proposed L/SLBE participation,
- Current compliance with the Equal Benefit Ordinance(EBO),
- For informational purposes, a summary of past compliance with the 50% Local Employment Program (LEP) and 15% Oakland Apprenticeship Program.

This agenda report outlines the very basic steps in preparing the compliance analysis from the point at which the bids and submittals are summarized and are given to the Social Equity Division, up to the point at which the compliance analysis is forwarded to the using agency. Project management typically summarizes the compliance in the agenda report and the actual analysis is attached to the agenda report for review by City Council.

Attachments A and B are samples of a typical compliance analysis for construction and for professional services.

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## **FISCAL IMPACT**

This report contains no fiscal impacts.

## **BACKGROUND**

In 2003, Oakland City Council adopted specific policies to stimulate participation of local certified firms in city contracting. The Social Equity Division is responsible for monitoring and enforcing those policies. The compliance analysis is one of several steps that lead to project monitoring.

The compliance analysis is a pre-contract award assessment of the levels of "proposed" local business participation, compliance with the Equal Benefits Ordinance (EBO) and a general overview of contractor's past compliance with the City's Local Employment and 15% Apprenticeship policies.

The basic steps taken to prepare the compliance analysis include the following:

1. For Construction Projects:
  - a. Contract administration staff prepares a "Canvass of Bids". The Canvass of Bids summarizes all bidders, the baseline dollar amount, and all alternates, if applicable.
  - b. Contract Administration submits the following to the assigned compliance officer for review and analysis:
    - i. Canvass of Bids,
    - ii. A copy of the bid proposal or submittal which included the following:
      1. Schedule D: Owner, Ethnicity and Gender,
      2. Schedule R: Subcontractor/Supplier and Trucker Listing, and
      3. Schedule N-1: Equal Benefits including all pertinent attachments
  - c. The Compliance Officer populates a spreadsheet (Attachment A) for each bidder to include data reflecting:
    - i. Trade or category of work,
    - ii. Name of prime
    - iii. Names of all subcontractors,
    - iv. Certification status of prime and all sub-contractors,
    - v. Proposed dollar amount of work,
    - vi. Ethnicity and gender,
    - vii. L/SLBE participation.

- d. A summary sheet for each contractor is prepared identifying:
  - i. The contractor's bid amount,
  - ii. The contractor's bid amount relative to the engineer's estimate,
  - iii. Bid discounts and
  - iv. The bid amount after the bid discount.
- e. A cover memo is prepared summarizing compliance results of each bidder listed on the Canvass of Bids. Compliance is based on the policies covered under the Policy Description section below.

2. For Professional Services Projects:

- a. Steps taken for professional services are the same as above with the exception of the following:
  - i. Schedule E Listing of Consultants is submitted instead of Schedule R
  - ii. In addition to the other schedules, Schedule N – Living Wage is also submitted to the assigned compliance officer.
  - iii. Compliance is calculated based on percentages of scope of work as opposed to actual dollar amounts.

A sample of a professional services compliance analysis is provided as Attachment B.

Contract Administration prepares a bid summary. Upon Council approval of the resolution, the award is made and Contract Administration proceeds to collect bonding and insurance documents.

### **KEY ISSUES AND IMPACTS**

The compliance analysis provides an assessment of the degree to which businesses have proposed to meet the local business participation requirement, the status of compliance with the City's Equal Benefits Ordinance, and a report of past performance relative to the LEP/15% Apprenticeship programs. The Public Works Committee wanted to know why the compliance analysis reported on all bidders including those that did not meet the minimum compliance requirements.

The Public Works Committee discussed the pros and cons of the scope of information provided on the compliance analysis. Three opinions prevailed: (1) continue the existing format of reporting, (2) exclude non-responsive firms from the compliance analysis or (3) continue to provide the same information but reports the non-responsive firms separately from those that met the minimum requirements.

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The current layout of the compliance analysis form is flexible and can accommodate council's preferences. As a sample, Attachment C provides a suggested format that continues to provide the same information but reports the non-responsive firms separately from those that met the minimum requirements.

## **POLICY DESCRIPTION**

A general summary of council policies addressed on the compliance analysis are:

- (1) L/SLBE 20% minimum participation with a 10% local and 10% small local split. Contractors may earn a minimum 2% bid discount up to a 5% bid discount for proposing up to 50% local participation with a 25% local and 25% small local split.
- (2) Equal Benefits Ordinance – This policy affects all service contracts valued at \$25,000 or more. It requires contractors to offer the same benefits to registered domestic partners as offered to married couples.
- (3) Past performance meeting the 50% Local Employment Program, which requires that 50% work force hours be performed by Oakland residents (minus core workforce hours).
- (4) Past performance meeting the 15% Apprenticeship Program, which requires that 15% of the total hours be worked by Oakland apprentices.

Note: Numbers 3 and 4 above are reported for informational purposes only.

## **SUSTAINABLE OPPORTUNITIES**

**Economic:** The format in which the compliance analysis is prepared can open the door for council to discuss firms that submit bids closest to the engineers' estimate but may not have the highest levels of local business participation.

**Environmental:** This report contains no environmental opportunities.

**Social Equity:** The City's social equity policies are in place to create certain competitive and economic advantages for local businesses. The format in which the compliance analysis is prepared may provide a more competitive edge for bids and submittals that meet the minimum requirements.

**RECOMMENDATION(S) AND RATIONALE**

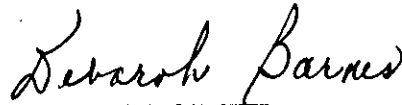
Staff recommends separating out the apparent non-responsive bidders from the overall compliance analysis format and inserting a separate section that will identify "all other" firms that did not meet the minimum requirements including bid security and/or local business participation.

Attachment C is a proposed re-structuring of the compliance analysis format for consideration.

**ACTION REQUESTED OF THE CITY COUNCIL**

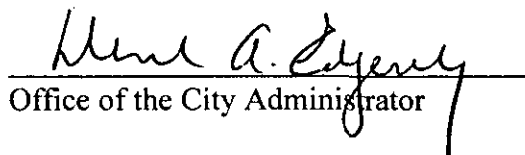
Accept staff recommendations and draft format provided as Attachment C.

Respectfully submitted,



Deborah Barnes , CC&ES Manager  
Department of Contracting and Purchasing

APPROVED AND FORWARDED TO THE  
PUBLIC WORKS COMMITTEE



Office of the City Administrator

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Public Works Committee  
September 11, 2007



**Memo**

**Department of Contracting and Purchasing**

Division of Social Equity

**To:** Gwen McCormick - Contract Administrator Supervisor  
**From:** Dasco Munoz - Contract Compliance Officer  
**Through:** Shelley Darensburg - Acting Senior Contract Compliance Officer  
**CC:** Project Manager  
**Date:** August 16, 2007  
**Re:** Madison Square Park Interim Renovation

The Department of Contracting and Purchasing (DCP) Division of Social Equity reviewed four (4) bids received in response to the above referenced project. Below is the outcome of the compliance evaluation for the minimum 20% Local and Small Local Business Enterprise (L/SLBE) participation requirement and a preliminary review for compliance with the Equal Benefits Ordinance (EBO).

Company Name	Bid Amount	Proposed Participation						Banked Credits Eligibility	EBO Compliant ? Y/N	
		Total L/SLBE	LBE	SLBE	Trucking	Total Credited	Adjusted Bid Amount			Bid Discounts
Mosto Construction	\$170,428.00	100.00%	0.00%	100.00%	100%	100.00%	\$161,907	5%	2%	Y
Beliveau Engineering	\$162,100.00	100.00%	0.00%	100.00%	100%	100.00%	\$153,995	5%	2%	Y
Bay Construction	\$204,300.00	89.07%	0.00%	89.07%	100%	0.00%	\$194,085	5%	2%	Y
Sposeto Engineering, Inc.	\$212,408.00	0.00%	0.00%	0.00%	100%	0.00%	\$212,408	0%	0%	Y

As noted above, Mosto Construction, Beliveau Engineering and Bay Construction met the minimum 20% L/SLBE participation requirement. Sposeto Engineering did not meet the minimum 20% L/SLBE requirement. All firms are EBO compliant.

**Additional Information:**

Beliveau Engineering's recently completed the Lincoln Square Junk Ship Renovation, Project No. G250510 with the City of Oakland.

Beliveau Engineering did not meet the 15% Apprenticeship Program utilization goal. There are 23.68 apprentice utilization shortfall hours for Operating Engineers on the project

Beliveau Engineering Contractors, Inc. submitted documentation of Oakland apprentice and journey-level employment on non-city funded projects that satisfied resident utilization shortfall hours for Carpenters and Laborers equal to shortfalls on the Lincoln Square Junk Ship Renovation Project.

Beliveau Engineering Contractors, Inc. has committed to providing employment for Oakland journey-level and apprentice Operating Engineers equal to utilization shortfalls on Project #G250510.

Should you have any questions or need additional information you may contact Dasco Munoz, Contract Compliance Officer at 238-3970

cc: Contract Compliance File

**Contract Compliance and Employment Services Evaluation Form**

**Project No.:** C159720

**Project Name:** Madison Square Park Interim Renovations

**Contractor:** Mosto Construction

**Contractor's Bid Amount:** 170,428.00

**Engineer's Estimate:** 118,965.00

**Over/Under the Engineers Estimate:** -51,463.00

**Bid Discounted Amount:** \$8,521.40

**Discount Points:** 5%

**Discounted Bid Price:** \$161,906.60

1. Did the 20% requirements apply? **YES**

2. Did the contractor meet the 20% requirement? **YES**

a) % of LBE **0.00%**

b) % of SLBE **100.00%**

3. Did the contractor meet the Trucking requirement? **YES**

a) % of Local Trucking **100%**

4. Did the contractor receive bid discount points? **YES**

(If yes, list the points received) **5%**

5. Additional Comments.

6. Date evaluation completed and returned to Contact Admin./Initiating Dept. **8/16/2007**

**Reviewing Officer:** \_\_\_\_\_ **Date:** 8/16/2007

**Approved By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

LBE/SLBE Participation

Bidder 1

Project Name:		Madison Square Park Interim Renovations										
Project No.: C159720		Engineers Est: 118,965.00				Under/Over Engineers Estimate: -51,463.00						
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	S/LBE Trucking	Total Trucking	TOTAL Dollars	For Tracking Only		
										Ethn.	MBE	WBE
Prime Trucking	Mosto Construction	Oakland	CB		165,428.00	165,428.00			165,428.00	H	\$165,428.00	
	Monroe Trucking	Oakland	CB		5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	AA	\$5,000.00	
<b>Project Totals</b>				0.00	170,428.00	170,428.00	5,000.00	5,000.00	170,428.00		\$170,428.00	\$0.00
				0.0%	100.00%	100.00%	100.00%	100.00%				
<b>Requirements:</b> The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.				<b>LBE 10%</b>	<b>SLBE 10%</b>	<b>Trucking 20%</b>	<b>LBE/SLBE 20%</b>			<b>Ethnicity</b>		
<b>Legend</b>								AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed				
LBE = Local Business Enterprise				UB = Uncertified Business								
SLBE = Small Local Business Enterprise				CB = Certified Business								
Total LBE/SLBE = All Certified Local and Small Local Businesses				MBE = Minority Business Enterprise								
NPLBE = NonProfit Local Business Enterprise				WBE = Women Business Enterprise								
NPSLBE = NonProfit Small Local Business Enterprise												



# Memo

**Office of the City Administrator**

Contract Compliance &amp; Employment Services Division

**To:** Gwen McCormick  
**From:** Vivian Inman, Contract Compliance Officer, CC&ES Division  
**Through:** Deborah Barnes, CC&ES Manager  
**CC:** Cheryl Ramirez  
**Date:** April 21, 2006  
**Re:** Compliance Analysis: Facilities Condition Assessment Services

Contract Compliance & Employment Services reviewed six (6) proposals received in response to the above referenced project. Below is the outcome of our compliance evaluation for the twenty percent (20%) minimum participation requirement and a preliminary review for compliance with the Equal Benefits Ordinance (EBO).

The L/SLBE findings are as follows:

	Company Name	Bid Amount (If Applicable)	Proposed Participation				Preferences			Banked Credits Eligibility?	EBO Compliant? (Y/N)
			Total L/SLBE	LBE	SLBE	Trucking	Bid Discounts	Adjusted Bid Amount	Points		
1	Acumen Building Enterprises	NA	100%	30%	70%	NA	NA	N/A	5	2	Y
2	Arthur Tam	NA	85%	60%	25%	NA	NA	NA	5	2	Y
3	Carter & Burgess	NA	80%	60%	20%	NA	NA	NA	4	2	N
4	DLR Group Inc.	NA	30%	0%	30%	NA	NA	NA	3	0	N
5	Powell & Partners	NA	81%	4%	77%	NA	NA	NA	5	2	Y
6	TranSystems Corporation	NA	100%	90%	10%	NA	NA	NA	2	2	N

As noted above all firms met or exceeded the 20% minimum participation requirement. Acumen Building Enterprises reported 30% LBE and 70% SLBE participation, and was credited with 100%; Arthur Tam reported 60% LBE participation and 25% SLBE participation, and was credited with 50%; Carter & Burgess reported 60% LBE participation and 20% SLBE participation and was credited with 40%; DLR Group, Inc. reported 30% SLBE Mentor-Protégé participation and was credited with 30%; Powell & Partners reported 4% LBE participation and 77% SLBE participation and was credited with 81%; and TranSystems Corporation reported 90% LBE participation and 10% SLBE participation and was credited with 20%.

Firms that are not EBO compliant will be required to come into compliance.

If you have questions or need additional information, please contact Vivian Inman, Contract Compliance Officer, at 238-6261.

## LBE/SLBE Participation TranSystems Corporation

Project Name: Facilities Condition Assessment

Project No.:		Engineers Estimate:								
Discipline	Prime & Subs	Location	Cert. Status	LBE %	SLBE %	LBE/SLBE %	TOTAL Percentage	For Tracking Only		
								Ethn.	MBE	WBE
<b>PRIME</b> Electrical Engineer Mechanical Engineer	TranSystems Corporation	Oakland	CB	75%		75%	75%	C		
	DTN Engineers	Oakland	CB		10%	10%	10%	A	10%	
	NBA Engineering	Oakland	CB	15%		15%	15%	NA	15%	
<b>Project Totals</b>				90%	10%	100%	100%		25%	0%
<b>Requirements:</b> The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements. LBE firms can only be counted up to 10% of the total contract amount.				LBE 10%	SLBE 10%	TOTAL LBE/SLBE 20%		<b>Ethnicity</b> AA = African American A = Asian C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed		
<b>Legend</b>	LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise				UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise					

**ATTACHMENT C:  
PROPOSED RE-FORMATting**



**Memo**

**Department of Contracting and Purchasing**

Division of Social Equity

**To:** Gwen McCormick - Contract Administrator Supervisor  
**From:** Department of Contracting and Purchasing  
**Through:** Shelley Darensburg - Acting Senior Contract Compliance Officer  
**CC:** Project Manager  
**Date:** August 16, 2007  
**Re:** Madison Square Park Interim Renovation

The Department of Contracting and Purchasing (DCP), Division of Social Equity, reviewed four (4) bids received in response to the above referenced project. Below is the outcome of the compliance evaluation for the minimum 20% Local and Small Local Business Enterprise (L/SLBE) participation requirement and a preliminary review for compliance with the Equal Benefits Ordinance (EBO).

RESPONSIVE		Proposed Participation							Banked Credits Eligibility	EBO Compliant ? Y/N
Company Name	Bid Amount	Total L/SLBE	LBE	SLBE	Trucking	Total Credited	Adjusted Bid Amount	Bid Discounts		
Mosto Construction	\$170,428.00	100.00%	0.00%	100.00%	100%	100.00%	\$161,907	5%	2%	Y
Beliveau Engineering	\$162,100.00	100.00%	0.00%	100.00%	100%	100.00%	\$153,995	5%	2%	Y
Bay Construction	\$204,300.00	89.07%	0.00%	89.07%	100%	0.00%	\$194,085	5%	2%	Y

As noted above, Mosto Construction, Beliveau Engineering and Bay Construction met the minimum 20% L/SLBE participation requirement.

**PROPOSED RE-FORMATting**

Non-Responsive		Proposed Participation							Banked Credits Eligibility	EBO Compliant ? Y/N
Company Name	Bid Amount	Total L/SLBE	LBE	SLBE	Trucking	Total Credited	Adjusted Bid Amount	Bid Discounts		
Sposeto Engineering, Inc.	\$212,408.00	0.00%	0.00%	0.00%	100%	0.00%	\$212,408	0%	0%	Y

Sposeto Engineering did not meet the minimum 20% L/SLBE requirement.

**COMMENTS:** Sposeto did not meet the minimum 20% L/SLBE Requirement. In addition, the bid amount was the highest of the four responses.

**ADDITIONAL INFORMATION: 50% LEP and 15% Apprenticeship**

Beliveau Engineering's recently completed the Lincoln Square Junk Ship Renovation, Project No. G250510 with the City of Oakland.

Beliveau Engineering did not meet the 15% Apprenticeship Program utilization goal. There are 23.68 apprentice utilization shortfall hours for Operating Engineers on the project.

Beliveau Engineering Contractors, Inc. submitted documentation of Oakland apprentice and journey-level employment on non-city funded projects that satisfied resident utilization shortfall hours for Carpenters and Laborers equal to shortfalls on the Lincoln Square Junk Ship Renovation Project.

Beliveau Engineering Contractors, Inc. has committed to providing employment for Oakland journey-level and apprentice Operating Engineers equal to utilization shortfalls on Project #G250510.

Should you have any questions or need additional information you may contact Dasco Munoz, Contract Compliance Officer at 238-3970

cc: Contract Compliance File