



# AGENDA REPORT


**TO:** Edward R. Reiskin  
City Administrator

**SUBJECT:** Local Business Empowerment  
Through Contracting (LBETC)  
Ordinance

**FROM:** Deborah Lusk-Barnes,  
Director, DWES

**DATE:** January 18, 2021

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City Administrator Approval 

Date: January 21, 2021

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## **RECOMMENDATION**

**Staff Recommends That The City Council Receive An Informational Report Providing A Costing Analysis Including Staff Impacts And Dollar Amounts For The Local Business Empowerment Through Contracting (LBETC) Ordinance Which Amends Ordinance 13101 Which Revised Oakland's Local And Small Local Business Enterprise (L/SLBE) Program Brought To Council On December 15, 2020 And January 12, 2021 To Empower Oakland's Local And Small Business Community And Responds To The Racial And Gender Disparities Identified In The 2017 Racial And Gender Disparities Report.**

## **BACKGROUND / LEGISLATIVE HISTORY**

On December 18, 2001, the City Council adopted Ordinance No. 12389 C.M.S., which authorized Oakland's Local and Small Business Enterprise (L/SLBE) Program. On December 20, 2011, the City Council adopted Ordinance No. 13101 C.M.S. amending Ordinance No. 12389 C.M.S., to, among other things, change business size standards and establish new LBE categories, increase local and small business participation requirements, establish new preference program requirements for Very Small Business Enterprises (VSBE), local businesses that produced goods (LBE-LPG), and increase penalties for noncompliance.

At the November 17, 2020 Community & Economic Development (CED) Committee meeting, Councilmember Loren Taylor proposed an Ordinance amending Ordinance No. 13101 C.M.S. and providing further changes to the Oakland's Local and Small Business Enterprise Program. Members of the business community including professional and construction contractors requested changes to the City's contracting program to make small local Oakland businesses more competitive. In addition, City staff suggested changes to the City's Local and Small Business Enterprise Program Manual.

At the December 15, 2020 City Council meeting, staff was asked to provide additional information on the staff hours and associated costs to complete tasks associated with the policy program enhancements to the Local and Small Local Business Enterprise Program as recommended in the draft Ordinance submitted for consideration at that time. This report is prepared in response to the City Council's request for additional information.

CED Committee  
January 26, 2021

## **ANALYSIS AND POLICY ALTERNATIVES**

The proposed action will authorize staff to develop the City Council's revised policies and procedures in preparation for implementing upgrades to Oakland City Council's social justice policies in first response to the City of Oakland's Race Neutral strategies that comport with the Council's Race and Equity Disparity Study findings as follows:

1. Revise the City's Local Oakland L/SLBE Trucking Certification Program "truck Storage" requirements by requiring that in order to meet the 50 percent participation goal, contractors may only use trucking companies certified through the L/SLBE trucking program; and (b) removing the requirement that companies house or store trucks within the City's geographic region;
2. Create a new business certification category referred to as a: "Small Business Administration-Local Oakland Business Enterprise" (SBA-LBE) category; and 1. Reduce the size-standard of an LBE where the 3-year average of gross receipts is less than or equal to 20 percent of the most recently published United States Small Business Administration's Small Business Size standards (U.S. SBA);
3. As a local Oakland business certification criterion, redefine and expand the meaning of a "substantial business presence" and "local manufacturer" as evidence of a local Oakland presence;
4. Limiting modifications to L/SLBE Schedule E Local Oakland Participation - after bid opening;
5. Applying a bid discount of 5 percent to a VSLBE prime contractor during construction bid evaluation, and a bid discount of 5 percent for professional services contract bids where the VSLBE meets a 50 percent subcontractor goal;
6. Requiring that all developers engaged via a Development and Disposition Agreement (DDA) submit a confirmed list of local Oakland participating businesses; projected awards of construction and construction-related agreements prior to executing the DDA, with all such agreements required to include the L/SLBE Program requirements;
7. Increasing the preference percentage for Mentor- Protégé teams on construction and professional services contracts from 5 percent to 10 percent and establishing criteria for eligible agreements that ensure Mentor/Protégé agreements and signed partnership agreements engaged in a Joint Venture (JV) partnership. Agreements must explicitly identify the beneficial terms of the agreement, ensuring growth and business opportunities. Mentor/Protégé agreements may not exceed two per project; and
8. Updating schedules applicable to the L/SLBE Program.

The analysis takes into consideration the tasks required to implement, whether those tasks are included in staff's current job specification, the full time equivalent hours (FTE) that are outside of staff's current responsibilities, and the cost of any additional effort needed. Staff offers the

following analysis of the fiscal constraints associated with the recommended policy enhancements which can also be found in **Attachment A**:

1. Revise the City's L/SLBE Trucking Program to exclude the requirement that companies house or store trucks within the City's geographic region.  
This proposal would cause no fiscal impact since the needed work to implement this policy is a small technical change to the current policy.
2. Create a business certification category referred to as *Small Business Administration – Local Oakland Business Enterprise (SBA-LBE)*  
This proposal would cause no on-going fiscal impact since the needed work (revising forms, program language, and providing directions) would be absorbed by current staff. The estimated time to complete this proposal is thirty (30) hours. Note that the application and certification process will be extended by an undetermined length of time without additional personnel.
3. Redefine *substantial presence* and *local manufacturer*  
This proposal would cause no on-going fiscal impact since the needed work (updating forms and communicating change to business) to implement this policy is a small technical change to the current policy.
4. Limit modifications to L/SLBE schedules after bid opening  
This proposal would cause a positive fiscal impact since it will free up staff time to implement other suggested changes since it eliminates the need to conduct mid-request for proposals (RFP) negotiation on L/SLBE compliance.
5. Apply a bid discount of 5 percent to VSLBE  
This proposal would cause no fiscal impact since the needed work (updating policies and procedures) to implement this policy is a small technical change to the current policy.
6. Require all developers to submit a schedule prior to executing a DDA  
This proposal would cause no fiscal impact since the needed work (revising policies and procedure language in the program) to implement this policy is a small technical change to the existing administrative processes.
7. Increase the preference percentage for Mentor-Protégé teams  
This proposal would cause no fiscal impact since the needed work (updating policies and procedures) to implement this policy is a small technical change to the current policy.

## **FISCAL IMPACT**

There would be a small fiscal impact of an additional 30 hours of staff time as an estimated one-time cost of approximately \$2,000. All of the necessary changes will be implemented or incorporated into staff's current roles and responsibilities because the implementation of these policies are small technical changes to the existing policy. Staff will return at a future date to re-

assess the ramifications and impacts on operations relative to the proposed policy enhancements.

### **PUBLIC OUTREACH / INTEREST**

In developing and refining this proposal, outreach was made in coordination with the District 6 Council Office to several City of Oakland contractors and professional services providers, the Oakland Chambers of Commerce (including the Metropolitan Chamber, and the African American Chamber), representatives from Labor, and counterparts with the Port of Oakland who oversee and manage their diverse contractors and supplier program.

### **COORDINATION**

This report was prepared in coordination with the City Attorney's Office, Workplace & Employment Standards, and the Budget Office.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** By empowering Local businesses and providing them greater access to contracting opportunities with the City of Oakland, they will be able to increase revenue and increase their ability to reinvest into the local economy through job creation, increased contracting and subcontracting with other local businesses.

***Environmental:*** No direct environmental impacts have been identified.

***Race & Equity:*** The proposed changes to the L/SLBE Program directly address barriers that are experienced by Minority- and Women-owned businesses as documented in the 2017 Race and Gender Disparities study – specifically, African American-owned and Women-owned businesses in Oakland. By removing these barriers, the proposed measures are expected to increase opportunities for equitable access to city contracting opportunities and reduce the disparities.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Receive An Informational Report Providing A Costing Analysis Including Staff Impacts And Dollar Amounts For The Local Business Empowerment Through Contracting (LBETC) Ordinance Which Amends Ordinance 13101 Which Revised Oakland's Local And Small Local Business Enterprise (L/SLBE) Program Brought To Council On December 15, 2020 And January 12, 2021 To Empower Oakland's Local And Small Business Community And Responds To The Racial And Gender Disparities Identified In The 2017 Racial And Gender Disparities Report.

For questions regarding this report, please contact Deborah Barnes, Director, Workplace and Employment Standards, Contracts and Compliance Division, 510-710-2859.

Respectfully submitted,

*Deborah Barnes*

DEBORAH LUSK-BARNES  
Director, Department of Workplace and  
Employment Standards

Prepared By:  
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Department of Workplace and Employment  
Standards

Attachment (1):

A: Impact/Cost Analysis for Implementing Changes proposed by the LBETC Ordinance