



AGENDA REPORT

TO: Oakland City Council, Mayor Libby
Schaaf, and City
Administrator Ed Reiskin

FROM: Loren M. Taylor
Councilmember – District 6

SUBJECT: L/SLBE Certification and
Compliance Positions

DATE: June 10, 2021

RECOMMENDATION

Adopt A Resolution Expressing The City Council’s Commitment To Creating And Funding In The Adopted 2021-2023 Biennial Budget Two Contract Compliance Officer Positions And One Administrative Assistant II Position In The Department Of Workplace And Employment Standards To Ensure A More Effective And Efficient Local/Small Local Business Enterprise (L/SLBE) Program Including Implementation Of Enhancements Detailed In Ordinance 13640

EXECUTIVE SUMMARY

In 2011, the Oakland City Council passed Ordinance 13101, which revised Oakland’s Local and Small Business Enterprise Program (L/SLBE). In early 2021 the Council adopted revisions to the program by Ordinance and passed a Resolution that directed staff to return to Council with additional information. On June 1, 2021, the Council passed a Resolution directing City staff to meeting regularly with City contractors, the local business community and interested stakeholders to gather feedback for improvements to the L/SLBE program.

Members of the business community have complained about the difficulty of small and local Oakland businesses in obtaining contracts with the City, and the recently released 2017 Race and Gender Disparities Study shows that Black-owned and women-owned businesses, face significant challenges accessing city contracting & procurement opportunities.

The Council seeks to address the identified race and gender disparities in the 2017 Race and Gender Disparities study and increase the use of Oakland L/SLBEs in all City contracting, including disposition and development agreements, commodities and other services, cooperative agreements and all other economic opportunities available to the Oakland business market and to expressly include opportunities for disadvantaged business groups.

This proposed resolution is an opportunity for the City Council to express its support for the creation and funding of much-needed positions in the Department of Workplace and Employment Standards that are necessary to support departmental functions, enforce existing

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policies, and levy penalties and fines when the policies are not followed to encourage compliance and better serve the local Oakland business community.

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 with a stated purpose of stimulating economic development in the City of Oakland with a particular emphasis on providing economic opportunity for Oakland residents and businesses that have been especially economically disadvantaged.

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.

Then, on February 16, 2021, the City Council adopted Ordinance 13640 amending Ordinance No. 13101 C.M.S., which revised Oakland's Local and Small Local Business Enterprise (L/SLBE) Program provisions, to change local and small local trucking participation requirements, add new local business categories and certification criteria, change the definition of "substantial presence," define "local-based manufacturer, add and change bid discounts, limit modifications to L/SLBE schedules after bid opening, and provisions related to disposition and development agreements and cooperative agreements, and update the list of applicable schedule.

On June 1, 2021, the City Council adopted a Resolution directing the City Administrator to 1) conduct two or more focus groups per year and an annual survey of local businesses regarding possible L/SLBE program enhancements and 2) annually present its findings, policy recommendations, and a program improvement action plan to the City Council's Community & Economic Development Committee.

While this item was initially scheduled for a Community & Economic Development Committee meeting in February, it was rescheduled to the June 17, 2021 City Council meeting for consideration and adoption in alignment with the 2-year budgeting process.

ANALYSIS AND POLICY ALTERNATIVES

The City Council recently adopted changes to the City's L/SLBE programs. It is important that there are adequate resources and staff to implement the updated the changes and collect valuable data on the results of the changes. Also, policy changes are not sufficient to ensure impactful changes to historic and systemic disparities. There is a continued need to ensure compliance with the program to achieve the Council's goals of equity in City contracting and procurement. The penalties and fines that result from enforcement of violations will help to fund these positions and increase the City's revenues.

FISCAL AND STAFFING IMPACT

A critical factor to the success of L/SLBE program is both the startup costs and ongoing operational costs of monitoring and compliance. According to the 2017 Race and Gender Disparities Study, “The existing staffing levels in the Contracts and Compliance Division should be augmented to increase the personnel in at least three functional areas: certification, data management, and contract compliance.” This legislation prioritizes the addition of two additional staff members proposed to support enhanced program monitoring and compliance. Similarly, when the City adds parking enforcement officers to the city budget, there is no anticipated net financial impact to the city of Oakland given the fact this at the added positions are expected to be revenue neutral given the anticipated fees and fines that will be levied and collected due to findings of non-compliance.

As recommended in the 2017 Race and Gender Disparities Study, we are proposing these additional roles which will include the following activities, critical to support program enhancement, monitoring, and enforcement.

1. Administrative Assistant II

The Administrative Assistant will support the implementation of the contracts and compliance program including administering, monitoring, managing, and reporting for various aspects of the L/SLBE program This may include direct support for contractors and suppliers as well as behind-the-scenes activities including operating contracting and compliance systems.

2. Two Contract Compliance Officers

The Contract Compliance Officer should advise, monitor, and report on L/SLBE program, and individual contractor/supplier activity, in addition to supporting the backlogged local business certification process. When appropriate and necessary, the Compliance Officer shall also lead efforts to levy fees and fines related to L/SLBE and M/WBE contract compliance. This will include subcontractor pre-award goal fulfillment, commercially useful function review, certification site visits and desk audits, compliance investigations, post-award compliance audits and dispute resolution. In addition, the Compliance Officer should participate in business outreach activities to increase the applicant pool.

POSITION	BASE	FRINGE	TOTAL COST
CONTRACT COMPLIANCE OFFICERS (2)	193,314.96	151,102.70	344,417.66
LBE/SLBE ADMINISTRATIVE ASSISTANT II	65,433.00	51,145.05	116,578.05
TOTALS	258,747.96	202,247.75	460,995.71

BUDGETED AT STEP 3

PUBLIC OUTREACH / INTEREST

Public outreach was made in coordination with District 6 Councilmember Loren Taylor's office to a broad subset of Oakland's diverse business community including many City of Oakland contractors and professional services providers, the Oakland Chambers of Commerce (including the Metropolitan Chamber, Latino Chamber, Chinatown Chamber and the African American Chamber), representatives from Labor, and counterparts with the Port of Oakland and Oakland Unified School District who oversee and manage their diverse contractors and supplier program.

COORDINATION

This report was prepared in coordination between the City Attorney's Office, City Administrator's Office, and the Department of Workplace & Employment Standards.

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. Also, the compliance officers and administrative assistant will be able to perform more investigations of program violations and potentially bring in additional revenue through fines and penalties.

Environmental: No direct environmental impacts have been identified.

Social Equity: The proposed compliance officers and administrative assistant will work directly to eliminate 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 increasing the number of staff responsible for compliance, 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

Adopt A Resolution Expressing The City Council's Commitment To Creating And Funding In The Adopted 2021-2023 Biennial Budget Two Contract Compliance Officer Positions And One Administrative Assistant II Position In The Department Of Workplace And Employment Standards To Ensure A More Effective And Efficient Local/Small Local Business Enterprise (L/SLBE) Program Including Implementation Of Enhancements Detailed In Ordinance 13640

For questions regarding this report, please contact Councilmember Loren Taylor's office at (510) 238-7006.

Respectfully submitted,



LOREN M. TAYLOR
Councilmember, District 6
Chair, Life Enrichment Committee
Member, Community & Economic Development
AND Public Safety Committees