



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Richard J. Luna
Deputy City Administrator

SUBJECT: Increasing Contracting Opportunities

DATE: September 28, 2021

City Administrator Approval

Date: Sep 30, 2021

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On The City's Work In Improving Contracting Opportunities For Local, Small, Women And Minority-Owned Businesses Including The Minutes Of All Meetings Of The Supporting Contracting Opportunities Committee And The Ad Hoc Subcommittee For Reviewing Contracts, Including A List Of All Contracts That Have Been Sent To Them For Review And Feedback, The Timeline For Such Feedback, And The Outcome Of Their Review And The Authorizing Information For The Creation Of Such Bodies, Who Was Selected To Serve On Them, By Whom Such Selection Was Made, Who Decided Which Contracts Would Be Sent To Them For Review, And On The Basis Of What Criteria, And The Status Of Enforcement Of Oakland's Prompt Payment Policy, And To Report On What Actions The Administration Is Taking, Through These "Committees" Or Otherwise, To Remedy The Mistreatment Of DBE Subcontractors By Prime Contractors With Whom The City Contracts.

EXECUTIVE SUMMARY

Since February 2021, City staff have been engaging on a bi-weekly basis with representatives from the local business community to address the lack of contracts awarded to local, small, women and minority-owned businesses. The meetings have been a productive venue for staff to receive constructive feedback on policies, procedures, and the process for how the City awards contracts. The purpose of this report is to share the composition of the group, its goals, tasks divided by subcommittees, and highlight the progress made in addressing and improving contracting opportunities to local businesses.

BACKGROUND / LEGISLATIVE HISTORY

On December 15, 2020, the City Council received an informational report on the Draft 2020 Oakland Disparity Study. The purpose of the study was to (1) comply with City Charter Section 808 (b)'s, requirement that the City conduct such a disparity study; (2) determine whether there were disparities between the availability and utilization of minority and women owned businesses in four industries: construction, architecture and engineering, professional services, and goods and other services; (3) make recommendations regarding the City's options based

on an analysis of market and utilization data and the applicable legal standards under federal and state law to address such disparities. The report can be accessed on the City's website: <https://cao-94612.s3.amazonaws.com/documents/City-of-Oakland-Draft-Disparity-Study.pdf>.

On January 12, 2021, the City Council adopted Resolution No. 88483 C.M.S. (<https://oakland.legistar.com/View.ashx?M=F&ID=9104179&GUID=915CE110-01AD-4530-B42D-A5557BD83AC5>) which directed the City Administrator to explore improvements to the Local/Small Local Business Enterprise (L/SLBE) Program. The resolution requested the following: better delivery of the City's commitment to eliminate race and gender disparities in City purchasing for procurement of goods and materials, construction labor and materials and professional services; application of the L/SLBE Program to the City's on-call contracts and cooperative agreements; establishing a small and/or very small L/SLBE set aside program; and establishing a bonding and financing program, among others.

On June 1, 2021, the City Council adopted Resolution No. 88680 C.M.S. (<https://oakland.legistar.com/View.ashx?M=F&ID=9699233&GUID=103EE728-2BC9-4BC6-885B-936C1B785CF1>) which directed the City Administrator to conduct two or more focus groups per year and an annual survey of local businesses regarding possible L/SLBE program enhancements, and annually present its findings, policy recommendations, and a program improvement action plan to the Community and Economic Development Committee.

The Draft Disparity Study's findings and recommendations in conjunction with legislation approved by the City Council was the catalyst for forming a group of internal and external stakeholders to address the City's contracting issues. Councilmember Loren Taylor requested support from the Mayor's and City Administrator's Offices to gather City staff while also engaging with the local business community to hold regular discussions and identify immediate and long-term strategies to increase contracting opportunities in Oakland. This led to the formation of the Contracting Disparity Action Team ("Team") in early 2021.

The purpose of the Team is to increase contracting opportunities for those businesses identified as facing significant contracting disparities in the 2017 Race & Gender Disparities Study through structural and systemic transformation. The group began meeting on February 3, 2021 and over time has grown to nearly 40 active and/or former participants. City staff representatives from the following departments participate in the meetings: City Administrator's Office, Department of Race & Equity, Department of Transportation, Department of Workplace and Employment Standards, Economic Workforce & Development Department, Finance Department, and Public Works. Additionally, the Team is represented by Executive Directors from the local chambers of commerce, business leaders and building trades and construction representatives. The following list includes individuals that have participated in the meetings:

City Staff Participants

- Loren Taylor, Councilmember
- Treva Reid, Councilmember
- Pamela Ferran, City Council District 6 Office
- Rosa Velasquez, City Council District 7 Office
- Shereda Nosakhare, Office of the Mayor
- Richard Luna, Deputy City Administrator
- Jason Mitchell, former Assistant City Administrator
- Darlene Flynn, Director, Department of Race & Equity

- Sarah Herbelin, Management Assistant, Finance Department
- Hassan Lecky, Senior Buyer, Finance Department
- Deborah Barnes, Director, Department of Workplace & Employment Standards (DWES)
- Ernestine Nettles, Assistant Contract Compliance Officer, DWES
- Troy Dotson, Contract Compliance Field Technician, DWES
- Shelley Darensburg, Contract Compliance Supervisor, DWES
- Vivian Inman, Senior Contract Compliance Officer, DWES
- David Ferguson, former Interim Director, Public Works
- G. Harold Duffey, Director, Public Works
- Tamala Barnes, Capital Contracts Manager, Public Works
- Jimmy Mach, Civil Principal Engineer, Public Works
- Richard Battersby, Assistant Director Public Works
- Matt Lee, Assistant Director, Public Works
- Al Lujan, Public Works
- Mohamed Alaoui, former Principal Civil Engineer, Department of Transportation
- Sarah Fine, Program Manager, Department of Transportation
- Alexa Jeffress, Director, Economic & Workforce Development
- Micah Hinkle, Deputy Director, Economic & Workforce Development

Business and Community Leader Participants

- Cathy Adams, Oakland African American Chamber of Commerce
- Bernida Reagan, Merriwether & Williams Insurance Services
- Chantal Reynolds, Oakland African American Chamber of Commerce
- Jabari Herbert, Developer, FOCON
- Doug Davis, AE3 Partners
- Eddie Dillard, Oakland Black Board of Trade and Commerce
- Stanley Cooper, General Contractor, Cooper Construction and Engineering
- Jessica Chen, Oakland Chinatown Chamber of Commerce
- Joe Partida, Oakland Latino Chamber of Commerce
- Barbara Leslie, Oakland Metropolitan Chamber of Commerce
- TaShon Thomas, Oakland Metropolitan Chamber of Commerce
- Ashleigh Smallwood, Oakland Metropolitan Chamber of Commerce
- Dr. Jennifer Tran, Oakland Vietnamese Chamber of Commerce
- Carl Chan, Oakland Chinatown Chamber of Commerce
- Rick DaSilva, Oakland Chinatown Chamber
- Bendu Griffin Washington, President, Tonma

The Team organized its work through five subcommittees. The following information provides the subcommittee, their tasks, goals, meeting frequency and a list of participants.

Immediate L/SLBE Program Enhancements¹ - group tasked with identifying and making changes to the City's L/SLBE Program, with goals to update the program to better address the business community, distribute information and monitor progress. Originally met as needed but now meets twice a month. Participants have included:

¹ The Immediate L/SLBE Program Enhancements subcommittee merged with the Increase Available Vendor Pool subcommittee as the topics overlapped.

- Deborah Barnes, Director, DWES
- Richard Luna, Deputy City Administrator
- Jason Mitchell, former Assistant City Administrator
- Ernestine Nettles, Assistant Contract Compliance Officer, DWES
- Vivian Inman, Senior Contract Compliance Officer, DWES
- Sarah Fine, Program Manager, Department of Transportation
- Cathy Adams, Oakland African American Chamber of Commerce

Contractor Development Program – group tasked with developing a Requests for Proposals (RFP) for comprehensive business assistance and bonding services with goal to provide additional support and resources to small and minority construction contractors. Meets as needed and participants have included:

- Micah Hinkle, Deputy Director, Economic & Workforce Development
- Matt Lee, Assistant Director, Public Works
- Jabari Herbert, Developer, FOCON
- Rick DaSilva, Oakland Chinatown Chamber
- Joe Partida, Oakland Latino Chamber of Commerce
- Eddie Dillard, Oakland Black Board of Trade and Commerce

On-Call Contractors – group tasked with evaluating on-call contractor solicitation and selection process, with goals of increasing the number of women and minority-owned businesses in the on-call contractor pool. Meets as-needed, participants have included:

- Mohamed Alaoui, former Principal Civil Engineer, Department of Transportation
- Tamala Barnes, Capital Contracts Manager, Public Works
- Hassan Lecky, Senior Buyer, Finance Department
- Bernida Regan, Merriwether & Williams Insurance Services

Increase Available Vendor Pool – group tasked with improving outreach and education to local businesses, with goals of increasing number of businesses on distribution lists and increasing the number of local certified firms. Meets twice a month and participants have included:

- Richard J. Luna, Deputy City Administrator
- Jason Mitchell, former Assistant City Administrator
- Deborah Barnes, Director, DWES
- Ernestine Nettles, Assistant Contract Compliance Officer, DWES
- Shelly Darensburg, Contract Compliance Supervisor, DWES
- Vivian Inman, Senior Contract Compliance Officer, DWES
- Alexa Jeffress, Director, Economic & Workforce Development
- Hassan Lecky, Senior Buyer, Finance Department
- Sarah Fine, Program Manager, Department of Transportation
- Cathy Adams, Oakland African American Chamber of Commerce
- Barbara Leslie, Oakland Metropolitan Chamber of Commerce
- TaShon Thomas, Oakland Metropolitan Chamber of Commerce
- Ashleigh Smallwood, Oakland Metropolitan Chamber of Commerce

Systems Change Opportunities – group tasked with analyzing the long-term work of the Team with goal of identifying additional resources needed to address structural issues in the City’s contracting process. Meets as needed and participants have included:

- Sarah Herbelin, Management Assistant, Finance Department
- Darlene Flynn, Director, Department of Race & Equity
- Al Lujan, Public Works
- Hassan Lecky, Senior Buyer, Finance Department
- Stanley Cooper, General Contractor, Cooper Construction and Engineering
- Dr. Jennifer Tran, Oakland Vietnamese Chamber of Commerce
- Doug Davis, AE3 Partners

ANALYSIS AND POLICY ALTERNATIVES

Throughout its work, the Team has made significant strides in identifying ways to increase contracting opportunities to small, local, women and minority-owned businesses. The following is a summary of the work accomplished by the group.

- Organized and held a townhall listening session in February 2021 with the local business community to get feedback and recommendations on how to improve the City’s contracting processes. Received over 200 unique responses from business owners and/or residents. Information is still being analyzed and staff is engaging with a good governance organization to provide a full report summarizing feedback and recommendations for next steps.
- In partnership with the Oakland African American Chamber of Commerce, Ernestine Nettles, Assistant Contract Compliance Officer, DWES, has held four certification workshops in 2021 assisting local vendors navigate, register, and submit their documentation to receive certification by the City of Oakland.
- Received input that led to updates and enhancements to the City’s L/SLBE program via Ordinance No. 13640 C.M.S. (<https://oakland.legistar.com/View.ashx?M=F&ID=9204608&GUID=B3AF6673-6123-4FA1-9260-D081E28E4AEC>) and Ordinance No. 13647 C.M.S. (<https://oakland.legistar.com/View.ashx?M=F&ID=9411216&GUID=EC4C7AA0-C1BD-4FBE-BB3A-3A17F367C04A>).
- The feedback received through these meetings inspired Resolution No. 88680 C.M.S., which requires staff to annually conduct two or more L/SLBE program focus groups and a survey to local businesses on possible program enhancements. Recommendations received through these forums and surveys will be provided to the City Council starting in 2022. City staff has already received some initial feedback on the most recent program changes implemented via Ordinance No. 13647 C.M.S. Staff is reviewing input to determine if immediate amendments are needed.
- From these discussions, Councilmember Loren Taylor recommended to the City Council an increase in staffing for DWES. Through the FY 2021-23 budget adoption process, the City Council created 3.0 new FTE positions in the DWES in FY 2021-22, and an additional 1.0 FTE position in DWES beginning in FY 2022-23. This is a total of 4.0 new

positions in DWES at a cost of \$764,052, which will help the department manage the workload of contract compliance reviews and processing certifications.

- In July 2021, Information Technology Department and DWES initiated updates to the City's iSupplier website to improve vendor and user experience when registering and contracting with the City of Oakland. This work is ongoing; however, feedback City staff received through these engagements was a driving force in escalating the work to improve user experience.
- The Team has held two (2) how to do business with City workshops in conjunction with the Oakland Multicultural Chambers of Commerce. The workshops are intended for departments to present upcoming BIDs, RFP/Qs that will be issued in the coming year and for City staff to provide resources and guidance to local vendors for successfully submitting proposals. The first event on July 27, 2021 had over 80 participants. Department presentations included the City Administrator's Office, Economic & Workforce Development, Oakland Public Works (Capital Contracts), and the Purchasing Division in the Finance Department. Purchasing Division staff presented upcoming BIDs on behalf of the following departments: Parks, Recreation & Youth Development, Oakland Police Department and Human Services. The second event was held on August 30, 2021, with nearly 70 people in attendance. The second workshop featured upcoming projects with the Department of Transportation. City staff is working on the third workshop with hopes of scheduling one in mid-October. Additionally, staff is working to conduct more instructional workshops such as how to navigate iSupplier and the City's website, reviewing the standard agreements, contract schedules, and insurance requirements, among other topics.
- Economic Workforce & Development staff received a grant supported by Federal Economic Development Administration and thereafter worked with the Team to collaboratively release a RFP for small construction contractor business assistance and bonding program services. The goal is to provide comprehensive business assistance and bonding services to support small and minority construction contractors in being prepared to submit competitive bids on public projects. The proposed services will also result in increasing the pool of the City's L/SLBE program by adding small and minority contractors and subcontractors who will be prepared to participate in the bidding process for City Public Works and construction projects. Proposals are due on October 18, 2021.
- Finally, the Team is identifying long-term systems change work that can have the most impact on increasing opportunities to local businesses. A few of the topics that have been discussed include: tracking quantitative contracting outcomes and data, improve invoice processing timelines, analyze impacts of increasing spending thresholds for non-competitive BIDs to local businesses, complete iSupplier upgrades to improve user experience, improve communications to staff and local businesses on identifying and submitting NAICS/NIPG codes, create fillable or online based contracting schedules, increase training for City staff that issue BIDs and RFP/Qs to develop consistent best practices throughout the organization, and reevaluate the City's insurance requirements by exploring possible tiered system for levels of insurance coverage by contract type or amount. The City Administrator's Office is tasked with developing a workplan and strategy to implement the recommendations developed through this work.

Aside from these specific accomplishments, a key benefit of these meetings is an improved dialogue, communication, and understanding between City staff and representatives from the local business community. When issues arise, the businesses leaders can quickly notify staff for further investigation and follow up. Staff has been asked to not just address these immediate issues, but to conduct a more thorough examination of policies, practices, and procedures to address the disparities in contracts awarded by the City. Staff representatives acknowledge the time and dedication the local leaders have invested and volunteered into this work and appreciate their perspectives as the Team collectively addresses a lack of contracts being awarded to local vendors, specifically women and minority-owned businesses.

Responses to Vice Mayor Rebecca Kaplan's Questions

1. The minutes of all meetings of the supporting contracting opportunities committee and the ad hoc subcommittee for reviewing contracts.

Meeting agendas provided in **Attachments A-I**, no meeting minutes taken; however, **Attachment J** includes a question and task tracker similar to meeting minutes. There is no ad hoc subcommittee for reviewing contracts and City Administration clarified this information to the City Council by email on September 23, 2021 (**Attachment K**).

2. A list of all contracts that have been sent to them for review and feedback, the timeline for such feedback, and the outcome of their review.

There are no ad hoc subcommittees for reviewing contracts. However, Vice Mayor Kaplan has specifically asked about input City staff received in review of the deliverables and scope of work related to the Construction Resource Center grant agreement. Eddie Dillard, Oakland Black Board of Trade and Commerce, was the only person to submit feedback to staff. The email Mr. Dillard submitted is included in **Attachment L**. As shared with the City Council, this input did not change Council's direction, and did not delay the execution of the contract in any way.

3. The authorizing information for the creation of such bodies, who was selected to serve on them, by whom such selection was made, who decided which contracts would be sent to them for review, and on the basis of what criteria.

There are no ad hoc subcommittees for reviewing contracts. Information on how the Team was formed and established was previously provided in this report.

4. The status of enforcement of Oakland's prompt payment policy.

Enforcement of the prompt payment policy is unrelated to the Team's work. The provisions of Oakland's Prompt Payment policy (Chapter 2.06 of Oakland Municipal Code) were suspended on March 24, 2020 via Emergency Order of the City of Oakland. Staff is currently reviewing the suspension and any rescission would be executed by Emergency Order.

5. Report on what actions the administration is taking, through these "committees" or otherwise, to remedy the mistreatment of DBE subcontractors by prime contractors with whom the city contracts.

As previously noted, there are several areas staff is exploring and the City Administrator's Office is tasked with developing a long-term strategy to implement the recommendations received through these stakeholder meetings and engagement with the local business community.

FISCAL IMPACT

There is no fiscal impact to receive this informational report.

PUBLIC OUTREACH / INTEREST

Over a dozen community leaders are part of the Team. Executive Directors and/or representatives from the local chambers of commerce share information with their constituents, reaching hundreds of local businesses.

COORDINATION

This report was prepared with input from members of the Team.

SUSTAINABLE OPPORTUNITIES

Economic: There are numerous potential economic opportunities associated with this report. As stated in the L/SLBE program "in order to provide greater economic opportunities for its residents and businesses, to stimulate economic development, and to strengthen the Oakland economy, the City of Oakland has developed and implemented groundbreaking policies that directly impact how public funds are spent. These policies are aimed at using the power of the public purse to stimulate economic development through the support and empowerment of the local community, especially those aspects of it that have been placed at a disadvantage in the past." The impacts of successfully implementing the L/SLBE program and the City's contracting policies can have a positive impact to local vendors and the entire City.

Environmental: There are no environmental opportunities associate with this report.

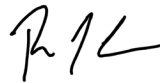
Race & Equity: As staff develops the workplan and long-term strategy a more thorough racial equity analysis will need to be performed; however, based on the feedback received from the local business community, there are multiple barriers preventing local firms from applying, competing, or being awarded a City contract, and those barriers have larger impacts to women and minority-owned businesses. These barriers include convoluted RFP/Qs and contracting schedules, a slow contracting process and untimely payment schedule, firms not able to obtain the necessary bonding and insurance requirements to perform the work, and a lack of shared information and trust, among others. As staff improves its tracking methods and collecting more quantitative and qualitative data, there will be real opportunities to examine if the Team's work is succeeding in its structural and systemic transformation goals.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report On The City's Work In Improving Contracting Opportunities For Local, Small, Women And Minority-Owned Businesses Including The Minutes Of All Meetings Of The Supporting Contracting Opportunities Committee And The Ad Hoc Subcommittee For Reviewing Contracts, Including A List Of All Contracts That Have Been Sent To Them For Review And Feedback, The Timeline For Such Feedback, And The Outcome Of Their Review And The Authorizing Information For The Creation Of Such Bodies, Who Was Selected To Serve On Them, By Whom Such Selection Was Made, Who Decided Which Contracts Would Be Sent To Them For Review, And On The Basis Of What Criteria, And The Status Of Enforcement Of Oakland's Prompt Payment Policy, And To Report On What Actions The Administration Is Taking, Through These "Committees" Or Otherwise, To Remedy The Mistreatment Of DBE Subcontractors By Prime Contractors With Whom The City Contracts.

For questions regarding this report, please contact Richard J. Luna, Deputy City Administrator, at (510) 238-4756

Respectfully submitted,



RICHARD J. LUNA
Deputy City Administrator

Attachments (9):

- A. Meeting Agenda 2-3-21
- B. Meeting Agenda 2-17-21
- C. Meeting Agenda 3-3-21
- D. Meeting Agenda 4-28-21
- E. Meeting Agenda 5-12-21
- F. Meeting Agenda 6-9-21
- G. Meeting Agenda 7-7-21
- H. Meeting Agenda 8-4-21
- I. Meeting Agenda 9-29-21
- J. Question & Task Tracker
- K. Email to City Council clarifying CRC Grant Agreement process
- L. Email from Eddie Dillard

