



# City of Oakland

Office of the City Clerk  
Oakland City Hall,  
1 Frank H. Ogawa Plaza,  
Room 201  
Oakland, California 94612

## Legislation Text

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**File #:** 003279, **Version:** 1

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**Subject:** Contract Compliance and Employment Services Policy  
**From:** Office of the City Manager  
**Recommendation:** Approve the Report and Recommendation regarding Moving Oakland Forward Strategy 6-B, Contract Compliance and Employment Services Policy  
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CITY OF OAKILAND -6j@

COUNCIL AGENDA REPORT 2003 JUL - 2 PM 5: 06

**TO:** Office of the City Manager  
**ATTN:** Robert C. Bobb  
**FROM:** Deborah L. Barnes  
**DATE:** July 15, 2003  
**RE:** FOLLOW UP TO JUNE 17,2003 CITY COUNCIL MEETING REGARDING  
MOVING OAKLAND FORWARD - STRATEGY 6-B, CONTRACT  
COMPLIANCE & EMPLOYMENT SERVICES POLICY  
RECOMMENDATIONS.

### SUMMARY

This report is a follow-up to item # 23 "Moving Oakland forward Strategy 6-13, Contract Compliance & Employment Services Policy Recommendations" discussed at the June 17, 2003 concurrent meeting of the Oakland Redevelopment Agency/City Council. This item was moved forward from the May 27,2003 Community and Economic Development (CED) Committee with a recommendation: to adopt the Strategy 6-B recommendations with amendments.

At the June 17, 2003 Council meeting, several Council members requested a copy of the background information supporting the Strategy 6-13 recommendations and agenda reports. That information is provided under Section 11 of this report.

In addition, per Council's request, Attachments # I provides the original set of Strategy 6-13 recommendations and Attachment #2 provides the amendments put forth by the CED Committee, affected recommendations and a detailed description of "substantial presence".

### FISCAL IMPACTS

There is no fiscal impact.

### BACKGROUND

The following chronology is provided as a historical context.

September 2002 - The City Manager Summit Recommendations.

The City Manager put forward 22 recommendations relative to Strategy 6-B. The goal of Strategy 6-13 was "to assess goals, policies, processes & costs of complying with contract compliance programs and recommend changes to make programs simpler and more effective while implementing multiple City Council policy objectives. The Executive Summary given at the September 2002 Summit provides a comprehensive overview of the 22 original policy recommendations relative to Strategy 6-B. That Executive Summary is provided under Section II- Executive Summary. At that time, City Council agreed to move Strategy 6-13 recommendations to the Community and Economic Development (CED) Committee for further review, and to accept the recommendation to move the Local Employment Program (LEP) policy recommendations to the Apprenticeship Advisory Board to define details of

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implementation. The Apprenticeship Advisory Board was reconvened and volunteered countless hours until a workable document was accepted by a cross section of stakeholders. The details of that effort were outlined in the March 25, 2003 Council report found in Section 11 - March 25, 2003 Report.

March 25, 2003 - agenda report "Moving Oakland Forward "Strategy 6-13, Contract Compliance & Employment Services Policy Recommendations".

The original 22 Strategy 6-13 recommendations were reviewed at the March 25, 2003 CED Committee. The report also included the proposed changes put forward by the Apprenticeship Advisory Board. The March 25 agenda report is provided under Section II-March 25, 2003 Report

During the March 25, 2003, CED Committee, several stakeholders (Black Caucus, Black Board of Trade & Commerce and Bay Area Black Contractors) requested the opportunity to address in more detail, the Strategy 6-13 recommendations. As such the CED Committee instructed staff to convene working sessions with those stakeholders and report back to the committee. Feedback from the April stakeholder meetings was provided in the report of May 27, 2003.

May 27, 2003 The May 27, 2003 agenda report was a follow up to questions posed by the CED Committee as well as a report of recommendations put forward by the April stakeholder meetings that included the Black Caucus, Black Board of Trade and Commerce and the Bay Area Black Contractors Association. The CED Committee accepted the Strategy 6-13 recommendations with amendments. Those amendments are provided as Attachment #2.

June 19, 2003 - Concurrent Meeting of the Oakland Redevelopment Agency/City Council, item #23 "Contract Compliance and Employment Services Policy Strategy 6-13 Recommendations".

Council requested a follow up report to include a (1) clean copy of the original set of recommendations put forward by the Strategy 6-B team and (2) a copy of the amendments put forth by the CED Committee to include the definition of "substantial presence". The clean copy of the Strategy 6-13 recommendations is found in Attachment #L Attachment 42 includes the amendments put forth by the CED Committee.

The chronology above, along with attachments, outlines the progression of discussions regarding the

Strategy 6-13 policies and administrative procedures. As of June 17, 2003, the CED Committee recommended accepting the Strategy 6-13 recommendations with amendments.

In addition to copies of the March 25, 2003 and May 27, 2003 reports referenced above, Section 11 of this report also includes for your convenience, the detailed support documentation and Executive Summary outlining the rationale for each recommendation. This information was presented at the September 2002 Summit.

#### KEY ISSUES AND IMPACTS

During the June 17, 2003 discussion, Council Member Wan asked if the recommendations would result in the City of Oakland paying more for goods and services if provided by Local and Small Local Businesses. Councilmember Brunner suggested that a cap would keep the City from paying excessive amounts for compliance with a 25% participation requirement. Currently, the City will afford a 5% bid discount to competitively bid construction projects only. In this instance the using agency may put forth a recommendation to award a contract to a local firm if the bid falls within 5% of the lowest bidder.

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The above example is not the same condition as for the purchase of commodities. Purchasing Services will discount a local bid by 5% and a small local bid by an additional 5%. Therefore, only in the case of purchasing commodities through Purchasing Services, will a small local firm receive up to a 10% discount. It is also important to note that while the City may agree to pay a certain percentage above the lowest bidder, the residual impact of contracting with local firms brings added value to the economic stability of the Oakland community such that the added value may actually exceed the cost of the discount.

#### ACTION REQUESTED OF THE CITY COUNCIL

The Strategy 6-13 Team and the CED Committee have forwarded recommendations for your consideration. Staff requests Council adopt the Strategy 6-B recommendations as amended by the CED Committee.

Respectfully Submitted

Dr. C@orge kus@ove', Assist4t City Manager

Prepared by:  
Deborah Lusk-Bames  
Contract Compliance & Employment Services Manager

APPROVED AND FORWARDED TO THE  
CONCURRENT MEETING OF THE OAKLAND REDEVELOPMENT AGENCY/CITY COUNCIL

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Attachment # I

Original Strategy 6-B  
Recommendations  
(Clean Copy)

ORIGINAL STRATEGY 6-B RECONEVIENDATIONS: (Clean Copy)

1 Definition of Small Local Business Enterprise (SLBE): Define size limit for SLBEs as 70% of the US Small Business Administration (SBA) Standards. These standards are based on national statistics and are adjusted annually.

2 Definition of Local Business Enterprise (LBEs): Eliminate size limit (revenue cap) for LBEs.

3 Definition of Local Business Enterprise (LBEs): Eliminate local headquarters requirement for LBEs.

4 Eliminate the category of broker from certification.

5 Allow eligible nonprofits to be certified as SLBEs and LBEs.

6 Make the process of certification more accessible through significant simplification and by outreach efforts with the business community. Institute a self-certification process requiring minimal documentation and streamlined review. Support efforts by local business organizations (e.g., chambers) to hold "Certification Days".

7 Replace the optional "Good Faith Effort" with a mandatory "Local Subcontracting Outreach Requirement".

8 Eliminate the 3-year commitment for the Mentor-Protgd& program and instead require that the relationship last at a minimum for the duration of the project.

9 Eliminate the 50% Local Subcontracting requirement, and instead provide incentives in the form of bid discounts (construction) or preference points (professional services) of up to 5% for achieving up to 501/o in local

subcontracting, or having an SLBE serve as the prime contractor.

10 Allow businesses to accumulate credit for using Certified Local Firms on non-City Projects, and use that credit to achieve bid discounts or preference points on a City project.

11 For City-assisted private developments (generally Disposition & Development Agreements "DDAs" and Affordable

Housing projects), require primes to seek competitive bids from subcontractors and comply with the Subcontracting Outreach requirement (see # 7 above). Primes must give SLBE subcontractors a 5% bid discount and LBE subcontractors a 2% bid discount. Prime must hire lowest responsible bidder. Thus primes must hire LBE/SLBE subcontractors that bid within 2%/5% of the lowest bid. Replace the special requirements for trucking with this more simple, fair and uniform process.

12 Change the informal contract threshold from \$15,000 to \$50,000 for professional service contracts and from \$50,000 to \$100,000 for construction projects. Maintain the goal of awarding 75% of informal contract dollars to local firms, but require that at least 50% go to SLBEs and remaining (up to 25%) to LBEs. Create an award for the City Department that does the most to support small local businesses.

13 Maintain the basic Hire Oakland Policy - 50% project hours to be worked by Oakland residents and 50% of new hires to be Oakland residents - but simplify compliance by eliminating the trade-by-trade requirement and by not allowing more than half the total hours to be in a single trade.

14 LOCAL EMPLOYMENT PROGRAM - Primes can bank project hours worked by Oakland resident employees on

non-City projects during the year prior to issuance of notice to proceed on the City contract and apply those banked hours to their 50% requirement. Primes can also apply project hours worked on non-City projects during the contract.

15 When a contract is finished without meeting the Local Employment requirements, the City will withhold from final

payment of either double the average wages for the deficient hours or 1% of the non-complying subcontractor's contract, whichever is less. The business will have one year to work off double the hours owed by working Oakland residents on non-City projects at which time the business will forfeit the retained amount to the City as a fine.

16 Limit purchasing bid preferences for SLBEs to 5% and LBEs to 2% and encourage departments to aggressively seek the lowest prices on goods.

17 Professional Services contracts will be assessed a 1% fee; construction contracts will be assessed a 1.5% fee. Certain categories will be exempt from paying a fee (but not from compliance) such as grant-restricted contracts.

18 Give the Budget Office the mandate to transfer the assessed fees from departments to the CC&ES budget (like they currently do for the public art assessment fee).

19 Advertise all contracting opportunities, including informal bids, on the City's web site for a minimum of one week

before proposals or bids are due. Create email list serve that businesses can subscribe to in order to receive email notification of City opportunities.

20 (a) Random/Spot Compliance Audits (b) First level compliance monitoring functions performed by Construction Inspectors, and (c) Automated office functions, particularly the certified payroll intake.

21 Unfreeze Senior Compliance Officer position and convert to I Administrative Assistant and I field & outreach position

22 Create a method for tracking key costs that can be tracked over time and compared with other cities, e.g., cost per

unit of affordable housing, cost per foot of paving, etc. Track growth of certified businesses and other appropriate performance measures to assess the full value/cost of all of these policies.

Attachment # 2

CED Committee  
Amendments

CED Committee Amendments

At the CEDA Committee meeting of May 27, 2003, Chairperson Brunner put forth the following alternate recommendations. Seconded by President De La Fuente, the report moved forward to the June 17, 2003 council meeting with the same recommendation to "move to accept staffs recommendations with changes noted below.

ORIGINAL STRATEGY 6-B CED Committee Amendments  
RECOMMENDATIONS

Definition of Small Local Business 1., Instead of 70% of the SBA use 30% of the SBA to define a Small Local Business

s s

LBE): Define size limit for SLBEs as 25% of the Total Business Enterprise (SLBE)

US Small Business Administration (SBA)

Standards These standards are based on national statistics and are updated annually.

#6 2. "Adopt San Francisco's definition of 'Substantial Presence'.

Make the process of certification more accessible

through significant simplification and by outreach to a fixed and established place where work is carried on of a clerical, administrative,

efforts with the business community Institute a professional or production nature directly pertinent to the business being certified. A

self-certification process requiring minimal temporary location or movable property or one that was established to oversee a

documentation and streamlined review Support protect such as a construction project office does not qualify.

Businesses with offices

efforts by local business organizations (e. g., both within and outside of the County that seek certification as a local business must

chambers) to hold 'Certification Days'. demonstrate the existence of a bona fide local office in accordance with the following

criteria:

(1) Independent Office Site: The local office can and does function as an independent office site. The local office is not merely a sham operation set up by a non-Local Business Enterprise for the purpose of gaining USLBE certification;

(2) Fixtures and Equipment The local office contains all fixtures and/or equipment,

including but not limited to, as appropriate, computer(s) software, copy machine(s), furniture, vehicle(s), tools, appliances and/or machinery necessary to operate the business for which the certification is sought;

(3) space: The local office contains all space necessary to operate the business for which certification is sought including but not limited to, as appropriate, office space, warehouse space, parking, yard area and/or shop area;

(4) Dedicated Personnel: The local office must be the main office for assigned personnel who conduct a full range of the business' activities out of the local office including but not limited to, as appropriate, professional, clerical and/or administrative staff assigned and dedicated to the local office as necessary to operate the business for which certification is sought;

(5) Daily Function: The local office functions on a daily basis, or a regular basis as otherwise appropriate, providing all services to operate the business for which certification is sought;

(6) Local Overhead: The overhead costs associated with the local office, including but not limited to rent wages and salaries, must place the entity seeking certification at an economic disadvantage compared to businesses not located within the City (e.g., a business in the City staffed by a clerk who forwards substantive work to a location outside the City is not considered disadvantaged compared to other businesses not located within the city, and does not meet the criteria for certification). Reference - SF -HRC Schedule A Application. Revised 10/15/01 Page 3 of 9

## ORIGINAL STRATEGY 6-B CED Committee Amendments RECOMMENDATIONS

7 -P. # 3 Remove the requirement that bidders must mail subcontracting opportunities to certified businesses; maintain requirement that the mandatory local Subcontracting Outreach City post subcontracting opportunities on Ks website. Requirement'

Replace 'Good Faith Effort ' waiver with a Subcontracting Outreach Requirement' as a condition for prime contractors to bid on projects. The City will post bidding opportunities on its website, and potential primes will be required to mail, fax, or e-mail subcontracting opportunities to a list provided by the City on labels (however, until the web site is up, any mailed bid invitations must be by codified mail). This requirement is waived in any areas where the prime promises to self-perform (not to subcontract) that type of work. To simplify enforcement, primes interested in a particular project would post their names on a City website, allowing for local firms to police the outreach requirement. For example, if a local foundation

contractor did not receive a solicitation for a bid on a city project involving foundation work, that firm could file a complaint with MES.

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Eliminate the 50-A Local Subcontracting 4 Replace this recommendation with a 25% local business requirement, and instead provide incentives in the participation requirement, comprised of 15% participation for SLBE

form of bid discounts (construction) or preference and 10%.

points (professional services) of up to 5% for achieving up to W% in local subcontracting, or having an SLBE serve as the contractor

#10

Allow businesses to accumulate credit for using #5 Stipulate that the ability of firms to bank hours on non-City Certified Local Firms on non-City Projects, and use projects will start with the adoption of this policy and YAII not be

that credit to achieve bid discounts or preference retroactive. Firms may only have one year to credit these hours. points on a City project

#11 6 Same as Recommendation 9.

For City-assisted private developments (generally Disposition & Development Agreements TDAs' and Affordable Housing projects), require primes to seek competitive bids from subcontractors and comply with the Subcontracting Outreach requirement (see # 7 above). Primes must give SLBE subcontractors a 5% bid discount and LBE subcontractors a 2016 bid discount Prime must hire lowest responsible bidder Thus primes must hire LBE/SLBE subcontractors that bid within 290% of the lowest bid. Replace the special requirements for trucking with this more simple, fair and uniform process

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CITY HALL I FRANK H. OGAWA PLAZA OAKLAND, CALIFORNIA 94612

JANE BRUNNER (510) 238-7001  
Councilmember FAX (510) 238-6910  
District I TDD: (510) 238-7413

TO: City Councilmembers  
FROM: Councilmember Jane Brunner

I move to accept all of staff's recommendations with the following changes:

1. Recommendation #11: Adopt the 30% of the SBA standard
2. Recommendation #6: Adopt San Francisco's definition of "substantial preference"
3. Recommendation #7: Remove the requirement that bidders must maintain subcontracting opportunities to certified businesses; maintain requirement that the City post subcontracting opportunities on its website.
4. Recommendation #9: Replace this recommendation with a 25% local business participation requirement, comprised of 15% participation for SLBEs and 10% participation for LBEs.
5. Recommendation #10: Stipulate that the ability of firms to bank hours on non-City projects will start with the adoption of this policy and will not be retroactive. Firms will only have one year to credit these hours.
6. Recommendation #11: Same as Recommendation #9.

City Clerk /ORA  
Jane Brunner

MARCH 25, 2003 AGENDA

REPORT

MOVING OAKLAND FORWARD -  
STRATEGY 6-B CONTRACT  
COMPLIANCE & EMPLOYMENT  
SERVICES RECOMMENDATIONS

CITY OF OAKLAND  
COUNCIL AGENDA REPORT

TO: Office of the City Manager  
ATTN: Robert C. Bobb  
FROM: Contract Compliance and Employment Services Division  
DATE: March 25, 2003

RE: MOVING OAKLAND FORWARD - STRATEGY 6-B, CONTRACT  
COMPLIANCE & EMPLOYMENT SERVICES POLICY  
RECOMMENDATIONS.

## SUMMARY

This report presents recommendations for significant changes to the City's two main programs that relate to contracted expenditure of City dollars: the Local and Small Local Enterprise Program (S/LBE) and the Local Employment Program (LEP). These recommendations are based on the work of the Moving Oakland Forward Goal Team 6-B, as well as subsequent work on the LEP by the working group that developed the City's successful Apprenticeship Program.

These recommendations aim to simultaneously simplify the administration of the programs while enhancing their effectiveness. They represent, in some ways, substantial departures from the way the programs have been implemented to date, and have been vetted with stakeholders to ensure their acceptance and practicality. Staff recognizes the complexity and sensitivity of the issues covered by these policies and has endeavored to reengineer the programs in such a way as to remain true to the spirit of the policies.

Staff is requesting that the City Council accept this report and the recommendations contained herein.

## FISCAL IMPACTS

There are no immediate fiscal impacts associated with the proposed program changes. Some of the team's administrative recommendations, not discussed in detail in this report, will have nominal fiscal impact, which will be incorporated into the Division of Contract Compliance & Employment Services' proposed FY2003-05 budget.

## BACKGROUND

The City has a number of policies to provide opportunities for Oakland residents and businesses. The Local Employment Program and the Small/Local Business Enterprise Program (S/LBE) are the major programs created to serve these respective groups. Supporting and/or complementing these programs are policies regarding living wage, prevailing wage, disadvantaged business enterprises, apprenticeship, and domestic partners.

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The intended outcome of these policies is to stimulate economic development by supporting the development of the local workforce and business community. To the extent that the locally

unfettered economic market places them at a disadvantage, these policies are warranted and can potentially meet numerous objectives simultaneously. However, there are challenges associated with meeting this type of policy intent. First, since the intent is premised on the economic and disadvantaged status of Oakland businesses and residents, it is difficult to measure the policies' effectiveness because it is hard to gather relevant and credible economic data. Second, it is difficult to translate the policies into programs that simply and effectively meet their intent due to the intricate nature of public spending and the additional complexity of monitoring it. As a result of these challenges, we are left with questions about the policies' effectiveness and concerns about their implementation.

A team of City Associates convened as part of the Moving Oakland Forward process during the spring and summer of 2002 to answer these questions and address these concerns. The team presented initial recommendations to the City Manager in September of 2002 and to the City Council in November 2002. Following is some background information that supports the recommendations contained in this report.

a. Overview of internal research findings

The S/LBE and Local Employment programs are central to the implementation of the City's local participation policies in terms of impact and opportunity for improvement. As such these programs were the ultimate focus of the team's activity. Internal research revealed that on the whole, these two programs were meeting their goals of directing half of City spending on construction and professional services to Oakland residents and businesses. Less clear were the costs to the City of implementing these programs. Research also revealed that internally there is a lack of understanding of how the programs do or should work and that, in fact, their implementation and interpretation were not consistent across the organization. This discovery underscored and confirmed the perception that the programs, while well meaning, are too complex. Some quantitative data shows that the City pays relatively high prices for some contracts while receiving few bids. While these facts do not expressly implicate City Council policies, they do provide cause for concern. Attachment F includes data and a report relevant to this matter.

b. Overview of external research findings

The team itself did little in the way of external research but had the benefit of previous research completed by the Division of Contract Compliance & Employment Services (CC&ES) and the Offices of the Council President and Council member Danny Wan. Regarding precedent or best practices from other cities, there are few comparable policies or programs to evaluate. A few other California cities do have programs in these areas, but their differing structures and lack of data to measure their effectiveness limit the value of comparisons. Discussions with focus groups of affected stakeholders have been significantly more revealing. The main theme emanating from these discussions was general support for the programs in concept but frustration with their implementation. Frustration was centered on the bureaucratic complexity, inflexibility, and unintended adverse consequences of the programs.

c. Stakeholders meetings regarding the S/LBE program

the Metropolitan Chamber of Commerce spent several months assessing the City's programs and submitted a number of recommendations, including using federal size standards instead of 70% of those standards. In addition, the Black Board of Trade and Hispanic Chamber memberships provided valuable feedback.

The tentative recommendations for the S/LBE program were presented in September to about 20 individuals that represented businesses, membership organizations, building trades, and others. The stakeholder group was very pleased with the recommendations on the whole, viewing them as big improvements over the status quo.

d. The Local Employment Program (LEP) working group

The initial team recommendations regarding the LEP met with some concern from a number of stakeholders. As a result, the City asked the working group that developed the City's Apprenticeship Program to refine the team's LEP recommendations in order to make them workable for labor, business, community, and the City. The City is deeply grateful to the LEP working group for the countless hours volunteered to this effort. Throughout the entire process, the task was taken on with great conviction and dedication in order to delicately balance employment policies that were both fair to Oakland residents and reasonable for business stakeholders.

The working group membership is shown below. An asterisk (\*) denotes the chair and double asterisks (\*\*) denote the lead document facilitator.

First First

Last Name Name 0 Last Name Name Organization

- 1 Brauer John 0ABWDC/BACSIC 19011a Joe Nibbi Brothers
- 2 Christophe Don Anderson Carpet 20 Price John Concentric
- 3 Conway jim Bay Area JMACNA 21 Reagan Bemida Port of Oakland
- 4 Flores Gabriela Roberts-Obayashi Corp. 22IReiskin Ed lCity/CM0
- 5 Fong Melanie City/CMO 23 Schaaf Libby lCity Council President IDLF
- 6 Francois Alex BACSIC 24 Slivka Andrew lCarpenters Union
- 7 Halterman Lee Lee Halterman/Port 25 Smith Larry @oberts-Obayasbi Corp.-
- 8 Homer Justin City/Council District #1 26 Spikes Ronnell Carpenter
- 9Kernighan Pat City/Council District #2 27 Stagg Jim 113EW 596
- 10 Lieser Mary M. Carpenter-Apprenticeship 28 Suafai Susie NEDLC
- 11 Lindquist Mark M.A. Lindquist Co., Inc. 29.Thomas James Emergency Svcs Network
- 12 Lockett Dennis City/CC&Es 30 Van Buren Obray Pipe Trades
- 13,Luboviski Barry Building Trades ouncil 31 Vasey Meg Port of Oakland
- 14 Lusk- Barnes Deborah City/CC&ES 32 Walterhouse Dick Pankow Builders
- 15Miller Jack DC# 1 6 Painters #3 33 Walton Rick rEA
- 16 Mongerson M. Duan RoofingfWaterproofing 34 Werner Rick ISheet Metal Workers U#105
- 17 Newton lBarbarette iRedwood Resources 35Youhn Beth @radeswornen Inc.
- 18Nitoto iMonsa iCommuni

## KEY ISSUES AND UVIPACTS

The result of the work on the SILBE and Local Employment programs are revised program documents (Attachments A and B). These documents reflect changes to the programs based on the following recommendations.

**Recommendation #1 - Definition of Small Local Business Enterprise (SLBE):** Define a size limit for SLBEs as 70% of the US Small Business Administration (SBA) standards. These standards are based on national statistics and are adjusted annually.

The current SLBE size standards for each industry were adopted by City Council in 1997 or 1998 and have not been adjusted since then. It would be preferable to set the SLBE size standards as a percentage of Federal size standards for small businesses, which are adjusted annually according to statistical analysis done by the SBA. Thus the City's small business standards would be more uniform with national standards and would automatically adjust to keep up-to-date without Council action.

The SBA considers economic characteristics comprising the structure of an industry, including degree of competition and average firm size. The SBA also considers technological changes, competition from other industries, growth trends, and historical activity within an industry.

Over 90% of the firms certified by the City of Oakland fall into the construction industry or professional services industry category. The 2000 Metropolitan Statistical Area (MSA) - Business Patterns for Oakland, California, reveal a total of 58,456 businesses with an annual payroll of \$3,304,713 for construction and \$4,764,239 for professional services.

With regard to size standards currently in use, the City's current small local business size standard for the General Building Contractor industry (for example) is \$8,200,000, and \$17,000,000 for local businesses. The SBA size standard for that same category is \$28,000,000 and the Disadvantaged Business Enterprise size standard is \$27,500,000. 70% of the SBA standard for small would be \$19,950,000. 70% of the SBA size standards would place Oakland thresholds within the range of the previous size limits for large local firms. Attachment D gives a breakdown of the various size standards considered.

Setting the City's size standards as a percentage of the SBA standards eliminates the need for City staff to do their own analysis of each industry to determine a standard. Also, since the SBA standard adjusts annually (and is widely published), the City does not need to take action each year to keep the standards up-to-date with current economic conditions.

**Recommendation - #2 - Definition of Local Business Enterprise (LBEs):** Eliminate size limit (revenue cap) for LBEs.

The existing criteria for participation in the LBE program are a size limit and a headquarters requirement. Both were set with the intent of assisting small and medium-sized local firms, which is a worthwhile goal. However, these criteria cause the Program to come into conflict with another strongly held policy objective of the Mayor and City Council: encouraging

economic development and investment in Oakland. The current size limits (revenue caps)

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exclude long-time larger local businesses from the City's preference program. These businesses contribute significantly to Oakland's economic vitality. Many of the long-time businesses feel they ought to be rewarded for their commitment to staying in Oakland even in tough economic times. The existing LBE preference also may be discouraging larger or non-local firms from bidding on Oakland contracts or in setting up operations in Oakland. The size limit on LBEs also makes it harder for prime contractors to meet our local subcontracting goals - particularly on larger projects.

There will be some small efficiency realized in certifying LBEs, as the requirements are simpler - no longer requiring revenue information. The main benefit is that larger local businesses will be encouraged to bid on Oakland contracts. We are assuming that more competition for our contracts will result in lower prices for the City

Recommendation -3 # - Definition of Local Business Enterprise (LBEs): Eliminate headquarters requirement for LBEs.

The issue of whether to require LBEs to have an Oakland headquarters is part of the broader policy discussion stated in Recommendation 2 above, particularly in striking a balance between assisting small local businesses and encouraging economic development in general in Oakland. The question is whether the headquarters requirement discourages non-local businesses from bidding on City contracts and opening a branch office in Oakland.

To be certified as an LBE currently, a business must have its headquarters in Oakland (and, as discussed in Recommendation 2, be below a certain size). After much discussion, the team decided to eliminate both the headquarters requirement and the size limits. The expected economic impact of the new LBE definition is that out-of-state firms will have an incentive to establish substantial branch offices in Oakland, thus contributing to economic development in Oakland. The incentive for LBEs will be limited to a 2% bid discount, while the SLBEs will receive greater preference, a 5% bid discount. (See Recommendation 9.)

The main benefit is that Recommendations 2 and 3 together (eliminating the size and headquarters requirements) will substantially enlarge the pool of businesses that can qualify as LBEs. This should increase the number of businesses bidding on City contracts and encourage price competition. The new LBE definition provides an incentive for any business to locate an office in Oakland, thus encouraging economic investment in Oakland.

Recommendation - #4 Eliminate the category of broker from certification.

There are two distinct categories of brokers - trucking and non-trucking. Currently, very few of either type are certified. Local brokers charge more to the City through the bid discount process, but one-person operations provide little economic development benefit to Oakland.

Currently, non-trucking brokers can be certified just like any other business and earn preferences up to 10%. Certified Trucking brokers, earn preference up to 5% towards the trucking

participation goal.

This change will eliminate some very complex aspects of the S/LBE program, thus simplifying the process, while adversely impacting very few individuals. This simplification will make the program more attractive to other local businesses.

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Recommendation - #5 Allow eligible, nonprofits to be certified as S/LBEs

There are many opportunities offered by the City for which nonprofit corporations are qualified. Many nonprofits, in fact, contract with the City to provide both construction and professional services. In some of these cases, nonprofits compete against for-profit corporations for City contracts. Local nonprofits that would otherwise meet the requirements for certification are not eligible due solely to their nonprofit status, though they arguably contribute nearly as substantially to the City's economic development and more so in many cases to the City's social goals.

Recommendation - #6 Make the process of certification more accessible through significant simplification and by outreach efforts with the business community. Institute a self-certification process requiring minimal documentation and streamlined review. Support efforts by local business organizations (e.g., chambers) to hold "certification days".

[Completed Administratively]

There are many more businesses eligible for certification than there are certified firms. A self certification process was initiated in July whereby businesses, under penalty of perjury, self certify that the information provided in the application is true. The process of certification is now more accessible through significant simplification and requires submittal of only the most basic information. This approach significantly reduces the actual number of supporting documentation to three or four items. The results are compelling. From July 1, 2001 to March 1, 2002, 34 new certification applications were processed, compared to 65 during July 1, 2002 to March 1, 2003 under the new self certification process. The jump represents a 52% increase.

Under the new process, CC&ES staff uses three levels of scrutiny from simple re-certifications of local firms to site visits to review certification requests. Out of the 65 applications processed, five site visits were necessary.

Outreach efforts with the business community by district are being proposed as well as certification days with various organizations. Under Attachment E, please find a copy of the new "Self Certification" application and suggested outreach activities

Recommendation #7: Replace the optional "Good Faith Effort" with a mandatory "Local Subcontracting Outreach Requirement".

Firms have complained that the "good faith" waiver process is impossible to meet. Advertising and certified mail are expensive and labor intensive (particularly for small firms), yet we want to ensure that our local firms are notified of subcontracting opportunities.

The current "good faith effort" is perceived to be burdensome and is suspected to contribute to diminished interest by businesses in pursuing City work. With the exception of the "good faith" effort, there is no outreach required by prime contractors for local subcontractors. Primes can achieve their local subcontracting goal without necessarily doing an extensive outreach (e.g., by using firms they previously worked with). The only reason for businesses to make a good faith effort is to try to get a waiver for not using local firms (because of lack of availability), and to not get penalized for not achieving the 50% local participation goal.

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Ideally, businesses would always do an extensive outreach to local firms to maximize local participation on every contract, and the process to verify this outreach effort should not be staff intensive for the CC&ES division.

It is believed that the most appropriate solution to ensure that certified firms are notified of subcontract opportunities would be to replace "Good Faith" waiver with a "Subcontracting Outreach Requirement" as a condition for prime contractors to bid on projects. The City will post bidding opportunities on its website, and potential primes will be required to mail, fax, or email subcontracting opportunities to a list provided by the City on labels (however, until the web site is up, any mailed bid invitations must be by certified mail). This requirement is waived in any areas where the prime promises to self-perform (not to subcontract) that type of work.

We would expect a much greater outreach effort to local firms by mandating this as a condition for submitting a bid or proposal to the City; yet by simplif@ing the process it should not be too cumbersome for the businesses serving as the prime. Under this proposal, primes would self-certify compliance with the Subcontracting Outreach Requirement using a simple one-page form.

To simplify enforcement, primes interested in a particular project would post their names on a City website, allowing for local firms to police the outreach requirement. For example, if a local foundation contractor did not receive a solicitation for a bid on a City project involving foundation work, that firm could file a complaint with CC&ES.

In concert with the "Subcontracting Outreach Requirement" a City website constructed to perform the recommended tasks should occur as soon as possible. In addition, The City must train appropriate City staff in posting the information on the City website, and perform an educational outreach campaign to inform stakeholders of the new changes.

Recommendation #8: Eliminate the 3-year commitment for the Mentor-Prot6g6 program and instead require that the relationship last at a minimum for the duration of the project. [Completed Administratively and is reflected in the revised SIEBE Program, page 10, section VII - C.]

Under this recommendation, the City has modified the Mentor-Prot6g6 program to require that the relationship needs to last, at a minimum, only for the duration of the project. The recommended option is to create an annual City award that recognizes businesses that did the most to help small local businesses grow. It is expected that implementing the proposed recommendation will significantly encourage greater Mentor-Prot6gd relationships in City

contracts, thus contributing towards fostering a friendlier environment for smaller, newer firms to grow in.

Recommendation #9: Eliminate the 50% Local Subcontracting requirement, and instead provide incentives in the form of bid discounts (construction) or preference points (professional services) of up to 5% for achieving up to 50% in local subcontracting, or having an SLBE serve as the prime contractor. For professional services, local firms shall earn up to five additional points on evaluations.

Companies find it difficult and costly to meet the 50% local subcontracting requirements. Many projects do not necessarily require very much, if any, subcontracting. The main exception is building construction projects. Companies that perceive this requirement as cumbersome and

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unfair do not compete for City projects - less competition results in higher prices. Since the pool of local firms that primes must subcontract with is so limited, local firms may be tempted to inflate prices or take on more work than they can handle. The existing requirement is very rigid.

In some cases, such as Public Works construction projects involving traffic signals, the City has often times received just one bidder. AD informal review of other cities' costs for traffic signals suggests that Oakland's costs are higher. For housing projects, anecdotal information from developers suggests that current policies could lead to costs that are as much as 30% higher.

Currently, businesses looking to do business with the City are expected to achieve a 50% local subcontracting goal, regardless of the nature of the work, or the opportunity within the specific contract to subcontract, or the availability of local subcontractors to perform the work. SLBEs acting as the prime contractor satisfy this requirement automatically, while LBEs acting as the prime only satisfy 15% of the requirement, and need to subcontract 35% to SLBEs in order to meet the requirement. SLBEs and LBEs acting as the prime or in a joint-venture receive a 5% bid discount, while non-local firms meeting the local subcontracting goal receive no bid discount.

By replacing the current 50% subcontracting requirement with an incentive program, contractors will be rewarded with up to a 5% bid discount on construction contracts or 5% in preference points for professional service contracts for meeting the 50% subcontracting goal. The recommendation is to award 1% for every 10% of contract dollar's subcontracted to SLBEs and 0.5% for every 10% of contract dollars subcontracted to LBEs; however, no more than 2% of bid discount can be earned by subcontracting with LBEs and 5% for SLBEs. The prime contractor's maximum bid discount or preference points that can be earned from all sources cannot exceed 5%. Primes would no longer be required to subcontract out any work typically performed in-house. If they do, they can receive a bid discount or credit. This bid discount or credit is another way to cam the existing bid discount/credit system for primes that are SLBEs or Joint Venture or Mentor Prot dg6 with SLBEs. By allowing the above, primes would now have multiple ways to hire local businesses - as partners, prot dg6s or subcontractors - and to be rewarded for hiring them with a bid discount/credit.

The recommended change in policy should yield a greater interest in bidding the City's work,

and thus lead to reduce costs. It also will continue to give preference to local firms and those who subcontract with local firms, while capping the City's cost liability for such preferences to just 5%.

Recommendation #10: Allow businesses to accumulate credit for using Certified Local Firms on non-City Projects, and use that credit to achieve bid discounts or preference points on a City project.

Currently there is no incentive for businesses to hire local firms on non-City jobs. The only time businesses are given credit for hiring a local firm on a non-City job is when they did not meet their local subcontracting goal on a City job, and in lieu of paying a fine, they agree to subcontract with a local subcontractor an equivalent amount of dollars on another non-City project.

An incentive would allow prime contractors to bank dollars paid to certified local firms on non-City jobs during the year prior to their notice to proceed on a City contract, and allow those

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banked dollars to count toward achieving a bid discount/preference points (up to 2%) on the City contract.

It is anticipated that allowing businesses to accumulate credit for hiring local firms on non-City jobs will encourage the use of local firms on non-City jobs.

Recommendation #1 1: Require City-assisted private developments (generally Disposition & Development Agreements "DDAs" and Affordable Housing projects), to seek competitive bids from subcontractors and comply with the Subcontracting Outreach requirement (see # 7 above). Primes must give SLBE subcontractors a 5% bid discount and LBE subcontractors a 2% bid discount. Primes must hire the lowest responsible bidder. Thus primes must hire LBE/SLBE subcontractors that bid within 2% to 5% of the lowest bid. Replace the special requirements for trucking with this more simple, fair and uniform process.

While building construction projects have many subcontracting opportunities for local businesses, a strict 50% requirement is difficult and costly to meet. The special trucking requirements make compliance even more complicated. Companies that perceive this requirement as cumbersome and unfair do not compete for City projects - less competition results in higher prices. Since the pool of local firms that primes must subcontract with is so limited, local firms may be tempted to inflate prices or take on more work than they can handle.

Several focus groups with affordable housing developers and contractors were held as a result of concerns raised by developers regarding increased costs resulting from City requirements. As a result, the Council exempted affordable housing developments from the SLBE local hiring requirements until changes could be adopted. Few other cities have local hiring requirements, which results in contractors working in places where there are no requirements when demand for construction is very high. Non-profit housing developers reported few contractors interested in bidding on jobs finided by the City. Developers estimated that the two programs resulted in as much as a 10% increase in costs.

Currently the requirements provide a burden on affordable housing and other development projects that increases costs and makes such jobs less attractive to local and non-local contractors. Each contractor and developer is required to meet SLBE/LBE contracting goals and is subject to fines if the goals are not met. Increased costs and potential impacts on the projects are the result.

For City-assisted private developments (generally Disposition & Development Agreements "DDAs" and Affordable Housing projects, but also loans for construction projects), the recommendation is to require primes to seek competitive bids from subcontractors and comply with the Subcontracting Outreach requirement (see Recommendation 7 above). Primes must give SLBE subcontractors a 5% bid discount and LBE subcontractors a 2% bid discount. Primes must hire the lowest responsible bidder. Thus primes must hire LBE/SLBE subcontractors that bid within 2% to 5% of the lowest bid. The special requirements for trucking would be replaced with this simpler, fairer and more uniform process.

In addition to the efficiency resulting from by a lessening of monitoring requirements, the potential reduction in development costs could result in as much as a 20% reduction in subsidies required.

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Recommendation #12 Change the threshold at which the L/SLBE program applies. For the informal contract threshold, raise it from \$15,000 to \$50,000 for professional service contracts and from \$50,000 to \$100,000 for construction projects. Maintain the goal of awarding 75% of informal contract dollars to local firms, but require that at least 50% go to SLBEs and the remaining (up to 25%) to LBEs. Create an award for the City Department that does the most to support small local businesses.

Currently the requirements for bidding of contracts result in a cumbersome and difficult process for smaller contracts. The requirement that staff must contract with local firms for informally bid contracts at a rate of 75% results in a high percentage of these smaller awards to LBEs. Expanding the currently successful efforts to contracts with higher limits could result in additional awards to local contractors and vendors.

The recommended limits at which the S/LBE policies will apply are \$50,000 for professional services contracts and \$ 1 00,000 for construction services contracts. Below those limits, establish a goal of spending 75% of informal contract dollars with local firms, and require that at least 50% of those dollars go to SLBEs and the remaining (up to 25%) to LBEs.

Recommendations #13-15 - Completed by Local Employment Program - Working Group

The City Manager reconvened the working group that developed the City's successful Apprenticeship Program to rework the basic Hire Oakland Policy expressed in Recommendations 13-15 as outlined in the September 2002 City Manager Summit recommendations. As mentioned in that report, the current Local Employment Program is not clear on how and when exemptions can be granted, and how to ensure the program comports with collective bargaining unit hiring hall procedures. Moreover, the current penalty structure at

\$ 1,000 dollars per day or 1% of the contract amount is not reasonable when non-discretionary conditions such as safety, are not considered in calculating penalties.

More than thirty experts from various areas worked through more than 15 full-group, sub-committee and constituent meetings in order to craft the best possible Local Employment Policy. The working group completed this task ahead of time.

The working group supports maintaining the basic Hire Oakland Policy. Several innovative strategies were added such as incentives, a clear set of exemptions, a new penalty structure, and a new paradigm for winning compliance and creating a better working relationship with stakeholders.

While the working group did not recommend eliminating the trade-by trade compliance requirement, carefully crafted strategies were inserted to balance that requirement with an appropriate set of exemptions and incentives. To encourage long-term retention and early hiring of Oakland residents as employees of contractors doing business in Oakland, the working group recommends giving a contractor credit towards the LEP goals when the contractor employs crafts persons, superintendents, and foremen that are Oakland residents. Banked or credited hours may only be applied toward meeting 50% of the LEP requirement.

Penalties will be applied as the very last resort and after progressive violations. The priority is to create employment opportunities. Therefore, when a contractor finishes its contract without

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meeting the LEP requirements, the City will withhold from final payment up to 150% of the wages for the deficient hours of the non-complying contractor's contract. The contractor will have one year to work off the hours owed by working Oakland residents on non-City projects. If at the end of this period all the deficient hours have not been eliminated, the Contractor will forfeit 150% of the wages for any remaining deficient hours to the City as a fine.

It is also recommended that repeated non-compliance with the LEP could lead to debarment under City contracting policies. The full recommended Local Employment Program is provided as Attachment B.

Slides that summarize and explain many of these recommendations are provided in Attachment C.

#### RECOMAMNDATIONS

Accept the policy recommendations as highlighted below and detailed in the attached S/LBE and Local Employment program documents:

For the S/LBE Program:

- a) Set the Maximum size limit to qualify as a Small Local Business Enterprise at 70% of the SBA size standards.
- b) Eliminate the size limit (revenue cap) for Local Business Enterprise certifications.
- c) Eliminate the local headquarters requirement for Local Business Enterprise certifications.

- d) Eliminate certifications for the category of broker.
- e) Allow eligible nonprofits to be certified as S/LBE.
- f) Replace the optional "Good Faith Effort" with a mandatory "Local Subcontracting Outreach Requirement".
- g) Eliminate the 50% S/LBE subcontracting requirement and instead provide incentives in the form of bid discounts (construction) or preference points (professional services) of up to 5% for achieving up to 50% in local subcontracting, or having an S/LBE serve as the prime. For professional services, local firms shall earn up to five additional points on evaluations.
- h) Allow businesses to accumulate credit for using certified S/LBE firms on non-City projects, and use that credit to achieve bid discounts or preference points on a City project.
- i) Require City-assisted private developments (generally Disposition & Development Agreements "DDAs" and Affordable Housing projects), to seek competitive bids from subcontractors and comply with the Subcontracting Outreach requirement (see 7 above). Primes must give S/LBE subcontractors a 5% bid discount and LBE subcontractors a 2% bid discount. Primes must hire the lowest responsible bidder.
- j) For purposes of determining the point at which S/LBE programs apply, establish a threshold of \$50,000 for professional services contracts and \$ 1 00,000 for construction services contracts. For professional services and construction services contracts falling below the thresholds, require agencies to spend 75% of those dollars with S/LBEs so that 50% of that amount is spent with small local firms and 25% with local firms.

For the Local Employment Program:

- k) Clarify the requirements, applicability, and exemptions for the City's 50% local hire policy. (As Attached)
  - l) Create an incentive in the program for businesses to hire Oakland workers on non-City jobs by permitting banking of hours for application on City contracts. The current program does not allow for banking of hours.
  - m) Modify the assessment and collection of penalties to make their application more reasonable and collectable. Failure to comply with the policy will compel the City to withhold 150% of the wages for the deficient hours, which the contractor will have one year to work off through the employment of Oakland workers. The current program requires assessment of a \$1,000/day penalty.

#### ACTION REQUESTED OF THE CITY COUNCEL

Accept the recommendations outlined in this report and detailed in the attached documents and direct staff to prepare the necessary legislation to initiate the revised Small/Local Business Enterprise and Local Employment programs.

Respectfully submitted,

Prepared by:

Deborah Barnes, Manager, Contract  
Compliance & Employment Services, with  
direction from MOF Goal Team 6-B and  
Apprenticeship Working Group

APPROVED AND FORWARDED TO THE  
COMMISSIONERS OF THE CITY OF OAKLAND

OFFICE OF THE CITY MANAGER

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MAY 27 2003 AGENDA

REPORT

MOVING OAKLAND FORWARD -  
STRATEGY 6-B CONTRACT  
COMPLIANCE & EMPLOYMENT  
SERVICES RECOMMENDATIONS

OFFICE OF THE CITY CLERK,  
CITY OF OAKLAND

COUNCIL AGENDA REPORT 2g...  
14 V. A V 4: 4 0  
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TO: Office of the City Manager

ATTN: Robert C. Bobb

FROM: Deborah L. Barnes

DATE: May 27, 2003

RE: MOVING OAKLAND FORWARD - STRATEGY 6-13, CONTRACT

COMPLIANCE & EMPLOYMENT SERVICES POLICY

RECOMMENDATIONS.

## SUMMARY

The CEDA Committee considered the above referenced report on March 25<sup>th</sup>. Additional information was requested, and is provided below under key issues and impacts.

## FISCAL IMPACTS

This is an informational report.

## BACKGROUND

Strategy 6-B put forth recommendations for Council review. Specific questions were posed at the March 25<sup>th</sup> CEDA Committee meeting. This report contains responses to those requests for additional information.

## KEY ISSUES AND IMPACTS

1. Expand on the discussion regarding size standards and include observations regarding the impact on Oakland businesses?

Five areas are addressed below: (a) business tax data (b) L/SLBE certified businesses (c) census data (d) the State of California's small business size standard, and (e) the size standards for the economically disadvantaged as defined by the City and County of San Francisco's Human Rights Commission.

(a) Business Tax data

In a discussion of business size, it is important to assess reported revenue. However, in and of itself the findings are not compelling enough to support an assumption of actual business size.

Business tax data includes businesses operating in multi-jurisdictional markets. For example, a firm based in Oakland may actually earn 99.9% of its 50 million dollar revenue in San Francisco, and report business earnings of only \$200, 000 in Oakland- Based solely on the business tax data, the business appears small, yet in actuality it is quite large. Nevertheless, this data provides picture of the extent to which dollars are earned in Oakland and reported by Oakland and n( Oakland firms.

May 27, 200' ) Page 2

(a) Business Tax data (continued)

Table I shows a three-year period of revenue reported by Oakland firms. The first column shows six dollar ranges (A-F). In this data, you will see that dollar range A represents the largest percentage of firms (63.5%, 60.6% and 55.7% respectively) reporting revenue below \$33,335. DqIW range B (\$33,336-99,999) represents the second largest number of businesses reporting revenue. Overall, more than severity percent (70%) of the businesses reported revenue under \$99,999.

Business Tax Data - Constructon Contractors

TABLE 1- 2000 2001 2002

Ranges % % I %

A ; 33,335 1077 63.5% 1033 60,60% 8cA1 55.7%

B \$ 33,336 - 99,999 257 15.2% 284 16.7% 3021 18.8%

C \$100,000 - 499,999 256 15.1% 275 16.1% 283 17.6%

D S 500,wo - 999,999 51 3.0% 53 3.1% 53 3.3%

E \$1 Mto lo M 2.8% 51 3. 0 0/d 61 3.8%

F \$10 M to 100 M 6 0.4% 9 0.5 1 1 0.7%

Total 1695 1705 1 1604

Chart 2 represents the most dynamic observation. The chart demonstrates the number of non-Oakland firms reporting revenue in Oakland compared to Oakland firms reporting revenue. It is clear that non-Oakland firms outpace Oakland firms at approximately a 1 to 3.87 ratio. These figures speak volumes to the number of non-Oakland businesses actually turning to Oakland's economy.

NON-QAKLANDFUMS

6406 8 Goo

OAKLMOFIRMS

A

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2000 2001 2002 200o 2001 2002

May 27, 2003 Page 3

(b) L/SLBE certified businesses (data up to June 2002)

The average gross receipts of Oak-land certified firms shows that 42 percent of the construction firms certified by the City of Oakland, reported average gross receipts of I to 10 million dollars and 12 percent reported average gross receipts between 10 to 100 million.

Thirty seven percent (37%) of the certified professional services firms are within the I to 10 million-dollar- range. Table 2 and Chart 2 demonstrate the average gross receipts of Oakland certified firms by category.

Table 2: Oaklan Professional

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Gerlified Firms Construction Services

Range % %

A

\$ 33,335 1 1% 16 11%

B \$ 33,336 - 99,999 7 6% 19 13%

C PI 00,000 - 499,999 28 25% 33 22%

D ;500,000

- 999,999 16 14% 15 10%

E

1 mto 10 M 47 42% 55 37%

F N

Oomto 100 M 14 12% 11 7%

Total 113, 100% , 149 100% A E C

The majority of Oakland certified firms are ready, willing and able to respond to government contract work and have the capacity to prepare and respond to solicitations andwork within a paper intensive environment.

(c) Census Data

Over 90% of the firms certified by the City of Oakland fall into either the construction industry or professional services industry category. The 2000 Metropolitan Statistical Area (MSA) - Business Patterns for Oakland, California, reveal a total of 58,456 businesses with an annual payroll of \$3,304,713 for construction and \$4,764,239 for professional services. It is important to note that these figures reflect payroll only and do not include profits or sales. Given this fact, the figures above suggest that income in the Oakland MSA is larger than the payroll figures.

(d) State of California

The State of California defines a small business as an "independently owned and operated business, which is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars (\$ 10,000,000) or less over the previous three years, or is a manufacturer with 100 or fewer employees."

May 27, 2001 Page 4

(d) State of California (continued)

The State of California also defines a micro-business as "a type of small business that, together with affiliates, has average annual gross receipts of two million five hundred thousand dollars (\$2,500,000) or less over the previous three years, or is a manufacturer with 25 or fewer employees." 1

One flat rate across the board as in the case of size standards for a small business and micro-business actually makes for a simple size standard structure.

(e) San Francisco's Human Rights Commission (SF/HRC) is the entity representing equity and social justice issues. Certification and compliance monitoring take place through the HRC. The size standard structure for SF/HRC defines an "economically disadvantaged" business as a business whose average gross annual receipts in the three fiscal years immediately preceding its application for certification does not exceed the limits defined below in Table 3 which also shows Strategy 6-B recommendation of 70% SBA and the City of Oakland's current size standards for small businesses.

Table 3 SF/HRC 70% SBA Current Oakland

Trade Size in millions (small)

Trade	Small	Medium	Large
1 Public Works/Construction	\$14	\$19.9	\$8.5
2 Specialty Construction Contractors	\$ 5	\$ 8.4	\$1.9 - 6.8
3 Mater&Equip. & General Services Suppliers	\$ 5	\$ 8.4	\$7.1
4 Professional Services	\$ 2	\$ 2.8	\$3.0 (A&E)
5 Trucking	\$ 3.5	\$ 8.4	\$4.5
6 Telecommunications	\$ 5	\$ 8.4	\$5.2

'Dependent on specialty area

At the March 25th CEDA Committee meeting, Council Member Brooks recommended considering the size for a small business based on the average gross receipts as reported in business tax or establishing one flat rate as the State's small business program. Sections (a) and (d) as noted above,

address those considerations.

#### Stakeholder Recommendations:

Earlier stakeholder meetings and survey results supported the 70% SBA size standard to define a small Oakland business. It is important to note that the Strategy Team engaged in considerable discussions regarding the unintended consequences of this recommendation-

Stakeholders who attended the March 25<sup>th</sup> CEDA Committee meeting and participated in workshops in April, expressed concern for the smaller businesses as well.

The April stakeholder meetings included representatives of the Black Caucus, the Black Board of Trade & Commerce and the Bay Area Black Contractors Association (BABCA). These groups expressed concern that the larger size limit may have unintended consequences on the population of small to very small Oakland based businesses.

' Governor's Office of the Advocate for Small Business

May 17, 2001 Page 5

#### (e) San Francisco's Human Rights Commission (continued)

Specifically, that population of very small businesses with one office, no more than three employees and average gross receipts of \$500,000. It was this population that the Black Caucus believed might fit into a "Very Small " category much like the "micro business" under the State of California's size standards.

To offset the impact of unintended consequences on smaller firms, April stakeholders recommended either reducing the size standard for a small business or creating a "Very Small Business (VSB) " category with additional points. The specific recommendations put forth by the April stakeholders are as follows:

1. Take 30% of SBA instead of 60%; or
2. Attach to the economically disadvantaged, or business size standards put forth by San Francisco City and County; or
3. Reference the average size of firms paying business taxes; or
4. Reference the State of California's size standard; or
5. Reference the average size for the metropolitan statistical area.

#### Additional Stakeholder Feedback:

In correspondence dated January 27, 2003, the Oakland Metropolitan Chamber of Commerce supported the majority of the recommendations put forward. However, the Chamber recommended that the SLBE size standard should be "directly tied to the National SBA standard, and not 70% of the SBA size standard".

#### Impact of 70% SBA size standard

Extending the size limit up will increase the number of firms eligible for certification and potentially the number of certified businesses competing for city contracts. In addition, very small businesses will be in a larger competitive pool and may find it more difficult to compete with larger firms.

Alternate considerations:

If Council chooses to consider an alternative to the Strategy 6-B recommendation and place more emphasis on the very small business, the April stakeholders and Council Member Brooks have put forward alternate considerations:

- (a) Attaching to San Francisco's limits to determine the size of a small business;
- (b) Attaching to the small business size standard defined by the State of California as put forward by Council Member Brooks;
- (c) Keep the 70% SBA size standard and create a "Very Small Business" category comparable to either 30% of the SBX' category as recommended by the Black Caucus or the State of California's "micro-business" size standard.

Either approach may reduce the impact of unintended consequences on very small firms and meet the need to attach to a system that is formally updated on a regular basis.

May 27, 2003 Page 6

## 2. Why /Why not certify nonprofits?

Why certify not-for-profits? As mentioned in the March 25 1h report, there are many opportunities offered by the City for which nonprofit corporations are qualified. Many nonprofits, in fact, contract with the City to provide both construction and professional services. In some of these cases, nonprofits compete against for-profit corporations for City contracts. Local nonprofits that would otherwise meet the requirements for certification are not eligible due solely to their nonprofit status, though they arguably contribute nearly as substantially to the City's economic development and more so in many cases to the City's participation goals.

Why not certify nonprofits? Nonprofits are tax-exempt. This includes an exemption from paying business taxes. Tax-exempt status creates an unfair financial advantage when for-profit and not for profit entities compete for contracts that are price driven. In addition, for-profit firms do not have access to the same funding streams provided through certain grants and loans set aside exclusively for nonprofits.

San Francisco delineates the need to identify (certain) local businesses as a sheltered market (absent nonprofits). This policy position is addressed in Ordinance 175-89 as follows: "local businesses that seek to enter into contracts with the City and County of San Francisco continue to labor under a competitive disadvantage with businesses from other areas because of the higher administrative costs of doing business in the City (e.g., higher taxes, higher rents, higher wages and benefits for labor, higher insurance rates, etc.). The City (of San Francisco) is continuing to use a preference for local business in the award of City contracts in order to encourage business to locate and remain in San Francisco and thereby enhance employment opportunities for persons living in San Francisco. The cost of locating and doing business in San Francisco continues to be as much as 15 percent and greater than the cost of doing business in the surrounding communities; affording a five-percent bid preference for local businesses bidding on City contracts reduces the disadvantages under which City-located businesses labor when competing for City contracts, affording them a five-percent bid preference makes good sense..."

Alternate considerations:

If Council chooses not to fully accept the strategy six recommendation, the following alternatives

are off-ered:

- a. Certify nonprofits and the certifications must apply to contracts under the recommended threshold of \$100,000 for construction and \$50,000 for professional services; or
- b. Certify only those nonprofits that provide human services such as para-transit services, or foster care; or
- c. Certify nonprofits, count participation toward meeting participation goals and eliminate the bid discount advantage when competing in a for-profit market.

City and County of San Francisco Ordinance 175-89

May 27, 2000 Page 7

3. What checks and balances are in place to protect the integrity of the certification process?  
(Preventing fronts)

It is easy to presume that there is not a process of review when certification is referred to as a "Self Certification" process. However, under this new process, CC&ES staff members apply three levels of scrutiny. The first level of review involves updating the existing file and making sure that the firm still satisfies each certification requirement. The first level review can be completed within a ten-day period. Applicants under a first level review typically have an established or historical local presence without any changes since the last certification. The second level of review is typically for firms applying for the first time. In this instance, a site visit, and/or additional documents may be in order. Third level reviews are for applicants with challenges, debarments from other entities, or highly questionable circumstances. A third level review may end in denying the applicant. When the three level review process was discussed with participants in the April meetings, the description of the current process for the "Self Certification" was acceptable.

Nevertheless, in an effort eliminate confusion, the Strategy 6-B team and the Black Caucus supports removing "self" from the certification application title.

4. What will a Disparity Study provide? Do we have an idea of the level of participation by ethnicity and gender?

A Disparity Study will provide an objective analysis of the proportional distribution of contract dollars relative to the business population that stands ready, willing and able to respond. Secondly, such a study will provide a hard look into the City of Oakland's contracting practices and can determine if such practices serve as barriers to fair and equitable contracting oppoftunities for all businesses that are ready, willing and able. The disparity, if one exists, would then be the difference between the dollars we spend within a population and that portion of the population that is excluded.

With regard to ethnicity, the Council may choose to take a position similar to that of San Francisco, which has an "economically disadvantaged!" classification that includes race and gender, or opt to

continue under compliance with Proposition 209 and apply race neutral methods such as outreach and advertisement to all segments of the business community.

Numbers are provided for you below, and at face value suggest that race-based disparities exist. However, this data is not fully valid in that the minority status has not been confirmed or validated through a certification process since 1997. Moreover, there may be many more firms that might qualify as a Minority Business Enterprise (MBE) or Women Business Enterprise (WBE) but choose not to report ethnicity or gender status. Secondly, and perhaps most importantly, the subject of racial and gender based disparities in contracting is very sensitive and potentially divisive. As such, any data produced and used to influence policy must be objectively produced and highly reliable. In the case of this report, it is merely suggestive based on one set of data. Numbers below are reliable only in the context of contract amounts reported and not in terms of ethnicity or gender.

The data includes contracting during the period of 7/1/2000 to 5/25/2002. During this period, a total of \$85,571,577 dollars were identified as dollars spent for construction services. Minority owned firms identified as "self-reporting" (not certified) represented 27% of those dollars.

May 27, 2003 Page 8

#### 4. What will a Disparity Study provide? Do we have an idea of the level of participation by ethnicity and gender? (Continued)

Oakland certified firms earned 53% of those dollars and non-certified firms earned 47%. When compared to the total dollars, minority owned firms represent a very small margin of the total dollars. The breakdown of total dollars by ethnicity shows that Native Americans received the smallest portion of contract dollars, and Asian businesses are the next lowest at 3%.

#### Ethnicity Of Total Dollars Of MBE Dollars

- (1) Asian 3.0 % 12.0 %
- (2) African American 7.0 % 25.0 %
- (3) Hispanic 16.0 % 61.0 %
- (4) Native American .4% 2.0 %

Pie Chart I shows the percentage of MBE dollars shared among ethnicities for that particular reporting period.

Native

\*Hispanic American Asian African  
2% 12% American  
61%

\*Please note.-Dollars represent 7% of total dollars by ethnic category skewed over a 10 year period. Of the total dollars reported only one firm earned 46% of the total dollars. In the other instances dollars were more widely distributed.

5. Expand on the recommendation to require small firms to have a headquarters or a "principal" office in Oakland.

The Strategy Team worked through lengthy discussions regarding this matter. It was believed that the issue of whether to require LBEs to have an Oakland headquarters is part of the broader policy discussion particularly in striking a balance between assisting small local businesses and encouraging economic development in general in Oakland. The question is whether the headquarters requirement discourages non-local businesses from bidding on City contracts and opening a branch office in Oakland.

To be certified as a LBE currently, a business must have its headquarters in Oakland. After much discussion, the team decided to eliminate both the headquarters requirement and the size limits. The expected economic impact of the new LBE definition is that out-of-state firms will have an incentive to establish substantial branch offices in Oakland, thus contributing to economic development in Oakland. The incentive for LBEs will be limited to a 2% bid discount, while the SLBEs will receive greater preference, a 5% bid discount.

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6. Comparison of San Francisco and Richmond Programs

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The City of Richmond has a local employment program (LEP) and a local business program (LBE). These programs are applicable to contracts valued at \$5,000 or greater. The local employment program establishes a 20% residential hiring goal and a 20% new hire goal. The local business goal is 20% for small local businesses, 15% for businesses owned by veterans, and 10% for small veteran owned businesses. Annual adjustments apply to availability and experience with projects of the same discipline and same size.

City of San Francisco

San Francisco's Human Rights Commission (HRC) has a local minority/women business program. The dollar thresholds are \$50,000 for construction projects and \$25,000 for professional services. The goals of the program are separate for minorities and women as follows:

Category Minorities Women

- (a) Architectural & Engineering 34% 14%
- (b) Professional Services 13% 11%
- (c) Purchasing- 11% 8%
- (d) Construction- 33% 13%
- (e) Telecommunications 12% 9%

San Francisco represents a more comprehensive set of best practice strategies. In particular, the certification packet, a very detailed Joint Venture application, and the affidavit of compliance submitted by businesses at project end can enhance the City of Oakland's current processes.

Finally, there is a commission structure that allows present and ongoing business involvement in an advisory capacity. This structure appears to support communication between the business community and the City/County government.

7. Reconsidering thresholds for the application of policies. Construction doubled and professional services tripled.

The requirement that staff must contract with local firms for informally bid contracts at a rate of 75% results in a high percentage of these smaller awards to LBEs. Expanding the currently successful efforts to contracts with higher limits could result in additional awards to local contractors and vendors. The recommended limits at which the S/LBE policies will apply are \$50,000 for professional services contracts and \$100,000 for construction services contracts. Below those limits, establish a goal of spending 75% of informal contract dollars with local firms, and require that at least 50% of those dollars go to SLBEs and the remaining (up to 25%) to LBEs. The limits were suggested in light of a potential increase in current limits for informal contracts.

#### Alternate considerations

If Council chooses an alternative, Council Member Chang proposed equally doubling the irifirmal limits for both professional services, as was done for construction, such that certain policies would betriggeredat\$29,998for,-rofessionalservicesand\$100,000forconstructionservices. One observation worth noting is that the Living Wage Ordinance and Equal Benefits Ordinance are both triggered by contracts valued at \$25,000.

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#### 8. Moving away from anecdotal data, do local businesses really charge more?

The cost of operating a business in the, Bay Area is higher than most surrounding cities and counties. Higher administrative costs such as higher rents and higher taxes are major contributing factors. As such. local businesses Work under a competitive disadvantage with businesses from other areas.

The City of San Francisco contends that the cost of locating and doing business in San Francisco continues to be as much as 15% and greater than the cost of doing business in the surrounding communities. While perhaps not as costly as Sari Francisco, it is reasonable to assume that Oakland, a Bay area neighbor, has a cost of doing business that is higher than the cost for businesses in most other localities outside San Francisco.

A sample of contracting cost was evaluated in an effort to pin point competitive bidding prices. The canvasses of bids from five projects were selected. The projects included two streetscape projects and three sewer rehab projects. The categories were chosen because they were consistent across the projects selected for comparison purposes.

Attachment A is a detailed breakdown of the unit bids. It shows that of the categories selected for the two streetscape projects, the local firm was higher in both histances. However, the prices of the three sewer projects that were compared show that the local firm was lower under one project, higher on the second project, and the same as the non-local firm on the third project.

The data only suggests that in some categories of work, local firms are higher and in some categories, local firms are more competitive. Recent surveys of cities conducted by the Public Works Agency discovered that costs varied one locality from another because of factors such as scope of service and approach to service which made the purchase of such services unique to each locality and thus difficult to state with assurance that one cost was greater than the next.

#### Alternate considerations

If Council accepts the assumption that it costs more to operate a business in Oakland than in most surrounding cities or counties, then it is reasonable to presume that Oakland based businesses must

charge more for goods and services in order to cover administrative cost. Information gleaned from the streetscape and sewer sample of projects above supports the assumption that Oakland business may charge more on some contracts and may not charge more on others. In Ordinance 175-89, San Francisco states that the cost of doing business is at least 5% for San Francisco businesses.

The antithesis of this cost factor debate however is the added economic value to any city. It is in the area of positive economic impact that more data is needed.

#### Stakeholders Feedback:

Both the Black Caucus and BABCA strongly urged including into the discussion of cost, the discussion of value added. For example, a local firm circulates revenue, employs Oakland residents, employees visit local restaurants, and may shop at our stores. BABCA in particular recommended an impact analysis using the "TNTLAN" (Indirect Analysis for Planning) model to determine the actual impacts that contracting with local firms have on the local economy.

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#### 8. Moving away from anecdotal data, do local businesses really charge more? (Continued)

A similar study was conducted in the District of Columbia and the findings were compelling. The impact analysis indicated, "For every dollar expended under a Local Small Disadvantaged Business Enterprise (LSDBE) contract, about 55 cents of gross sales output of goods and services<sup>3</sup> was generated in the District.

#### 9. Lifting the Moratorium on Affordable Housing upon acceptance of new Policies.

Council Member Brunner requested a statement specifically regarding the moratorium suspending the L/SLBE and Local Employment programs for 2002 NOFA (Notice of Funds Available) funded affordable housing projects while leaving intact the 15 % Apprenticeship Program

In exchange for the moratorium= additional affordable housing units would be built under the assumption of lower building costs. Also, affordable housing developers would report the level of participation achieved, absent the programs.

It is important to note that as agreed, only 2002 NOFA funded affordable housing projects will operate under the current moratorium and no further moratoriums would apply once new policies are adopted.

#### 10. Meetings with the April stakeholders:

In response to comments made at the March 25th CEDA meeting and the directive put forward by the CEDA Committee, additional stakeholder meetings were held. Attachments I and 2 are provided as detailed recommendations. The summary below is not intended to exclude from consideration any of the recommendations brought forward by each stakeholder group. The information noted below offers a general summary of those recommendations by major Strategy 6-B recommendation categories

3 Local Small Disadvantaged Business Enterprise Program: Cost Effectiveness and Financial Impact Analysis page 25, December 2002.

In summary, April stakeholders support in total or in part with conditions, Strategy 6-13 recommendations except those regarding (1) size for a small local business, (2) certification non-profits, (3) eliminating goals (including Disposition and Development Agreements and trucking), and (4) eliminating the certification category of trucking broker.

Overall the April Stakeholders support in total or in part with recommendations, Strategy 6-B Recommendations 4,6,7 & 8 and II - 15.

In conclusion, all stakeholders expressed the critical need to define the economic impact of local programs as a balance to the discussions of cost.

#### PROGRAM DESCRIPTION

#### RECOMMENDATION (S) AND RATIONALE

#### ACTION REQUESTED OF THE CITY COUNCIL

Acceptance of this report.

Respectfully submitted,

-4, q  
Dr. George Quisgrove Assistant GO Manager

APPROVED & FORWARDED TO THE  
COMMUNITY & ECONOMIC DEVELOPMENT  
COMMITTEE

Prepared by:  
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Contract Compliance & Employment Services  
Manager

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April 29, 2003

Debra Barnes  
NUnager,  
Contract Compliance & Employment Services  
City of Oakland  
250 Frank H. Ogawa Plaza, Ste. 3341  
Oakland, CA 94612

W Barnes:

Accompanying this correspondence are recommendations regarding the City's S/LIBE and trucking programs. These recommendation have been made after meeting and confining with the contractors, truckers and suppliers whom I represent as well as other Oakland SgMEs.

We a are looking forward to the successfid implementation of working S&ME and trucking programs which will be inclusive ot and a true benefit to, the many small, local truckers and other businesses who over the years have and continue to work to participate on City projects.

Sincerely.

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The following are the comments and recommendations from the meeting held on April 04, 2003, for the City of Oakland's LBE and SLBE programs:

City of Oakland's recommendation #1: Definition of Small SLBE: Define size limit for SLBEs as 70% of the US Small Business Administration Standards. These standards are based on national statistics and are adjusted annually.

Comments: In light of the fict that the average size of businesses as reported by census data and size adlizing the City business tax is \$3 million, this size standard is too large for local businesses.

Recommendation: Use the City and County of San Francisco's size standards as follows:

Construction Prime Contractors - \$14 million  
Specialty Construction Contracts - 5 million  
Good, materials and Equipment Suppliers - 5 million  
General Services (including Security Services- 5 million  
Profesaional Services - 2 million

Trucking - 3.5 million  
Telecommunications - 5 million

City of Oakland's recommendation 92: Definition of LBEs: Eliminating size limit (revenue cap) for LBEs

Comments: Programs are put in place to eliminate barriers or increase LBE utilization. Since there are no studies or statistics that show large, major firms are not currently being utilized on City of Oakland's contracts then they should not be included in the programs.

Recommendations: Maintain the existing policy.

City of Oakland's recommendation 93: Definition of LBEs: Eliminate local headquarter requirement for LBE's.

Comments: There should be a benefit to the Oakland community.

Recommendations: The business must have & substantial presence ( independent, fully operating office) with Oakland residents making up 50% percent of their local office's total workforce.

City of Oakland's recommendation -94: Eliminate the category of broker from certification.

Recommendations: Maintain the trucking broker. However, the broker must be an

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owner and operator of at least one complete unit.

City of Oakland's recommendation #5: Allow eligible nonprofits to be certified as SLBEs and LBEs.

Comments: This would give unfair competition given the reduced overhead costs for non-profits and the absence of the same business tax requirements as for-profit. Also, there have been no studies to support the need.

Recommendations: Do not support.

City of Oakland's recommendation #6: Make the process of certification more accessible through significant simplification and outreach efforts to the business community. Institute a self-certification process requiring minimal documentation and streamlined review. Support efforts by local business organization (e.g chambers) to hold

'Certification Days'

Comments: Self-certification has not worked at other agencies because the correctness and truthfulness of the information varies.

Recommendations: Establish and implement reciprocity agreement with agencies that utilize the CFR guidelines. Certification should be for 2 years (which is what most agencies in the area are doing) . Streamline the re-certification process.

City of Oakland's recommendation #7: Replace the optional "Good Faith Effort" with a mandatory "Local Subcontracting Outreach Requirement'.

Recommendations: Include a "2 weeks prior to bid opening" component. Utilize local papers and at least one that has a daily circulation.

City of Oakland's recommendation #8: Eliminate the 3 year commitment for Mentor-Protdgi program and instead require the relationship last, at a minimum, fbr the duration of the project.

Comments: If a project is less than 1 year then there may be no real benefit for the prot6gi.

Recommendations: For at least 1 year or the life of the project, Can not be continued year after year ( or projects).

City of Oakland's recommendation #8: Eliminate the 50% Local Subcontracting requirement and instead provide incentives in the form of bid discounts (construction) or preference points (professional services) of up to 4% for achieving up to 50% in local subcontracting, or having an SLBE serve as the prime contractor.

Comments: Do not support. Economic impact of local goals have been greatly underestimated. A city can actually calculate the economic impact of compliance policies using what is referred to as the RVIPLAN Economic Model). A recent study of the Washington D. C. programs demonstrated a positive economic impact from goals, such that for every dollar expended on a local contract, approximately 55 cents of secondary gross sales output of goods and services was generated. And, one secondary job resulted for every two jobs created by the program and an additional 70 cents of secondary labor income.

The direct effects on economic stability of local businesses include such dollars spent on rents, leases taxes paid, wages earned and inventory: indirect effects on suppliers in dollars spent on rents taxes, wages and inventory and induced effects on local households with regard to earning from direct and indirect effect on dollars spent on consumables.

Recommendations: Maintain the existing policy.

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Desley A. Brooks (510) 238-7006 Direct  
Councomember. District 6 (510) 238-691 0 Fax  
Emzid:dbrooks@oaklandcity.com

TO: Chairperson Jane Brunner. Community & Economic Development Committee.

Members of the Committee

FROM:  
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DATE: March 25 4m/  
I .1

RE: Recommendations to the Staff Report on Moving Oakland Forward -  
Strategy 6-B, Contract Compliance & Employment Services Policy  
Recommendations.

After review of the Staff recommendations for Moving Oakland Forward Strategy 6-B I am  
requesting that your Committee consider for adoption the proposed recommendations listed

below. I believe that these recommendations will strengthen the City's S/LBE program and  
provide meaningful support to Oakland's Local and Small Local Business Enterprises.

Strategy 6 STRENGTHS CONCERNS Councilperson BTo-oi@@@

RECOMMENDATIONS RECOMMENDATIONS

-See @is too large Reduce size based on average  
(a) Define small It is good to

business as 70% of the distinguish for small gross receipts as reported to the

SBA size standards between small Oakland city to the business tax division,

and local businesses. Why and/or establish one flat rate as

not one flat the state's small business

amount. The program.

wide range  
makes it difficult  
for the very small

to compete.

(e) Allow nonprofits to What is the Don't certify nonprofits as  
be certified as S/LBE revenue stream S/LBEs unless revenue streams

that nonprofits to the City from nonprofits is  
bring to the City? similar to those from SILBE

What are we firms.

asking nonprofits

to pay for doing  
business with the  
City? Wh-3.-. are

I nonprofits federal  
and state tax COW-L  
obliaarions?  
DEVE -CMTE  
Competition with  
S,IBE firms.

Local iviandator-i 1Advenising/publi Make sure that There is si-an off  
Subconstructin- outreach makes cizmng

by the City to insure appropriate  
Outreach Requirement sure local opportunities. steps have been taken.

businesses have I  
the opportunity Nmifyinp- via web  
to coml)ete. is a must-

Up to 5% bid Affords 5% discount of a Place a Cap on bid discounts  
discounts preference f mul , 'Ilion

Oakland S of doUnproject may  
certified firms be too costly

(h) Credit for non-city Encourages Lhnit benefit Cap credit tamed on non-city  
jobs using City of City of Oakland jobs at 2.P/o bid discount and 2.j

Oakland Certified certified SLBE points for professional services.  
SILBE firras participation on

non-cityjobs

(i) DDA's Good strategy Lowest vs. lowest Require Prime Contractors to use  
responsive and City procedures for selecting  
responsible subcontractors under the DDA.

Change language to Primes must  
hire the lowest responsive and  
responsible bidder'@@

Additionally, I would request that there be a revision to the Staff Report to include:

a section indicating where each request for proposal (rfp) and/or request for  
qualifications (rfq) and/or each contract extension was published. Failure to show  
publication of a rfp, rfq and/or contract extension will result in the item being pulled  
from the Agenda until such time as publication has been completed.

Thanking you in advance for your consideration and action on this request.

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Executive Summary  
and  
Details of Strategy 6-B  
Recommendations

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## EXECUTIVE SUMMARY

Team 6B

Goal: To assess goals, policies, processes & costs of complying with contract compliance  
programs and recommend changes to make programs simpler and more effective while  
implementing multiple City Council policy objectives

### 1 . Goal

In order to provide economic opportunity for its residents and businesses, the City of Oakland has  
developed and implemented a number of policies that 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 City has demonstrated leadership through these policies and is in the vanguard nationally in terms of harnessing local resources to achieve local benefits.

The goal of this team was to examine these policies to determine their effectiveness in meeting their policy intent and to improve the efficiency and user-friendliness of their implementation.

## 2. Background

The City has a number of policies to provide opportunities for Oakland residents and businesses. The major programs that these policies were created to serve these respective groups are the Local Employment Program and Small/Local Business Enterprise (S/LBE) Program. Supporting and/or complementing these programs are policies regarding living wage, prevailing wage, disadvantaged business enterprises, apprenticeship, and domestic partners.

Few would argue with the merits of the intended outcome of these policies, which is to stimulate economic development by supporting the development of the local workforce and business community. To the extent that the locally unfettered economic market places them at a disadvantage, these policies are warranted and can potentially meet numerous objectives simultaneously. However, there are challenges associated with meeting this type of policy intent. First, since the intent is based on general premises about the economic and disadvantaged status of Oakland businesses and residents, it is difficult to measure the policies' effectiveness because it is hard to gather relevant and credible economic data. Second, it is difficult to translate the policies into programs that simply and effectively meet their intents due to the intricate nature of public spending and the additional complexity of monitoring it. As a result of these challenges, we are left with questions about the policies' effectiveness and concerns about their implementation.

### a. Overview of internal research findings

The S/LBE and Local Employment programs together constitute the core of the implementation of the City's local participation policies in terms of impact and opportunity for improvement. As such these programs were the ultimate focus of the team's activity. Internal research revealed that on the whole, these two programs were meeting their goals of directing half of City spending on construction and professional services to Oakland residents and businesses. Less clear were the costs to the City of implementing these programs. Research also revealed that internally there is a lack of understanding of how the programs do or should work and that, in fact, their implementation and interpretation was not consistent across the organization. This discovery underscored and confirmed the perception that the programs, while well meaning, are too complex. Some quantitative data exists to support contentions that the City pays relatively high prices for some contracts while receiving few bids. While these facts do not expressly implicate Council policies, they do provide cause for concern.

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b. Overview of external research findings

The team itself did little in the way of external research but had benefit of previous research completed by the Division of Contract Compliance & Employment Services (CC&ES) and the Offices of the Council President and Councilmember Danny Wan. Regarding precedent or best practices from other cities, there are few comparable policies or programs to evaluate. A few other California cities do have programs in these areas, but their differing structures and lack of data to measure their effectiveness render comparisons of limited value. Discussions with focus groups of affected stakeholders have been significantly more revealing. The main theme emanating from these discussions was general support for the programs in concept coupled with frustration with their implementation. Frustration was centered on the bureaucratic complexity, inflexibility, and unintended adverse consequences of the programs.

3. Overview of recommendations

With a focus on the S/LBE and Local Employment programs, as well as the general administration of contract compliance functions, the team developed nearly two dozen distinct but related recommendations. Due to the complexities associated with implementing these policies, the team had to consider and account for a number of trade-offs and had to be cognizant of possible consequences of these recommendations. For the most part, therefore, it is the body of recommendations - not each recommendation on its own - that the team is recommending. Although each is distinct, they were developed iteratively as an integrated package of improvements. Acceptance of some and rejection of others may substantially and adversely impact their effectiveness.

The recommendations were made to the extent possible under the rubric of a winning compliance philosophy. This philosophy uses an approach whereby the City endeavors to help business comply with its policies and programs, rather than designing them to be complex such that they require significant oversight.

Within that context, the main trade-offs that these recommendations are designed to balance are the following:

- the desire to provide economic opportunity to local residents and businesses while paying competitive prices for goods and services;
- the desire to have programs that are easy to understand and clear to apply while being fair and effective for a wide range of scenarios and situations; and
- the desire to support local economic development through local expenditure of funds while continuing to attract outside investment.

Identification of the above considerations does not imply that the different goals (e.g., supporting local businesses and paying competitive prices) are at odds with each other. They are merely factors the team needed to address to ensure that one set of goals is not met at the expense of others.

The team's recommendations fall into three main areas.

Local and Small Local Business Enterprise Program

In order to optimize the pool of businesses participating in this program such that the City provides incentives for local participation that will stimulate economic development, the team recommends the following changes to S/LBE certification.

Businesses eligible for certification as a local business will be defined as those having a substantial Oakland presence.

Currently, the policy requires Oakland headquarters, though that requirement is temporarily waived at present.

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Businesses eligible for certification as a small local business will be defined as those With Oakland headquarters or ownership/control and revenues no greater than 70% of the revenue standards defined by the US Small Business Administration.

Currently, the City establishes its own revenue standards for both SLBEs and LBEs.

Nonprofit organizations will be eligible for certification; brokers of goods and services will not.

Current program is not available to nonprofits, but is to brokers.

The certification process will be made more accessible through significant simplification and by outreach efforts with the business community to certify more eligible Oakland businesses.

Prior to July of this year, the certification process had numerous requirements and was subject to intensive City review. Current outreach to get businesses certified is limited.

In order to provide direct, objective incentive for local participation on City contracts and purchases, the team recommends the following changes to S/LBE contract evaluation.

Bids on City contracts, above an increased dollar threshold, will be discounted by up to 5% for bid comparison purposes depending on the level of certified local participation. Contracts failing below that threshold will maintain the goal of directing three-quarters of their aggregate dollar value to certified local businesses, but with two-thirds of that amount going to certified small local businesses.

Currently, the program has fixed requirements - rather than incentives - for local participation above the lower dollar threshold, allows for discounts of up to 10%, leaves discretion in the process of determining whether requirements have been adequately met, and has a goal of an even split between local and small local businesses to receive work for contracts below the threshold.

. As prime contractors, certified small local businesses and businesses that enter into joint venture or mentor-protégé relationships with small local businesses for the duration of the project, at minimum, will receive a 5% bid discount. Certified local businesses will receive 2%.

Currently, both local and small local businesses receive a 5% discount and mentor-protégé relationships are required to last for three years.

. The City will require that prime contractors make opportunities known to certified local businesses, will enable primes to apply a limited number of banked dollars paid to certified local firms for non-City work for City bidding credit, and will provide increasing bid discounts for greater

levels of certified local participation, with certified small local participation earning proportionally greater bid discounts.

Currently, outreach is required only when requirements are not met, banked dollar's do not apply, and the discount is applied on an all-or-none basis.

The City will require that prime contractors bidding on City-assisted private developments make opportunities known to certified local businesses and contract with local businesses if their bids are within 2% and small local businesses if their bids are within 5% of the lowest competitive bid. Currently, there are no such limits - the City may require a prime to contract with a local business without regard to cost differential.

The City will award bid discounts of 2% and 5% respectively to certified local and small local firms for City purchases of goods, and will require all City associates to aggressively seek the most competitive prices for all purchases.

Currently, the awards are 5% and 10%, and some City associates do not aggressively seek competitive bids from non-local firms.

### Local Employment Program

In order to improve the City's ability to provide decent job opportunities for Oakland residents on City-funded projects, the team recommends the following changes to the Local Employment program.

The City will require that Oakland residents represent half of all new hires and half of the total workforce hours on City-funded projects, with no more than half of the total eligible local workforce hours worked in any one trade.

Currently, the same requirements apply to each trade working on a project.

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The City will enable contractors to apply banked hours worked by Oakland residents on contractors' non-City jobs to meet these requirements.

Currently, there is no such option.

Contractors will have an opportunity to fulfill these requirements retroactively (but at double the rate of participation) to avoid paying a fine for noncompliance, which will be based on double the value of the deficient hours or 1 % of the non-complying subcontractor's contract, whichever is less.

Currently, though the ordinance does not explicitly provide for contractors to negotiate with City to work off penalties, which are assessed at \$1,000/day, that has been the practice.

The team recommends that some aspects of these recommendations be forwarded to the Apprenticeship Advisory Board to define details of implementation.

### Program Administration

In order to streamline the administration of the above and other Council programs and policies, the team recommends the following changes.

The Budget Office will allocate departmental appropriations to the Contract Compliance Fund on the basis of 1.5% of the value of construction contracts and 1.0% of the value of professional service contracts, with certain categories of contracts (e.g., for grant-funded projects with administrative cost caps) exempted.

Currently, the assessment is 3%, there are no exemptions, the CC&ES staff work with project managers to transfer the funds project by project.

CC&ES will reorient its functions to match its new staffing levels by automating administrative functions (e.g., data entry of certified payroll information) to the extent possible, by shifting from a comprehensive field audit approach to a strategic and limited one, and by unfreezing and converting a senior staff position to create two positions to enhance administrative, field, and outreach capacity and effectiveness.

The City will post all City contracting opportunities on the City's website and will create an email listserv to better inform local businesses of available City work.

Currently, no such outreach exists.

#### 4. Financial Impact (sum) of all recommendations

There is no measurable immediate direct fiscal impact of these recommendations. A significant direct cost of these policies' implementation - the staff of the Division of Contract Compliance & Employment Services - was reduced over 50% by the City Council in July. The team does expect that these recommendations will reduce some of the administrative burden that is currently placed on some City staff members, both within and outside the Division, which will free their time to perform more value-added work. In addition, by capping the amount the City pays for goods and services to achieve the goals of these policies, the City should realize some direct fiscal benefit. Also, the reduction in the contract compliance fee assessed on City contracts will release a significant amount of funds for other value-added uses.

#### 5. City Council action(s) needed

Staff will require City Council approval for all policy-related recommendations, which are recommendations numbered 1 through 16, and 21 in this report. Staff will initially request approval of the policy direction identified in these recommendations and will subsequently return to Council, as necessary, to approve program details and to adopt legislation.

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## 6. Team Members

Deborah Barnes - City Manager's Office Division of Contract Compliance & Employment Services  
Deborah Edgerly - Financial Services Agency (strategy champion)  
Raul Godinez - Public Works Agency  
Mary Joseph - Community & Economic Development Agency  
Pat Kemighan - Councilmember Danny Wan's Office  
Ed Reiskin - City Manager's Office (team lead)  
Libby Schaaf - Council President's Office  
Roy L. Schweyer - Community & Economic Development Agency  
Joseph Tanios - Public Works Agency  
Iona Young - Financial Services Agency

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RECOMMENDATION #11: Definition of Small Local Business Enterprise (SLBE)@ Define size limit for SLBES as 70% of the US Small Business Administration (SBA) Standards. These standards are based on national statistics and are adjusted annually.

### 1. Background

- Problem description: The current maximum size limits (TC%enue caps) for certification as a Small Local Business Enterprise seem arbitrary and are confusing since they do not align with other state and federal standards. Also, the City's existing revenue caps have been criticized for scaling businesses as being unrealistically low.
- Overview of research findings: The City's maximum size limits are much lower than federal or State SBA standards for small businesses.

• What currently exists [What ideally should exist: The current SLBE size standards for each inclusion were adopted by the City Council in 1997 or 1998 and have not been adjusted since then. It would be preferable to set the SLBE size standards as a percentage of Federal size standards for small businesses. These are adjusted annually according to statistical analysis done by the SBA. Thus the City's small business standards would be more uniform with national standards and the Council would adjust to keep up-to-date without Council action.

## 2. Recommendation

• Recommendation Details: Set the maximum size limit to qualify as a Small Local Business Enterprises (SLBEs) at 70% of the SBA standards by industry.

• Anticipated savings/efficiencies/other benefits: Setting the City's size standards as a percentage of the SBA standards eliminates the need for City staff to do their own analysis of each industry to determine a standard. Also, since the SBA standard adjusts annually (and is periodically published), the City does not need to take action each year to keep the standards up-to-date with current economic conditions.

• Who should implement: The Division of Contract Compliance & Employment Services (CC&ES) will administer the new standards.

• City Council action needed: The City Council will need to take legislative action to amend the SLBE Ordinance.

## 3 Implementation Plan

Implementation steps and timeline: This recommendation should be considered by the City Council in the context of the other recommended changes to the City's Contract Compliance programs. Changes to the programs should be acted upon all at the same time, hopefully before the end of 2022. Changes to the LBE and SLBE definitions should be related in order to implement

• Investments needed: Staff training needs to be made available to do outreach to the business community, to inform them of the program changes. Other office problems that are existing in the program should be addressed.

Businesses must understand what our program really requires. In order to encourage more businesses to bid on City contracts, we need to know that Oakland's contract compliance programs are simple, fair, and flexible. Thus, Outreach and education are critical to the SUCCESS OF OUR re-worked programs.

• Plan to address potential issues/opposition (stakeholders): The training recommendations of Task 6B

ere presented to about 20 members of the business community on the representativeness of the ethnic  
community on 9-10-02. The business people were pleased with the recommendations on the whole.  
The community is big and diverse. It is the most diverse community in the state.

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RECOMMENDATION #2: Definition of Local Business Enterprise (LBEs): Eliminate size limit  
(revenue cap) for LBEs.

1. Background

0 Problem description: The existing criteria for participation in the LBE program - a size limit and a  
headquarters requirement - were set with the intent of assisting small and medium-sized local firms - which  
is a worthwhile goal. However, these criteria cause the program to come into conflict with another strong

held policy objective of the Mayor and City Council: encourage economic development and investment  
in Oakland. The current size limits (revenue caps) exclude long-time larger local businesses from the City's  
preference program. These businesses contribute significantly to Oakland's economic vitality. Many of  
the long-time businesses feel they ought to be rewarded for their commitment to staying in Oakland, even in

tough economic times. The existing LBE preference also can be discouraging larger or non-local firms

from bidding on Oakland contracts or in setting up operations in Oakland. The size limit on LBEs also  
makes it harder for prime contractors to meet our local subcontracting goals - particularly on larger

projects. However, our small, minority-owned companies are the ones that need and deserve help to grow.  
Our team debated long and hard on how to balance these considerations. Recommendations 2 and 3 are

Just part of the overall SILBE program. Much taken as a whole. We hope will see the City's Policy  
N

goals in both areas.

Overview of research findings: The team does not have hard data about the economic impact of the revenue caps or the S/LBE program in general. Anecdotal information from medium-sized and larger local businesses (from focus groups) shows that they oppose the size limit and want to participate in the LBE program.

0 What currently exists/What ideally should exist: To be certified as an LBE - a business must

have annual revenue below a maximum set for that inclusion. The current revenue caps are low. After much discussion - the team recommends that large local businesses be able to qualify as LBEs

## 2. Recommendation

- Recommendation Details: Eliminate revenue caps for certification as a Local Business Enterprise (LBE). (This recommendation is made in conjunction with other recommended changes to the LBE program. In particular - Recommendation 9, which eliminates our sub-contracting goals and substitutes all income program for sub-contracting with small and local businesses. The incentive for SLBEs is a 5% bid discount. The incentive for LBEs is a 2% bid discount.)

- Anticipated savings/efficiencies/other benefits: There will be some small efficiencies in certifying LBEs. As the requirements are simpler - no longer requiring revenue information. The main benefit is that larger local businesses will be encouraged to bid on local contracts. We are as a result increasing competition

for our citizens, which will result in lower prices for the City.

- Who should implement: CC&ES will administer.

City Council action needed: The City Council will need to amend the LBE Ordinance.

## 1. Implementation Plan

- Implementation steps and timeline: This recommendation should be considered by the City Council in the context of (the other recommended changes to the L/SLBE program - hopefully by the end of 2002.

CC&ES should be able to institute program changes as quickly as possible.

- Investments needed: Staff time to do outreach to the business community about the new program changes.

- Plan to address potential issues/opposition (stakeholders): As noted above - a focus group of business people in 9-10-02 were interviewed to the city's proposed decision. There is no significant opposition

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RECOMMENDATION #3 ' Definition of Local Business Enterprise (LBEs): Eliminate local  
headquarters requirement for LBEs.

1. Background

- Problem description: The issue of whether to require LBEs to have an Oakland headquarters is part of the broader policy discussion stated in Rec. 2 above. The balance between assisting small local businesses and encouraging local business development in Oakland. The question is whether the headquarters requirement discourages non-local businesses from bidding on City contracts and opening a branch office in Oakland
- Overview of research findings: The team does not have hard data on the economic impact of the headquarters requirement or the S/LBE program in general. Several Bay Area businesses have expressed a desire to participate in Oakland's LBE program.
- What currently exists/What ideally should exist: To be certified as an LBE currently, a business must have its headquarters in Oakland (and, as discussed in Rec 2, be below a certain size). After initial discussion- the team decided to eliminate both the headquarters requirement and the size limits. This means that even very large businesses from another state could qualify as an LBE. The balancing requirement is that the out-of-state firm would be required to do the bulk of any City-funded work in their Oakland office. The expected economic impact of the new LBE definition is that out-of-state firms will likely all incentive to establish substantial branch offices in Oakland, thus contributing to economic development in Oakland. The incentive for LBEs will be limited to a 2% bid discount. Unlike the SLBEs will receive greater preference, a 5% bid discount (See Recommendation 9.)

2. Recommendation

- Recommendation Details: Eliminate the local headquarters requirement for certification as a Local Business Enterprise (LBE)- but require that LBEs bidding on City contracts perform a majority of the City-funded work in their Oakland office.
- Anticipated savings/efficiencies/other benefits: The main benefit is that Recommendations 2 and together (eliminating the size and headquarters requirements) will substantially enlarge the Pool of businesses that can qualify as LBEs. This should increase the number of businesses bidding on City contracts and encourage price competition. The new LBE definition provides an incentive for an business to locate an office in Oakland thus encouraging economic investment in Oakland
- Who should implement: CC&ES will administer
- City Council action needed: The City Council will need to amend the LBE Ordinance.

Implementation Plan

- implementation steps and timeline: This recommendation should be considered by the City Council in the context of the other recommended changes to the S/LBE program. Hopefully before the end of 2002. CC&ES should be able to institute program changes within a month or so following.
- Investments needed: Staff time to do outreach to the business community about the proposed program changes (Essential)
- Plan to address potential issues/opposition (stakeholders): As noted above, a focus group of business people on 9-10-02 were convened to learn the proposed recommendations. No opposition to the recommendation was expressed. However, there could be opposition to the LBE definition from some local businesses who feel they cannot compete with large national firms. It has a 113% capacity to potentially allow a bid

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RECOMMENDATION #4: Eliminate the category of broker from certification.

### 1. Background

Problem description: Local brokers charge more to City through bid discount process. Single-person operations provide little economic development benefits to Oakland.

- Summary of research findings: There are no distinct categories of brokers - trucking and non-trucking - currently. Most of either type are certified. The way the S/LBE program applies to brokers is quite complicated. It offers brokers little advantage. For non-trucking broker activities, brokers often serve as middlemen, adding to the cost to the City. For trucking activities, the brokers serve a more added role, as they are integral to the trucking dispatch process.
- What currently exists/What ideally should exist: Currently, brokers can be certified, just like all other business. Preferences for brokers are more complicated. For non-trucking brokers, discounts are based on the type of vehicle used. For trucking brokers, discounts are based on the type of vehicle used. Participation goals and depend on the type of vehicle used. Ideal: Brokers should not be considered local businesses for purposes of this program because they do not substantially provide economic benefit to the City relative to the preference they receive compared to other local businesses.

### 2. Recommendation

- Recommendation Details: Eliminate the category of broker from certification.
- Anticipated savings/efficiencies/other benefits: This change will eliminate some complex aspects of the S/LBE program, thus simplifying the process. It will have a positive impact on the City's financial health. This

simplification will make the program more attractive to other local businesses.

Who should implement: CC&ES

0 CUN Council action needed: The City Council will need to approve (his change.

#### Implementation Plan

- Implementation steps and timeline: This recommendation should be considered by the City Council in the context of the other recommended changes to the S/LBE program. hopefully before the end of 2002. CC&ES should be able to institute the change immediately thereafter.

- Investments needed: none

- Plan to address potential issues/opposition (stakeholders): The focus group of business people on 9-10-02 noted a broad-based opposition to his recommendation. Staff should liaise and conduct negotiations with the affected individuals. It is likely to oppose his change

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RECOMMENDATION #6: Allow eligible nonprofits to be certified as SLBEs and LBEs.

#### I Background

- Problem description: Qualified-profit contractors to Oakland's economic development are excluded from programs.

- Overview of research findings: There are many opportunities offered by the City for which nonprofit corporations are qualified - many nonprofits. In fact - contract with the City to provide both construction and professional services. In some of these cases, nonprofits compete against for-profit corporations for City contracts. Local nonprofits that would otherwise meet the requirements for certification are not eligible due solely to their nonprofit status, though they arguably contribute nearly as substantially to the City's economic development and more so in many cases to the City's social goals

- What currently exists [What ideally should exist: Currently, nonprofits are categorically excluded from certification eligibility. Eligible nonprofits would have the same advantage in bidding for City work as do for-profits.

#### 2. Recommendation

- Recommendation Details: Allow eligible nonprofits to be certified as SLBEs and LBEs.

- Anticipated savings/efficiencies/other benefits: This change will enlarge the pool of certified firms and recognize the value that a healthy nonprofit community brings to Oakland. It will place local nonprofits on equal footing when bidding against for-profits for City work.

- Who should implement: CC&ES

- City Council action needed: The City Council will need to approve this change

### 3. Implementation Plan

Implementation steps and timeline: -His reconitridation should be considered by the City Council in the context of the other recommended changes to the S/LBE program. hopefully before the end of 2002. CC&ES should be able to institute the change iniechatch thereafter.

Investments needed: none

Plan to address potential issues/opposition (stakeholders): The focus group of business people on 9-10-

02- noted above. voiced no opposition to this recommendation.

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## MOVING OAKLAND FORWARD City Manager Summit Recommendations September 2002

RECOMMENDATION #6: Make the process of certification more accessible through significant simplification and by outreach efforts with the business community. Institute a self-certification process requiring minimal documentation and streamlined review. Support efforts by local business organizations (e.g., chambers) to hold "Certification Days".

### 1. Background

- Problem description: There are many more businesses eligible for certification than there are certified firms. While some may have no desire to ever become certified, others may be reluctant due to the certification process's bureaucratic reputation and others may not understand the program. The certification process is cumbersome and asks for unnecessary personal information. Current CC&ES staff has limited capacity to police certification process, but still wants to ensure that -sham- operations or 'fronts do not benefit from Oakland programs.
- Overview of research findings: The process of certification is considered to be one of the more onerous aspects of the S/LBE program. Some businesses feel the City requests more documentation than it needs to render an approval of an application. It is a staff-intensive process. Regardless of the process, many eligible firms may not know about the S/LBE programs and the opportunities for awarding City contracts that it presents.
- What currently exists/What ideally should exist: Prior to the staffing change compelled by the City Council at the start of this fiscal year, the S/LBE certification process required numerous documents to accompany an application. CC&ES staff has identified (including via field visits) the information contained in the documents. Subsequent to the staffing reduction, CC&ES has adopted a much simpler process, which is then intended for all eligible local

businesses would participate in the program and bid for City contracts.

## 2 Recommendation

- Recommendation Details: Make the process of certification more accessible through significant simplification of the process. (A) Implement a self-certification process requiring minimal documentation and streamlined review. This process requires submittal of only the most basic information, reducing the actual number of pieces of supporting documentation to three or four items that should be readily available for applicants to provide. CC&ES staff will use three levels of scrutiny (from automatic approval to requiring additional documentation and site visits) to receive certification requests, based on familiarity with business and input from project managers. (B) CC&ES staff will also support efforts of local business organizations (e.g., chambers) to hold "Certification Days". The City would encourage Oakland chambers and other organizations that represent and call reach a large spectrum of Oakland businesses to organize and host these events. More CC&ES staff could be on hand to receive applications for certification and answer questions about the program.
- Anticipated savings/efficiencies/other benefits: Attracting more eligible local businesses to the S/LBE program will enhance the opportunity for these businesses to compete for and win City contracts. Much is the objective of the program. Willing to accept these benefits is a significant experience and growth opportunity for Oakland residents. This change also necessarily and significantly reduces all aspects of the workload of CC&ES - thorough and complete review of substantial information required of all certification applications - that it can no longer perform.
- Who should implement: CC&ES
- City Council action needed: none

## 3. Implementation Plan

- Implementation steps and timeline: CC&ES has already implemented the streamlined certification application process. CC&ES will begin to disseminate this business organization information holding Certification Days starting in Spring of 2002, in addition to the other program activities directed by the City Council.
- Investments needed: minimal staff time to support Certification Days
- Plan to address potential issues/opposition (stakeholders): There is no indication for Certification Days can be a group of stakeholders along with the community from the City Council. Thus, no opposition is expected.

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## MOVING OAKLAND FORWARD City Manager Summit Recommendations September 2002

RECOMMENDATION #7: Replace the optional "Good Faith Effort" with a mandatory "Local Subcontracting Outreach Requirement".

### 1. Background

- Problem description: Firms lia%ecomplaineddiat 'goodfaith' N%akerprocess is unpossibletomeel and doesn't takeintoaccount local firrinsgkinginflateccibids. Ad%ertisingancicertifiedinail aree\Pensi%and labor intensne (piniculark for small firmis). Net Nie X% rant to ensure that our local finnis arc notified of subcontracting opportunities.
- 0%eirxieii of research findings: The current "good faith effort" is percci%cd to be burdensome and is suspected to contribute to diminished interest bN businesses in pursuing Cit-N @%ork.
- What currentivexists[What idealh, should exist: Currenth- there is no outreach required bN prime contractors for [ocal subcontractors-'prunes can achie%e their local subcontracting goal wthoul necessank doing an extensi%e outreach (e.g.. b-N using finns the.% pre% ioush iNorked %vuh). The onIN reason for businesses to make a good faith effort is to tn. to get a %%ai@cr for not using local finus (because of lack of a%aflabiht@). and to not get penalized for not achic% ing the il)% local participation goal Ideally, businesses would always do an extensive outreach to local firms to maximize local participation on every contract, and the process to verify this outreach effort should not be staff intensive for the CC&ES division.

### 2 Recommendation

- Recommendation Details: Replac"GoodFailli" %wi%erw1ha Subcontracting0trurcach Requirement' as a condition for prime contractors to bid on projects The Cit '% " ill post bidding opportu-nides on its %%ebsite. and potential primes Nvill be required to mail. fax. or email subcontracting opportunities to a list pro% ided bN. the Cit% on labels (hoi%cxer. unul the "eb site is Lip, anN inailed bid inN itations must be bN certified niail) Thus requirement is %%at% cd in an.% areas " here the prime promises to self-perforill (not to subcontract) that type of %Nork.
- Anticipated saNings/efficiencies/other benefits: We %%ould expect a much greater outreach effort to local firmis bN mandating this as a condition for submitting a bid or proposal to the City@ Net INN sinipIffi ing the process- it should not be too cumbersome for the businesses sen ing as the prinle.' 6nder'this proposal. primes @Nould self-certiR compliance %% ith the Subcontracting Outreach Requirement using a simple one-page forin.  
To simplify enforcement, primes interested in a particular project would post their names on a City website, allowing for local firms to police the outreach requirement. For example, if a local foundation contractor did not receive a solicitation for a bid on a City project involving foundation work, that firm could file a complaint with CC&ES.  
Who should implement: CC&ES.  
CitN Council action needed: Change themirrent policN to match the recommendation.

### 3. Implementation Plan

- Implementation steps and timeline: Prepare tic%% legislation to amend the prograin for COLHICII apprmal

b.N March 2003- and get a Cit.% %@ebsite constructed to perform the recommended tasks as soon as possible.

- Investments needed: Train appropriate Cit% staff in posting the information on [the Citx %@ebsite. and perform an educational outreach campaign to inform stakeholders of [the neNN changes.
- Plan to address potential issues/opposition (stakeholders): no plan identified

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RECOMMENDATION #8: Eliminate the 3-year commitment for the Mentor-Protege program and  
instead require that the relationship last at a minimum for the duration of the project.

### 1. Background

- Problem description: The current Mentor-Protege program does not build local business capacity.

Although the Mentor-Protege program was designed to build capacity, firms are reluctant to use it because  
it requires a three-year commitment. Many firms feel this is too long.

- Overview of research findings: Since its inception, the Mentor-Protege program has been used very rarely.

• What currently exists/What ideally should exist: What currently exists is an arbitrary, three-year  
requirement that does not recognize that the typical contract lasts for a duration much less than one year.  
effectively discouraging businesses from entering into a Mentor-Protege relationship.

Ideally, businesses would engage in Mentor-Protege relationships to foster the growth of  
smaller, newer business enterprises.

### 2. Recommendation

- Recommendation Details: Modify the Mentor-Protege program to require that the relationship needs to last at a minimum for the duration of [the project]. Create an annual award that recognizes businesses that did the most to help small local businesses grow
- Anticipated savings/efficiency/other benefits: It is expected that in principle the proposed recommendation will significantly encourage greater Mentor-Protege relationships in City Contracts, thus contributing to efforts fostering a more efficient environment for financial services to grow in.
- Who should implement: CC&ES.

City Council action needed: Change the current policy to match the recommendation.

### 3. Implementation Plan

Implementation steps and timeline: Prepare necessary legislation to amend the policy for Council approval by March 2003.

Investments needed: Perform an educational outreach campaign to inform stakeholders of the necessary changes.

Plan to address potential issues/opposition (stakeholders): outreach campaign

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RECOMMENDATION #9: Eliminate the 50% Local Subcontracting requirement, and instead provide incentives in the form of bid discounts (construction) or preference points (professional services) of up to 5% for achieving up to 50% in local subcontracting, or having an SLBE serve as the prime contractor.

## 1. Background

- Problem description: Companies find it difficult and costly to meet the 50% local subcontracting requirements. Many projects do not necessarily require it or much subcontracting; the main exception is building construction projects. Companies that do not compete for City projects - less competition results in higher prices. Since the pool of local firms that prints must subcontract much is so limited - local firms may be tempted to inflate prices or take on more work than they can handle. The existing requirement is very rigid.
- Overview of research findings: In some cases, such as Public Works construction projects involving traffic signals, the City has often times received just one bidder. An informal review of other cities' costs for traffic signals suggests that Oakland's costs are higher. For housing projects - anecdotal information from developers suggests that current policies could lead to costs that are as much as 30% higher. What currently exists? What ideally should exist? Current City businesses looking to do business with the City are expected to achieve a 50% local subcontracting goal - regardless of the nature of the work. Opportunities exist for the specific contract to subcontract, and availability of local subcontractors to perform the work. SLBEs acting as the prime contractor satisfy this requirement automatically. Unlike LBEs acting as the prime only satisfy 15% of the requirement, and need to subcontract 35% to SLBEs in order to meet the requirement. SLBEs and LBEs acting as the prime or in a joint-venture receive a 5% bid discount. Unlike non-local firms meeting the local subcontracting goal receive no bid discount. Ideally, businesses would look to maximize local participation of subcontractors on their own, and local subcontractors (absent any City mandate to hire them) would strive to continue to be competitive within their respective lines of work.

## 2 Recommendation

Recommendation Details: Replace the current 50% local subcontracting requirement with a program that rewards prime contractors with up to a 5% bid discount on construction contracts or 50,000 in preference points for professional service contracts for reaching the 50% Subcontracting goal. A 1% for each 10% of contract dollar subcontracted to SLBEs and a 1% for each 10% of contract dollar subcontracted to LBEs. The prime contractor's maximum bid discount or preference points that can be earned from all sources cannot exceed

Note: Primes are no longer required to subcontract any work, just if they do, they can receive a bid discount or credit. This bid discount or credit is another way to earn the existing bid discount/credit system for primes that are SLBEs or Joint Venture or Mentor Protégé with SLBEs. Primes now have multiple ways to hire local businesses - as partners, protégés or subcontractors - and to be rewarded for hiring them with a bid discount or credit.

Anticipated savings/efficiencies/other benefits: The recommended change in policy should yield a greater interest in bicycling the City's work - and thus lead to reduced costs. It also will continue to give preference to local firms and those who subcontract with local firms. While capping the City's cost liability for such preferences is just.

- Who should implement: CC&ES.
- City Council action needed: Change the current policy to match the recommendation.

## I Implementation Plan

- Implementation steps and timeline: Prepare relevant legislation to amend the program for Council approval in March 2001. Develop an educational outreach program to promote and market the next changes in policy to the various stakeholders (contractors, developer, professional firms, etc.) to generate greater interest in City contracts.
- Investments needed: Staffing to continually outreach to local businesses to get them certified, and to non-local businesses to promote our "business-friendly" policies.

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0 Plan to address potential issues/opportunity (stakeholders): Leverage other organizations' resources by  
hiring "certification days" periodically with various business organizations.

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RECOMMENDATION #10: Allow businesses to accumulate credit for using Certified Local Firms on  
non-City Projects, and use that credit to achieve bid discounts or preference points on a City project.

1. Background

Problem description: The current programs do not do as much as they could to build local business self-sufficiency - (e.g. - they do not encourage use of local subcontractors on an on-going basis, including on non-City jobs).

- Overview of research findings: Research indicates that for some local firms, City work constitutes a significant portion of their firm's overall work. Which may not be a sustainable or healthy arrangement for the business in the long term
- What currently exists/What ideally should exist: Currently there is no incentive for businesses to hire local firms on non-City jobs. The cost to businesses are given credit for hiring a local firm on a non-City job is when they do not meet their local subcontracting goal on a City job, and in lieu of losing a fine, they agree to work a local subcontractor an equivalent amount of dollars on another non-City project [deal]. Businesses would continue to employ local firms on non-City jobs, which is not an incentive.

2. Recommendation

- Recommendation Details: Allow prime contractors to bid dollars paid to certified local firms on non-

City jobs during the Near prior to their notice to proceed on a ChN contract- and allow those baled dollars to count to %Aard achic% ing a bid discount/preference points (up to 2%) on (he CM, contract

- Anticipated savings/efficiencies/other benefits: It is anticipated that allowing businesses to accumulate credit for hiring local firms on non-City jobs will encourage the use of local firms on non-City jobs.
- Who should implement: CC&ES.
- City Council action needed: Change the existing policy to match the recommendation.

### 3. Implementation Plan

Implementation steps and timeline: Prepare necessary legislation to amend the current policy for Council approval in March 2003

Investments needed: Conduct an outreach campaign to educate stakeholders about the necessary policy Plan to address potential issues/opposition (stakeholders): Outreach campaign.

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RECOMMENDATION #1 1: For City-assisted private developments (generally Disposition & Development Agreements "DDAs" and Affordable Housing projects), require primes to seek competitive bids from subcontractors and comply with the Subcontracting Outreach requirement (see # 7 above). Primes must give SLBE subcontractors a 5% bid discount and LBE subcontractors a 2% bid discount. Prime must hire lowest responsible bidder. Thus primes must hire LBE/SLBE subcontractors that bid within 2%/5% of the lowest bid. Replace the special requirements for trucking with this more simple, fair and uniform process.

### 1. Background

- Problem description: While building city projects have many subcontracting (OPPC) initiatives for local businesses, a strict 5W.1@ requirement is difficult and costly to meet. The special trucking requirements make compliance even more complicated. Companies that perceive this requirement as cumbersome and unfair do not compete for City projects - less competition results in higher prices. Since the pool of local firms that primes must subcontract with is so limited, local firms may be tempted to inflate prices or take on more work than they can handle. Primes are allowed to hire subs without bidding the work to insure the best responsible price.
- Overview of research findings: Several focus groups with affordable housing developers and contractors were held as a result of concerns raised by developers regarding increased costs resulting from City requirements. As a result, the following recommendations were adopted from other cities having local hiring requirements. Such

results in contractors working in places where there are no requirements when demand for construction is high. Non-profit housing developers reported fewer contractors interested in bidding on jobs funded by the CEDA (See CEDA report to Council for more details.) Developers estimated that the two programs resulted in as much as a 10% increase in costs.

- What currently exists [What ideally should exist: Current] the requirements provide a burden on affordable housing and other development projects that increases costs and makes such jobs less attractive to local and non-local contractors. Each contractor and developer is required to meet SLBE/LBE contracting goals and is subject to fines if the goals are not met. Increased costs and potential impacts on the projects are the result. Ideally, A/J contractors doing the business should voluntarily (or as the normal course of doing business) hire local subs in significant percentages because they are the most knowledgeable about local conditions and will do the best quality work for the lowest cost.

## 2. Recommendation

Recommendation details: For CEDA-assisted private developments (general Disposition & Development Agreements "DDAs" and Affordable Housing projects, but also loans for construction projects), require primes to seek competitive bids from subcontractors and comply with the Subcontracting Outreach requirement (see Recommendation 7 above). Primes must give SLBE subcontractors a 5% bid discount and LBE subcontractors a 2% bid discount. Primes must be responsible bidder. Thus, primes must hire LBE/SLBE subcontractors within 20% of the lowest bid. Replace the special requirement for inking with the following: f, iraiiduilifomiprocess.

- Anticipated savings/efficiencies/other benefits: In addition to the efficiency caused by a lessening of monitoring requirements, the potential reduction in development costs could result in as much as a 20% reduction in subsidies required.
- Who should implement: CC&ES.
- City Council action needed: Amend the program as suggested.

## Implementation Plan

- Implementation steps and timeline: Amend the program with detailed input from developers, contractors, CEDA staff, the City Attorney and CC&ES Council adoption by 3/03. Train participants over several months.
- Efforts needed: little to none.
- Plan to address potential issues/opposition (stakeholders): Stakeholders appear to be in agreement with recommended changes, although there is some concern in the local responsible bidder.

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RECOMMENDATION #12 Change the informal contract threshold from \$15,000 to \$50,000 for

professional service contracts and from \$50,000 to \$100,000 for construction projects. Maintain the goal of awarding 75% of informal contract dollars to local firms, but require that at least 50% go to SLBEs and

remaining (up to 25%) to LBEs. Create an award for the City Department that does the most to support small local businesses.

### 1. Background

- Problem description: The changes proposed to the subcontracting policies will not reduce revenues earned by LBE/SLBEs through subcontracting. Could the City increase direct contracting revenues to LBE/SLBEs to make up for any real or perceived losses in subcontracting revenues?
- Overview of research findings: Anecdotal information in addition to previous work performed by the Bidding Bureau Office and work of the current contracting team suggest that the current process is too cumbersome and thereby subject to many contracts to the more formalized S/LBE process.
- What current process exists/What ideal should exist: Current requirements for bidding of contracts result in a cumbersome and difficult process for smaller contracts, but the requirement that staff must contract with local firms for informal bid contracts at a rate of 75% results in a high percentage of these smaller awards to LBEs. Expanding the CUITC 1111 Successful efforts to contracts with higher units could result in additional awards to local contractors and coders.

### 2 Recommendation

- Recommendation Details: Change informal contract threshold from \$1,300 to \$0 for professional services and from \$50,000 to \$100,000 for construction projects. Maintain the goal of awarding 75% of informal contract dollars to local firms, but require that at least 50% go to SLBEs and remaining (up to 25%) to LBEs. Create an award for the City Department that does the most to support small local businesses.
- Anticipated savings/efficiencies/other benefits: Informal bidding process is more efficient and reduces the time required for approvals. Additional awards to local firms are likely to result.
- Who should implement: CC&ES in concert with the CMO and Agencies
- City Council action needed: Approval of the ordinance for informal bidding

### 3. Implementation Plan

- Implementation steps and timeline: Council to adopt nei% linifts is earl.% 200, mth immediate implciocniation.
- Investments needed: None.
- Plan to address potential issues/opposition (stakeholders): No opposition %%as noted.

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RECOMMENDATION #13: Maintain the basic Hire Oakland Policy - 50% project hours lo be worked  
by Oakland residents and5o% of new hires to be Oakland residents - but simplify compliance by  
eliminating the Irade-by-trade requirement and by not allowing more than half the total hours to be in a  
single trade.

1. Background

- Problem description: The requirement for 50%, resident %%orkforce hours oil Cit 'N construction projects is  
extreinel difficult and cosd% to meet. The fact that this requirement must be met oil a trade-b.N -trade basis  
is particularIN daunting. It diSCOURages niam businesses front bidding on OaklandJobs - less competition  
equalshighercosis. Additionall%-Ihctridc-bN-traderequireiiiieitresultsiiiigraiiititigof%%aiNers%%hena  
%%orkerisn-taxailableitillialtm@e.sototalOaIJ@indi%orkforceliourseiidupbeitigfci%ertliaii';O""0.  
Ho%%e%er-thetrade-b%-Iraderequireiieniensuresih,,itOaklandresidctitsareiiiio%itigiilloallaspectsofilic  
construcrion industr% - paniculark, into trades that fornierk had little Oakland representation.
- Oier%ic" of research findings: This requirement has often led to significant penalties for non-  
compliance. most of %iluch liaxe been %@orkcd off bN using Oakla.iicl residents on otherjobs. Contractors  
haic testified that the reporting requirements are di@`icult and the requirement 10 Cornpl% r oil a dav-bN -daN.

trade-bN-trade basis is not feasible and results in difficulty meeting schedules mthout % iolating rules.

- What currentl% exists[What idealiv should exist: Current program requires that contractors and subcontractors oil construction jobs generate 50% of their %%%ork hours for local residents on a diN -bx-( lam. trade-b% -trade basis. In addition. it)"".). of neNk hires must be Oakland residents. A waixer program exists that allox% a contractor to proceed to hire a non-Oakland %%%orker if the% shox% that none are a%ailable. IdeallN. unions and subcontractors should % oluotarih (or in the nornial course of doing business) hire at least @0'@'o of their %%%orkers localk because there is an abundant supply ill all trades.

## 2. Recommendation

- Recommendation Details: Maintain the basic Hire Oakland Polic% - iO% project hours to be NNorked b) Oakland residents and 5001,@ of nc%k hires to be Oakland residents but siiiiplifx compliance bN eliminating the trade-b -N -trade requirement and b '% not allo%A ing more [hall half (lie total hours to be in a single trade. Contractors i%ould be able to niect the 50% requirement oN er the entire course of a job. If dieN did not meet the targets. then the penalties and corrections noled in later recommendations %Nould apph. but oil]% at the end of (lie job.

Detailed discussion mth union and contractor representam es %i ill be referred to the

Apprenticeship Ad% isor% Board (AAB) so that details of %%%ai%crs and a determination i0elherjob size Could inipact implementation can be developed in all enN ironnient %%%here both union and contractors represcrialk es haN c successfill 'N de% eloped other Cit-% programs.

- Anticipated saNings/efficiencies/other benefits: Contractors could more casih fill positions as the become a%ailable and inect (lie ifto requirement mill less paper%%ork. There i%ould be reduced requirements for ongoing monitoring b%. CC&ES staff

- Who should implement: CC&ES.

City Council action needed: Change the c-uling program to match recommendation.

## 3. Implementation Plan

- Implementation steps and timeline: Prepare lie" legislation to anieud [lie program for Council appro% al bN March 2003. Refer issues regarding Waner polic% under lie%% guidelines to the Apprenticeship

XdN ison Board for clexelopritent of recommendations b -% 6/2003

- Imestments needed: O%er the long term- addressing (lie fact that local residents arc undcr-represented in se%cral trades maN require imesuncin b-N sc%cral participants so that the pohcN does not chininish efforts to assure that Oaklanders bcnefil at all Ic%cls of construction %%ork.

- Plantoaddressl)otentialissijes/opl)osition(stakeholders): Inorderloassuretll,'l[Akch@i%cbu 'N -in to tNs processfroiiiiheuiiiioiis.tlierefermlioilicAAB%%illscr%cas-,i\cliicleloadresstlicircoieems.

Contractorsseemtobeinagreenieit"itlilliepropo@als.

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RECOMMENDATION #14: LOCAL EMPLOYMENT PROGRAM - Primes can bank project hours worked by Oakland resident employees on non-City projects during the year prior to issuance of notice to proceed on the City contract and apply those banked hours to their 50% requirement. Primes can also apply project hours worked on non-City projects during the contract.

### I Background

- Problem description: CurTcii program doesn't build resident %%orker scif-sufficieric): e.g.. doesn't encourage use of resident N%orkers on an on-going basis. including oil rion-Cit.N jobs. The present requirements impact onl.N Cit.N %% ork. Allomng credit for hours N%orked oil otherjobs could e%pand the use of Oakland residents on more construction jobs.
- O%cn ic-A of research findings: The present program calls for x%orking of fines bN using Cialcland residents on otlicrjobs after completion of the i%ork and after non-compliaricc is descrolined. This requirement has resulted in significant additional hours @@orkcl b. Nr Oakland residents oil otherjobs.
- What currentiv existsfWhat ideall% should exist: Current].% onl.% hours oil the Cit.% job under contract count to%%ard the 50% requirement for using local iiorkers. Man% contractors report theN arificialh nioNe Oakland residents to the Calklandjob to meet the requirement, %%isich is inefficient and does not act'ua[[N result in more %%ork for Caklanders IdeallN. Contractors x%ould use a high percentage of Oakland %orkcrs oil all jobs because there is an adequate suppl.% of N%orkers a%ailable in all trades

### Recommendation

- Recommendation Details: Prime contrac(ors can bank project hours %Norked bN. Ciakland resident

employees on non-City projects during the period prior to issuance of notice to proceed on the City contract and apply those banked hours to their 30% requirement. Priorities can also apply to protect hours worked on non-City projects during the contract.

- Anticipated savings/efficiencies/other benefits: More contractors bid on Oakland projects since the requirements would be easier to meet resulting in significant, but unspecified cost savings. The principal benefit is that Oakland jobs and workers would be less stigmatized as meeting local quotas, but be hired in the normal course of business on jobs throughout the region.
- Who should implement: CC&ES.
- City Council action needed: Amend the current program as recommended

### 3. Implementation Plan

- Implementation steps and timeline: Develop legislation for Council approval by 1/2001.
- Investments needed: None.

Plan to address potential issues/opposition (stakeholders): Contractors and Union representatives seemed to support the proposal.

Goal: To assess goals, policies, processes & costs of complying with contract compliance programs and recommend changes to make programs simpler and more effective while implementing multiple city council policy objectives.

## MOVING OAKLAND FORWARD City Manager Summit Recommendations September 2002

RECOMMENDATION #15: When a contract is finished without meeting the Local Employment requirements, the City will withhold from final payment of either double the average wages for the deficient hours or 1% of the non-complying subcontractor's contract, whichever is less. The business will have one year to work off double the hours owed by working Oakland residents on non-City projects at which time the business will forfeit the retained amount to the City as a fine.

### 1. Background

Problem description: Current penalties are unreasonably high and unenforceable. Create false impression that policy is based on a cost-benefit basis

- Overview of research findings: Contractors indicate that the potential of fines results in high costs for both the contractor and the subs. CC&ES staff has successfully implemented all existing program to trade Oakland resident hours into jobs for fines. Led to Oakland jobs.
- What currently exists/What ideally should exist: The current system fines \$ LOW a day for non-compliance by the program. Staff negotiates at the end of the contract to avoid fines. This became a problem during the job. The agreement process is slow and difficult. In meeting the requirements, ideal for contractors to be able to hire local residents in incentives that would result in a good distribution of jobs across all trades.

## 2. Recommendation

- Recommendation Details: When a contract is finished without the local employment requirements, the contractor will withhold final payment either double the average wages for the deficient hours (based on a weighted-average prevailing wage) or 10% of the non-complying subcontractor's contract. Much more is less. The business will have one year to work off double the hours owed by working Oakland residents on non-01% projects. If at the end of one year the hours are not worked off, the business will forfeit the retained amount to the City, as a fine, up to double the average wages for the still-deficient hours. Hours worked as a penalty will not be banked for future City jobs. The amount of the penalty would be the weighted average of the wages paid on the entire job.
  - Anticipated savings/efficiencies/other benefits: The non-compliance requirements of the program would be lessened since compliance is determined at the end of the contract and the contractor would know at the time of the tradeoffs would be in advance. Additional jobs for Oakland residents on projects outside the city could be a normal part of doing business resulting in more long-term employment.
  - Who should implement: CC&ES.
- City Council action needed: To change the program as described.

## 3. Implementation Plan

- Implementation steps and timeline: Prepare changes for Council adoption in 3/03,
- Items needed: None
- Plan to address potential issues/opposition (stakeholders): The concern of the unions that the use of the weighted average to determine the penalty can be assuaged with additional conversations and assurance that there is no attempt to amend prevailing wage requirements.

Goal: To assess goals, policies, processes & costs of complying with contract compliance programs and recommend changes to make programs simpler and more effective while implementing multiple city council policy objectives.

## MOVING OAKLAND FORWARD II City Manager Summit Recommendations September 2002

RECOMMENDATION #16: Limit purchasing bid preferences for SLBEs to 5% and LBEs to 2% and encourage departments to aggressively seek the lowest prices on goods.

### I Background

- Problem description: Many suppliers do not bid on purchasing contracts because they know an SLBE can receive a 10% bid preference. Less competition at higher prices. Allowing significant bid preferences can result in significantly higher prices.
- Overview of research findings: According to the survey of contractors, suppliers and the Purchasing Section, 60% of contracts are awarded based on preferences.

What currently exists [What ideally should exist: Currently, 1% for construction and professional services bid evaluations' LBEs receive a 1% preference over non-local business enterprises, and for procurement bid evaluations LBEs receive a 1% preference over non-local business enterprises and SLBEs receive an additional 5% preference over LBEs and non-local business enterprises. Ideally, LBEs should receive a preference for construction and professional services.

## 2. Recommendation

- Recommendation Details: Limit purchasing preferences for SLBEs to 2% and for non-SLBEs to 1% for construction and professional services.
- Anticipated savings/efficiencies/other benefits: Negligible as experience indicates few contracts have actually been awarded based on preferences.
- Who should implement: CC&ES.
- City Council action needed: Change the existing policy to match the recommendation.

## 3. Implementation Plan

- Implementation steps and timeline: Amend the current policy for Council approval in March 2003
- Investments needed: None.
- Plan to address potential issues/opposition (stakeholders): CC&ES will track the number of contracts lost and awarded based on preferences in order to show proof that the local suppliers for Procurement contracts have not been negatively impacted by this reduction in the LBE preference

Goal: To assess goals, policies, processes & costs Page 18 Team #: 6B  
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and recommend changes to make programs  
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multiple city council Policy objectives.

## MOVING OAKLAND FORWARD [ City Manager Summit Recommendations September 2002

RECOMMENDATION #17: Professional Services contracts will be assessed a 1% fee; construction contracts will be assessed a 1.5% fee. Certain categories will be exempt from paying a fee (but not from compliance) such as grant-restricted contracts.

### 1 Background

- Problem description: Currently, 1% for construction and professional services bid evaluations' LBEs receive a 1% preference over non-local business enterprises, and for procurement bid evaluations LBEs receive an additional 5% preference over LBEs and non-local business enterprises. Ideally, LBEs should receive a preference for construction and professional services.
- Overview of research findings: CC&ES has all operational deficit due to its difficulty in collecting its fees from the various agencies that use its services.
- What currently exists [What ideally should exist: Currently, a 100 fee is assessed each department [has] require the services of CC&ES. At the end of the contract, CC&ES contacts the department requesting payment of the assessed fees. Often the departments have not saved sufficient funds to pay the fees. Ideally, these fees should be paid to CC&ES automatically after the budget has been approved and the project commences start up.

## 2 Recommendation

- Recommendation Details: Reduce Professional Services contract assessments from 3% to 1% - reduce construction contract assessments from 1% to 0.5%, Certain categories will be exempt from paying a fee (but not from compliance oversight) such as grant-restricted contracts.
  - Anticipated savings/efficiencies/other benefits: CC&ES will spend less time in going to collect its fees and be able to reduce the amount taken from the City's General Fund account to pay for its services.
  - Who should implement? CC&ES and the Budget Office
- City Council action needed: Authorize CC&ES to change its existing policy to match the recommendation

## 3. Implementation Plan

Implementation steps and timeline: CC&ES will amend its procedures according upon approval by the Council.

- Investments needed: None
- Plan to address potential issues/opposition (stakeholders): It is anticipated that opposition will be low due to the fact that the assessment fees have been reduced. Any opposition that does arise will be addressed on a case-by-case basis.

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MOVING OAKLAND FORWARD! City Manager Summit Recommendations  
September 2002

RECOMMENDATION #18: Give the Budget Office the mandate to transfer the assessed fees from departments to the CC&ES budget (like they currently do for the public art assessment fee).

### 1. Background

- Problem description: CC&ES lacks the authority and staff resources to collect all the fees owed to them by other departments, resulting in a low collection rate. Having contract compliance fee a line item in a contract, rather than taking off file top front the department, creates contractor resentment.
  - Overview of research findings: Assessed fees taken at the beginning of a contract will not be used for other purposes.
- What currently exists: Currently a 3% fee is assessed each department that requires the services of CC&ES. At the end of the contract, CC&ES contacts the department requesting payment of the assessed fees. Often the departments have not saved sufficient funds to pay the fees. Ideally - these fees should be paid to CC&ES automatically after the budget has been approved and the project commences start up.

## 2. Recommendation Details

- Recommendation Details: Give the Budget office the mandate to transfer the assessed fees from departments to the contract compliance budget (like the current one for the Public art assessment fee)
- Anticipated savings/efficiencies/other benefits: CC&ES will spend less time trying to collect its fees and may be able to reduce the amount taken from the City's General Fund account to pay for its services
- Who should implement: CC&ES and the Budget Office
- Council action needed: none

## 3. Implementation Plan

- Implementation steps and timeline: CC&ES and the Budget Office will amend their procedures accordingly and notify staff.
- Investments needed: None
- Plan to address potential issues/opposition (stakeholders): It is anticipated that opposition will be low due to the fact that the assessment fees have been reduced. Any opposition that does arise will be addressed on a case by case basis.

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RECOMMENDATION #19: Advertise all contracting opportunities, including informal bids, on the City's web site for a minimum of one week before proposals or bids are due. Create email list serve that businesses can subscribe to in order to receive email notification of City opportunities.

## 1. Background

- Problem description: Local businesses do not always know that City contracting opportunities are available. So can't compete or benefit.
- Clinic-A of research findings: This will bring the City's current market industry standards - save money in mailing and printing costs. [aidreach@irri.nofpoleiiaI](mailto:aidreach@irri.nofpoleiiaI) bidders ManN ollici-ciliesaircacK ha%cthis

capacit' and offer this sen icc.

- What currentiv exists/What ideally should exist: Currentlv each department inputs bid solicitation

itforiiiationotithebidhattine;tiidLici\crtisesintlictocalnc%kspaperforformalbidsolicit-,iliolls. Ideath.- bid solicitations should be A% idel'NadNertisedinasnian.\ niediurnsaspossible Retric%alofthebid infoi-ruation should be quick and simple.

## 2. Recommendation

- Recommendation Details: AdNcriiscall contractingopportunities- includinginformal bids.on theCit%'s

%NcbsiteforiiiiiiiiimLiniofoiie\%eekbcforeproposalsorbidsaredue. Createenaiil list senethal businessescansubscribe to inordertorecenecruail notification ol-Cit.\ opportunities

- Anticipated saN ings/eff-iciencies/other benefits: The Cit 'N. %%ill sa\c nione% b'N reducing bid mailings to uninterested bidders and to obsolete addresses. All potential bidders. panicillarl.% local businesses. mll much more easilN be able to sta% current on Cit-, business opportunities

- Who should implement: The Cit\\%ide Web Team in conjunction mth CC&ES and otheragencies.

- Citv Council action needed: none

## 3. Iniplementation Plan

- Implementation steps and timeline: City\%iclc Web Team i%ill N%ork NNith CC&ES and userdeparinients to de\elop process and initiate. PlaceholderalreacK exists on nc%@\%cbsite.

- Iniestiments needed: Mininial to none.

- Plan to address potential issues/opposition (stakeholders): It is not anticipated that there mll be In% opposition. Kiosks; and other computer stations "ill be criticallN located that ikill allo%% access for those stakeholders Mm do not lime computers or access to the "cb.

Goal: To assess goals, policies, processes & costs Page 21 Team#: 6B  
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September 2002

RECOMMENDATION #20: (a) Random/Spot Compliance Audits (b) First level compliance monitoring functions performed by Construction Inspectors, and (c) Automated office functions, particularly the certified payroll intake.

### 1. Background

Problem Description: Before July 1, 2002 operations included 12 staff for professional services compliance monitoring services and construction compliance monitoring included 2 Compliance Officers- 1 Sr. Compliance Officer, 2 Field Representatives, and 1 Administrative Assistants. Compliance monitoring also includes Prevailing Wage and Living Wage Circumstances

- One of the Research Findings: Compliance function was one of five targeted for re-engineering and cost reductions.
- What currently exists (What ideally should exist: As a result of budget cuts, starting in the current fiscal year, professional and construction compliance monitoring functions include three compliance officers and one field representative. Clerical and Field/Construction functions are critical elements of an ideal staffing structure.

### 2. Recommendation

Recommendation Details: Fully automate office operations. Maintain collection of certified payrolls, but replace data entry with a monthly summary of prevailing wage payments. Hire apprenticeship

hours. Train CEDA/PWA staff to perform first-level field construction monitoring

Anticipated savings/efficiencies/other benefits: Significant savings of approximately \$687,310 in reduced staff were realized.

Who should implement: CC&ES, and with regard to on site monitoring, in conjunction with PWA and CEDA. City Council action needed: none needed

### 3. Implementation Plan

- Implementation steps and timeline: Give month period of internal and external outreach and public forum introduction of new policies and procedures
- Investments needed: One professional or outside consultant needed to fully automate operations. Estimated cost of \$2,000.00 for outside consulting services and approximately, \$1,200.00 for software if needed. Nominal cost compared to savings in staffing.
- Plan to address potential issues/opposition (stakeholders): Report back to Council through bi-annual reporting schedule.

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MOVING OAKLAND FORWARDI City Manager summit Recommendations  
September 2002

RECOMMENDATION# 21: Unfreeze Senior Compliance Officer position and convert to 1 Administrative Assistant and 1 field & outreach position

1. Background

- Problem description: CC&ES cannot adequately handle its current workload, but the current frozen position is not the best fit with current department needs.
- Overview of research findings: New policies and procedures place greater emphasis on outreach and public relations and the capacity to further promote training, compliance, enforcement.
- What currently exists/What idea should exist: Currently, there is one full-time Sr. Contract Compliance Officer. Ideally, the division should have one Administrative Assistant and one position to handle field work and outreach- essential aspects of this entire body of recommendations

2 Recommendation

Recommendation Details: The Sr. Contract Compliance Officer salary cost (with benefits) is approximately \$94,535.44. That cost could be better utilized by breaking the position into a Clerical/Receptionist classification at \$30-35,000 and a Field/Outreach position at \$60,000. Anticipated savings/efficiency: Improved understanding and better appreciation of new programs and policies, enhanced buy-in for improving compliance, more efficient delivery of services, and a doubling of work added by initiating the Sr. Compliance Officer position and replacing it with more functional classes

Who should implement? CC&ES along with Office of Personnel and Resource Management. Interim panel should include at least two members of the 6B Council

Council action needed: Approval to unfreeze and convert the position

Implementation Plan

Implementation steps and timeline: Obtain Council approval and then have CPRN identify appropriate classifications and initiate recruitment process immediately after council approval.

- Investments needed: none identified
- Plan to address potential issues/opposition (stakeholders): none anticipated

Goal: To assess goals, policies, processes & costs Page 23 Team#: 6B of complying with contract compliance programs and recommend changes to make programs simpler and more effective while implementing multiple council policy objectives.

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RECOMMENDATION #22: Create a method for tracking key costs that can be tracked overtime and compared with other cities, e.g., cost per unit of affordable housing, cost per foot of paving, etc. Track growth of certified businesses and other appropriate performance measures to assess the full value/cost of all of these policies.

### I Background

0 Problem description: We do not really know if there are paying too much for goods and services and limit our policies might affect these costs- and what the overall economic impact of these policies is.

Overview of research findings: Current data does not have adequate measures to track, - III relevant data nor does it have in-house capacity to perform a comprehensive economic impact study.

0 What currently exists/What ideally should exist: See comment above. Ideally, the City should have an objective analysis of the costs of good-governance and the extent of its social policies. III address the relevant data to determine the economic impact of the City's policies.

### 2. Recommendation

0 Recommendation Details: The current economic indicators do not fully exist in public measures as well as our data tracking needs capabilities related to economic policies. The current data is not sufficient for an economist to perform an economic impact study.

0 Anticipated savings/efficiencies/other benefits: Better public policy and a greater economic impact.

There is a need to re-evaluate the current policy for goods and services and our policies will affect the costs. The current policy must be able to identify the best and most efficient use of tax dollars to influence economic development and growth for both businesses and residents.

0 Who should implement: CC&-ES with guidance of CMO through the Budget Office and/or CEDA.

0 01% Council action needed: none

### 1. Implementation Plan

- Implementation steps and timeline: Assess current data tracking capabilities and recommend additional data tracking and performance measures - by 12/15/23 to determine the scope of work for economic study - by 3/0, 2024.
- Investments needed: Unknown amount of funds for economic study.
- Plan to address potential issues/opposition (stakeholders): Cost may be prohibitive. Local universities input may serve as an alternative approach to consulting services.

ORAI COUNCIL  
JUL 16 2003

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