



THE PORT
OF LOS ANGELES
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: DECEMBER 1, 2010

FROM: CONTRACTS AND PURCHASING DIVISION

SUBJECT: RESOLUTION NO. _____ - IMPLEMENTATION OF THE VERY SMALL BUSINESS ENTERPRISE COMPONENT TO THE SMALL BUSINESS ENTERPRISE PROGRAM

SUMMARY:

The proposed action will expand the Small Business Enterprise (SBE) Program by implementing a Very Small Business Enterprise component. In February 2007, the Board of Harbor Commissioners (Board) adopted the SBE Program and authorized its implementation. The Executive Director set a Harbor Department goal of 25% as the SBE participation percentage for personal service agreements and construction contract awards. Since the implementation of the SBE Program, the Harbor Department has exceeded the 25% goal by awarding approximately 36% of all contract dollars to SBEs. Based on this success rate, staff is recommending that the Board expand the SBE Program by adding a Very Small Business Enterprise (VSBE) component. This component will augment the Harbor Department's efforts to increase participation of very small businesses in Harbor Department contracts.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Instruct staff to implement the Very Small Business Enterprise component to the Small Business Enterprise Program, including any associated administrative requirements and modifications to existing contracting policies and procedures;
2. Instruct staff to communicate the provisions of the Very Small Business Enterprise component to all Harbor Department staff, contractors, and the general business community;
3. Authorize the Executive Director to set a goal of 5% participation for the Very Small Business Enterprise component which will be included in the Harbor Department's overall goal of 25% SBE participation;
4. Adopt Resolution No. _____.

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DISCUSSION:

Background - In February 2007, the Board adopted the SBE Program and authorized its implementation. The SBE Program was designed to augment the Harbor Department's efforts to increase the participation of small businesses in Harbor Department contracts. As a race and gender-neutral program, the SBE Program allows the Harbor Department to require specific small business subcontracting percentages for its contracts, and does not rely on the "Good Faith Effort" associated with Minority and Women-owned Enterprise Outreach Programs. An SBE is an independently owned and operated business that is not dominant in its field, and is no larger than the designated U.S. Small Business Administration's small business size standard for its industry. Small business size standards are numerical definitions of what constitutes a small business. Size standards have been established for types of economic activity, or industry, as defined under the North American Industry Classification System (NAICS). Size standards are defined based on either average number of employees during the past 12 months or average annual revenues within the past three years.

The Executive Director has set a Harbor Department goal of 25% SBE participation for all contract awards. With the implementation of the SBE Program, an SBE requirement is set for every contract to be awarded. Harbor Department staff coordinates with the Contracts and Purchasing Division (CPD) to determine the required participation level for each contract. The participation level is typically based on the ability to subdivide the required work into disciplines, or work elements, and the number of small businesses available to perform the work. Once a contract is awarded, CPD staff track the percentage of contract funding awarded to SBEs and Minority and/or Women Business Enterprises.

In July 2010, CPD provided a status update to the Board on the SBE Program. CPD reported that the Harbor Department awarded \$675,666,332 from May 2007 through May 2010 in professional services and construction contracts. Of this amount, \$245,565,497 or 36% was awarded to qualified SBEs. With approximately 36% of total contract dollars awarded to SBEs, the Harbor Department had significantly exceeded its goal of 25% SBE participation. Based on the success of the SBE Program, staff is recommending that the SBE Program be expanded to include a Very Small Business Enterprise (VSBE) component. Implementation of a VSBE component will target micro-businesses, a much smaller subset of SBEs, and will assist the Harbor Department in diversifying the allocation of funds for Harbor Department projects.

Staff recognizes the unique difficulties facing very small businesses when competing in the marketplace and on large government projects. Implementing a VSBE component will provide bona fide contract opportunities for very small businesses. The VSBE component will not only enable VSBEs to more effectively compete for participation in Harbor Department contracts, it will also result in new contractors obtaining business at the Harbor Department.

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Very Small Business Enterprises – In 2001, the State of California (State) established a Micro-business (MB) certification program (also known as a Very Small Business Enterprise Program), which is a subset category of a small business. The State defines an MB as (1) a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees. Since the creation of the MB program, other agencies throughout the State have created similar programs. CPD conducted a survey of various municipalities, government agencies, and Port Authorities with SBE programs. Although some agencies have SBE programs, there are very few agencies that have implemented VSBE programs. Below is a summary of agencies that have VSBE Programs, the size standards and benefits afforded to VSBEs:

Very Small Business Enterprise Programs - Benchmarks

Entity	Contract Types	VSBE size standard	Benefit
City and County of San Francisco	General Contractors	\$7 M	10% bid preference
	Specialty Contractors	\$3.5 M	
	Trucking	\$1.75 M	
	Goods and Equipment Suppliers	\$3.5 M	
	General Service Providers	\$3.5 M	
	Professional Services	\$1.25 M	
	Architect/Engineering	\$1.25 M	
Port of Oakland	Construction and Professional Services	\$2 M	Informal bidding for specific construction contracts under \$1M; 10% bid preference; or 15 points for consultant preference
Port of Long Beach	Construction, Professional Services, and Procurement	\$3.5 M or 25 or fewer employees for manufacturers	Set aside participation requirement (5%)
State of California	Construction, Professional Services, and Procurement	\$3.5 M or 25 or fewer employees for manufacturers	5% bid preference; selected bidding for contracts under \$250,000

Proposed Very Small Business Enterprise Component - In creating a VSBE program, staff determined: (1) a size standard or definition of a VSBE; (2) contract applicability (construction, procurement, professional service, etc.); and (3) benefits afforded to VSBEs. The following is a summary of the three factors and provides staff's recommendations for the VSBE component:

(1) **Size Standard** - A VSBE will be defined as a (1) small business that has average gross revenues of \$3.5 million or less within the prior three-year period or (2) manufacturing company that has 25 or fewer employees.

Recognizing that various agencies have different thresholds and standards for qualifying as an SBE or VSBE, emulating the State and Port of Long Beach (POLB)'s programs will make it easier for contractors to understand the VSBE program, avoid confusion, and standardize communication of the proposed VSBE component

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requirements. In addition, CPD staff routinely assists prime contractors with identifying SBEs that could be utilized to meet the percentage requirements. By mirroring the State and POLBs requirements, staff and contractors will be able to query the State and POLB's contractor databases to identify qualified VSBEs to meet the participation requirement.

The State of California adjusts the (a) size standard, (b) average annual revenue, and (c) number of employees for manufacturing firms based on industry data, including factors such as average firm size, size distribution of firms, and industry growth trends. As the State of California adjusts the thresholds or definition of a MB, the Harbor Department will adjust the VSBE definition accordingly. To date, the State's Program has been in existence for ten years and the size standards have only been adjusted once.

(2) **Contract Applicability** – Since the Harbor Department's current SBE Program applies to construction contracts and professional service agreements, the VSBE Program will apply to these same types of contracts.

(3) **Benefit** - A commonality of SBE/VSBE programs is providing bid preferences, such as a 10% bid discount, or adding additional points to evaluations for proposers that qualify as SBE/VSBEs. While this provides a benefit, there is no requirement that contract dollars will be awarded to SBE/VSBEs. Conversely, the Harbor Department's SBE Program guarantees that contract dollars will be awarded to SBEs by requiring a specified level of participation by SBEs. Rather than providing a bid preference, staff recommends establishing a minimum VSBE participation requirement for each contract.

POLB's SBE participation goal for Fiscal Year 2009 was 25%, of which a minimum of 5% must be VSBE participation. Recognizing that the Harbor Department has the same SBE participation goal of 25%, staff is recommending that the VSBE Program be modeled after POLB's VSBE program. The Harbor Department's overall goal would remain 25% SBE participation, but would include a minimum of 5% VSBE participation. Specifically, the Harbor Department's goal will be 20% SBE participation and 5% VSBE participation, totaling an overall goal of 25% SBE participation.

Transmittal 1 provides an overview of the SBE/VSBE Program.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the consideration of implementing a Very Small Business Enterprise Program. As an administrative action, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

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ECONOMIC BENEFITS:

This Board action will have no direct employment effect. A Very Small Business Development Program will diversify the allocation of funds for Harbor Department projects, but is not likely to materially alter the total number of jobs created by these projects.

FINANCIAL IMPACT:

There is no financial impact associated with this action.

CITY ATTORNEY:

The City Attorney's office has reviewed this board report and has determined that there are no legal issues at this time.

TRANSMITTAL:

1. SBE/VSBE Program Fact Sheet

FIS Approval: ew (initials)



GLENN R. ROBISON
Director of Contracts and Purchasing



MOLLY CAMPBELL
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

GK/MC/GR/TC
Author: TCarey