

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 1/24/2024

Staff Report No. 24-003

TO: AC Transit Board of Directors
FROM: Michael A. Hursh, General Manager/Chief Executive Officer
SUBJECT: Small and Local Business Programs

BRIEFING ITEM

AGENDA PLANNING REQUEST: ☒

RECOMMENDED ACTION(S):

Consider receiving an update on the District's small and local business utilization and program accomplishments for 2023. [Requested by Vice President Shaw - 3/8/23]

Staff Contact:
Chris Andrichak, Chief Financial Officer
Lynette Little, Director of Civil Rights & Compliance

STRATEGIC IMPORTANCE:

Goal - Prioritize Diversity, Equity, Inclusion and Accessibility
Initiative - Internal and External Diversity, Equity, Inclusion and Accessibility Programs and Priorities

The District's Small and Small Local Business Enterprise Program aims to provide equitable contracting opportunities to a diverse community of small business contractors. Understanding how the contracting dollars are distributed ensures that the District can maintain a focus on this strategic goal.

BUDGETARY/FISCAL IMPACT:

As this is a briefing item, there is no budgetary or fiscal impact.

BACKGROUND/RATIONALE:

On September 8, 2021, the Board adopted both a ten percent (10%) Small Business Enterprise (SBE) goal and a ten percent (10%) Local Business Enterprise (LBE) goal that aligned with the District's then ten percent (10%) Disadvantaged Enterprise (DBE) goal. With the adoption of these goals, staff committed to bringing updates on the status of implementation and overall progress in meeting these goals to the Board. This is the second update covering the 2023 calendar year. Additionally, the Board has requested an update on the District's efforts to expedite payments to small businesses.

Small Business Engagement and Payments

In the District's continuous effort to support small businesses, the Procurement Department has made significant strides this year in expediting payments to all businesses and especially certified small businesses.

From January 1st to December 30th, 2023, the District directly paid \$3.6 million to certified small business enterprises. This is over \$200k more than the previous year. These certifications are issued by BART, Alameda County, Alameda County Transportation Commission, the City of Oakland, Contra Costa County, and the Port of Oakland. Many payments to these businesses were made via ACH (electronically), adhering to the improved protocol of processing payments within 15 business days of an approved invoice. This accelerated procedure has led to a remarkable 66% increase in payment speed compared to the previous year, reducing average pay cycle time to approximately 20 days for all businesses and 18 days for small businesses. Additionally, 37% of suppliers signed up for ACH payments due to continued staff outreach. This is a significant increase from 22% of all suppliers registered for ACH payments in the January 2023, report.

This increase in payment efficiency has not only strengthened the relationships with these vital community partners, but has also reflected positively on the District's financial credibility. The District's Dun & Bradstreet (D&B) credit score has significantly improved, with a maximum credit recommendation (a measure of how much credit D&B believes could be extended to a firm by the supplier) soaring from \$750,000 to \$4.5 million over the past year. Additionally, through the District's strategic purchasing programs there have been significant expenditures to small and disadvantaged businesses this year: \$22,612 spent through Staples, \$132,014 via Amazon Business Prime, and \$237,366 through Procurement Card purchases. These SBE/DBE designations are based on Amazon, Staples, and US Bank's criteria.

AC Transit recognizes the unique challenges faced by small businesses, particularly in navigating the complexities of submitting proposals for larger formal solicitations (those exceeding \$100,000). These difficulties often stem from various barriers, such as limited resources and less experience with complex public procurement processes. To address this, staff have considered several strategies aimed at increasing engagement with small businesses. Firstly, at least one small business is included in outreach for smaller purchases under \$100,000 or when seeking 'three quotes'. Additionally, staff has been actively developing more 'on-call' contracts with multiple awards, ensuring that at least one small business is included in these contracts. Another significant step taken is the consideration of discounting small businesses' cost proposals during the formal evaluations of RFPs. These strategies underscore the District's commitment to fostering a more inclusive and diverse vendor base, making it more feasible for small businesses to participate in and benefit from public procurement opportunities..

The Procurement Department is on the verge of rolling out the use of Bonfire, an e-sourcing platform that among its many features helps to foster connections between small businesses and larger prime businesses. Accompanying this new system is a revamped registration process for AC Transit to better capture small business certification data, which will allow for further prioritizing payments to these entities.

Small Business Outreach and Utilization

Understanding that the District is prohibited by state law from specifically seeking race or gender-based goals on contracting opportunities, staff continued direct outreach efforts with groups that represent and support women-owned and minority-owned businesses. The goal remains to guide and encourage these businesses to seek out opportunities with the District, but also for staff to gain insight to current barriers or challenges related to contracting with the District.

Staff continues to regularly attend and/or present at outreach events, in collaboration with the Business Outreach Committee (BOC), a consortium of Bay Area transit agencies. The 2023 events included "Meet the

Primes” and “Meet the Buyers” events, the Northern California Procurement Technical Assistance Center (NorCal PTAC’s) “Women in Construction” event, Caltrans’ CalMentor quarterly meetings, and the Construction Management Association of America’s (CMAA) “Meet the Primes” event. Additionally, staff hosted a two-part “Introduction to Construction Estimating” Series onsite at the District’s General Office in downtown Oakland. Lastly, staff attended the Rising Sun Center for Opportunity’s “Women Building the Bay” graduation ceremony in support of their efforts to improve access for women interested in the construction trades.

Staff across various departments have regular meetings to discuss and promote the District’s small and local business utilization goals as they pertain to upcoming contracting opportunities. These discussions include whether a contracting opportunity can be offered only to small or local businesses (“set aside”) with the additional goal of minimizing procurement protests by non-SBE or local businesses.

The below tables provide details on the District’s small and local business contracting goals versus actual achievements. The District’s contracting goals only pertain to contract dollars awarded and not to the number of contracts awarded. Staff reviewed the “Prime Contractor & Subcontractor/Supplier Report” forms from contractors that were awarded District contracts. This allowed staff to capture and validate small business certifications, local business entities, and contract or subcontract amounts.

The DBE data includes only firms that were certified as DBEs. The SBE data includes firms certified as both SBE and DBE, as certified DBE firms are inherently certified SBES, as well. As such, the DBE data is counted twice. Local firm data includes all contractors, whether certified or not, that are located within the district service area. Women-owned Business Enterprise (WBE) data includes all contractors that were determined to be women-owned firms whether a local business or certified small business, or not.

Total Contract Dollars Awarded January 2023 - October 2023					
Category	Goal	Attainment (Total Dollars)	Primes	Subcontractors	Total Dollars
DBE	24%	7%	\$5,132,011	\$1,129,934	\$6,261,945
SBE (including DBE)	10%	3%	\$7,027,648	\$1,596,148	\$8,623,832
Local	10%	8%	\$3,271,202	\$3,991,516	\$7,262,717
Woman-Owned	N/A	1%	\$61,750	\$748,317	\$810,067
SBE Set Aside (to DBE)	N/A	N/A	\$0	\$0	\$0
Local Set Aside (to DBE)	N/A	N/A	\$0	\$0	\$0
Grand Total (DBE, Local, Women)	N/A	N/A	\$10,360,600	\$6,336,017	\$16,696,616

Total Contracts Awarded January 2023 - October 2023					
Category	Goal*	Attainment (Total Contracts)	Prime	Subcontract	Total Contracts
DBE	N/A	10	4	14	18
SBE (including DBE)	N/A	26	17	40	57

Local	N/A	21	19	24	43
Woman-Owned (WBE)	N/A	3	2	1	3
SBE Set Aside (t	N/A	0	0	0	0
Local Set Aside	N/A	0	0	0	0

*District contracting goals only pertain to contract dollars awarded and not number of contracts awarded.

There were three outlier contracts that had a significant impact on the District's ability to meet its small business contracting goals. These contracts were valued at nearly \$31 million out of \$92.4 million awarded. Due to the niche work and specialization required in the nature of the scope of work, these contracts could not have included any DBE or SBE participation.

- Facility Security Services
- Messer Hydrogen Systems
- Division 4 Hydrogen Equipment & Installation

Removing these contract values from the goal calculation would result in an adjusted DBE/SBE utilization attainment of 14%.

Outlier Contract Total	Adjusted Award	Adjusted DBE/SBE Utilization
\$30,709,444	\$61,761,194	14%

Goals for 2024 include improving processes for collecting more information on bidders, advocating and encouraging unsuccessful bidders to seek post-bid reviews, and implementing refined processes for validating DBE and SBE certifications, so that these vendors can be identified for immediate inclusion in the improved protocol of processing payments within 15 business days of an approved invoice.

ADVANTAGES/DISADVANTAGES:

As this is a briefing item, there are no advantages or disadvantages.

ALTERNATIVES ANALYSIS:

This is an informational report that does not propose any alternatives.

PRIOR RELEVANT BOARD ACTION/POLICIES:

Board Policy 466: Small and Small Local Business Enterprise Policy
 23-118 Small and Local Business Programs
 22-564 Changing Payment Terms for SBE/LBE/DBE Firms

ATTACHMENTS:

1. Agenda Planning Request

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