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Board Cover Memorandum

To Facilities Committee

From Tadashi Nakadegawa, Deputy Chief of Facilities Planning & Management

Meeting Date April 2, 2021

Subject Amendment to Local Business Policy BP 7115

Ask of the Board Approval of amendment to the Local Business Policy to allow usage of multiple certifying agencies certification of local Oakland Business Enterprises

Background The Local Business Policy Board Policy 7115 names the City of Oakland as the primary agency to certify local businesses.

The proposed amendment names a set of certifying agencies in addition to the City of Oakland as acceptable local business certification sources. Each of these agencies requires the same comprehensive documentation of local business status to ensure that only valid Oakland businesses are included in the local business program.

Discussion Board Policy 7115 names the City of Oakland as the primary agency to certify local businesses. This amendment names the following agency local business certifications to be incorporated into our local business program:

- Port of Oakland
- Alameda County Transportation Commission
- Alameda County DGS
- USDOT Caltrans
- California Public Utilities Commission

Fiscal Impact There is no direct fiscal impact from the Amendment. The larger pool of qualified local business may improve procurement in the capital program

Attachment(s) Luster Lowe memo 3/26/21
Redlined BP 7115



A Veteran and Minority Owned Small Business



March 26, 2021

TO: Tadashi Nakadegawa, Acting Deputy Chief of Facilities Planning & Management
 Kenya Chatman, Acting Director of Facilities
 Oakland Unified School District

FROM: Hubert Owens and Andrea Lowe, Local Business Utilization Services Consultants

RE: Proposed Recommendations to the OUSD Local Business Enterprise Policy

Based on our assessments and previous discussions, the LBU Team recommends the following updates to the OUSD Local Business Enterprise Policy.

I. ACCEPTANCE OF LBE/SLBE CERTIFICATIONS FROM OTHER PUBLIC AGENCIES.

Currently, the effectiveness of the District’s Local Business Utilization Program is inhibited by only relying on certifications from one local agency, the City of Oakland. As of March 2021, there are a total of 288 firms certified by the City of Oakland as Local and/or Small. This means that there are only 288 firms available to participate in the District’s LBU program. These firms include businesses providing all the goods and services that the City of Oakland purchases, including but not limited to construction contracting specialties, professional services, and suppliers. Furthermore, in 2020 our team conducted an availability analysis of the City of Oakland’s list of certified firms. This analysis revealed that there were contracting specialties or services needed by the District for which there were very few or no City of Oakland certified firms. The requirement of exclusive City of Oakland LBE/SLBE certification has placed an added burden on some members of the local contracting community when pursuing work with the District. If there are delays in obtaining City of Oakland certification, local, eligible, and interested bidders cannot qualify for District’s program.

The combination of these factors has resulted in a smaller than desirable pool of City of Oakland firms that are eligible and interested in pursuing and/or participating on District projects.

The LBU Team is proposing that the District consider accepting certifications for Local Business Enterprises, Small Local Business Enterprises, and/or Very Small Local Business Enterprises, that are operating in Oakland, from public agencies in addition to the City of Oakland. All of the agencies identified below follow the same certification assessment and analysis as the City of Oakland in verifying that businesses are bonafide entities and have operating locations within the City. Specifically, we recommend accepting firms accepting firms certify by the following agencies:

- Port of Oakland – Certified Local/Small Local and Very Small Local firms located in the City of Oakland shall qualify for the District’s LBE, SLBE and SLRBE participation requirements, respectively.



A Veteran and Minority Owned Small Business



- Alameda County Transportation Commission – Certified Local/Small Local and Very Small Local firms located in the City Oakland shall qualify for the District’s LBE, SLBE and SLRBE participation requirements, respectively.
- Alameda County Department of General Services – Certified Local/Small Local and Small Local Emerging firms located in the City of Oakland shall qualify for the District’s LBE, SLBE and SLRBE participation requirements, respectively.
- US Department of Transportation – Caltrans – California Unified Certification Program, certified Disadvantaged Businesses (DBEs) located in the City of Oakland shall qualify for the District’s LBE participation requirements.
- California Public Utilities Commission – Supplier Clearing House certified local firms located in the City of Oakland shall qualify for the District’s LBE participation requirements.

An assessment of the agencies databases of certified Local, Small Local, and Very Small Business Enterprises identified the number of firms that are not currently in the City of Oakland database:

- | | |
|--|-----|
| • Port of Oakland | 58 |
| • Alameda County Transportation Commission | 100 |
| • Alameda County DGS | 275 |
| • USDOT Caltrans | 127 |
| • California Public Utilities Commission | 92 |

At a minimum, an additional 479 new Local, Small Local, and or Very Small Local businesses could potentially participate in the District’s Local Business Utilization Program. The LBU Team’s proposal to incorporate certifications from other public entities into the LBU program completely aligns with the intent and spirit of the District’s LBE Policy. This change may significantly increase the number of Oakland businesses participating on District projects, widen the circulation of District dollars within the local business community, and increase competitive pricing for District projects.

The LBU Team highly recommends the District take action to accept certifications of Local Business Enterprises, Small Local Business Enterprises and/or Very Small Local Business Enterprises not only from the City of Oakland but also from the public agencies listed above.

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 7115

Capital Program / Construction Related Local, Small Local and Small Local Resident Business Enterprise Program (2014 L/SL/SLRBE)

Background

In order to provide economic opportunity for its residents and businesses and stimulate economic development, the Oakland Unified School District (“District”) implemented in December of 2008 a program that has directly impacted how public funds are spent. The 2008 program, commonly referred to as the Local, Small Local and Small Local Resident Business Enterprise Program (2008 S/SL/SLRBE) has proven to be a great success, stimulating economic development through the support and empowerment of the local community, especially groups that have historically been placed at a disadvantage. The District’s primary goal under the 2008 L/SL/SLRBE was to partner with the local community and demonstrate its leadership by harnessing local resources in order to achieve maximum local benefits.

The 2008 L/SL/SLRBE established a twenty percent (20%) mandatory local participation requirement on all District contracts and professional service agreements. The ensuing years have demonstrated that the Program was an overwhelming success, most particularly on District construction projects and construction related professional services agreement, demonstrating that there is more than sufficient capacity among Oakland construction industry businesses to increase the mandatory participation thresholds for construction related solicitations.

District Policy Effective February 1, 2014

Therefore, the District amends the 2008 L/SL/SLRBE (2014 L/SL/SLRBE) to require fifty percent (50%) mandatory local participation on all District capital program / construction related contracts and professional service agreements.

There is a fifty (50) % minimum participation requirement for all formally bid public works construction contracts over \$45,000¹ and formally solicited construction related contracts professional services contracts, including, but not limited to, architects, construction managers, inspectors, testing labs and geotechnical engineers, over \$84,100². All informal construction contracts below \$45,000 and all informal construction related professional services contracts below \$84,100.00 will include outreach to certified local firms such that a minimum of three local certified firms are included in the solicitation.

¹The District uses the alternative bidding procedures of the California Uniform Public Construction Cost Accounting Act., Pub. Contract Code, § 22000, et seq., the “CUPCCAA”.

² Subject to annual increases pursuant to Public Contract Code 20111(a).

Emergency Contracts

L/SL/SLRBE businesses will be given first priority in the performance of emergency work as defined in Public Contract Code section(s) 22000-22045 which formulates and establishes procedures for bidding, contracting, and purchasing goods and services under the California Uniform Construction Cost Accounting Act.

Compliance Monitoring and Penalties

To ensure compliance with the program, the contractor or consultant shall provide records upon request and permit the District to review all pertinent records and documents of the contractor and subcontractors. The contractor or consultant shall provide a copy of all subcontractor agreements, purchase orders and/or other verification of the total amount to be paid to each subcontractor, supplier, etc., prior to commencement of work.

Prevailing Wages

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Workers employed on construction, alteration or demolition projects in California that use public funds are paid the prevailing wage.

Local Subcontracting Outreach

To ensure full disclosure of contracting and subcontracting opportunities available through the Oakland Unified School District, each of the District's awarding departments must post contracting opportunities on the District's website.

The District is in collaboration with the City of Oakland, [Workplace & Employment Standards Department](#)~~Office of Contract Compliance & Employment Services~~, which maintains a list of certified for profit and not-for profit businesses and organizations and which will be the District's Primary certifying agency. The [City of Oakland](#) list is divided by trade or profession and includes contact information as and if the certification type is either Local Business Enterprise (LBE) or a Small Local Business Enterprise (SLBE). In addition, the District, through its Local Compliance Officer, maintains a list of Small Local Business Enterprises (SLBE's) which are also owned by residents of the City of Oakland (SLRBE). Local Business and Small Local Business certifications may also be accepted from the Port of Oakland, Alameda County Transportation Commission, Alameda County Department of General Services, US Department of Transportation California Unified Certification Program, and the California Public Utilities Commission. The District will follow the City of Oakland Small Business size standards in recognizing Small Local and Small Local Resident Businesses. Each agency conducting a construction related solicitation is required to obtain responses from certified firms appropriate to the nature and scope of the particular solicitation. Upon request, mailing lists of certified firms.

See Administrative Regulation 7115

1/29/14

OAKLAND UNIFIED SCHOOL DISTRICT

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