

DEOD SUMMARY

**CONSTRUCTION MANAGEMENT SUPPORT SERVICES-CAPITAL PROJECTS /
CONTRACT NO. AE76301MC081000**

A. Small Business Participation

Zephyr Rail (Zephyr) made an overall 69% Small Business Enterprise (SBE) and a 5% Disabled Veteran Business Enterprise (DVBE) commitment on this task order (TO) based contract. To date, Zephyr has been awarded seventeen (17) task orders. Based on payments made, the contract is approximately 97% complete and the current participation levels are 69.22% SBE and 3.94% DVBE. Zephyr is exceeding its SBE commitment by 0.22% and have a 1.06% DVBE shortfall.

Zephyr has submitted a shortfall mitigation plan and maintains, with concurrence from Metro's Project Team, that the shortfall is attributable to the nature of the contract's on-call, task-order structure. Zephyr indicated that staffing requirements were driven by Metro's operational needs and the specific qualifications required for each assignment, which limited opportunities for certain DVBE firms beyond what was originally anticipated. Zephyr further contends that, DVBE firm NSI Engineering was identified to provide quality management services; however, Metro did not issue any task order requests requiring those services during contract performance.

Because the project is substantially complete and the current procurement action is limited to overhead reconciliation, staff will initiate DEOD's pre-closeout review process to determine Zephyr's final DVBE participation. As part of that process, DEOD may request documentation from Zephyr demonstrating its good faith efforts to meet the DVBE commitment.

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|----------------------------------|----------------------------|-------------------------------------|----------------------------------|
| Small Business Commitment | 69% SBE 5% DVBE | Small Business Participation | 69.22% SBE 3.94% DVBE |
|----------------------------------|----------------------------|-------------------------------------|----------------------------------|

| | SBE Prime/Subcontractors | % Committed | Current Participation¹ |
|----|---------------------------------|--------------------|--|
| 1. | Zephyr Rail (SB Prime) | TBD | 69.22% |
| 2. | AIX Consulting, Inc. | TBD | 0.00% |
| 3. | GCM Consulting, Inc. | TBD | 0.00% |
| 4. | Ramos Consulting Services, Inc. | TBD | 0.00% |
| | Total | 69% | 69.22% |

| | DVBE Prime/Subcontractors | % Committed | Current Participation¹ |
|----|----------------------------------|--------------------|--|
| 1. | Conaway Geomatics | TBD | 1.92% |
| 2. | NSI ENGINEERING Inc | TBD | 0.00% |
| 3. | Pacifica Services (Added) | TBD | 2.02% |
| | Total | 5% | 3.94% |

¹Current Participation = Total Actual amount Paid-to-Date to DBE firms ÷ Total Actual Amount Paid-to-date to Prime.

B. Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this contract.

C. Prevailing Wage Applicability

Prevailing Wage requirements are applicable to this project. DEOD will monitor contractors' compliance with the State of California Department of Industrial Relations (DIR), California Labor Code, and, if federally funded, the U S Department of Labor (DOL) Davis Bacon and Related Acts (DBRA).

D. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. PLA/CCP is applicable only to construction contracts that have a construction related value in excess of \$2.5 million.

E. Manufacturing Careers Policy

The Manufacturing Careers Policy (MCP) does not apply to this contract. The MCP is required on Metro's Rolling Stock RFPs, with an Independent Cost Estimate of at least \$50 million.