



Board Report

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Agenda Number: 18.

**EXECUTIVE MANAGEMENT COMMITTEE
JUNE 20, 2018**

SUBJECT: SMALL BUSINESS PRIME PROGRAM UPDATE

ACTION: RECEIVE AND FILE

RECOMMENDATION

RECEIVE AND FILE update regarding the Small Business Prime Program (SB Prime).

ISSUE

In January 2014, the Board approved Metro's set-aside program (SB Prime) to help small businesses compete for contracts as primes by "setting aside" specific purchases for exclusive competition among Small Business Enterprise (SBE) firms. This includes FTA funded competitively negotiated contracts, sealed bids and public works (RFPs and IFBs) meeting threshold criteria, as well as non-federal competitively negotiated procurements (RFPs). For the first time, SBEs were able to bid on Metro's prime contracting opportunities without having to compete with larger, more established firms.

During the 2016 California State Legislative Session (and effective January 1, 2017) Metro successfully obtained approval through the passage of AB 2690 (Ridley-Thomas), to expand the program to include non-federally funded low-bid procurements (IFBs).

This report provides an update on the Program's progress to date.

DISCUSSION

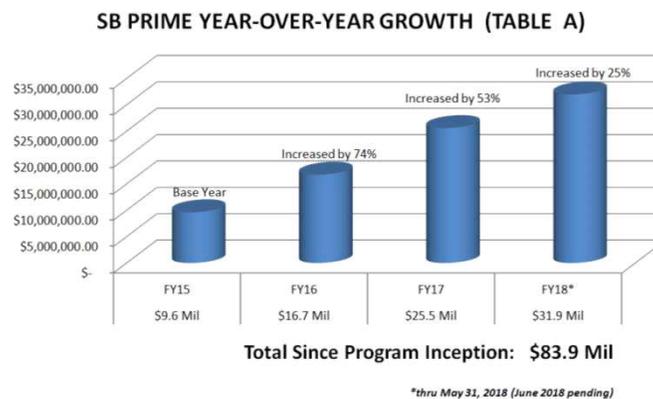
Objective and Impact

Metro originally adopted the SBE set-aside program as an element to foster small business participation, fulfilling the requirement set forth in 49 CFR § 26.39 to utilize race-neutral measures to achieve Disadvantaged Business Enterprise (DBE) participation to the maximum feasible extent.

SB Prime has been vital toward increasing small business participation and competition in Metro's

contracting policy, and has demonstrated measurable growth each year since the program was launched:

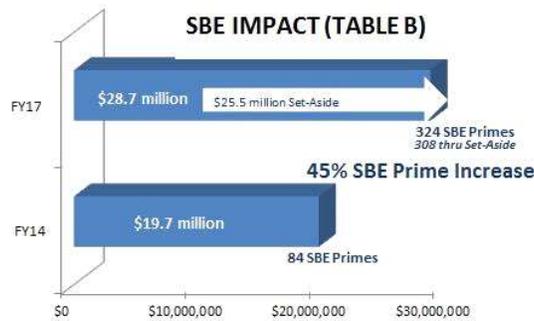
- From program inception through Fiscal Year (FY) 2018 to date, Metro has awarded more than \$83 million in SBE set-aside awards, including substantial fiscal year-over-year growth since 2014 (see Table A).
- The average SBE commitment for all SB Prime awards has been 98.01%, indicative of the benefit of certified firms performing 100% of work for a majority of the smaller, unbundled procurements.



SBE Impact

SB Prime is exceeding its objective to measurably grow small business participation. In FY17, 324 SBE prime contracts were awarded (308 through the program) compared to 84 contract awards made during FY14, prior to program implementation.

Comparing pre-program figures to FY17, Metro has made significant progress in increasing small business contracting dollars. In FY17, \$28.7 million was awarded to SBE primes (\$25.5 million awarded through the Program) as compared to \$19.7 million awarded in FY14 (pre-SB Prime), representing a \$9 million increase (up 45%, see Table B). (These numbers only reflect SBE *prime* numbers; all SBE contracting in FY17, including SBE subcontractors, total \$58.8 million).

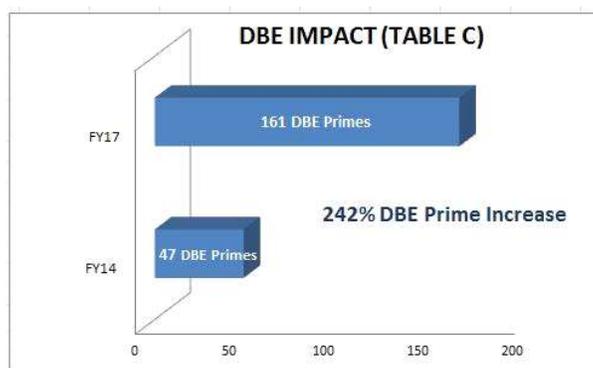


DBE Impact

In its 2011 Final Rule concerning DBE program improvements, the U.S. Department of Transportation (DOT) noted that DBEs are small businesses, and that program provisions that help SBEs (race/gender neutral program) can also help DBEs (race conscious). According to the DOT, the small business set-aside is, therefore, viewed as an integral part of a federal recipient’s (Metro’s) DBE program.

Consistent with the DOT’s guidance, SB Prime continues to benefit DBE firms.

- Of the 1,006 SBEs that have received prime contract awards, 594 or 59% are DBEs, and 489 or 49% (rounded) are women-owned DBEs.
- Before program launch in FY14, a total of 47 DBEs received prime contract awards, and in FY17 a total of 161 DBEs received prime contract awards. Comparatively, the program has increased the number of prime contracts awarded to DBEs from FY14 to FY17 by 242% (rounded, see Table C).



Program Innovation: Traditional Primes as Subcontractors

Increasing opportunities for small business development and innovation is a core component of

Metro's business strategy that is intrinsically tied to on time and on budget project delivery. As part of these dual goals to promote small business development and innovation, the agency has been actively encouraging certified SBEs, including through SB Prime, to use traditional primes as subcontractors to help mentor and fulfill increasing levels of contracting responsibility. This non-traditional approach has been a significant step for Metro, demonstrating how small firms can elevate themselves to be primes on key contracts. The statistics for SB Prime contracts with subcontractors has been encouraging:

Results: Staff review of the 1,006 SB Prime awards to date since program inception reveals that:

- Out of 1,006 awards, 33 (or 3%) of SB Prime contracts had one or more subcontractors (or 97% were performed solely by the SBE Prime with its own workforce).
- The majority of the 33 contracts with subcontractors included at least one SBE subcontractor: 63% with SBEs vs. 27% without SBE subcontractors.
- The average SBE participation for all 33 subcontracts, which ranged from 30.05% to 100% was a healthy 57.61% or 27.61 percentage points above the agency's 30% SBE goal.
- Major firms that served as subcontractors/mentors include (but are not limited to) the following: STV, HNTB Corp, Jacobs, AECOM, Cambridge, WSP USA, Teleste, Telebrande, HDR, Kimley Horn, Iteris, CH2M, Fehr & Peers and KPFF Consulting

Key Challenge:

Non-Federal IFB Procurements

The passage of AB 2690 significantly strengthened Metro's authority to facilitate contracting opportunities with SBEs, expanding set-asides to non-federally funded low-bid procurements (IFBs). The amendment included a requirement that price quotations be obtained from three or more certified SBEs in order to award. While \$3.5 million in non-federal IFBs meeting this requirement were awarded in 2017, SB Prime opportunities were lost for IFBs with a total estimated value of \$14.5 that did not meet the three bid requirement.

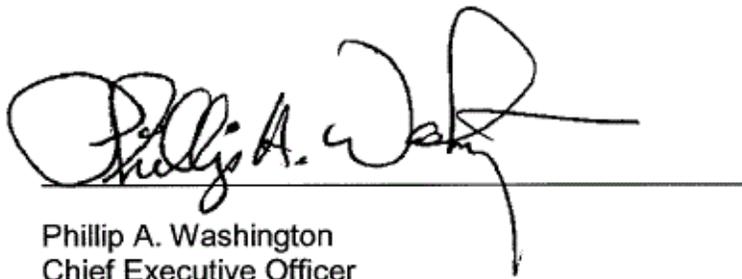
Staff believes that aligning the non-federal IFB requirement to be consistent with non-federal RFPs (solicit to at least 3 firms) will ensure competition and continue to support small business participation. AB 1205 (Jones-Sawyer) seeks to amend the current legislative requirement to codify this change. Staff will continue to work with State Legislators and stakeholders in the small business community to understand and remove barriers to their participation.

NEXT STEPS

Metro staff will continue to monitor the effectiveness the Program, and will highlight success stories in future reports.

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