

May 15, 2015

Amy Tharpe  
Social Responsibility Director  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

**Re: The Port of Oakland's Non-Discrimination and Small Local Business Utilization Program**

Dear Amy:

We have concluded your requested review of the Port's Non-Discrimination and Small Local Business Utilization Policy (the "Policy") with specific focus on Alameda County and Oakland based local and small business utilization in Port public works and professional services contracts. Attached is a comprehensive analysis of the Project Team's work. The Findings and Recommendations are stated below.

The measures that we recommend the Port consider are aimed at advancing the following goals:

- ✓ maintenance of strong participation levels in Port *public works contracts* for local businesses, especially small local businesses;
- ✓ maintenance of strong participation levels in Port *professional services contracts* for local businesses, especially small local businesses;
- ✓ increasing local and small business participation in all of the Port's goods and general services contracts through the application of the bid preference methodology;
- ✓ increasing the number of new local firms that can participate on Port contracts;
- ✓ ensuring that Port contracts assist small local businesses in building capacity to receive contract awards;
- ✓ maintaining flexibility in policy implementation over time; and
- ✓ ensuring that Port contract administration processes facilitate participation by local businesses, especially small local businesses.

## OVERVIEW

For ease of reference, the report is organized as follows:

**Section I:** An analysis of the Port's non-federally funded public works and professional services contracts subject to the Policy and awarded over the past five years (2010-2014). The analysis centers on prime contracts and subcontracts awarded and their respective dollar values, and separately reports on contracts and dollar values awarded to Alameda County businesses, Oakland businesses, and certified Disadvantaged Business Enterprises ("DBEs").

**Section II:** Information regarding programs and practices adopted by other jurisdictions, as background for consideration of recommended improvements to the Port's Policy; this section includes information about leading programs from around the country, as well as strong local efforts.

## FINDINGS

- I. The Port's Social Responsibility Programs, including the Policy, compare favorably with best practices implemented by similarly situated public agencies around the country. The Port's business enterprise policies and programs address the following goals: (1) contracting with businesses based in the Port's Local Impact Area ("LIA") and Local Business Area ("LBA"), with an emphasis on small and very small local businesses; and (2) avoiding discrimination against disadvantaged businesses.
- II. More data is required to do a complete analysis of the impact of the Policy on Alameda County firms. However, from the data we have obtained, it appears that the Port has consistently utilized small Alameda County and Oakland based businesses through the Policy, although a larger number of small Alameda County based firms are available to provide services to the Port than the data reflect are participating. Moreover, with additional programmatic tools beyond those the Port is currently using, the Port is likely to incentivize and support the development, enhancement and/or expansion of contracting capacity by small local firms and thereby increase the ability of these firms to perform Port construction and related professional services.

## RECOMMENDATIONS

- I. Pilot Project: We recommend that the Port Board direct staff to develop and pilot a program ("Pilot Project") implementing the below referenced policy recommendations for select upcoming capital projects.

## II. Policy changes for the Pilot Project:

- \* Establish a minimum contract-by-contract participation target for small and very small local businesses. The baseline target would be based on the availability of small/very small local firms. The participation target could be satisfied either at the prime or sub-contractor levels. Such a contract based target signals the desire of the Port to include the participation of small/very small local firms, and avoid discrimination against DBEs, in its contracting opportunities.
- \* Grant bid/rating preferences for joint partnerships for construction and professional services contracts where the prime contractor commits to significantly higher participation of small local businesses in the contract than the baseline requirements. A bid/rating preference method, when paired with significantly higher-than-the-minimum small business participation target, signals that the Port will reward prime contractors and consultants who elect to include substantial participation of small/very small local firms, including DBEs, in the contracting opportunities beyond the minimum requirements.
- \* Develop and implement a mentor-protégé program that extends the bid/rating preferences to larger firms who associate with a small local firm to perform large Port contracts, and agree to provide mentorship, training, and networking to the small firm to build capacity in a trade or profession. The mentor-protégé agreement would be incorporated by reference and be a material element of the awarded Port contract.
- \* Unbundle large contracts into smaller contract opportunities and/or identify subcontracting scopes for small local firms who are capable of performing the scopes. Conduct direct marketing/outreach to the small businesses with a matchmaking or customized approach to the small business opportunity, with the use of technology, if feasible. This approach requires close coordination between the Port's Social Responsibility Division and contracting departments to assess (1) the work scopes presented by a proposed contract; and (2) the availability and capacity of small local firms to perform the work scopes.
- \* Institute robust surety bonding/financial assistance measures to aid small businesses in satisfying key contractual requirements imposed by the Port.
- \* Refine data collection and tracking techniques to ensure accurate reporting of contractor participation data.

III. Other Policy amendments:

- a. Extend the Policy to the award of goods and non-professional services contracts. We note that the Port intends to grant a bid/rating preference to LIA suppliers.

We look forward to continuing to discuss these issues with you and your staff.

Very truly yours,



Mara E. Rosales  
Rosales Business Partners LLC

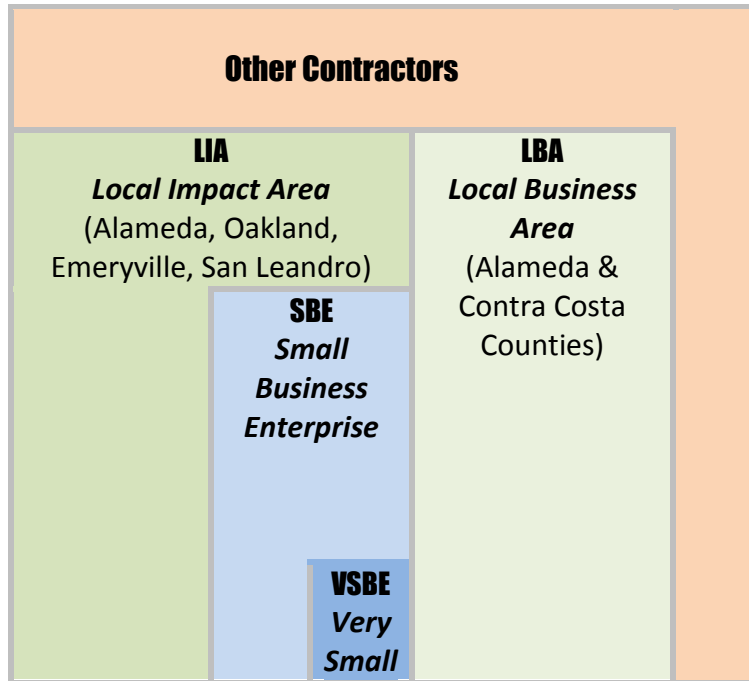


Julian Gross  
Mahvish Jafri  
Julian Gross Consulting, LLC

## Section I. Data Analysis

The data analysis set forth below is from contract information provided by Port staff for contract awards in recent years (2010-2014). This section contains several tables evaluating the data from perspectives relevant to the Port's policy goals as conveyed to the Project Team.

### Relationship Between Certification Types



- \* To qualify as an SBE, the business must be certifiable as a Local Impact Area business and must not exceed an average gross revenue of \$14,000,000 over the past three consecutive years.
- \* To qualify as a VSBE, the business must qualify as an SBE and must not exceed an average gross revenue of \$3,500,000 over the past three consecutive years.

## A. Overview of 2010-2014 Public Works Contracts

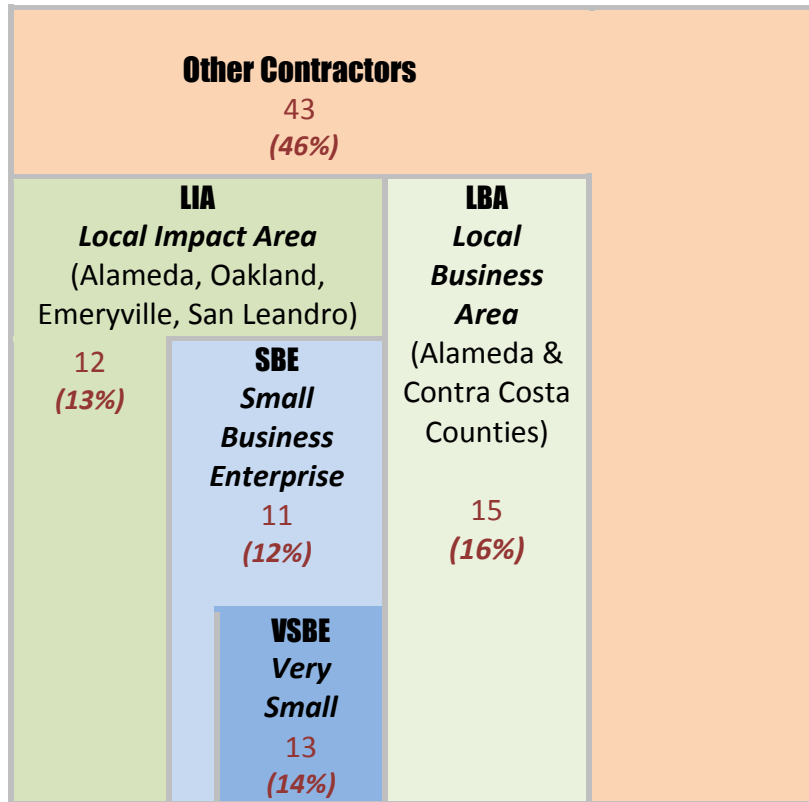
(Non-Federally Funded)

	Total Contracts			Very Small Business Enterprise		Small Business Enterprise <sup>1</sup>		Small Business Snapshot (SBE & VSBE)	
	Number of Contracts	Number of Firms	Dollar Value	VSBE <sup>1</sup> Number of Contracts (# Firms)	VSBE Dollar Value of Contracts	SBE <sup>1</sup> Number of Contracts (# Firms)	SBE Dollar Value of Contracts	Number VSBE/ SBE Contracts as % of Total Number in Row	\$ Total VSBE/ SBE as % of \$ Total in Row
All	94	77	\$62,024,628	13 (10)	\$7,292,081	11 (8)	\$7,682,220	26%	24%
Prime	30	22*	\$43,983,969	2 (2)	\$1,492,445	5 (3)	\$2,020,720	23%	8%
Sub	64	56*	\$18,040,659	11 (8)	\$5,799,636	6 (5)	\$5,661,500	27%	64%
Alameda County	60	44	\$40,076,016	13 (10)	\$7,292,081	11 (8)	\$7,682,220	40%	37%
Prime	23	15	\$27,835,253	2 (2)	\$1,492,445	5 (3)	\$2,020,720	30%	13%
Sub	37	29	\$12,240,763	11 (8)	\$5,799,636	6 (5)	\$5,661,500	46%	94%
Oakland	38	24	\$33,154,531	12 (9)	\$7,288,081	8 (5)	\$7,519,120	53%	45%
Prime	15	7	\$21,393,495	2 (2)	\$1,492,445	4 (2)	\$1,973,620	40%	16%
Sub	23	17	\$11,761,036	10 (7)	\$5,795,636	4 (3)	\$5,545,500	61%	96%

\* One firm was a sub and prime. <sup>1</sup>For this data, SBE & VSBE are mutually exclusive.

# Number of 2010-2014 Public Works Contracts

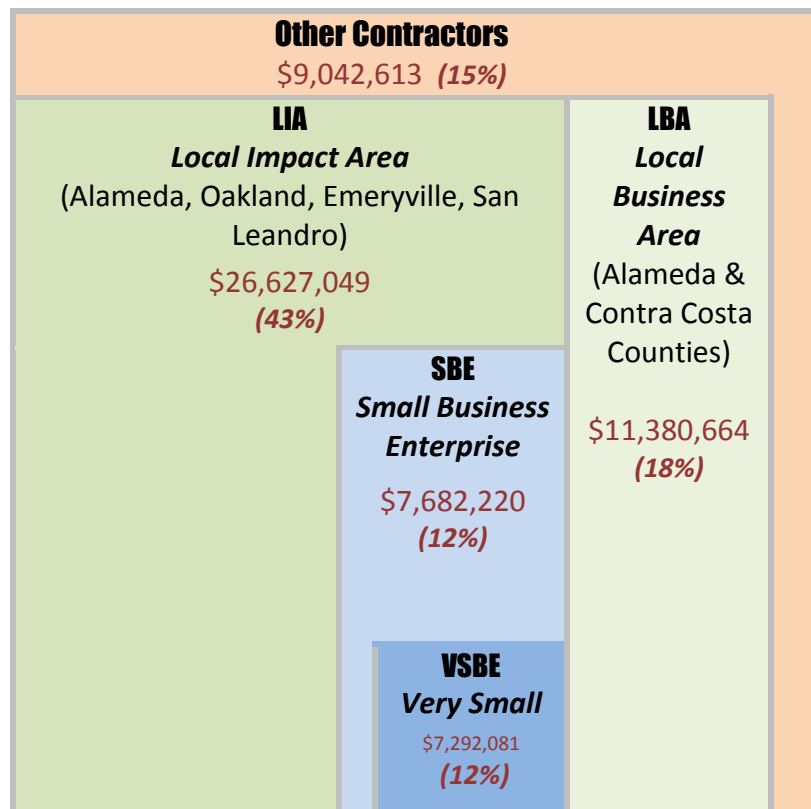
Number (% of Total), Total Contracts = 94



\* Due to rounding, the total percent may be slightly over 100%.

## Dollar Amount 2010-2014 Public Works Contracts

Dollar Amount (% of Total), Total Contract Amount = \$62,024,628



### All, 94 Contracts to 77 Firms

#### Summary

1. 94 Public Works contracts were awarded.
2. \$62,024,628 was awarded in Public Works contracts.

#### DBE Certification

3. Of the 94 contracts awarded, 23 contracts totaling \$12,246,273 were awarded to DBE-certified firms (see chart below). These 23 contracts were awarded to 18 firms (one firm received two contracts, two firms received three contracts each).

#### Breakdown by Prime & Subs

4. Of the 94 Public Works contracts awarded, 32% or 30 were prime contracts and 68% or 64 were subcontracts.
5. Of the \$62,024,628 in Public Works contracts awarded, 71% or \$43,983,969 was awarded to prime contractors and 29% or \$18,040,659 was awarded to subcontractors.



*All Awards to Prime & Subs: Number of Firms versus Number of Contracts*

<b>Certification Type</b>	<b>LIA</b> <i>Local Impact Area<sup>1</sup></i>	<b>LBA</b> <i>Local Business Area<sup>1</sup></i>	<b>VSBE</b> <i>Very Small Business Enterprise<sup>2</sup></i>	<b>SBE</b> <i>Small Business Enterprise<sup>2</sup></i>	<b>Total Contracts</b>
<i># of Firms</i>					
<b>Prime Firms</b>	10	6	2	3	22*
<b>Sub Firms</b>	14	7	8	5	56*
<b>Total Firms</b>	24	13	10	8	77
<i># of Contracts</i>					
<b>Prime Contracts</b>	18	6	2	5	30
<b>Sub Contracts</b>	18	9	11	6	64
<b>Total Contracts</b>	36	15	13	11	94

*\* 1 firm was a sub and prime. <sup>1</sup>For this data, LIA & LBA are mutually exclusive <sup>2</sup>For this data, SBE & VSBE are mutually exclusive. However, please note that firms can fall into the local categories (LIA) **AND** small business categories (SBE, VSBE).*

## **Alameda County, 60 Contracts to 44 Firms**

### *Summary*

1. Of the 94 Public Works contracts awarded, 64% or 60 were awarded to Alameda County firms.
2. Of the \$62,024,628 Public Works contract dollars awarded, 65% or \$40,076,016 was awarded to Alameda County firms.

### *DBE Certification*

3. Of the 60 contracts awarded to Alameda County firms, 15 contracts totaling \$11,524,356 were awarded to DBE-certified firms (see chart below). The 15 contracts were awarded to 10 firms (one firm received two contracts, two firms received three contracts each).

### *Breakdown by Prime*

4. Of the 60 Public Works contracts awarded to Alameda County firms, 38% or 23 were prime contracts and 62% or 37 were subcontracts.
5. Of the \$40,076,016 in Public Works contracts awarded to Alameda County firms, 69% or \$27,835,253 was awarded to prime contractors and 31% or \$12,240,763 was awarded to subcontractors.

*Awards to Alameda County Prime & Subs: Number of Firms versus Number of Contracts*

<b>Certification Type</b>	<b>LIA</b> <i>Local Impact Area<sup>1</sup></i>	<b>LBA</b> <i>Local Business Area<sup>1</sup></i>	<b>VSBE</b> <i>Very Small Business Enterprise<sup>2</sup></i>	<b>SBE</b> <i>Small Business Enterprise<sup>2</sup></i>	<b>Total Alameda County Contracts</b>
<i># of Firms</i>					
<b>Prime Firms</b>	9	3	2	3	15
<b>Sub Firms</b>	14	5	8	5	29
<b>Total Firms</b>	23	8	10	8	44
<i># of Contracts</i>					
<b>Prime Contracts</b>	17	3	2	5	23
<b>Sub Contracts</b>	18	7	11	6	37
<b>Total Contracts</b>	35	10	13	11	60

<sup>1</sup>For this data, LIA & LBA are mutually exclusive <sup>2</sup>For this data, SBE & VSBE are mutually exclusive. However, please note that firms can fall into the local categories (LIA) **AND** small business categories (SBE, VSBE).

*Firms with Multiple Contracts*

- The Port awarded 60 contracts to 44 Alameda County firms. 4 firms received multiple prime contracts and 6 firms received multiple subcontracts.

Prime

- Beliveau Engineering Contractors, Inc. (4 contracts totaling \$2,835,319)
- Gallagher & Burk, Inc. (4 contracts totaling \$2,625,180)
- McGuire & Hester (2 contracts totaling \$1,439,500)
- O.C. Jones (2 contracts totaling \$2,112,750)

Sub

- All City Trucking (3 contracts totaling \$108,000)
- Beci Electric (3 contracts totaling \$5,573,000)
- Calco Fence (2 contracts totaling \$43,000)
- Downrite Corp. (2 contracts totaling \$136,330)
- TDW Construction, Inc. (2 contracts totaling \$115,800)
- Williams Trucking (2 contracts totaling \$19,000)

## Oakland, 38 Contracts to 24 Firms

### Summary

1. Of the 94 Public Works contracts awarded, 40% or 38 were awarded to Oakland firms.
2. Of the \$62,024,628 Public Works contract dollars awarded, 53% or \$33,154,531 was awarded to Oakland firms.

### DBE Certification

3. Of the 38 contracts awarded to Oakland firms, 11 contracts totaling \$11,329,806 were awarded to DBE-certified firms (see chart below). The 11 contracts were awarded to 7 firms (two firms received three contracts each – All City Trucking & Beci Electric).

### Breakdown by Prime & Subs

4. Of the 38 Public Works contracts awarded Oakland firms, 39% or 15 were prime contracts and 61% or 23 were subcontracts.
5. Of the \$33,154,531 in Public Works contracts awarded to Oakland firms, 65% or \$21,393,495 was awarded to prime contractors and 35% or \$11,761,036 was awarded to subcontractors.

### Awards to Oakland Prime & Subs: Number of Firms versus Number of Contracts

Certification Type	LIA Local Impact Area <sup>1</sup>	LBA Local Business Area <sup>1</sup>	VSBE Very Small Business Enterprise <sup>2</sup>	SBE Small Business Enterprise <sup>2</sup>	Total Oakland Contracts
<i># of Firms</i>					
Prime Firms	7	-	2	2	7
Sub Firms	11	-	7	3	17
<b>Total Firms</b>	<b>18</b>	<b>-</b>	<b>9</b>	<b>5</b>	<b>24</b>
<i># of Contracts</i>					
Prime Contracts	15	-	2	4	15
Sub Contracts	15	-	10	4	23
<b>Total Contracts</b>	<b>30</b>	<b>-</b>	<b>12</b>	<b>8</b>	<b>38</b>

<sup>1</sup>For this data, LIA & LBA are mutually exclusive <sup>2</sup>For this data, SBE & VSBE are mutually exclusive. However, please note that firms can fall into the local categories (LIA, LBA) AND small business categories (SBE, VSBE).

*Firms with Multiple Contracts*

6. The Port awarded 38 contracts to 24 Oakland firms. 4 firms received multiple prime contracts and 4 firms received multiple subcontracts.

Prime

- Beliveau Engineering Contractors, Inc. (4 contracts totaling \$2,835,319)
- Gallagher & Burk, Inc. (4 contracts totaling \$2,625,180)
- McGuire & Hester (2 contracts totaling \$1,439,500)
- O.C. Jones (2 contracts totaling \$2,112,750)

Sub

- All City Trucking (3 contracts totaling \$108,000)
- Beci Electric (3 contracts totaling \$5,573,000)
- Downrite Corp. (2 contracts totaling \$136,330)
- Williams Trucking (2 contracts totaling \$19,000)

## DBE Certification for Public Works Contracts and Availability for Alameda and Oakland

Public works contracts reviewed in this data set are not federally-funded, and are thus not subject to the Disadvantaged Business Enterprise (DBE) program applicable to the Port's federally-funded projects. While the Port's Nondiscrimination and Small Local Business Utilization Policy does not prioritize utilization of minority- and woman-owned businesses (M/WBEs), it does contain anti-discrimination provisions. We have therefore evaluated this set of contracts with regard to use of DBE-certified businesses. While it is likely that there is some participation on these projects by M/WBEs that are not DBE-certified, we believe that review for DBE certification captures most of the participation by M/WBEs, and such analysis was available with information provided to date.

	<b>DBE</b> <i>Disadvantaged Business Enterprise</i>			<b>2014</b> <i>CalTrans Disparity Study</i>			
	Number of Contracts	Number of Firms	Dollar Amount	Number of Firms Available	Number of Firms with Public Works Contracts	Number of DBE Firms Available	Number of DBE Firms with Public Works Contracts
<b>All</b>	<b>23</b>	<b>18</b>	<b>\$12,246,273</b>				
<i>Prime</i>	0	0	0				
<i>Sub</i>	23	18	\$12,246,273				
<b>Alameda</b>	<b>15</b>	<b>10</b>	<b>\$11,524,356</b>	<b>150</b>	<b>44</b>	<b>47</b>	<b>10</b>
<i>Prime</i>	0	0	0				
<i>Sub</i>	15	10	\$11,524,356				
<b>Oakland</b>	<b>11</b>	<b>7</b>	<b>\$11,329,806</b>	<b>28</b>	<b>24</b>	<b>13</b>	<b>7</b>
<i>Prime</i>	0	0	0				
<i>Sub</i>	11	7	\$11,329,806				

## B. Overview of 2010-2014 Professional Services Contracts

(Non-Federally Funded)

	Total Contracts			Very Small Business Enterprise		Small Business Enterprise <sup>1</sup>		Small Business Snapshot (SBE & VSBE)	
	Number of Contracts	Number of Firms	Dollar Value	VSBE <sup>1</sup> Number of Contracts (# Firms)	VSBE Dollar Value of Contracts	SBE <sup>1</sup> Number of Contracts (# Firms)	SBE Dollar Value of Contracts	Number VSBE/ SBE Contracts as % of Total Number in Row	\$ Total VSBE/ SBE as % of \$ Total in Row
<b>All</b>	<b>123</b>	<b>110</b>	<b>\$45,267,083</b>	<b>9 (9)</b>	<b>\$1,632,555</b>	<b>17 (16)</b>	<b>\$6,263,697</b>	<b>21%</b>	<b>17%</b>
Prime	65	55	\$39,063,794	4 (4)	\$1,452,163	8 (7)	\$4,759,213	18%	16%
Sub	58	55	\$6,203,288	5 (5)	\$180,392	9 (9)	\$1,504,484	24%	27%
<b>Oakland</b>	<b>49</b>	<b>41</b>	<b>\$15,453,938</b>	<b>8 (8)</b>	<b>\$1,631,971</b>	<b>13 (12)</b>	<b>\$2,940,147</b>	<b>35%</b>	<b>30%</b>
Prime	30	23	\$11,381,435	4 (4)	\$1,452,163	5 (4)	\$1,444,213	30%	25%
Sub	19	18	\$4,072,504	4 (4)	\$179,808	8 (8)	\$1,495,934	63%	41%

<sup>1</sup>For this data, SBE & VSBE are mutually exclusive.

### All, 123 Contracts to 110 Firms

#### Summary

1. 123 Professional Services contracts were awarded.
2. \$45,267,083 was awarded in Professional Services contracts.

#### Breakdown by Prime & Subs

3. Of the 123 Professional Services contracts awarded, 53% or 65 were prime contracts and 47% or 58 were subcontracts.
4. Of the \$45,267,083 in Professional Services contracts awarded, 86% or \$39,063,794 was awarded to prime contractors and 14% or \$6,203,288 was awarded to subcontractors.

### Oakland, 49 Contracts to 41 Firms

#### Summary

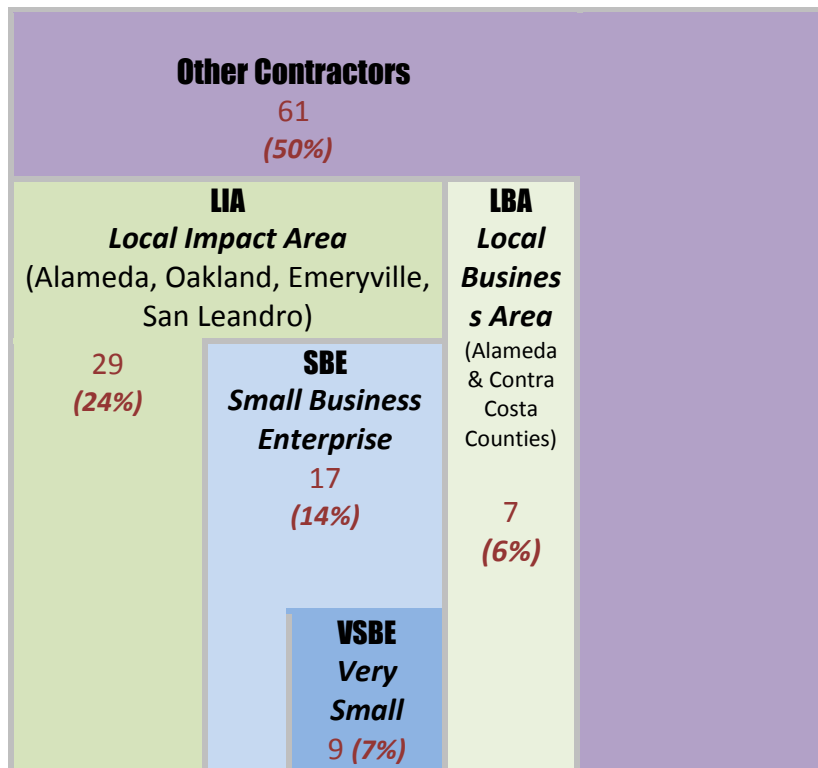
1. 49 Professional Services contracts were awarded to Oakland firms.
2. \$15,453,938 was awarded in Professional Services contracts to Oakland firms.

#### *Breakdown by Prime & Subs*

3. Of the 49 Professional Services contracts awarded to Oakland firms, 61% or 30 were Prime contracts and 39% or 19 were subcontracts.
4. Of the \$15,453,938 in Professional Services contracts awarded to Oakland firms, 74% or \$11,381,435 was awarded to prime contractors and 26% or \$4,072,504 was awarded to subcontractors.

## **Number of 2010-2014 Professional Service Contracts**

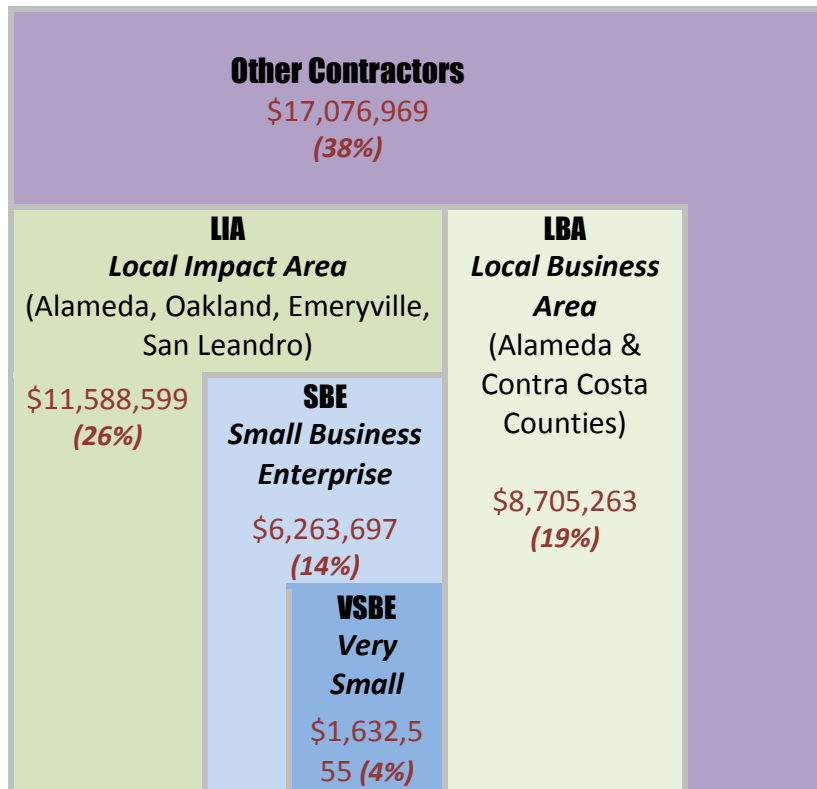
Number (% of Total), Total Contracts = 123



\* Due to rounding, the total percent may be slightly over 100%.

# Dollar Amount 2010-2014 Professional Service Contracts

Dollar Amount (% of Total), Total Contracts = \$45,267,083



\* Due to rounding, the total percent may be slightly over 100%.



## Dollar Amount of Professional Services Contracts by Certification Type and Oakland Location for Years 2010-14 (n=123)

*Number of Certified Business Contracts (% of Total Professional Services Contracts for Year)*

Certification Type	LIA Local Impact Area <sup>1</sup>	LBA Local Business Area <sup>1</sup>	VSBE Very Small Business Enterprise <sup>2</sup>	SBE Small Business Enterprise <sup>2</sup>	Oakland	Total Prof. Svcs. Contracts
2010	\$100,000 (100%)	-	-	-	\$100,000 (100%)	\$100,000
2011	\$3,009,800 (77%)	\$13,163 (<1%)	\$13,163 (<1%)	\$811,838 (21%)	\$2,923,020 (75%)	\$3,903,008
2012	\$8,995,782 (64%)	-	\$1,349,809 (10%)	\$1,484,934 (11%)	\$7,195,782 (51%)	\$14,040,069
2013	\$2,642,436 (25%)	\$4,347,100 (40%)	-	\$2,271,925 (21%)	\$498,886 (5%)	\$10,752,751
2014	\$4,736,834 (29%)	\$4,345,000 (26%)	\$269,584 (2%)	\$1,695,000 (10%)	\$4,736,250 (29%)	\$16,471,255
Total	\$19,484,852 (43%)	\$8,705,263 (19%)	\$1,632,555 (4%)	\$6,263,697 (14%)	\$15,453,938 (34%)	\$45,267,083

<sup>1</sup>For this data, LIA & LBA are mutually exclusive <sup>2</sup>For this data, SBE & VSBE are mutually exclusive. However, please note that firms can fall into the local categories (LIA, LBA) **AND** small business categories (SBE, VSBE).

## Section II. Review of Programs and Practices of Regional & National Entities

This section describes various programs and practices established in targeted procurement by prominent contracting authorities throughout the country and by select local jurisdictions. In selection of programs reviewed, Julian Gross Consulting, LLC utilized the recent, thorough report by the Transportation Research Board, “A Guidebook for Increasing Diverse and Small Business Participation in Airport Business Opportunities,”<sup>1</sup> (co-authored by Rosales Law Partners LLP). We also reviewed programs operated by various local entities, including the City of Oakland, the San Francisco Public Utilities Commission, the East Bay Municipal Utility District, the Alameda-Contra Costa Transit District, and others.

Material below is organized by type of program. Please note that the Project Team is not recommending that the Port adopt *verbatim* any of the particular approaches described below. Rather, we provide this information as background regarding leading practices, especially by other local entities; this information has been taken into account in generation of the recommendations set forth above.

This section concludes with an accessible chart of key program elements compared with the Port’s current practices. (See section II.G, Example Practices from Regional and Select National Entities and Notes on Port of Oakland’s Practices.)

### A. Outreach and Networking

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#### *List of Available Firms*

An important step in increasing participation of targeted firms is to maintain a current list of available firms within the most-contracted categories. In the absence of a full-scale availability study, the Port may continue to utilize the Port’s small and local certified business database, the California Unified Certification Program DBE database, as well as North American Industry Classification System (NAICS) data available through the census.

AC Transit uses an “online vendor registration form, [which] allows businesses to identify their name and address, small business status, and other relative information. This information will facilitate sorting of the computerized vendor listing to identify small and small-local businesses for use by procurement and contract staff, and for award, payment tracking and reporting

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<sup>1</sup> Federal Aviation Administration, Airport Cooperative Research Program (ACRP), Report 126 (2015).

purposes. Records will be maintained on bids received from, and awards and/or payments made to small local businesses; and semi-annual reports of the results will be made to the Board.”<sup>2</sup>

### *Events*

Other public agencies, such as AC Transit and the San Diego International Airport (“SAN”), hold regular networking events. At AC Transit that includes roundtables and workshops, “to make it possible for small and small-local business owners to meet key contracting personnel and be counseled on the procurement and contract processes.”<sup>3</sup>

### *Partner with Other Agencies with Similar Goals*

SAN leverages its participation in a local public agency consortium, which includes a number of public agencies that pool resources, to host quarterly outreach and networking events for small businesses, with the goal of pairing prime contractors with subcontractors across procurement areas.<sup>4</sup>

## **B. Addressing Obstacles**

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### *Resources for Finding Opportunities, Certification, and Financing*

Small and local firms may not have the capacity to meet the rigorous requirements of doing business with the Port. The San Francisco Public Utilities Commission (SFPUC) is in the process of creating a Contractors Assistance Center (Center), a free resource for professional service firms, construction companies, vendors and suppliers. The Center will offer tools and guidance regarding:

- Identifying contracting opportunities,
- Filing for certification with different government programs (e.g. LBE, SBE, DBE, 8A), and
- Connecting to resources to improve small businesses’ access to financing.

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<sup>2</sup> [http://www.actransit.org/wp-content/uploads/board\\_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf](http://www.actransit.org/wp-content/uploads/board_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf)

<sup>3</sup> [http://www.actransit.org/wp-content/uploads/board\\_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf](http://www.actransit.org/wp-content/uploads/board_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf)

<sup>4</sup> Airport Cooperative Research Program, A Guidebook for Increasing Diverse and Small Business Participation in Airport Business Opportunities, p.73

### *Prompt Payment Policy*

Another obstacle often cited by small businesses for doing business with an entity like the Port is cash flow. AC Transit has prioritized timely payment to small businesses upon receipt of properly documented invoices or other contract billings. AC Transit's "Small and Small Local Business Enterprise Policy" states that "prompt payment provisions shall be incorporated into each District solicitation and resulting contract."<sup>5</sup>

### *Online Training*

The idea of training sessions and workshops is not new; however, SAN is using technology to expand the reach and convenience of these training. Their online offerings include tutorials on "how to do business at SAN, such as how to successfully bid airport work, understanding required forms, and developing safety and security procedures, among other topics."<sup>6</sup>

## C. Capacity Building

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### *Mentor-Protégé Programs*

Another strategy for building the capacity of small, local firms is to partner them with established firms in their field to provide training, networking, and mentoring opportunities with the goal of making LBEs and SLBE's more competitive in the contracting process.

The City of Oakland has a policy to allow a 5% preference for Mentor-Protégé teams on construction and professional services contracts (on a case-by-case basis). The prime contractor must develop a relationship with a certified LBE or SLBE and submit for approval by the City. If approved, "the mentor will enjoy the benefit of credits against City goals particularly under circumstances where availability is zero."<sup>7</sup>

In San Francisco, a new program will be soon put into place. As a benefit to participating in the Mentor-Protégé Program, the Director may pursuant to duly promulgated rules and regulations, exempt mentor Contractors from the good faith outreach requirements in Section 14B.8."<sup>8</sup>

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<sup>5</sup> [http://www.actransit.org/wp-content/uploads/board\\_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf](http://www.actransit.org/wp-content/uploads/board_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf)

<sup>6</sup> Airport Cooperative Research Program, A Guidebook for Increasing Diverse and Small Business Participation in Airport Business Opportunities, p.73

<sup>7</sup> City of Oakland, Local and Small Local Business Enterprise Program (L/SLBE), Revised February 1, 2012

<sup>8</sup> City and County of San Francisco, Ordinance 250-14, Approved by Mayor 12/17/2014

### *Technical Assistance*

In Dallas, at Dallas Fort Worth International Airport, a Small Contractors Development Training Workshop, an 8-week course, is designed to provide technical training for minority- and women-owned businesses. The curriculum includes workshops on a variety of topics that include business development, financial management, insurance and bonding<sup>9</sup>-key capacity building topics for small and local businesses.

### *Bonding Assistance*

Bonding requirements can be a major barrier to entry into the contracting process for small and local firms. The Metropolitan Washington Airports Authority's LDBE program includes relaxed bonding and insurance requirements for contracts valued at \$100,000 or below.<sup>10</sup>

Of the agencies examined, San Diego Airport (SAN), City/County of San Francisco, and Alameda County use the firm Merriwether & Williams for their bond programs. Merriwether offers bid, performance, and payment guarantees to surety companies up to 40% of bond amount or \$750,000, whichever is less; individual counseling & group workshops on contractor related topics; accounting assistance and referrals; third-party funds administration.<sup>11</sup>

An important complement to the bonding assistance is the individual counseling offered to firms, especially an assessment of financial practices and controls. The technical assistance can help build firm capacity and will not only help the firm qualify for bond guarantees, but will make the firm more competitive for other opportunities.

Years ago, Turner Group Construction received bonding assistance from the Port of Oakland and was able to win a contract. Since then the firm has grown and now offers an accelerator space to other emerging firms.

## **D. Contract Structure and Set-Asides for Prime Contract Awards**

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### *Small, Local Set-Asides*

Some agencies have carved out specific contracts and reserved them for small and/or local businesses using "set-asides." Washington, D.C. area airports have a race-neutral, Local Disadvantaged Business Enterprise (LDBE) program, under which procurement departments may set aside an airport contract, "such as a contract for floor repair in the terminals at DCA and IAD, or printing and copying services, for 100 percent LDBE participation. In other

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<sup>9</sup> Airport Cooperative Research Program, A Guidebook for Increasing Diverse and Small Business Participation in Airport Business Opportunities, p.53

<sup>10</sup> Airport Cooperative Research Program, A Guidebook for Increasing Diverse and Small Business Participation in Airport Business Opportunities, p.17

<sup>11</sup> <http://sfgsa.org/index.aspx?page=6136>

instances, LDBE participation is required for a certain percentage of an MWAA contract, such as task-order-based architectural and engineering services.”<sup>12</sup>

### *Small, Local Business Rating Bonus*

Another strategy for increasing the number of contracts with small and local firms is to give them a bonus/discount in the bid process. EBMUD’s Small Business Enterprise (SBE) program includes a 5 percent bid discount applicable to all competitively bid contracts. For all contracts under \$70,000, there are goals of 50 percent SBE participation and a 25 percent SBE set-aside. “[T]here has been an increase of at least 28 percent in the percentage of contract awards of \$70,000 or less to small businesses since FY06.”<sup>13</sup>

In the Alameda County contracting process, certified small and emerging businesses are eligible to receive a 5% bid evaluation. The maximum preference per contract is 10%: 5% for local business plus 5% for either certified small or emerging business status. Certified businesses receive maximum exposure to the public procurement process and are assured of being included in all training, networking and development opportunities.<sup>14</sup>

### *Contracts Unbundled and Structured to Target Small & Local Firms*

Newly revised San Francisco policies include a provision to have all large contract proposals (public works contracts >\$5M and professional service contracts >\$1M) reviewed by the Director before the bid process begins. The Director will determine whether the proposed contract can be divided into smaller contracts to increase opportunities for participation by LBEs.

## **E. Requirements and Incentives Regarding Subcontracting**

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### *Goals/Requirements for Primes as a Policy Lever*

For many small and/or specialized contractors, participation as a subcontractor is the most feasible route to business development. Indeed, on most large public works projects, a majority of the work is subcontracted out by the prime contractor. In order to affect the bulk of business opportunities on these contracts, a public entity therefore needs to establish requirements regarding how a prime contractor chooses its subcontractors. There are a variety of established approaches.

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<sup>12</sup> Airport Cooperative Research Program, A Guidebook for Increasing Diverse and Small Business Participation in Airport Business Opportunities, p. 17

<sup>13</sup> <https://www.ebmud.com/sites/default/files/pdfs/fy14-ce-program-annual-report-final.pdf>

<sup>14</sup> <http://www.acgov.org/auditor/sleb/benefits.htm>

### *Small Business Subcontractor Goals/Requirements for Primes*

At AC Transit “non-federally funded contracts (including Construction and Service contracts) for goods, material and services greater than \$10,000 will be reviewed, and SLBE subcontracting goals will be included based upon an availability analysis to determine whether subcontracting opportunities exist. Bids/Proposals will be reviewed for the prime contractor’s SLBE subcontractor participation and/or good faith efforts; and the successful prime contractor will be required to provide reports of SLBE subcontractor payments for the duration of the contract.”<sup>15</sup>

In San Diego, SAN establishes a minimum percentage goal, where feasible, of the total value of certain contracts to be performed or subcontracted by small businesses, and requires prime contractors to meet or exceed this goal or make good faith efforts to do so.<sup>16</sup>

PG&E establishes subcontracting goals for supply contracts, and on certain contracts requires primes to develop a “subcontracting plan.” Ongoing communication with prime contractors is an important aspect of PG&E’s approach: “The company will continue to proactively manage prime suppliers who are performing below their subcontracting goal or have not responded to requests for a subcontracting plan. PG&E senior leadership will continue to communicate directly with under-performing prime suppliers and reinforce the seriousness of PG&E’s commitment to supplier diversity.”<sup>17</sup>

### *Incentives for Primes to Meet LBE/SLBE Requirements*

City of Oakland incentives are earned based on the level of participation proposed prior to the award of a contract. “Bid discounts are applied at a rate of one percent (1%) or one (1) preference point for every 10% of contract dollars attributable to certified firms. No more than five percent (5%) in bid discounts or five (5) preference points may be earned.”<sup>18</sup>

“Similarly, SAN’s Policy 5.14, Small Business, Local Business, and Service Disabled Veteran Owned Small Business Goal and Preference Program, establishes a series of goals for small, local, and service disabled veteran owned small business participation, which—if met or exceeded by prime bids—will trigger price preferences in the non-federal contract award process to incentivize bidders to include these firms in bids.” (ACRP 73)

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<sup>15</sup> [http://www.actransit.org/wp-content/uploads/board\\_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf](http://www.actransit.org/wp-content/uploads/board_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf)

<sup>16</sup> Airport Cooperative Research Program, A Guidebook for Increasing Diverse and Small Business Participation in Airport Business Opportunities, p.73

<sup>17</sup> <http://www.pge.com/includes/docs/pdfs/b2b/purchasing/supplierdiversity/2014SupplierDiversityAnnualReport.pdf>

<sup>18</sup> City of Oakland, Local and Small Local Business Enterprise Program (L/SLBE), Revised February 1, 2012

## F. Leadership & Staff Roles

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### *Staff Training*

AC Transit's Small and Small Local Business Enterprise Policy states that "[t]he District will assign appropriate and sufficient staff to oversee and administer all components of the SBE/SLBE program" and "provide ongoing training to procurement and District staff to assure adherence to [Small and Small Local Business Enterprise] Policy."<sup>19</sup>

PG&E has taken a proactive approach to staff engagement on supplier diversity issues. "Supplier Diversity team members conducted formal and informal trainings throughout PG&E to offer counsel and assistance to employees. The Supplier Diversity team trained newly-appointed Supplier Diversity LOB [Line of Business] Champions on their key role as drivers of supplier diversity efforts and results achievement within their line of business. This included education on how to drive accountability, uncover potential diversity opportunities and support the competitive success of WMDVBes and LGBTBEs. Supplier Diversity team members showed Champions how to identify specific diversity opportunities through value chain and spend data analysis. Several training sessions were focused on supporting upcoming projects, while other sessions covered how to find diverse suppliers in a range of product and service spend areas and how to work with direct suppliers to optimize diverse subcontracting. The Supplier Diversity team also trained employees on including supplier diversity contract language and plan details in Requests for Proposal...."

Throughout the year, PG&E's Supplier Diversity team recognized its Line of Business Champions, Sourcing team members and other key personnel for their noteworthy contributions to building PG&E's supplier diversity success. Recognition included certificates of appreciation, acknowledgment of their contributions during LOB Champion meetings and awards presented at various company meetings."<sup>20</sup>

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<sup>19</sup> [http://www.actransit.org/wp-content/uploads/board\\_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf](http://www.actransit.org/wp-content/uploads/board_policies/BP%20351%20-%20Small%20Local%20Business%20Procurement.pdf)

<sup>20</sup> [http://www.pgecorp.com/corp\\_responsibility/reports/2014/PGE\\_CRSR\\_2014.pdf](http://www.pgecorp.com/corp_responsibility/reports/2014/PGE_CRSR_2014.pdf), p.9



## G. Example Practices from Regional and Select National Entities and Notes on Port of Oakland's Practices

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*Please refer to additional material above for more information on programs referenced.*

<i>Port Program?</i>	<b>Program/Policy</b>	<b>Notes</b>	<b>Programs to Reference</b>
<b>Outreach and Networking</b>			
YES	List of Available Firms	<i>Opportunity for Improvement:</i> Improve data systems to increase efficiency and effectiveness of outreach.	AC Transit
YES	Events	<i>Opportunity for Improvement:</i> Partner with other entities to increase outreach.	AC Transit, SAN
YES	Partner with Other Agencies with a Similar Goal	<i>Opportunity for Improvement:</i> Leverage lessons learned, network, and resources of other agencies.	SAN
<b>Addressing Obstacles</b>			
YES	Resources for Finding Opportunities, Certification, & Financing	<i>Opportunity for Improvement:</i> The Port has a developed outreach policy, but could also partner with other entities to increase resource availability.	SF PUC
YES	Prompt Payment Policy	<i>Opportunity for Improvement:</i> Payment made within 10 calendar days of receipt of approved invoice. After 5 working days of receipt of payment, prime is to report to the Port indicating amounts paid to first tier subcontractors.	AC Transit
NO	Online Training	<i>Opportunity for Improvement</i> – Use technology to make resources more widely available.	SAN
<b>Capacity Building</b>			
NO	Mentor-Protégé Programs	<i>Opportunity for Improvement:</i> Establish a mentor- protégé program, building on best practices from other local jurisdictions.	City of Oakland, City of SF
YES	Technical Assistance	<i>Opportunity for Improvement:</i> Port has instituted a Port Contracting 101 series which provides information on how to do business with the Port. Staff provides individual information to bidders as needed. Exploring partnering with external partners for additional help.	DFW
NO	Bonding Assistance	<i>Opportunity for Improvement:</i> Program existed in the past, but lapsed due to inadequate funding and low utilization due to lack of awareness of program.	SAN, City of SF, Alameda County

<b>Contract Structure and Set-Asides for Prime Contract Awards</b>			
YES	Small, Local Set-Asides	<i>Opportunity for Improvement:</i> Increase the lead-time SRD has before bid process to work with engineers on carve outs/unbundling.	MWAA (DC Area Airports)
YES	Small, Local Business Rating Bonus	<i>Opportunity for Improvement:</i> Better integrate implementation of rating bonus with other program elements.	EBMUD, Alameda County
YES	Contracts Unbundled and Structured to Target Small & Local	<i>Opportunity for Improvement:</i> Increase the lead-time SRD has before bid process to work with engineers on carve outs/unbundling.	City of SF
<b>Requirements and Incentives Regarding Subcontracting</b>			
NO	Small Business Subcontractor Goals/Requirements for Primes	<i>Opportunity for Improvement:</i> establish subcontractor goals on selected projects	AC Transit, SAN, PG&E, many others
YES	Incentives for Primes to Meet LBE/SLBE Requirements	<i>Opportunity for Improvement:</i> Port currently offers additional points in bid scoring; however, lacks a tool to ensure a certain level of participation on the project.	City of Oakland, SAN
<b>Leadership &amp; Staff Roles</b>			
NO	Staff Training	<i>Opportunity for Improvement</i> - Culture shift and organization buy-in top down/lateral in understanding and supporting the Port's program for the engagement of small and local firms.	AC Transit, PG&E
NO	Incentives and Recognition for Staff/Departments	<i>Opportunity for Improvement</i> – Create feedback loop to allow staff/departments to gauge their small, local business utilization. Recognize staff/dept. efforts to increase small, local business utilization.	PG&E