

Findings, Analysis, and Proposal Regarding the Port of Oakland's Nondiscrimination and Small Local Business Utilization Policy

PORT OF OAKLAND

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Presentation Outline

- Goals of Policy Enhancements
- Analysis/Findings:
 - 2010-2014 Utilization Under Non-Discrimination and Small Local Business Utilization Policy
 - DBE (M/WBE) Utilization vs. Availability
- Proposed Pilot Program
- Questions/Answers

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

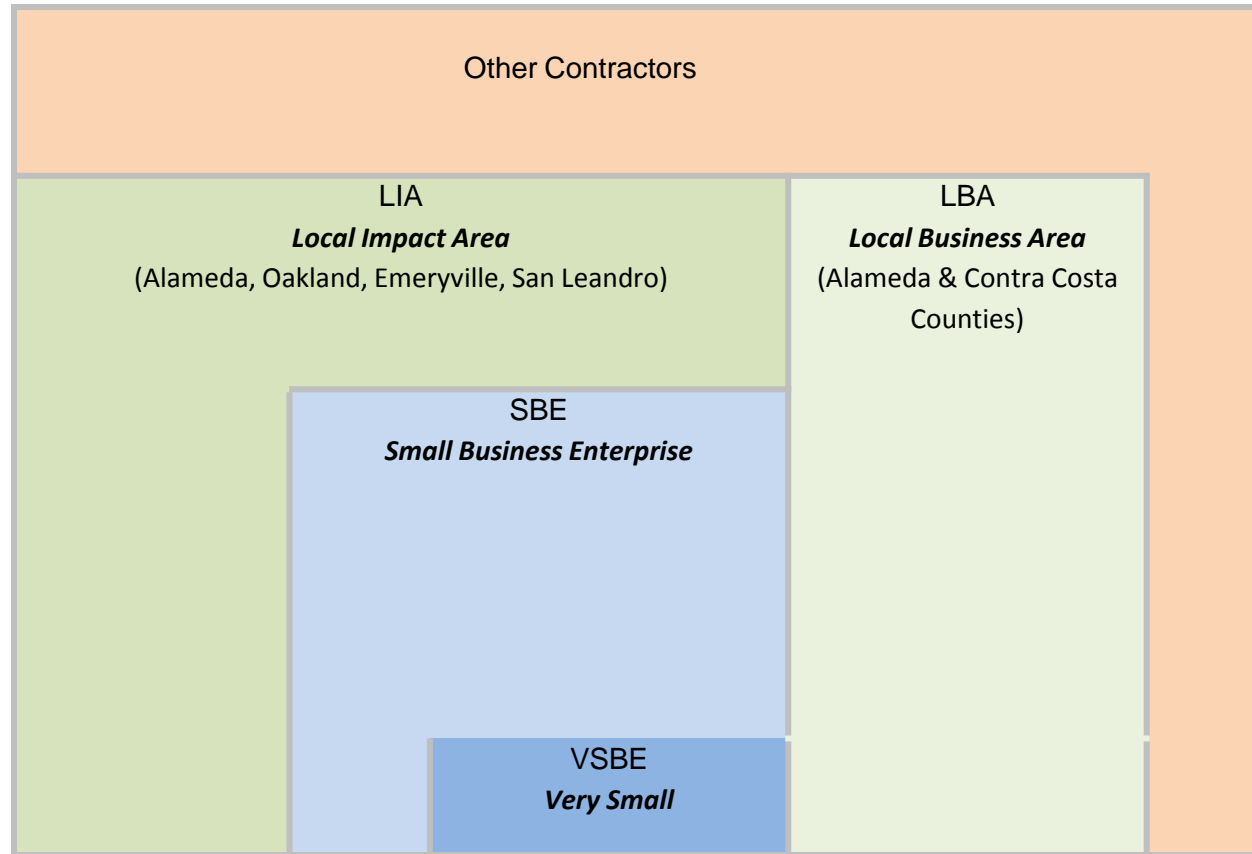
Goals:

- ✓ 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.

Data Analysis Scope

- Analysis of public works and professional services contracts awarded over the past five years (2010-2014).
- Analysis is *only* of contracts subject to the Nondiscrimination and Small Local Business Utilization Policy
 - does not include federally-funded contracts
- Analysis breaks down data by:
 - prime contracts vs. subcontracts
 - number of contracts vs. dollar amount
 - number of contracts vs. number of firms
 - awards to Alameda County businesses, Oakland businesses, and certified DBEs

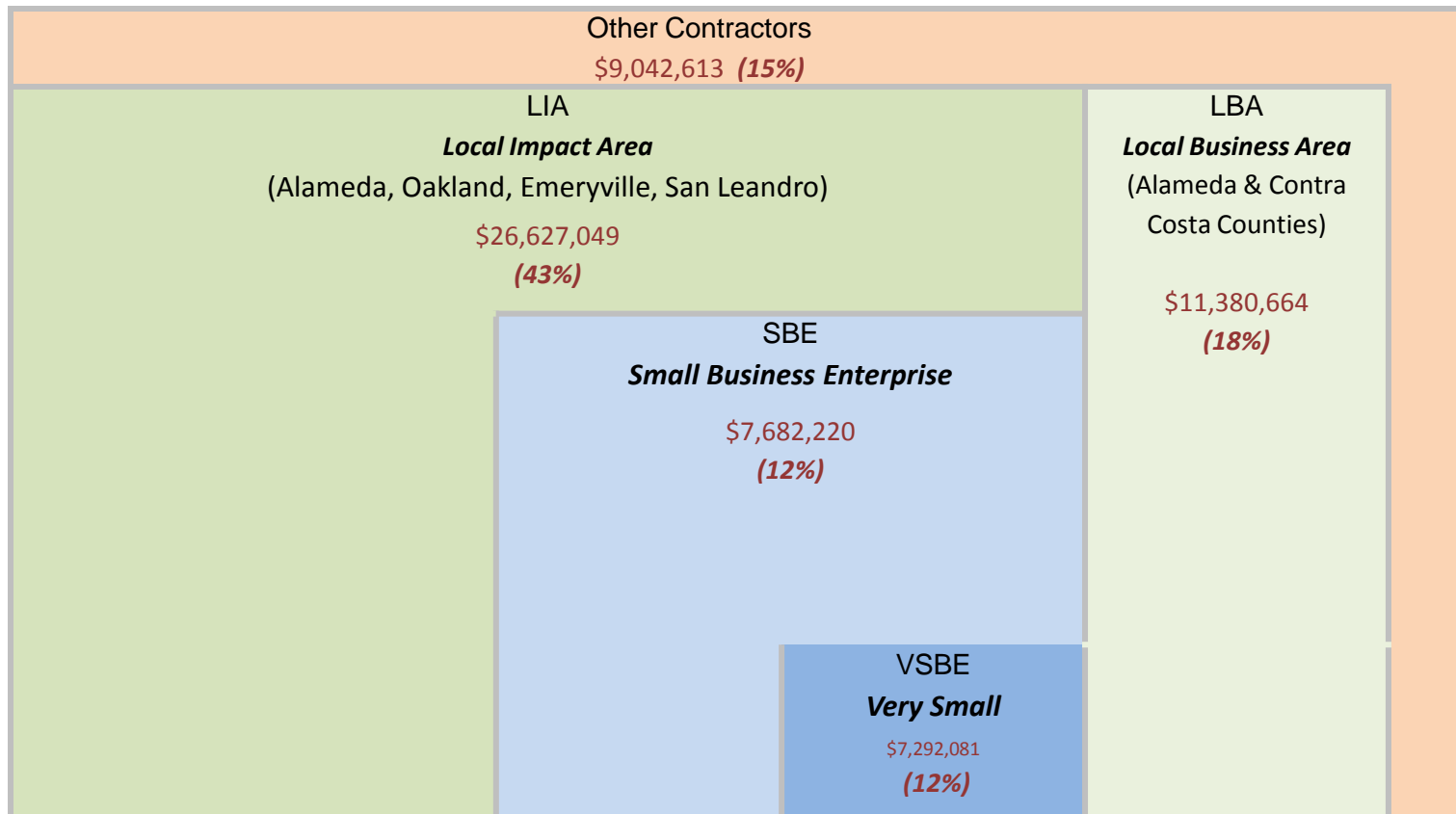
Relationship Between Certification Types



- All certified SBEs and VSBEs are based in the Local Impact Area.
- SBEs: avg. annual gross revenue of less than \$14,000,000 over the past three years.
- VSBEs: avg. annual gross revenue of less than \$3,500,000 over the past three years.

Dollar Amount of Public Works Contracts

Total Contract Awards = \$62,024,628



- chart includes both prime contracts and subcontracts
- 85% of dollar value was performed by LIA and LBA businesses
- 24% of dollar value was performed by SBEs and VSBEs

Overview of Public Works Contracts

	Total Contracts			Very Small Business Enterprise		Small Business Enterprise ¹		Small Business Snapshot (SBE & VSBE)	
	Number of Contracts	Number of <i>Firms</i>	Dollar Value	VSBE ¹ Number of Contracts (# Firms)	VSBE Dollar Value of Contracts	SBE ¹ 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%
<i>Prime</i>	30	22 *	\$43,983,969	2 (2)	\$1,492,445	5 (3)	\$2,020,720	23%	8%
<i>Sub</i>	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%
<i>Prime</i>	23	15	\$27,835,253	2 (2)	\$1,492,445	5 (3)	\$2,020,720	30%	13%
<i>Sub</i>	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%
<i>Prime</i>	15	7	\$21,393,495	2 (2)	\$1,492,445	4 (2)	\$1,973,620	40%	16%
<i>Sub</i>	23	17	\$11,761,036	10 (7)	\$5,795,636	4 (3)	\$5,545,500	61%	96%

Findings: Public Works Contracts

- 65% of dollar value was performed by Alameda County businesses
- 53% of dollar value was performed by Oakland businesses
- among SBEs and VSBES, good distribution of contracts among different firms
 - VSBE: 13 contracts distributed among 10 firms
 - SBE: 11 contracts distributed among 8 firms
 - roughly similar proportions for Alameda County and Oakland
- good distribution between prime and subcontracts, except for VSBES

A Snapshot of MBE/WBE/DBE Participation in Port Non-Federally Funded Public Works Contracts

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

	DBE <i>Disadvantaged Business Enterprise</i>			2014 <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
All	23	18	\$12,246,273				
<i>Prime</i>	0	0	0				
<i>Sub</i>	23	18	\$12,246,273				
Alameda	15	10	\$11,524,356	150	44	47	10
<i>Prime</i>	0	0	0				
<i>Sub</i>	15	10	\$11,524,356				
Oakland	11	7	\$11,329,806	28	24	13	7
<i>Prime</i>	0	0	0				
<i>Sub</i>	11	7	\$11,329,806				

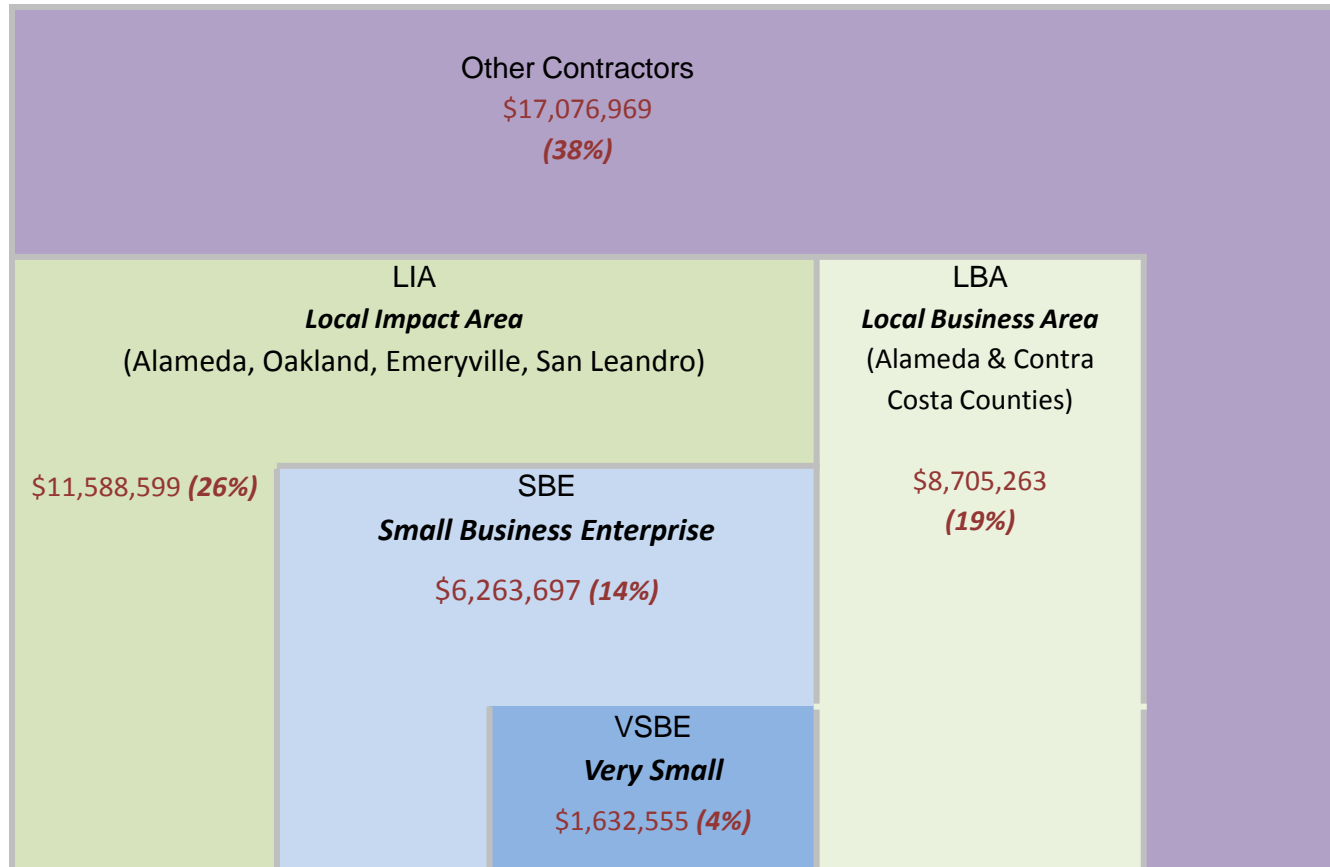
- DBEs *not* targeted on these non-federally-funded contracts
- total universe: 94 contracts for \$62,024,628
- DBEs received 24% of contracts and 20% of the dollars
- per CalTrans disparity study, Port is utilizing:
 - 29% of available firms in Alameda
 - 21% of available DBE firms in Ala. Co.
 - 85% of available firms in Oakland
 - 53% of available DBE firms in Oakland

Recommendation:

- An availability & utilization study will yield more information on the capacity and qualifications of available MBE/WBEs who are potentially certifiable as DBEs to perform Port contracts.

Dollar Amount of Professional Service Contracts

Total Contract Dollars = \$45,267,083



- chart includes both prime contracts and subcontracts
- 62% of dollar value was performed by LIA and LBA businesses
- 18% of dollar value was performed by SBEs and VSBEs

Overview of Professional Services Contracts

	Total Contracts			Very Small Business Enterprise		Small Business Enterprise ¹		Small Business Snapshot (SBE & VSBE)	
	Number of Contracts	Number of Firms	Dollar Value	VSBE ¹ Number of Contracts (# Firms)	VSBE Dollar Value of Contracts	SBE ¹ 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	123	110	\$45,267,083	9 (9)	\$1,632,555	17 (16)	\$6,263,697	21%	17%
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%
Oakland	49	41	\$15,453,938	8 (8)	\$1,631,971	13 (12)	\$2,940,147	35%	30%
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%

Findings: Professional Services Contracts

- 34% of dollar value was performed by Oakland businesses
- among SBEs and VSBEs, excellent distribution of contracts among different firms
- balanced distribution between prime and subcontracts
 - Oakland firms received more prime contracts than subcontracts
- good ratio of percentage of contracts to percentage of dollars, except for the # of small, Oakland-based subcontractors

Findings

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 adequately address the following goals that were the original intent when Policy was developed:

- 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
- avoiding discrimination against disadvantaged businesses.

However, there are ways to enhance the policy outcomes to increase participation and ensure future local, small and DBE contracting success.

Findings

- 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.
- 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, and build capacity in firms for future contracting.

Recommendations

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.

Goal of Pilot:

- Align contracting more closely with firm availability and capacity in the market
- Invest in capacity building among small, local and DBE firms
- Test a Port-wide more targeted contracting and outreach approach on projects
- Include the Port’s purchasing of goods/services in policy through a bid preference

Recommendations

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.

Recommendations

Policy changes for the Pilot Project:

- 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.

Recommendations

Policy changes for the Pilot Project:

- 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.

Recommendations

Policy changes for the Pilot Project:

- Other Policy amendments:
 - 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.

QUESTIONS?