

**ALAMEDA COUNTY
BOARD OF SUPERVISORS'
PROCUREMENT AND CONTRACTING POLICY COMMITTEE**

**Monday, September 14, 2015
3:00 p.m.**

Location: **Board of Supervisors' Chamber – Room 512 – 5th Floor**
County Administration Building
1221 Oak Street, Oakland, CA 94612

**Supervisor Nate Miley, Chair
Supervisor Keith Carson**

Staff: Steve Manning, O'Connell, Auditor-Controller
Caroline Judy Acting, Director, General Services Agency
Daniel Woldesenbet, Director, Public Works Agency
Susan S. Muranishi, County Administrator

Summary Action Minutes

I. Quarterly Auditor-Controller Procurement Contracting Report ECOP/COP/CCP Report

[Attachment](#)
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[Attachment](#)

Melissa Wilk, Chief Deputy Auditor, Auditor-Controller Agency, presented a written progress report on County Procurement. The report covers the period of July 1, 2009 through June 30, 2015. The data presented in the report is based on payments to contractors in the following categories: Construction, Architecture & Engineering (A &E); Professional Services; and Goods & Services. Total payments on contracts up to \$500,000 total \$626.3 million.

Vendor Survey Update

On July 1, 2015 approximately 27,000 supplier questionnaires were mailed out by the Auditor-Controller Agency. Approximately 4,825 responses (17.8%) were received. Staff received over 800 phone calls related to the survey; 400 phone calls resulted in actions to the database. An analysis is underway on all responses and undeliverable mail. The Vendor Pool will be updated when the analysis complete.

Caroline Judy, Acting Director, General Services Agency, presented a written report on the Agency's Enhanced Construction Outreach Program (ECOP). The report covers the period of January 2015 through August 2015.

In July 2015, the Job Order Contracting Program awarded three \$1 million contracts to MTM Construction Inc., STS Construction, Inc. and A CST Group Inc., doing business as Dynasel USA. The report also includes information on 2014 ECOP contracts.

The report included a list the Agency's bid conferences, trainings and outreach meetings. There were sixty-eight Bid Conferences held between April 2015 and August 2015. Events and Outreach included Assembly member Rob Bonta's seminar on Small Business Contracting and

Labor Law, Bay Area Black Expo. Trainings held included the Procurement Workshop Overview and the Pre-Apprenticeship Construction Training Program.

The report also included information on the Highland Hospital Acute Tower Replacement Project workforce utilization reports. The report included demographic information on the project's workforce as of June 30, 2015.

Daniel Woldesenbet, Director, Public Works Agency, presented a written report on the Agency's Construction and Outreach activities. The report covers the period of January through June 30, 2015.

The Public Works Agency received Board approval to award eight construction contracts, subject to the Construction Compliance Program (CCP) for a total of \$7,742, 250.33, from the period of April 2015 through June 2015. Of this total, 15% went to minority owned businesses and 5% went to women owned businesses.

The Agency received Board approval to award two construction contracts requiring Disadvantaged Business Enterprise (DBE) compliance for \$1,470,055 and \$431,912 with DBE participation at 10.44% and 10.99% respectively.

The Public Works Agency's upcoming activities include the Construction Contractor's Academy series of workshops.

The report also included workforce data for local residents and minorities for the period of January 1, 2015 through June 30, 2015.

II. Update on Vendor Pool and Market Analysis

[Attachment](#)

Caroline Judy, Acting Director, General Services Agency, presented a PowerPoint presentation on the Vendor Pool and Market Analysis as it relates to the County's Small Local Emerging Business (SLEB) program.

In September 2010, the SLEB program was approved by the Board of Supervisors. SLEB is an economic incentive-based program designed to provide access to contracting opportunities regardless of race, color, gender, age, religion, national origin, disability and any other factor prohibited when making business decisions.

Accomplishments of SLEB 2010 through 2014

- Created market opportunities for SLEB and Enhanced Construction Outreach Programs
- Standardized procurement and contracting policies, procedures and templates
- Strengthened compliance and training tools and established oversight functions

Vendor Pool and Market Analysis

The General Services Agency conducted a study of vendors and analyzed responses related to utilization, niche services, unsuccessful bidders, frequency of applying for contracts and incumbency.

The Market Analysis methodology included select contracts that are expiring or will be amended. The contracts were evaluated to determine the utilization and capacity of SLEBs.

Based on the result of the survey and market analysis, the General Services Agency will increase visibility of contracting opportunities and partnerships, streamline vendor registration process and increase competition for purchases under \$25,000.

III. Progress Report on Project Stabilization Community Benefit Agreement Workforce Utilization

[Attachment](#)

Caroline Judy, Acting Director, General Services Agency, presented a PowerPoint presentation on the Project Stabilization Community Benefit Agreement (PSCBA) Workforce Utilization.

The PSCBA was adopted by the Board of Supervisors in July 2012, for the East County Hall of Justice Construction Project and a countywide PSCBA was adopted in May 2013. Consultants Davillier-Sloan and A² Ventures were hired to assist in administering the program in 2014.

The purpose of the PSCBA is to focus on community participation, local hire and increase the pool of local workers available for apprenticeship and employment.

To date the PSCBA has trained County staff, tracked local hire and labor compliance, outreached to vendors and established a Disadvantaged Resident Worker program, where a PSCBA contractor must hire at least one new disadvantaged apprentice for the first \$1 million of construction and one additional disadvantaged apprentice for each successive \$5 million of construction.

The PSCBA will continue its focus on Disadvantaged Resident Workers and conduct post project completion interviews with bidders and building trades regarding the program.

IV. Brief Update on Contract Confidentiality Clauses or Provisions

Lori Cox, Director, Social Services Agency, reported that this item is related to a conflict of interest clause in contracts for the Social Services Agency. The contracts were included as item 2 on the Board of Supervisors' regular agenda meeting held on July 28, 2015. The Board approved the contracts, however an awardee declined the contract due to the conflict of interest language. There was a question on whether this language was in prior contracts, subsequently it was referred to this Committee for discussion.

Ray Lara, Deputy County Counsel, reported that the conflict of interest clause appears in all standard service agreements within the County. The language has appeared in contracts across the County including community-based organizations and non-profit legal service providers. The contract of interest has a survival clause, meaning that the language survives after the contract ends. If the language is changed in the contract in question, it would have to be changed in all contracts.

Donna Ziegler, County Counsel, stated that part of the Board's policy is to provide adequate liability protections for the County, which is why the language was added. Ms. Ziegler recommended that the Committee bring this item back for further discussion after all parties have met concerning the issue.

Speakers

Steve Weiss, Bay Area Legal Aid, stated that the language in question on the contract is an infringement on the attorney client privilege relationship. The language has not been in prior contracts accepted by Bay Area Legal Aid. The language affects Bay Area Legal Aid's work in assisting clients filing appeals for benefits and obtaining waivers from the Social Services Agency.

Jaclyn Piñero, Bay Area Legal Aid, stated that the conflict of interest language was in a previous 2014/15 DV Collaborative grant RFP, which was declined, for approximately \$38,000. The language appeared again in the recent Domestic Violence Service contract, which Bay Area Legal Aid has had for 15 years, without the language.

The language specifically states: "Contractor/Contractors recommended for an award will not bring any lawsuit against the County or participate in an action that is in any way adverse to the County or to the Alameda County Social Services Agency based on information obtained by contractor/contractors through its work under the contracts developed as a result of this RFP."

Bay Area Legal Aid has spoken with County Counsel and the Social Services Agency to determine how this language extends to other County contracts. There is no other local county adding such language in their contracts.

Brenda Adams, Bay Area Legal Aid, stated that the funds are essential to assisting domestic violence clients. If the language is not removed, Bay Area Legal Aid cannot accept the funding.

Charles Eddy, Urban Strategies Council, stated that the Alameda County Community Corrections Partnership Executive Committee recently released an RFP with language "the contractor must be willing to be objective and must not be aligned with any advocacy group and must evidence an ability to remain independent." There is a lot of advocacy surrounding the realignment funds and the language is concerning.

Recommendation from Procurement and Contracting Committee: County Counsel and the Social Services Agency will return to the Procurement and Contracting Policy Committee with a written report and recommendations.

PUBLIC COMMENT

None.