



**The MBE/WBE and Small Business Enterprise Procurement Program Advisory Committee convened in a Special Called meeting on Wednesday, September 9, 2020 via videoconferencing at 1:30 pm.**

**Board Members in Attendance:**

Reginald Worlds, Schiller Liao, Lena Banks, Daniel Berner, Usha Boddapu, Ahmed Moledina

**1. APPROVAL OF MINUTES**

The minutes for the regular meeting of March 10, 2020 were considered for approval. The minutes were approved on a motion by Committee Member Ahmed Moledina and seconded by Committee Member Lena Banks. Minutes approved on a 6-0 vote.

**2. NEW BUSINESS**

**a. Director's Updates and Announcements with discussion and possible action:**

- Council Resolution on Inclusive Procurement Working Group
  - Edward Campos provides an update on the Council Resolution passed by City Council last March in support of the Disparity Study. Council passed a resolution about forming an inclusive Procurement Working Group (official title). This working group will be made up of City staff and key MBE/WBE program stakeholders.
  - Collette Holt and Associates was selected work with the City to conduct the Disparity Study. Set up a meeting for the Advisory Committee members to participate in. Reached out to the Minority Trade Alliance members, the various major Chamber of Commerces around the City, different trade organizations, and others who are stakeholders to the SMBR program who use the program both internally and externally.
  - SMBR is in the process of creating a memo for Council and the Mayor regarding this Resolution. The memo will state our proposed makeup of the of the working group. The working group will start in August 2021.
  - Identified Reginald Worlds as the representative from the Advisory Committee to be a part of this working group. Reginald Worlds has history with the ordinance. He has a history with the program, he also brings expertise when it comes to Construction. He has dealt with programming in a variety of capacities as the sub as well as the prime. He serves as the Vice Chair over this Advisory Committee.
  - The resolution calls for the first meeting of the working group to get a briefing and an overview of the contents of the of the final draft of the Disparity Study.
  - The charge of the working group is to review the recommendations that will come out of the Disparity Study for improvements to the program as well as for the 11 items that the Council has requested us to look at. The 11 items were separated into four major buckets; certification, best

practices, communication and transparency, and recommendations of resources that our local small minority and women owned businesses really need that the current MBE/WBE program may not be covering in existing programs or initiatives.

- Advisory Committee members Lena Banks, Usha Boddapu, Schiller Liao, Daniel Berner, and Ahmed Moledina all agree with selecting Reginald Worlds as the representative from the Committee to participate in the Procurement Working Group.
  - Aiming for a group consisting of no more of 20 members to participate in the Procurement Working Group. Looking at people that serve in Construction, IT, Commodity and non-professional services, architect engineering world to have a good robust conversation about the recommendations that come out of the working group, and that the working group as a whole can stand behind those recommendations. Because these aren't recommendations that come from City staff, they will come from the community. The working group will be responsible for making those recommendations, as well as making the recommendations for Council.
- b.** Discussion and appropriate action regarding selecting officers (Chair and Vice-Chair) for the MBE/WBE and Small Business Enterprise Procurement Program Advisory Committee
- The Committee typically votes on this item in the April/May timeframe. City Clerk requested that this item be placed on the agenda, so the Advisory Committee has an opportunity to vote on a Chair and Vice Chair or for it to remain the same.

**Discussion:**

Committee Member, Reginald Worlds, asks for input from the Committee regarding keeping Committee Member Eliza May and Committee Member Reginald Worlds as the Chair and Vice Chair.

Advisory Committee members Lena Banks, Usha Boddapu, Schiller Liao, Daniel Berner, and Ahmed Moledina all agree that Committee Member Eliza May and Committee Member Reginald Worlds remain as the Chair and Vice Chair.

**3. OLD BUSINESS**

- a.** Update from SMBR regarding the Good Faith Effort Pilot Program
- Edward Campos, Interim Director provides an update on the GFE Pilot Program.
    - Had many discussions over an initiative that was created out of the MBE/WBE outreach plan created specifically for the 2016 mobility bond.
    - Worked with the community to try to look at areas where there were perceived or concrete barriers to full participation on City of Austin procurements as it relates specifically to capital improvement projects. It was identified that there is an issue with the good faith effort process.
    - We have an ordinance that outlines the seven steps that a contractor must show completed in order to be considered compliant. Based on recommendations from the prime contractor and subcontractor communities, an idea is to have SMBR conduct step one of this seven-step process. Step one of the process is for SMBR rather than the prime firms to undertake the notification of the MBEs/WBEs that are on the availability list for a project.
    - When SMBR reviews the areas of non-compliance, typically it is either the contractor did not contact everyone that they should have on that availability list. Or if they did, the second part is they did not negotiate with firms that submitted bids to them. We deem firms non-compliant on both issues quite frequently.

- Removing that step one and placing that burden on the SMBR staff ensures this step was completed and it limits the administrative burden that is put on the SMBR Compliance team when they review a contractor's good faith effort.
- Over the past several months we released four different projects with this pilot program attached to it. SMBR was only given authority to release between three and five projects based on the rules. And then based on the results of those projects, we made the determination of whether or not we were going to move forward in applying the good faith effort pilot program as part of the invitation for bid projects out of the quarter program led by Mike Trimble of the Austin Transportation department.
- Out of those results that we would apply it to the broader projects just out of the quarter program, not CIP projects, just those that we are discussing (about 18-20 projects coming up over the next 18-20 years).
- Part of the process is to keep the Advisory Committee updated in terms of participation to date for these projects. Tamela Saldaña, SMBR Compliance Officer and her team monitor these contracts daily, converse with the primes that have been awarded these contracts and discuss participation level with the project managers.
- Issued a series of 4 projects for the GFE Pilot Program. All the bidders we awarded or recommended for work to Council all over-achieved the goals on these projects, which was one of the items that we would be reviewing for to make a recommendation of moving this forward to those quarter program projects.
- The first project was a Major Transportation Improvements Indefinite Delivery Indefinite Quantity (IDIQ) project in support of the Transportation department. The project had 3 bidders. Council awarded the project to Muniz Construction, a certified minority firm that had good overall participation. Muniz Construction was awarded the project but when they got to contract negotiations, there were some issues, so the City decided to just cancel the project and hasn't decided whether they're going to rebid this project. It will remain on the report as a firm that was included in the pilot program.
- The second project was Howard Lane Water Main Extension which had 8 bidders. Council awarded this project to Smith Contracting whom overachieved on their goals.
- The third project was a Ullrich Lime Feed Loop which was a project for the Austin Water Utility. It is a very specialized work for the Austin water utility. It had 1 bidder. Matous Construction was awarded the contract and are currently working on the project.
- The fourth project was Highland Park Water and Wastewater Improvements. Phase One of the project was awarded to Santa Clara Construction, a certified minority company. It had 3 bidders. Santa Clara overachieved on their goals that were set on the project.
- Tamela Saldaña and her Compliance team monitor these projects daily. The team monitors for and addresses low participation (standard procedure). When necessary the team moves forward in terms of any potential violations or letters of concern.
- SMBR will provide monthly updates to the Advisory Committee regarding this pilot program.

We will make periodic updates to the Advisory Committee on participation levels to date on those projects.

- Received positive feedback from the Directors that are using this particular good faith effort pilot, from our Capital Contracting Office, and from the staff. Comfortable with moving this forward to the projects out of the quarter program.

**Discussion:**

Committee Member Usha Boddapu has been observing when the participation of Asians and Native Americans is zero. Asked when there are goals, do we have categories? Certified commodity codes or certified businesses that fall into those projects? Do we have any? Or do we have anything that fit into these construction projects?

Interim Director, Edward Campos responds that whenever there is a goal attached that says "A/NA" that means that there were trades that did have available Asian American and Native American vendors in those particular codes and that's why SMBR are set a goal for that particular ethnic category. When the firm started, they identified firms to fill the required goal for that particular area so there could be a variety of reasons why the participation is 0. It could be that their scope of work hasn't materialized in terms of schedule of values since we are talking about construction, they're getting ready to mobilize, there can be a variety of reasons. So Tamela Saldaña and her team note the participation and then ask questions. We will keep these particular projects with low numbers on our radar, especially when we have a high goal, and they came in at a high level, and then they are using them at a small level.

Committee Member Reginald Worlds add that some of these contract lasts for a few years. So sometimes you could be at the very, very tail end of the project. So for the first two years reporting for Asian Native American could be 0.

Committee Member Usha Boddapu asks if it is mandatory to meet those goals or are they just good faith estimates in those projects?

Interim Director, Edward Campos responds that in their compliance plan with Asian and or Native American firms that would teach on the project. For SMBR, when a firm is listed, that is a requirement that we use at that time.

Committee Member Reginald Worlds states that he is impressed with the numbers on the 4 projects.

Committee Member Reginald Worlds asks How does SMBR confirm negotiations as far as the general contractor with the subcontract?

Interim Director, Edward Campos responds that when we get a project in with compliance plans, at any point in time SMBR deals only with the first low bidder. If the project does not meet a particular ethnic category, then what we do is we do a good faith effort survey. SMBR verifies that all the available MBEs/WBEs on that availability lists were contacted by two verifiable methods. Next, we look to see if the prime submitted any bids that they received as part of their good faith effort process. We also do a good faith effort survey to the firms on that availability list as well as part of the good faith effort group. The SMBR Compliance team surveys those listed on the availability list, asking if a bid from XYZ company was received. SMBR does several things, to make sure that firms are compliant

Committee Member Usha Boddapu what are the key factors to award contractors? Is it a lowest bid or comparison of the quality of service or value proposition?

Interim Director, Edward Campos responds that it depends on the procurement and the contracting method that they that the department sets. For most of our capital projects, the City is going to call it an Invitation for Bid (IFB) or Request for Proposal (RFP). In that case, state law states to award the lowest responsive and responsible bidder. Responsible is the bidder demonstrating that they have done the level of work required for that project.

Interim Director, Edward Campos reminds the Committee that the reason why SMBR created this pilot program was to meet the needs of the of the stakeholders' feedback and that if we thought it was successful, it would be applied to the interface for bid projects out of the quarter program, or just the quarter program. Based on the information provided and discussed, he is going to be recommending that we move forward to those projects out of the quarter program.

Committee Member Reginald Worlds asks on the solicitation goals, low, medium or normal?

Interim Director, Edward Campos responds that we set goals on a project by project basis, every goal is different. These goals are average in terms of what we would normally see. Goals are based on the trades, the scopes of work that have been identified, and then the availability of our minority women or businesses within those trades.

**b. Update on the Disparity Study with discussion and appropriate action.**

- Tamela Saldaña, SMBR Compliance Officer presents the update on the Disparity Study.
  - SMBR has started with the focus group sessions, which had about 29 representatives from the industry, representing the minority business community and prime firms on August 21st and August 26th.
  - Several members of the Advisory Committee participated in two focus group sessions in late August.
  - Hosted a series of small focus groups with our team to include our Executive leadership and then a second focus group to include our staff.
  - Sample contract data files have been developed and forwarded to the Disparity Study team.
  - In July, sent the data request letter to the prime contractors (required legally in the disparity study where the contract data is validated on contractors). The team is primarily focused on that effort right now, following up with prime contractors who have yet to validate the contracting numbers that has been sent to them.
  - Scheduled interview sessions with several business owner that will take place in September. SMBR is still soliciting participation and solicits the Advisory Committee for help with businesses who were trying to get in contact to participate.
  - Our consultant, Collette Holt and Associates and their staff have also participated in several outreach sessions to talk about the Disparity Study and solicit participation. We have about 84 businesses registered for the business owner focus groups.
  - Added three additional focus groups that are important to the validation and review of our program and recommendations to the SMBR program. These are three optional staff interviews with City department staff. We have had one with the Aviation, Purchasing, Capital Contracting Office and other departments. We want input from our inspectors, our engineering firms, and our purchasers who work day- to-day administratively and get their input.

c. Monthly updates

- Tamela Saldaña, SMBR Compliance Officer, reviewed the monthly Council Awards, Third Party Project, and the Request for Change reports.
- Elton Price, Certification Division Manager, reviewed the Certification Roll report.

**ADJOURN**

Meeting adjourned at 2:29 pm