



ERIC GARCETTI  
MAYOR

## EXECUTIVE DIRECTIVE NO. 35

Issue Date: August 25, 2022

### **Subject: Equitable Access to Contracting Opportunities**

Each year, the City of Los Angeles spends approximately \$4.5 billion procuring goods and services. This spending power has a significant impact on the local economy, the businesses that are awarded contracts, and their workers. Strategic procurement is essential to uphold transparent, fiscally responsible governance and achieve the City's equity, economic, and environmental goals. Such a strategy must consist of stringent and consistent reporting requirements, standardization of procurement practices, and efforts to expand inclusion of small businesses that face barriers to contracting.

### **BACKGROUND**

According to the Small Business Administration, small businesses are responsible for nearly 50% of all jobs and account for 2 out of every 3 jobs created in the last 25 years. In California, small businesses represent 99.8% of all businesses. More than 43% of small businesses are owned by women and 27% are owned by people of color. A robust small business sector is key to advancing economic equity and prosperity in the City. One way the City can offer support is through business participation in government contracting. However, small businesses face many barriers that prevent them from participating in City contracting. Small businesses are often challenged by their limited capacity to meet bid requirements which entails having sufficient capital, a suitable workforce, knowledge of procedures, ability to meet stringent compliance requirements, and capability to submit complex applications. Women and people of color are particularly impacted as they tend to have significantly less capital in comparison to other population groups. This distinction is important as payment of City contracts can take a significant time to process. To ameliorate these challenges, both the Federal and State governments adopted set-asides and goals for small businesses as well as prompt payment deadlines for payments to small businesses.

Federally, contracts between \$3,500 and \$150,000 are automatically set-aside for small businesses. Contracts valued at more than \$150,000 are set-aside if there are two or more small businesses that are able to do the work. Large businesses must also submit subcontracting plans if contracts are more than \$700,000 for non-construction contracts or more than \$1.5 million for construction projects. Additionally, the Prompt Payment Act adopted in 1982 requires federal agencies to pay small businesses within 30 days after receipt or pay interest penalties on overdue payments to businesses for property or services. In the State of California, Executive Orders by Governors Davis and Schwarzenegger set annual 3% Disabled Veteran Business Enterprise (DVBE) and 25% Small Business participation goals. California also adopted the Prompt Payment Act in 1998 which requires State agencies to pay properly submitted, undisputed invoices within 45 calendar days of initial receipt or pay late payment penalties. In the City of Los Angeles, however, in accordance with Article III Section 371 of the City Charter, City Departments are limited to preferences for local businesses located in Los Angeles County and California. Additional preference may be provided by the recent passage of City of Los Angeles Charter Amendment BB which allows the City to narrow its bid preference to businesses located within the City's boundaries.

A Local Business Preference Program (LBPP) was established by Ordinance [No. 187121](#) in 2021 to encourage small and large businesses to compete for City contracting opportunities and establish or maintain local operations. LBPP provides that local small businesses or employers of local transitional workers receive up to 10% preference for contracts below \$150,000 and up to 12% for contracts above \$150,000. This preference provides a corresponding percentage deduction in the bid price amount used for bid evaluation as well as an increase in evaluation points. Prime contractors who are not local businesses but use subcontractors who hold a Local Business Enterprise, Local Small Business Enterprise, and/or Local Transitional Job Opportunities Program certification are also provided preferences.

Small businesses also benefit from having access to contracts that are comparatively smaller in value. To help more small businesses become primes, in May 2021, Commissioners on the Board of Public Works voted to officially establish Community Level Contracting across all the bureaus it oversees after a successful pilot with the Bureau of Engineering. Community Level Contracting provides more opportunities for Small Businesses to bid directly for contracts by unbundling some large contracts into contracts of \$100,000 or less. Most recently in June of this year, a motion was passed by the City Council ([Council file 22-0098](#)) in an effort to expand Community Level Contracting City-wide.

While these are positive steps towards inclusion, they are not enough. Preferences are used for bid evaluation only, and offering contracts below \$100,000, as provided by Community Level Contracting, while helpful in increasing opportunities for small businesses to qualify for contracts, is no guarantee that such contracts are awarded only to small businesses.

As one of the most diverse cities in the nation, it is further essential that equitable contracting opportunity is provided to all through aggressive and strategic outreach as well as increased access to support and education. I commend my predecessors, Mayor Riordan for signing [Executive Directive 2001-26](#) which sought to provide Minority Business Enterprises (MBEs), Woman Business Enterprises (WBEs) and all Other Business Enterprises (OBEs) an equal opportunity to participate in contracting by adopting outreach requirements; and Mayor Villaraigosa, for signing [Executive Directive 14](#) which increased efficiency, accessibility, and transparency to more businesses through the adoption of the Business Assistance Virtual Network (BAVN) - which has since been replaced by the Regional Alliance Marketplace for Procurement (RAMP) during my administration to help expand equitable access to regional private and public procurement opportunities.

In addition, I commend the Bureau of Contract Administration (BCA) and the Board of Public Works for their proactive efforts to increase small business education and outreach. However, because BCA is not structurally equipped to provide small business assistance Citywide outside of certification throughout the year, its reach is limited. Centralizing and coordinating outreach and support to small businesses that are pursuing a government contract would benefit small businesses as well as City Departments that receive Federal funding, but are often unable to meet inclusion requirement goals. Increasing support services to small businesses located within the City that bid for government contracts outside of the City - from County, State, Federal, and other cities - will further assure more dollars are invested into growing our City's economy.

Lastly, understanding the City's current procurement landscape is challenging as Departments are not instructed or required to collect a standardized list of information from businesses that they contract with. The City is unable to definitively determine which areas, industries, and types of businesses are faced with barriers to contracting without having reliable data. Any information currently available is fragmented, at best. This prevents the City from understanding which populations are left out of the procurement process, inadvertently creating an inequitable marketplace.

I hereby determine that standardizing business data collection is essential to guiding City policies and that supporting small businesses is conducive to the City's economy.

**Accordingly, I hereby direct the following:**

1) By October 1, 2022, each General Manager or Head of Department/Office shall adopt changes to its data collection and reporting protocols, including:

- Incorporate annual revenue, number of employees, location, industry, race/ethnicity of majority owner, and gender of majority owner in its data collection of all for-profit, privately owned businesses that bid for contracts, are awarded a contract, and/or receive payment for a contract from its Department;

- Request annually that all for-profit, privately owned businesses that bid for a contract, are awarded contracts, and/or receive payment for a contract from the Department to input (or update) their business profile, including annual revenue, number of employees, location, industry, race/ethnicity of majority owner, and gender of majority owner into the Regional Alliance Marketplace for Procurement (RAMP);
- Require prime contractors to include annual revenue, number of employees, location, industry, race/ethnicity of majority owner, and gender of majority owner in its data collection of all for-profit, privately owned businesses that receive subcontracting awards and payments for a contract with the Department;
- Require prime contractors to request annually that all for-profit, privately owned businesses that receive subcontracting awards and payments resulting from a contract with a City Department to input (or update) their business profile, including annual revenue, number of employees, location, industry, race/ethnicity of majority owner, and gender of majority owner into the Regional Alliance Marketplace for Procurement (RAMP);
- Input all procurement award data into the Regional Alliance Marketplace for Procurement (RAMP) to facilitate the analysis and reporting of diverse businesses' participation in the procurement process.

2) The City Administrative Officer, in conjunction with the Chief Procurement Officer, to include the following recommendations in the City's Strategic Procurement Document by July 2023:

- Analyze Charter Section 371 and produce recommendations to revise and include other beneficial non-lowest bid methods of evaluation to encourage the modernization of the City's competitive bidding requirements;
- Provide recommendations for potential City Charter amendments that ensure the inclusion of small businesses in the procurement process, if adopted;
- Provide recommendations for the addition of a Small Business Enterprise Inclusion Program to the City Charter, its benefits to the local economy, and resources required to enable the adoption of said program.

3) The City Administrative Officer, in conjunction with the Chief Procurement Officer, to report back within 60 days with recommendations for the following:

- The standardization of responses to bids from both contractors and subcontractors in order to increase communication, clarity, and transparency;
- Build compliance monitoring of subcontractor utilization and payment;

- Expedite payment of contract-related invoices through the elimination of redundant paperwork, use of electronic payments, and streamlining of procedures;
- Outline the resources required for creating a Small Business Division within the Chief Administrative Officer's Office of Procurement;
- In consultation with the City's Economic and Workforce Development Department, Office of Finance, and the Bureau of Contract Administration, provide a comprehensive business resource strategy guide detailing goals and implementation plans for the BusinessSource Centers, the City's Business Portal, and RAMP to act as resources for small and diverse businesses throughout the City and region.

Executed this 25<sup>th</sup> day of August, 2022.

A handwritten signature in black ink, appearing to read 'E. Garcetti', is written over a horizontal line.

ERIC GARCETTI  
Mayor