

**SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM**

TO: **Members of the Governing Board**

SUBJECT: **MEASURE Q EQUITY, INCLUSION AND OUTREACH
GUIDELINES FOR CONTRACTORS**

REQUESTED ACTION: **INFORMATION**

SUMMARY:

Solano County and the City of Winters will benefit not only from upgrades to the educational facilities and expansion of access to education afforded by Measure Q, but also through contracting and purchasing opportunities that the bond will produce. To this end, District staff proposes to establish Measure Q **equity, inclusion and outreach** guidelines for contracting; core values of the institution. This will be accomplished through implementation of a Small, Local, and Diverse Business Program (SLDBE Program).

The program is innovative and inclusionary; promoting diversity in contracting and procurement by extending Measure Q Bond Program opportunities to Solano County small businesses, minority-owned business, women-owned business and those owned by disabled veterans. Those businesses will be provided with opportunities as prime contractors, sub-contractors and material suppliers. The program is coordinated with the previously approved Project Labor Agreement (PLA), executed with the Napa-Solano Trades Council.

A full copy of the program document is available online at:
<http://www.solano.edu/measureq/planning.php>.

<i>Government Code:</i>	<i>Board Policy:</i>	<i>Estimated Fiscal Impact: \$0 Measure Q Funds</i>
SUPERINTENDENT'S RECOMMENDATION:		
<input type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL <input checked="" type="checkbox"/> NOT REQUIRED <input type="checkbox"/> TABLE		

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March 6, 2015

DATE SUBMITTED TO

SUPERINTENDENT-PRESIDENT

JOWEL C. LAGUERRE, Ph.D.
Superintendent-President

March 6, 2015

DATE APPROVED BY

SUPERINTENDENT-PRESIDENT



SOLANO COMMUNITY COLLEGE DISTRICT

PROPOSED Small, Local and Diverse Business Program

I. OVERVIEW

In 2012 voters approved Solano Community College District's Measure Q Bond to upgrade educational facilities and expand access to university college courses for District students and area residents. The Solano Community College District (District or College) has determined that the Solano County community can benefit tangibly not only from this structural expansion but through the contracting and purchasing opportunities that the Measure Q Bond program will produce. To this end, the Solano Community College District has established a Small, Local, and Diverse Business Program (SLDBE Program) to ensure access, equity and inclusion of Solano County businesses in the area of construction contracting associated with Measure Q Bond expenditures. This Small, Local and Diverse Business Program reflects the District's commitment its core value of *Equity*. The SLDBE program is innovative and inclusionary; defining and promoting *Diversity* in contracting and procurement by extending Measure Q Bond Program opportunities to Solano County small businesses, minority-owned business, women-owned business and those owned by disabled veterans.

Solano Community College District will take steps to encourage these Small, Local, and Diverse Business Enterprises (SLDBEs) to participate in Measure Q construction projects at the prime contractor and subcontractor level, and as suppliers. The program is compatible with District commitments in the Project Labor Agreement (PLA) executed with the Napa-Solano County Building and Construction Trades Council. The District anticipates that its Small, Local and Diverse Business Program will also enhance the employment of Solano County residents as local firms are more likely to hire local residents. However, the SLDBE Program does not interface directly with local hire strategies addressed in the PLA (See <http://www.solano.edu/search/?q=Measure+Q+Project+labor+Agreement&cx=01079521487372>). The Small, Local, and Diverse Business Program affirms the District's commitment to contribute to the economic vitality of Solano County.

II. DEFINITIONS

The following is a list of definitions for terms used throughout this SLDBE Program. The terms are arranged in alphabetical order.

1. "Bid" shall mean and include an offer by a bidder or contractor to perform or provide labor, materials, or equipment to the District for a price.
2. "Bidder" shall mean a person or firm who submits a bid.
3. "Construction work" shall mean all public projects as defined by section 22002(b) of the California Public Contract Code, including construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any District-owned, leased, or operated facility.
4. "Contract" shall mean and include any agreement between the College and a person or company to provide labor, services, materials and/or equipment for construction work.
5. "Contractor" (See definition of prime contractor).
6. "College" shall mean the Solano Community College District.
7. "District" shall mean the Solano Community College District.
8. "Diverse" shall mean a firm whose ownership has been certified by one of the certifying agencies recognized by the District **as either**: 1) at least 51% minority (MBE or DBE), 2) at least 51% female (WBE or DBE), 3) at least 51% disabled veteran or veteran (DVBE).
9. "Goals" shall mean the relevant share of Small Local and Diverse Business Enterprise participation.
10. "Joint venture" shall mean an association of two or more businesses to carry out a single business enterprise for profit, for which purpose they combine their property, capital, efforts, skills and knowledge. Each party to the joint venture must hold a current, active license in good standing and must share in risks and gains to the extent of the party's participation in the joint venture. To be counted for the purposes of this program, the individual firms of the joint ventures must be certified by an agency on the District's recognized list of certifying agencies.
11. "Local" shall mean a business enterprise with a business location in Solano County.
12. "Small" shall mean a business enterprise which together with any affiliates has 100 or fewer employees and has averaged annual gross receipts of fourteen million dollars (\$14M) or less over the previous three years. Such firms include any that are certified by the State of California General Services Agency.
13. "Small, Local, and Diverse Business Enterprise" or "SLDBE" shall mean an independently owned and operated business with an office located in Solano County, California and which, together with its affiliates, has 100 or fewer employees, and has averaged annual gross receipts of fourteen million dollars (\$14,000,000) or less over the previous three years as certified by the State of California General Services Agency; **OR** shall mean any independently owned and operated business with an office located in Solano County, California and whose ownership is of at least 51% minority status and certified by one of the agencies recognized by the District; **OR** shall mean an independently owned and operated business with an office located in Solano County, California office and whose ownership is at least 51% female and certified by one of the agencies recognized by the District; **OR** shall mean an independently owned and operated business with an office located in Solano County,

California office and whose ownership is at least 51% disabled veteran and certified by one of the certifying agencies recognized by the District.

14. "Participation" shall mean that in using one or more SLDBE firms to satisfy the District's subcontracting goals in the execution of the contract.
15. "Prime Contractor" shall mean any person(s), firm, partnership, corporation, or joint venture that submits a bid to perform construction related work, and/or enters into a contract with the District.
16. "Project" shall mean a contract or series of contracts required to complete construction related work that meets prescribed occupancy and use criteria.
17. "Subcontractor" shall mean any individual, partnership, corporation or other legal entity entering into a contract with the prime contractor to perform a portion of the work or supply materials, services and equipment required to complete the project.
18. "Supplier" is a firm that owns, operates or maintains a warehouse, production facility or store in which the materials, supplies or equipment described in the Specifications and required under the contract are both kept in stock and regularly sold to the public in the usual course of business.

III. PROGRAM IMPLEMENTATION

Solano Community College District

The Solano Community College President or designee will assume primary responsibility for implementing and achieving the goals of the program, and review all aspects of the program's operations. The program requirements may be supported by District staff, the Measure Q Program Manager or another consultant as determined by the President.

Pilot Program

At this time there is insufficient information regarding the availability of construction-related businesses in Solano County eligible to be certified as Small, Local, and Diverse through State of California programs or as Disadvantaged Business Enterprises (DBE) by the U.S. Government Department of Transportation. While the District will be able to assemble lists of already certified firms located in Solano County, this will produce an important but limited understanding of the potential pool of firms that could participate in the District's Small, Local, and Diverse Business Program.

Therefore, as a first step in policy and program implementation, the District will begin with a two year Pilot SLDBE Program. The pilot program will allow the District to:

- Ascertain its current level of small, local, and diverse business inclusion
- Assemble complementary demographic business information regarding potential small, local and diverse firms
- Test the attainability of aspirational participation goals
- Test the efficacy of the strategic SLDBE programmatic measures to attract and utilize small, local and diverse Solano County construction firms

Program Goals

The District's SLDBE Program will have an aspirational goal of 25% for both prime and subcontracting Measure Q Bond Measure projects. This goal aligns with State of California Small Business Enterprise standards. During the two-year Pilot Program, the goal for SLDBE participation will be set at 15%. In addition, during the two-year Pilot Program SLDBE goal requirements will be achievable through the combined participation of certified Local, Small Businesses (SBEs) and/or certified Minority-owned Business Enterprises (MBEs) and/or certified Women-owned Business Enterprises (WBEs), and/or certified Disadvantaged Business Enterprises (DBEs), and/or certified Disabled Veteran-owned Business Enterprises (DVBEs) **located in Solano County**. At the conclusion of the two year pilot period, the District will complete a program review to evaluate the efficacy of its program methods, determine the attainability of the aspirational 25% participation goal and adjust the percentage accordingly. This will keep the program closely aligned with the realities of the Solano County business community.

1. Design Build: Overall project combined participation goal of 15% for Small, Local, and Diverse Businesses. The District will count one hundred percent (100%) of the materials, supplies and services purchased from SLDBEs towards reaching the combined 15% goal.
2. Other Construction Projects with estimated contract values of \$15,000 or more: 15% Small, Local, and Diverse Business contracting/subcontracting goal. However, for the small projects between \$15,000 and \$250,000, the contracting provisions will request contractors to consider the SLDBE program as an opportunity to assist the community but will not include a fixed 15% goal or require Good Faith Efforts. These projects typically are fast turnaround and a good faith effort is not always possible. The intent will be to solicit bids from small, local and diverse vendors to ensure that the 15% goal is met from a cumulative standpoint for the smaller projects. The District will count one hundred percent (100%) of the materials, supplies and services purchased from SLDBEs towards reaching the combined 15% goal.

Program Procurement

District Program Managers or their designees will include SLDBE requirements in their project specifications, bid documents and contracts. Likewise, SLDBE Program requirements will flow down appropriately to subcontractors and be included in bids, specifications and contracts with lower tier subcontractors. Prior to award, recommended contractors will be required to submit certification documents for all SLDBE businesses included in their bids. As the District is not a certifying agency, it will accept the certifications listed below.

List of Certifications Recognized by the District

- State of California Department of General Services (SBE, Microbusiness, DVBE)
- Federal Department of Transportation/California Department of Transportation
DBE, MBE, WBE

- California Unified Certification Program (CUPC)—All Member Agencies – DBE
- California Public Utilities Commission (CPUC) – MBE,WBE
- Western Region National Minority Supplier Development Council (MBE)
- Women Business Enterprise National Council (WBENC)

Program Compliance

1. Design Build (D/B) and Lease-Leaseback (LLB) Contract: As part of their response packages submitted to the District, Design Build and Lease-Leaseback teams will be required to include a plan for how they intend to meet the 15% SLDBE goal. Failure to include the plan in their packages may render their proposals non-responsive.

- The Construction Manager will monitor the Design Build or LLB team progress in achieving the 15% SLDBE goal throughout the contract and coordinate with the Bond Program Manager for overall program compliance. Each month project contractors will be required to submit monthly SLDBE contractor/subcontractor/supplier reporting sheets (Appendix A-Monthly SLDBE Report Form) that track and display contract expenditures with these firms.
- If the Design Build or LLB team fails to achieve its intended SLDBE goals by the conclusion of the project, the team will pay the District the difference in the contract dollars stated in its proposal that would be directed to SLDBEs and the actual amounts received by SLDBE firms over the course of the project, **OR** reasonably demonstrate why the aims of the proposal were not achieved.

2. Hard Bid Contract: General contractors bidding on District projects will be required to meet the 15% SLDBE goal by listing their small, local, and diverse subcontractors and/or suppliers on the SLDBE Bid Form (Appendix B-SLDBE Bid Form) and submitting this with their bid. Contractors who fail to meet the 15% SLDBE goal must submit evidence of having made a Good Faith Effort to attempt to achieve the 15% SLDBE goal:

- a. These contractors must submit the Good Faith Effort Checklist (Appendix C -GFE Checklist) with the bid;
- b. The apparent low bidder must submit Good Faith Effort Documentation within two business days after bid opening. Note: The participation of a general contractor that meets the criteria for SLDBE shall be counted toward the 15% goal. The District will count one hundred percent (100%) of the materials, supplies and services purchased from SLDBEs towards reaching the combined 15% goal.

3. Good Faith Effort (GFE) To Attain SLDBE Goals: District contractors will be expected to meet the District SLDBE Program goals. If SLDBE goals are met a Good Faith Effort will not be required. In order to award a contract to a prime contractor that has not met the SLDBE goals, the District will require them to undertake and document their Good Faith Efforts to meet the goals. Successful

bidders that do not achieve the SLDBE and use Good Faith Efforts to comply with the program will be required to submit their Good Faith Effort Documentation within two (2) business days after bid opening. The District or its designee will review these efforts and make a determination of whether the contractor made a Good Faith Effort to attain the goals. Failure to make a Good Faith Effort or to comply with these requirements will render the bid or solicitation submitted non-responsive.

- The Construction Manager will monitor the general contractor's progress in achieving the 15% SLDBE goal throughout the contract and coordinate with the Bond Program Manager for overall program compliance. Each month project contractors will be required to submit monthly SLDBE contractor/subcontractor reporting sheets that track and display contract expenditures with these firms.
- No SLDBE may listed on the general contractor's bid form may be substituted or removed from the contract or have its contract modified without prior written College approval.
- In the event of a SLDBE substitution, the general contractor must make a good faith effort to replace the substituted subcontractor with another SLDBE.
- If the general contractor fails to achieve its intended SLDBE goals by the conclusion of the project, the contractor will pay the College the difference in the contract dollars stated in its bid documents that would be directed to SLDBE and the actual amounts received by SLDBE firms over the course of the project OR provide a reasonable and documented explanation via a waiver of why all of the intended dollars were not expended to SLDBE firms.

4. Tracking and Reporting: The Construction Managers will track and report on their respective projects and expenditures directed to SLDBEs within the informal bidding program and coordinate with the Bond Program Manager for overall program compliance

5. Participation: All managers and contractors working on the District's Bond program will be expected to participate in good faith with the Small, Local, and Diverse Business Enterprise program. During the term of a contract any willful failure to comply with the participation goals agreed upon by a Design Build, Lease-Leaseback team or a low bidder shall be deemed a material breach of contract.

IV. Outreach Strategies

The District or its designee will utilize several strategies to ensure that the Solano County business community is aware of its intent to do business with small, local, and diverse firms. It will seek to keep local businesses informed of District opportunities and encourage firms to participate in the District's bidding and procurement processes.

Opportunity Identification

Those parties assigned responsibility for implementing the pilot program will meet with Measure Q Bond Project/Construction Managers to identify best inclusionary options for smaller, local and diverse construction contractors and suppliers based on construction delivery methods for each Bond bid package. They will create a series of 18 month look ahead plans throughout the course of the Bond program for:

1. District Bond construction opportunities below the \$4.5M PLA threshold.
2. Subcontracting and supplier opportunities within the PLA structure.
3. Contracting opportunities for small projects with a value between \$15,000 and \$250,000 that can be targeted to SLDBEs.

Business Engagement

The District or its designee will undertake at minimum the following outreach activities to ensure that small, local and diverse firms are informed of District bidding opportunities and are encouraged to participate in the District's procurements processes.

1. Assemble and generate appropriate information about specific Bond related bid opportunities – fact sheets, flyers, short descriptions for electronic messaging.
2. Generate an outreach schedule to align with upcoming Bond related contracting and supplies.
3. Disseminate information to outlets accessible to or targeted to local firms: websites, social media outlets, organization newsletters, newspapers, etc.
4. Host events to inform local firms of specific District opportunities as well as how to bid on those activities.
5. Facilitate matchmaking between general contractors and potential local subcontractors and suppliers.
6. Outreach to and partner with union affiliates to connect with smaller local signatory firms and encourage them to bid on District opportunities.
7. Obtain lists of local contractors and suppliers from other public agency databases, current Bond contractors and suppliers, chambers of commerce (including ethnic chambers), industry associations, veteran groups; complete direct email/phone/mail outreach to potential local contractors and suppliers to invite them to District outreach events and inform them of upcoming opportunities.
8. Incorporate outreach information into general SCC community outreach for Bond program; targeting local chambers of commerce and business organizations.

Tracking, Compliance Monitoring and Reporting

1. Solicit demographic information from current District Bond contractors and suppliers. Track and report information.

2. Solicit demographic information from all contractors and suppliers awarded contracts with District including lower tier subs.
3. Require District primes to track payments to SLDBEs including lower tier subcontractors and suppliers tied to monthly invoicing procedures.
4. PM to monitor compliance with SLDBE program requirements.
5. Establish a clear tracking and reporting structure to facilitate data collection and quarterly (or semi-annual) reporting on results of SLDBE participation.
6. Prepare periodic reports to the Board of Trustees regarding program achievements no less than annually.
7. Review Pilot Program after second year to ascertain efficacy of operations in attaining goals and propose changes to enhance program operations and goal attainment.

V. IMPLEMENTATION TIMELINE

March – April 2015

- Finalize and approve Program Parameters and Goals
- Identify Opportunities
- Generate Appropriate Bid and Contract Language
- Establish Outreach Schedule
- Begin Initial Outreach Activities
 - Identifying local contractors and suppliers: meet with general contractors and union affiliates to brief them on the program and obtain assistance in identifying local contractors and suppliers; mine lists from other public agencies, chambers of commerce, construction associations; create a local contractor and supplier contact list
 - Creating basic informational materials
- Track and report on program progress

April – June 2015

- Continue outreach activities
 - Host project information meetings or matchmaking sessions at pre-bids as appropriate
 - Disseminate upcoming Bond opportunities to local contractors and suppliers
 - Disseminate upcoming District purchasing opportunities to local firms
- Track and report on program progress

July – September 2015

- Continue outreach activities
 - Host project information meetings or matchmaking sessions at pre-bids as appropriate
 - Disseminate upcoming Bond opportunities to local contractors and suppliers
 - Disseminate upcoming District purchasing opportunities to local firms
- Track and report on program progress

October – December 2015

- Continue outreach activities
 - Host project information meetings or matchmaking sessions at pre-bids as appropriate
 - Disseminate upcoming Bond opportunities to local contractors and suppliers
 - Disseminate upcoming District purchasing opportunities to local firms
- Track and report on program progress

Appendices

- Appendix A – Monthly Invoicing Report
- Appendix B - Bid Information
- Appendix C - Good Faith Effort Checklist Sheet



Small, Local, Diverse Business Program
APPENDIX C - GOOD FAITH EFFORT CHECKLIST SHEET

GOOD FAITH EFFORT CHECKLIST SHEET

To be completed by all Bidders who do not achieve SLDBE participation goals

Name of Bidder (please print legibly)

PLEASE INITIAL TO INDICATE EACH ACTION TAKEN.

_____ Bidder attended pre-solicitation or pre-bid meeting scheduled by Solano Community College District

_____ Bidder identified and selected specific items of project for which the contract will be awarded to be performed by SLDBE.

_____ Bidder advertised, not less than 10 calendar days before the bid opening date in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media, as specified by Solano Community College, for SLDBEs interested in participating in the project.

Name of publication in which advertisement was placed

Date advertisement appeared

_____ Bidder provided written notice of his/her interest in bidding on the contract to SLDBEs at least 10 calendar days prior to the opening of bids.

_____ Bidder followed up initial solicitations of interest by contacting SLDBEs to determine, with certainty, whether enterprises were interested in performing specific items of the project.



Small, Local, Diverse Business Program
APPENDIX C - GOOD FAITH EFFORT CHECKLIST SHEET

- _____ Bidder provided interested SLDBEs with information about the plans, specifications, and requirements for the selected subcontracting of material supply work.

- _____ Bidder requested assistance from community organizations; SLDBE contractor groups; veterans groups; local, state or federal disadvantaged business assistance officers; and/or other organizations that provide assistance in the recruitment and placement of SLDBEs as they are available.

- _____ Bidder negotiated in good faith with SLDBEs and did not unjustifiably reject as unsatisfactory bids prepared by any SLDBEs.

Bidder certifies that all actions marked on the checklist were performed by the Bidder prior to the bid opening date. Failure to complete the above checklist may result in finding the proposal to be non-responsive, subject to the Solano Community College's determination. This checklist is provided as a courtesy to the bidder and is not intended to be a waiver of or modification to any of the Specifications included in the Contract Specifications or in other Contract documents, including but not limited to the SLDBE Program. Each bidder must comply with all Specifications and Contract documents. The undersigned states that the representations made herein are made under penalty of perjury.

Name of Authorized Firm Representative (Please Print)

Title

Signature of Authorized Firm Representative

Date