

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

☒ Action ☐ Information

MEAD Number:
202243

Resolution:
☒ Yes ☐ No

TITLE:

Small Business Programs Office (SBPO) Update

PRESENTATION SUMMARY:

The Office of Internal Business Operations (IBOP), Office of Procurement and Materials (PRMT), and the Small Business Programs Office (SBPO) seeks to replace the current Small Business Local Preference Program (SBLPP) with the proposed Women and Minority Business Enterprise (WBE/MBE) Program for all non-federally funded procurement activities. Staff will also update the Board of Directors on important progress in its Disadvantage Business Enterprise (DBE) program.

PURPOSE:

To request Board approval for replacing the SBLPP with the proposed WBE/MBE Program. The proposed WBE/MBE Program will include a race-neutral small and micro business set-aside component which will designate certain procurements for local business enterprises who have their principal place of business physically located in the District of Columbia, the State of Maryland, or the Commonwealth of Virginia.

DESCRIPTION:

WMATA is committed to ensuring accessibility to business opportunities through four programs: (1) DBE Program, a federally funded program established pursuant to 49 CFR Part 26; (2) Small Business Enterprise (SBE) Program, a federally funded program part of the DBE program; (3) SBLPP established by the Board of Directors and funded through the operating budget; and (4) proposed WBE/MBE Program supported by non-federal capital funding.

The SBPO has conducted a review of the SBLPP's performance. This review resulted in the recommendation to replace the current program with the proposed WBE/MBE program. Importantly, as WMATA invests dedicated capital funding, the establishment of the proposed WBE/MBE program will assist and support small, local, women-owned and minority businesses in participating on contracts as a prime or sub-contractor. By creating economic opportunities throughout the region, the Program will create industry diversity and growth; increase employment of local citizens; and provide apprenticeships and job training.

Key Highlights:

There are currently four areas of focus in SBPO: goal attainment, the disparity study, outreach to small and minority businesses, and replacement of the SBLPP.

For FFY17 through FFY19, WMATA's established DBE goal was 22 percent. WMATA achieved 21.9 percent DBE participation in FFY17 and 21.4 percent DBE participation in FFY18. WMATA exceeded the 22 percent goal in FFY19 achieving 25.8 percent. For FFY20, WMATA re-established its DBE goal at 25 percent, and WMATA achieved 20.45 percent DBE participation primarily due to the impact of the pandemic crisis. Based on first quarter results of FFY2021, WMATA is currently achieving 24.92 percent of the 25 percent goal for this fiscal year.

The Disparity Study contract was recently awarded. Its findings will be a major source in finalizing the implementation of the proposed WBE/MBE program criteria. The study will help focus on the economic issues impacting minority businesses when competing for WMATA contracts.

PRMT and SBPO successfully closed-out 2020 by hosting two major outreach events in September and November. Participant registrations ranged between 300 and 400 businesses per event. Survey responses will assist in formulating the topics of discussion for 2021 outreach events. Replacing the SBLPP with the proposed WBE/MBE Program will allow for the following:

- Incorporation of race-neutral component, similar to the federal SBE program. Meet objectives more quickly and with greater visibility, by allowing more small businesses while under contracts to learn the business process and establish relationships and performance.
- Creating economic stability in the small business community, which is directly related to WMATAs Equity Initiatives.
- Custom program design of the set aside could result in an influx of new women and minority/small businesses in the certification program, which allows for a measurable increase in job creation, business expansion, tax revenues, etc.
- Per 49 CFR Part 26, this will satisfy the narrowly tailored program requirements.

Background and History:

The Board approved the Small Business Local Preference Program ("Program") starting with a pilot in October 2005 for a two-year trial period; and the Program was for non-federally funded procurement actions less than \$100,000. To participate in the program, participants had to be 1) a small business as defined by Department of Transportation (DOT) and Small Business Administration and 2) Local, which is defined as:

- located within the District of Columbia, the State of Maryland or the Commonwealth of Virginia.
- over the past two years, the Program represented 38% and 41% respectively, of simplified acquisitions;
- over the past two years, \$21.1M and \$27.4M, respectively, in simplified acquisitions were awarded to small and local businesses.

The DBE regulations require state and local transportation agencies that receive DOT financial assistance, to establish goals for the participation of DBEs in federally-assisted contracts. Each DOT-assisted state and local transportation agency is required to establish annual DBE goals and review the scope of contracts to establish contract-specific DBE subcontracting goals.

Discussion:

Small Business and Local Preference Program (SBLPP):

The Small Business Local Preference Program (SBLPP) is the smallest program of those presently administered by the SBPO. The SBLPP, in place since 2005, is meant to provide small businesses with a competitive advantage during the bidding process. It is based on the premise that the price preference would create more instances of direct contracting with WMATA and would therefore help small businesses to simultaneously, establish a successful performance history with WMATA, gain a better understanding of the procurement and contracting process, and increase economic strength and business visibility.

Proposed Women and Minority Business Enterprise (WBE/MBE):

The purpose of the proposed WBE/MBE program is to maximize prime and subcontracting activity, increase the pool of certified businesses, and create new contracting relationships between small businesses of similar sizes. The WBE/MBE's race/gender specific provisions will model the existing federal DBE and SBE programs. The existing DBE criteria and SBA business size criteria shall be used to determine overall eligibility for the proposed WBE/MBE program. All certified WBE/MBEs may bid directly to WMATA as a prime contractor and/or be considered for subcontracting when WBE/MBE goals are established. Staff will provide the Board of Directors annual reports of the utilization of the proposed WBE/MBE program.

Disadvantaged Business Enterprise (DBE)

On December 29, 2020, WMATA submitted its end-of-year analysis to FTA explaining the shortfall of the DBE Goal for the federal fiscal year. The letter outlines the corrective actions that are underway to meet the established DBE goal.

The Covid-19 pandemic was a major factor in WMATA's inability to attain the

2020 goal. The pandemic negatively impacted the award of contracts used to establish the triennial goal. As a result of the pandemic, WMATA focused efforts on awarding a large volume of contracts related to supporting the safety of the workforce and the travelling public.

The plan of contracts for FFY20 did not anticipate:

- 12 to 15 additional formal Covid-19 related procurements;
- 283 purchase orders for Personal Protective Equipment (PPE) and disinfectant supplies; and
- Information Technology (IT) equipment procurements of hardware to support telework requirements for non-essential administrative employees.

These procurements became the priority and unfortunately, slowed down the forecasted contracts to be awarded and impacted our ability to meet the DBE goal. The Covid-19 related procurements, emergency procurements, were not assessed in the DBE goals.

To enhance the ability to achieve the goal, the Procurement Review Committee (PRC) has been successful in establishing achievable contract goals on federally assisted contracts.

Previously manual, goal determinations are now added to the electronic system to maintain accountability for all entities involved in the process. Based on current year to date results, goal attainment is back on track.

FUNDING IMPACT:

None. This is an update to the Board	
Project Manager:	T. Suzette Moore, VP/Chief Procurement Officer
Project Department/Office:	Internal Business Operations (IBOP)/Office of Procurement and Materials (PRMT)

TIMELINE:

Previous Actions	A contract was recently awarded to conduct a Disparity Study. The analysis will determine if inequities exist in public procurement and contracting that adversely affect minorities and/or women.
Anticipated actions after presentation	<ul style="list-style-type: none">• Continue implementations of equity initiatives

	<p>strategies.</p> <ul style="list-style-type: none">• Full implementation of the proposed WBE/MBE program.• Develop marketing strategies for socioeconomic programs.• Conduct Disparity Study Analysis to determine if inequities exist in public procurement and contracting that adversely affect minorities and women.• Expand the outreach program.
--	---

RECOMMENDATION:

Approval of replacing SBLPP with the proposed WBE/MBE Program.

SUBJECT: RESCINDING THE SMALL BUSINESS & LOCAL PREFERENCE PROGRAM
AND AUTHORIZING THE WOMEN AND MINORITY BUSINESS ENTERPRISE
PROGRAM

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, Compact § 73 requires the Board of Directors to adopt policies and procedures regarding contracting and purchasing; and

WHEREAS, On October 20, 2005, the Board incorporated the Small Business & Local Preference Program (SBLPP) into the Office of Procurement and Materials' standard procurement practices (Resolution 2005-45); and

WHEREAS, As amended, the SBLPP provides small businesses located within the District of Columbia, the State of Maryland, and the Commonwealth of Virginia an opportunity to compete for non-federally funded procurements and contracting opportunities that are less than the simplified acquisition threshold in the Federal Acquisition Regulations; and

WHEREAS, The SBLPP has been underutilized; and

WHEREAS, Replacing the SBLPP with a broader Women and Minority Business Enterprise (WMBE) Program for all non-federally funded procurement activities will maximize prime and subcontracting activity, increase the pool of certified businesses, and create new contracting relationships for small businesses; and

WHEREAS, The WMBE Program will include a race-neutral small and micro business set-aside component to designate certain procurements for local business enterprises that have their principal place of business physically located in the District of Columbia, the State of Maryland, or the Commonwealth of Virginia;

NOW, THEREFORE, be it

RESOLVED, That the Small Business & Local Preference Program and all resolutions that established or amended it are rescinded in their entirety; and be it further

RESOLVED, That the Board of Directors authorizes the General Manager and Chief Executive Officer to implement the Women and Minority Business Enterprise Program to apply to non-federally funded procurement actions; and be it further

RESOLVED, That staff is directed to provide the Board of Directors annual reports of the utilization of the Women and Minority Business Enterprise Program; and be it finally

RESOLVED, That this Resolution shall become effective 30 days after adoption in accordance with § 8(b) of the Compact.

Reviewed as to form and legal sufficiency,

/s/ Patricia Y. Lee

Patricia Y. Lee

Executive Vice President and General Counsel

WMATA File Structure No.:
17.8.0 Small and Local Business Programs