

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

TO: **Members of the Governing Board**

SUBJECT: **REVISIONS TO MEASURE Q SMALL, LOCAL, AND
DIVERSE BUSINESS PROGRAM PILOT PROGRAM**

REQUESTED ACTION:

Information **OR** **Approval**
 Consent **OR** **Non-Consent**

SUMMARY:

On April 1, 2015, the Board approved Measure Q Small, Local, and Diverse Business Program (SLDB Program), including initiation of a two year Pilot Program. This program is intended to establish equity, inclusion and outreach guidelines and promote diversity in procurement by extending contracting opportunities to certified SLDB vendors (small businesses, minority-owned businesses, women-owned businesses, and disabled veteran-owned businesses) in the communities of Solano County and the City of Winters.

The two year Pilot Program was conducted, and a report summarizing the Pilot Program outreach

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STUDENT SUCCESS IMPACT:

- Help our students achieve their educational, professional and personal goals
- Basic skills education
- Workforce development and training
- Transfer-level education
- Other:

<i>Ed. Code:</i>	<i>Board Policy: 3225;3520</i>	<i>Estimated Fiscal Impact: \$0 Measure Q Funds</i>
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SUPERINTENDENT'S RECOMMENDATION: **APPROVAL** **DISAPPROVAL**
 NOT REQUIRED **TABLE**

Lucky Lofton
Executive Bonds Manager

PRESENTER'S NAME
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Robert V. Diamond
Vice President, Finance and Administration

VICE PRESIDENT APPROVAL

May 25, 2018

**DATE SUBMITTED TO
SUPERINTENDENT-PRESIDENT**

Celia Esposito-Noy, Ed.D.
Superintendent-President

May 25, 2018

**DATE APPROVED BY
SUPERINTENDENT-PRESIDENT**

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SUMMARY:

CONTINUED FROM THE PREVIOUS PAGE

efforts, participation results, and recommendations for the program was prepared and presented to the Board on April 4, 2018.

The Board directed a sub-committee of the Trustees serving on the Bond Steering Committee to further review the report and finalize the recommendation for revisions to the SLDB Program. With the goal of encouraging participation of both local and disadvantaged businesses, the final recommendations include:

- Revising the participation goal to be 20% of the construction cost achievable through the combined participation of the following:
 - Local DBE Businesses (minimum 10%)
 - Local non-DBE Businesses
 - Non-local DBE Businesses
- Delete the 'pay back' language, because it is not practical

The Board is asked to approve the attached revised Small, Local and Diverse Business Program.

The report is available online at: <http://www.solano.edu/measureq/planning.php>.



SOLANO COMMUNITY COLLEGE DISTRICT

Small, Local and Diverse Business Program

Revised June 6, 2018

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. "Participation" shall mean using one or more SLDBE firms to satisfy the District's subcontracting goals in the execution of the contract.
14. "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.
15. "Project" shall mean a contract or series of contracts required to complete construction related work that meets prescribed occupancy and use criteria.
16. "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.
17. "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.

Program Goals

Following a Two-Year Pilot Program, the District goals were adjusted to align the program with the realities of the Solano County business community. The District's SLDBE Program will have an aspirational goal of 20% (prime and subcontractors, suppliers) for Measure Q Bond construction projects. SLDBE goal requirements will be achievable through the combined participation of the following:

- Local DBE Businesses (minimum 10%)
- Local non-DBE Businesses
- Non-local DBE Businesses

DBE businesses include:

- Certified Small Business Enterprises (SBEs)
 - Certified Minority-owned Business Enterprises (MBEs)
 - Certified Women-owned Business Enterprises (WBEs)
 - Certified Disadvantaged Business Enterprises (DBEs)
 - Certified Disabled-Veteran-owned Business Enterprises (DVBEs)
1. Design Build: Overall project combined participation goal of 20% 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 20% goal.
 2. Other Construction Projects with estimated contract values of \$5,000 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 20% 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 20% 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 20% 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 20% 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 20% SLDBE goal throughout the contract and coordinate with the Bond Program Manager for overall program compliance. Project contractors will be required to submit quarterly SLDBE contractor/subcontractor/supplier reporting sheets (Appendix A-Monthly SLDBE Report Form) that track and display contract values with these firms.

2. Hard Bid Contract: General contractors bidding on District projects will be required to meet the 20% 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 20% SLDBE goal must submit evidence of having made a Good Faith Effort to attempt to achieve the 20% 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 20% goal. The District will count one hundred percent

(100%) of the materials, supplies and services purchased from SLDBEs towards reaching the combined 20% 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 20% SLDBE goal throughout the contract and coordinate with the Bond Program Manager for overall program compliance. Project contractors will be required to submit quarterly SLDBE contractor/subcontractor reporting sheets that track and display contract values with these firms.
- No SLDBE 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 and must submit evidence of this effort to the District.

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 SLDBE 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 project 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 \$5,000 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 prime contractors to track payments to SLDBEs including lower tier subcontractors and suppliers tied to monthly invoicing procedures.
4. Program Manager to monitor compliance with SLDBE program requirements.
5. Maintain a clear tracking and reporting structure to facilitate data collection and quarterly reporting on results of SLDBE participation.
6. Prepare periodic reports to the Board of Trustees regarding program achievements no less than annually.

Appendices

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



APPENDIX B SLDBE BID INFORMATION

PROJECT NO. _____ BID OPENING DATE _____ BIDDER _____

PROJECT NAME _____

BIDDER REPRESENTATIVE COMPLETING THIS FORM: _____

NAME _____ EMAIL _____ PHONE NUMBER _____

NAME OF SLD BE	CERTIFIED BY	CERTIFICATION FILE NO.	DESCRIPTION OF WORK OR SUPPLY	LOCAL	MBE	DVBE	DBE	WBE	Small	DOLLAR VALUE OF CONTRACT

LOCAL DBE BID AMOUNT \$ _____ = ACHIEVED %

(Minimum 10%)

LOCAL NON-DBE BID AMOUNT \$ _____ = ACHIEVED %

NON-LOCAL DBE BID AMOUNT \$ _____ = ACHIEVED %



SOLANO COMMUNITY COLLEGE DISTRICT

**SMALL, LOCAL AND DIVERSE BUSINESS PROGRAM
APPENDIX C**

GOOD FAITH EFFORT (GFE) CHECKLIST SHEET (2 pages)

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.

- _____ 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