



California High-Speed Rail **BRIEFING: November 2, 2023, Board Meeting** **Agenda Item #3**

TO: Board Chair Richards and Board Members

FROM: Catrina Blair

DATE: November 2, 2023

RE: Approval of Changes to the Small Business and Program Goals

Summary

This memo provides an overview of the Authority's proposal to align the Authority's small business goals with State and Federal Guidelines. Staff is requesting that the Board approve changes to the Authority's Small Business Program Goals, consistent with this memorandum.

Background

The Authority's Small and Disadvantaged Business Program, which was first authorized in 2012 and revised in 2015, established an overall small business goal of 30 percent. Currently, the Authority's 30 percent goal combines small businesses (SB) and disabled veteran owned businesses (DVBE), both of which are certified under the State of California, with disadvantaged business enterprises (DBEs), which is certified by the federal government.

In September 2022, the Governor signed Assembly Bill 2019 (AB 2019), which codified the state's 25 percent small business goal. The Authority is therefore proposing to update its small business goal to ensure compliance with this new requirement.

Prior Board Action

Resolution # HSRA 12-21- Approval of the inclusion of a 10 percent DBE race neutral goal, within the overall 30 percent SB goal, as described in the Small and Disadvantaged Business Enterprise Program (S/DBE Program)

Discussion

The Authority applies an overall 30 percent goal on its contracts, which includes a 10 percent DBE and three percent DVBE goal. The method that the Authority uses to apply the goal does not explicitly include the California state small business requirement for procurements.

Currently, the method the Authority uses to calculate goals has been confusing to the industry, as it is not aligned with state and federal standards. Additionally, the Authority has not met the 30 percent overall goal as a whole. While we are closer to meeting the goal on professional services contracts, it has been more difficult

to meet the goal on construction contracts. We endeavor to follow a more familiar process of state and federal requirements, while still maintaining an aggressive goal.

The Authority's new proposal still includes a 10 percent DBE and three percent DVBE goal that will continue to be applied across the total contract value, as more specifically explained below. The 25 percent California small business goal will be separately identified in order to comply with AB 2019 and will be applied on Authority contracts with state funds.

Over the last several years, the Authority's Small Business Team has engaged with several interagency work groups, stakeholder groups and other state agencies who have been instrumental in helping to establish best practices for small businesses as well as providing valuable input and recommendations for improvements to our program.

Federal Railroad Administration (FRA)

The Authority held several informational meetings with the FRA in 2022 and early 2023 and they were agreeable to the proposed changes. The FRA participates in the Authority's bi-monthly Business Advisory Council Meetings and continues to offer guidance to ensure the Authority continues to comply with Federal requirements to meet the Disadvantaged Business Enterprise Goal.

The Authority's Business Advisory Council (BAC)

In May and July of this year, the Small Business Team provided two presentations about the proposed goal changes to the Authority's Business Advisory Council. Also present during those presentations was the Director of the California Office of the Small Business Advocate within Governor's Office of Business and Economic Development.

Additionally, CEO Kelly, met with BAC members on September 26, 2023. Members of the BAC have expressed support for the proposed changes and through our constant engagement with this group we continue to receive feedback and recommendations.

Department of General Services (DGS)

DGS is the procurement oversight agency and business manager for the State of California. With the passage of AB 2019, the Authority's Small Business Team continues to work closely with DGS' Office of Small Business and DVBE Services to ensure that the Authority complies with all State requirements to meet the Small Business and Disabled Veteran Enterprise Goals.

Caltrans

The Authority's Small Business Team engaged in several discussions with the Caltrans Small Business Team. Caltrans also executes contracts with Federal funds and thus, the Authority believed it important to review the similarities and differences of our programs.

Below you will find an overview of the proposed SB Goal changes:

For 100% State Funded Contracts:

- A 3% DVBE Goal.
- A 25% Small Business goal using all categories that qualify under the state standard, which includes certified Small Business and Small Business Public Works (SB-PW).
 - Of that 25% we will designate 3% microbusiness.

For 100% Federal Funded (includes any grant funds) Contracts:

- Currently for 100% Federal Contracts the standard is 10% DBE, however, the Authority is proposing an increase to 17%.

For Contracts with Blended Funds:

- Blended contracts (which is currently how the majority of Authority contracts are classified) contain both State and Federal funds (including grant funds). For these contracts, the Authority is proposing to follow the State and Federal standard:
 - A 3% DVBE goal, which will be applied across the total contract value.
 - A 10% DBE goal, which will also be applied across the total contract value.
 - A 25% Small Business goal on the state portion of the contract, using all categories that qualify under the state standard, which includes Small Business and SB-PW.
 - Of that 25%, we will designate 3% microbusiness.

Legal Approval

The Legal Office has reviewed, and the proposed changes comply with state and federal law and comply with Authority policy.

Budget and Fiscal Impact

The Financial Office does not know of any direct budget or fiscal impacts stemming from the proposed change in small business goals but would note that additional clarity in the procurement process may result in more firms participating and competing in Authority procurements. Additional market competition in the procurement process may result in non-quantifiable savings over time.

REVIEWER INFORMATION	SIGNATURE
Reviewer Name and Title: Alicia Fowler Chief Legal Counsel	Signature verifying budget analysis: Signed 10/25/23
Reviewer Name and Title: Brian Annis Chief Financial Officer	Signature verifying legal analysis: Signed 10/25/23

Recommendations

The Authority’s Small Business Team recommends that the Board approve changes to the Small Business Program goals as follows:

For 100% state funded contracts, the Authority will apply:

- A 3% DVBE goal.
- A 25% Small Business goal using all categories that qualify under the state standard, which includes certified Small Business and SB-PW.
 - Of that 25%, we will designate 3% microbusiness.

For 100% federal funded (includes any grant funds) contracts, the Authority will apply:

- A 17% DBE goal.

For contracts with blended funds, the Authority will apply:

- A 3% DVBE goal, which will be applied across the total contract value.
- A 10% DBE goal, which will also be applied across the total contract value.
- A 25% Small Business goal on the state portion of the contract, using all categories that qualify under the state standard, which includes Small Business and SB-PW.
 - Of that 25% we will designate 3% microbusiness.

Attachments

- Power Point presentation
- Board Resolution