



# Memo

To: Christopher Hickey, Division Manager,  
Office of Equality Assurance, City of San José

From: Bob Silvas, President, Silvy Group

Date: April 23, 2018

Re: Addendum to 2018 City of San Jose Small Business Opportunity  
and Inclusion Project: Draft Summary Report – Service Order (#2)  
submitted by Keen Independent Research – April 2018

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Silvy Group was engaged by the City of San Jose (City), along with the Keen Independent Research/Milagro Marketing Joint Venture (Keen/Milagro) team, to examine the City's inclusionary practices in efforts to engage historically underrepresented businesses, small businesses and local businesses. Service Order #2 was issued simultaneous to Keen/Milagro and Silvy Group in a joint effort to assess the City's program. Silvy Group was tasked to research, engage stakeholders and develop recommendations for an inclusive race-and gender-neutral contracting program.

Keen Independent Research submitted a Draft Summary Report for its portion of Service Order #2 on April 13, 2018. This addendum is submitted to augment Keen/Milagro's findings with additional recommendations by the Silvy Group.

## **Evaluation of Potential Small Business Initiatives**

In the City of San Jose Summary Report, Keen Independent Research offered 10 ways the City might want to explore ways of expanding opportunities for small and underutilized businesses to perform locally-funded contracts. Some of these methods would call for including or expanding existing goals and preference programs. The City needs to be cautious in looking at implementing any one of these remedial-type programs. When applying a goal or utilizing preferences, there are steps the City should

take to maintain program integrity. Certification would be needed to verify that the recipient qualifies under the terms of the program. Furthermore, monitoring is also recommended to ensure the work is completed by the firm that claimed the benefit. The Los Angeles' program has a staff of ten that only work on certification and compliance to support their small business program.

An additional certification requirement would place more burden on the contractor. Multiple certification was one reason why the United States Department of Transportation asserted that all states must have a Unified Certification Program for its DBE program. This eliminates the need for eligible firms having to seek multiple DBE certifications from different agencies within the same state. The City's unique definition of "small business," which is not consistent with the Federal programs or the State's certification, does not allow for reciprocity or provide allowance to accept other certifications. Some agencies have used existing certifications as verification which removes some burden from the small business. However, the City should reexamine its definition to see how other certifications may be utilized.

Any program that provides a preference or requires a goal achievement must be closely monitored to maintain program integrity. Businesses that do not qualify may take advantage of ambiguities to meet the qualification criteria. The Federal Aviation Administration took in-depth steps over multiple years to develop guidance on what would qualify as a joint-venture to ensure that it was consistent with the ACDBE program objectives. To minimize these incidents, the City would have to carefully define its program while providing staff to monitor performance.

The Silvy Group believes that option 10 should be expanded to describe a more coordinated inclusionary process. This process is based on the premise that an expanded education curriculum, combined with access to valuable resources and a robust communication program, can expand the pool of qualified contractors. This approach was effectively used by the San Diego Regional Airport Authority. Staff resources are applied towards development and increasing the pool of qualified contractors.

The communication program is a combination of face-to-face meetings supplemented with a social media campaign.

## **Conclusions**

Silvy Group agrees with Keen Independent Research that the City should reexamine its Local and Small Preference Ordinance. This should include a review of the City's definition of "small business" and consider adopting either the state or federal definition.

Silvy Group reached out to small businesses, trade associations, chambers and other interested groups. Capability to communicate with the small business community proved to be a challenge. This is due to the lack of a current centralized database that can be used to reach out to the targeted small business contractors. In addition, many of the chambers and interest groups indicated that the City lacked an "advocate" for the small business community that would help to facilitate participation. The City does provide programs that assist some small businesses; however, these services are either unknown or insufficient to benefit the small contracting community.

### **Recommendation for Future Outreach and Communication**

To effectively progress, the City should improve its communication approach with the small contracting community. The lack of a central database with access to an effective communication portal is a deterrent to an effective inclusionary process. Prior to moving forward with additional research, the Silvy Group recommends an immediate action program to develop a central database, increase engagement and enhance the communication efforts to keep the local small business contractors better informed.

The feedback on the City's outreach efforts demonstrates a need for the City to build trust with the contracting community. As part of the immediate action program, the City would make significant improvement by providing an array of workshops, opportunity awareness events and expansion of its communication program. Through these events, the City should be able to build a more robust database that will provide access to more productive feedback.

Following the immediate action steps, the City should continue its research into the barriers and challenges that restrict participation and determine additional action.