



Memorandum

TO: COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Matt Cano
Julia H. Cooper

SUBJECT: SEE BELOW

DATE: November 13, 2018

Approved

Date

Nov. 15, 2018

**SUBJECT: CONTRACTING WITH LOCAL AND SMALL BUSINESSES IN FISCAL
YEAR 2017-2018**

RECOMMENDATION

Accept the annual report on City contracting with local and small businesses for Fiscal Year 2017-2018.

BACKGROUND

The City has implemented various programs and ordinances since 2003 to increase and encourage small and local business participation on City contracts. The most prominent of these was the adoption of the Local and Small Business Preference Ordinance (Section 4.12.320 of the Municipal Code) on May 4, 2004. Under the ordinance, when receiving responses to solicitations for goods and services, the City of San José views those local and small businesses more favorably than non-local and small competitors while still including factors such as experience and cost. Local business enterprise is defined by Municipal Code 4.12.030 as a business enterprise which has a San Jose business tax certificate and has either the principal business office or a satellite office with at least one (1) full time employee located in Santa Clara County. Small Business Enterprise is defined by Municipal Code 4.12.060 as a business enterprise which is by definition a Local business enterprise and has thirty-five (35) or fewer total employees.

In this report, the analysis is divided into contracts awarded by the Finance Department Purchasing Division, and construction/professional service (consultant) contracts awarded in the Capital Improvement Program (CIP) as tracked by the Public Works Department. With regard to construction contracts in the CIP, there are special considerations. By City Charter, with the exception of negotiated design-build contracts, construction contracts in excess of \$100,000 must be awarded to the lowest responsive and responsible bidder. There are currently no construction contract bidding preferences that can be applied toward local or small businesses for such

construction contracts. With the recent passage of Measure S on November 6, 2018 ballot, the \$100,000 limit will be increased to \$600,000 and more flexibility will be available in the future to consider local preferences on construction procurement projects. However, CIP consultant procurements are similar to any other professional service procurements in that, per Municipal Code Section 4.12.320(C), preference points are given to qualified local and small business enterprises. Although preference points can, and sometimes do, influence the outcome, CIP consultant procurements are predominately qualifications-based, and points awarded for experience, expertise, and project approach are the determining factors in selection.

ANALYSIS

Finance/Purchasing Awards

As outlined in Table 1 below, in FY 17-18, the estimated total annual dollars awarded increased by 9% when compared to FY 16-17. The estimated local market share for total dollars awarded decreased to 19% of total dollars spent, or \$39.7 million, while estimated awards to small business increased slightly to 9% of total dollars awarded, or \$18.1 million. Most of the local business awards are for maintenance and repair services that typically require a local presence in order to meet the service delivery requirements of the City.

Table 1: Finance/Purchasing Contracts and Purchase Orders

	FY 14-15		FY 15-16		FY 16-17		FY 17-18	
	\$ (in M)	%	\$ (in M)	%	\$ (in M)	%	\$ (in M)	%
All Suppliers	\$153.8	100%	\$189.6	100%	\$193.0	100%	\$210.7	100%
Local Suppliers	\$51.0	33%	\$62.5	33%	\$65.6	34%	\$39.7*	19%
Small Suppliers	\$7.7	6%	\$15.2	8%	\$15.4	8%	\$18.1*	9%
Number of Awards	#	%	#	%	#	%	#	%
All Suppliers	1520	100%	2048	100%	1985	100%	1967	100%
Local Suppliers	422	28%	593	29%	596	30%	251*	15%
Small Suppliers	142	9%	164	8%	159	8%	139*	7%

** Figures for FY 17-18 are estimates based on currently available reports. Staff is unable to replicate numbers reported in prior years and current numbers are better reflective of actual activity. Staff will make necessary reporting adjustments and explore further improvements for data capture and reporting.*

Not represented in the Table 1 figures are the Procurement Card (P-Card) program statistics. The P-Card program is established to streamline small dollar purchases and reduce the acquisition period for products and services where a competitive process is not required. In FY17-18, there were over 48,000 transactions totaling \$13.7 million. Finance estimates the annual impact of the P-Card program to local merchants was approximately 32% in spend, totaling \$4.5 million.

The Purchasing Division continued to expand efforts to participate in business outreach events and forums to educate local businesses on how to do business with public agencies, how to respond to bids, and specifically, how to do business with the City of San José. Six events have been attended or are scheduled by the end of 2018, including: Small Business Expo (hosted by Small Business Administration); 1st Annual Minority Women's Business Conference (hosted by California Asian Pacific Chamber of Commerce and National Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship); A Small Business Resource Fair (hosted by Hispanic Chamber of Commerce Silicon Valley); California Public Utilities Commission (CPUC)/Joint Utilities Small/Diverse Business Expo (hosted by CPUC/Joint Utilities); County of Santa Clara Business Diversity Fair (hosted by Santa Clara County and Valley Transportation Authority); Certification Workshop (hosted by Black Chamber of Commerce). In addition, the City's Vendor Guide on "Doing Business with the City of San Jose" was updated and is available in both hard and soft copy. Staff will continue work to research and pursue additional opportunities to participate in vendor fairs and small/local business events.

CIP Construction Contract Data

Per the City Charter and the Municipal Code, Public Works projects are categorized as either "major" (over \$100,000) or "minor" (under \$100,000). The dollar threshold will increase to \$600,000 with the recent passage of Measure S. Currently, Public Works only tracks the local and small business statistics for major projects, but process changes are underway to ensure that future reports track local and small business preferences for both major and minor public works projects. Table 2 below shows major public works contract activity for FY17-18, as well as the prior four fiscal years for comparison.

Table 2: 5-Year Comparison of Major Public Works Dollars and Awards

	FY13-14		FY14-15		FY15-16		FY16-17		FY17-18	
Total Dollars Awarded	\$127.8M		\$83.2M		\$232.0M		\$169.2M		\$290.3	
Local Contractors	\$52.0	41%	\$31.5	38%	\$33.8	15%	\$33.0	20%	\$158.4	55%
Small Contractors	\$6.5	5%	\$2.6	3%	\$11.6	5%	\$12.0	7%	\$8.2	3%
Total Contracts Awarded	66		59		74		82		50	
Local Contractors	22	33%	18	31%	27	36%	26	32%	13	26%
Small Contractors	10	15%	7	12%	13	18%	14	17%	7	22%

During the last five fiscal years, the CIP has demonstrated fluctuations in the number of construction contracts awarded and dollars awarded, however, FY17-18 saw a decrease in the number of contracts awarded with a substantial increase in dollars awarded. This increase was due to the award of two large Design Build Contracts (Headworks Project and Interim Four Gate Boarding Facility Project) totaling approximately \$137 million. The decrease in the number of construction contracts in FY 17-18 was attributed to a decrease in the number of grant funded transportation projects and fewer numbers of storm sewer and sanitary sewer projects.

In FY 17-18, local contractors were awarded 26% of the construction contract awards which was a decrease from the prior fiscal years, however, the \$158.4 million awarded to local contractors (55% of dollars awarded) was at a five-year high. Small contractors (who are also local per Muni Code definition) received 22% of the construction contract awards which was the highest amount awarded in the last four years, however, the \$8.2 million (3% of dollars awarded) was slightly lower than the two previous fiscal years. These numbers demonstrate that local contractors remain consistently competitive in construction contract dollars and awards on average each year.

Chart 1 below shows the construction contract award data from Table 2 graphically. As illustrated, the number of overall contract awards decreased significantly with a proportional decrease in local and small awards.

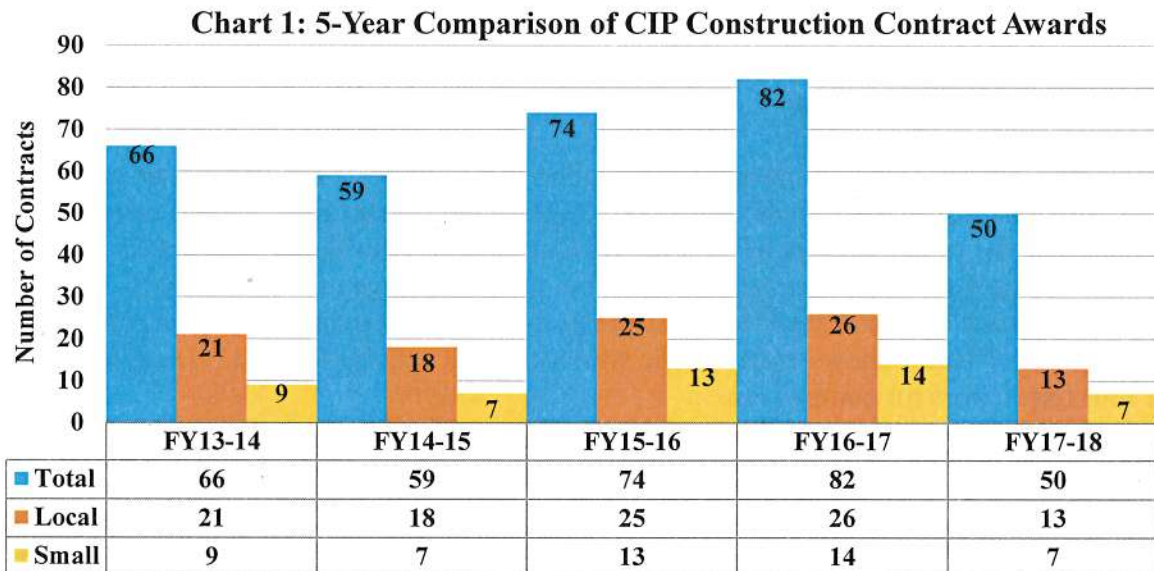
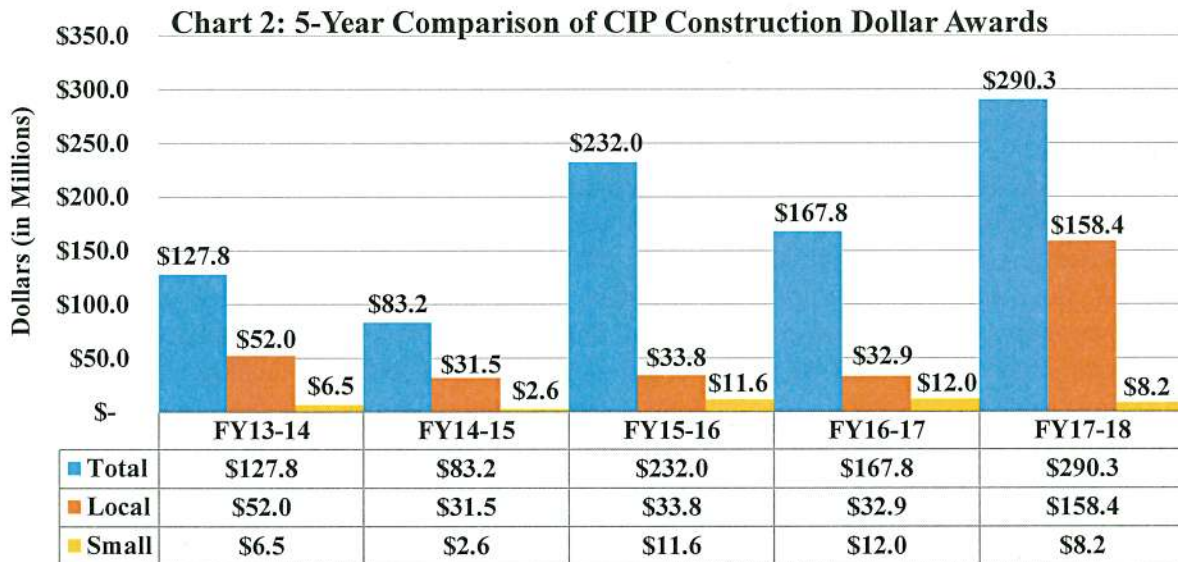


Chart 2 below shows the construction dollars awarded for the past five fiscal years. As illustrated, the proportion of dollars to local increased significantly and small contractors has remained consistent.



While Public Works tracks whether a construction contractor is local or small, it is important to reiterate that local and small preferences do not apply to construction contract procurements due to the Charter-based requirement to award to the lowest responsive and responsible bidder.

CIP Consultant Contract Data

In addition to administering procurements for its own CIP consultants, Public Works assists the Environmental Services RWF CIP with consultant procurements, and also collects CIP consultant local/small contract award data from the Departments of Transportation, Environmental Services, Park, Recreation, Neighborhood Services and the Airport. Table 3 below shows CIP consultant contract activity for FY16-17, as well as the prior four fiscal years for comparison.

Table 3: 5-Year Comparison of CIP Consultant Contract Dollars and Awards

	FY13-14		FY14-15		FY15-16		FY16-17		FY17-18	
Total Dollars Awarded	\$69.1M		\$24.1M		\$74.6		\$31.8		\$34.8	
Local Consultants	\$49.3	71%	\$13.8	57%	\$66.3	89%	\$22.7	71%	\$11.7	34%
Small Consultants	\$1.2	2%	\$4.4	18%	\$1.3	2%	\$2.7	8%	\$1.2	3%
Total Contracts Awarded	34		32		18		26		22	
Local Consultants	23	68%	19	59%	13	72%	16	62%	11	50%
Small Consultants	4	12%	8	25%	2	11%	6	23%	4	18%

Consultant procurement activity tends to vary depending on project resource needs and the longevity of prior contracts. For FY17-18, the number of consultant contract awards (22) was within range of the previous fiscal years, but remained consistent with a cyclical pattern of fluctuation.

The percentage (50%) of FY17-18 local consultant contract awards and the percentage of dollars awarded to local consultants (34% = \$11.7M) was slightly lower than the prior four years. The Small consultant firms (who are also local per Muni Code definition) awarded contracts (4) in FY17-18 was a decrease from prior year awarded, however, the percentage (18%) of contract awards was above the 5-year average of 16%. The dollars awarded (3%) was also below prior years number and below the five-year average of 8%. This reflects that local and small consulting firms remain competitive and are awarded a significantly large portion of the CIP consulting opportunities.

Chart 5 below shows the CIP consultant contract award data from Table 3 graphically. As mentioned above, there is annual variability to the number of consultant contracts procured in the CIP. While the awards to local and small firms fluctuate as well, they are significantly present each year.

Chart 5: 5-Year Comparison of CIP Consultant Contract Awards

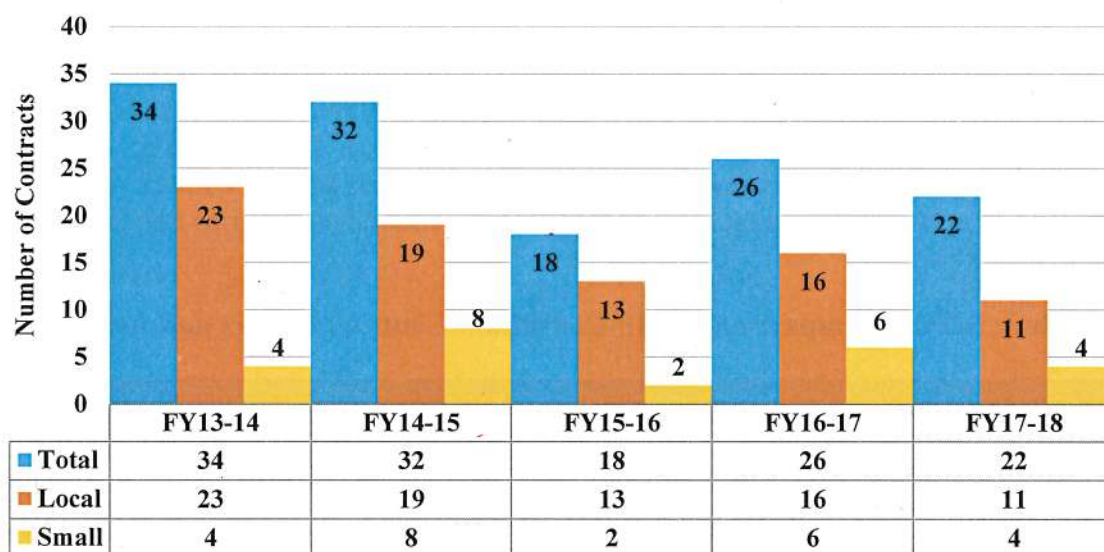
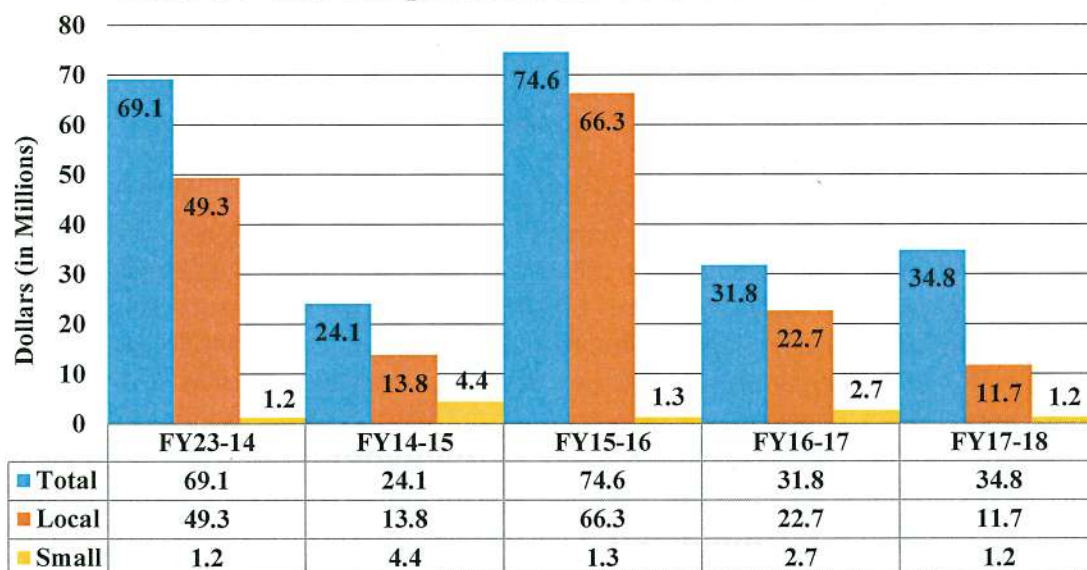


Chart 6 below shows the number of CIP consultant dollar awards for the past five fiscal years. Again, there is annual variability to the amount of consultant contracts procured in the CIP, local and small firms are consistently awarded a meaningful portion of the available dollars.

Chart 6: 5-Year Comparison of CIP Consultant Dollar Awards

Staff believes the Municipal Code preferences for small and local businesses have a positive effect on CIP consultant procurements and the consulting industry due to the fact that most consultants have established an office in Santa Clara County in an effort to remain competitive.

Outreach

Public Works continues its outreach to increase local contractor's participation by specifically offering opportunities to informally bid on minor public works contracts (under \$100,000 currently and under \$600,000 in the near future with the passage of Measure S) in an effort to further invest in local businesses. Currently, unlike larger public works construction contracts, minor public works contracts are not subject to the City Charter's bidding requirements and can be informally bid by a selected group of contractors who meet the bid requirements. Additionally, Public Works is working on a pre-qualification process for minor public works projects that will allow contractors to take care of the City's contractual requirements for projects in advance of bidding so they can be better prepared to quickly take advantage of opportunities. This pre-qualification process is scheduled to begin in early 2019.

In Q3/Q4 of FY 18-19, the Public Works Department will be hosting workshops aimed at local and small contractors to provide information on contracting requirements and how to learn of contract opportunities with the City in a continued effort to increase the awareness and outreach to local and small business.

In addition, two other efforts are underway toward increasing local/small contractor participation in City projects; the Ethnic and Minority-Led Business Grant Program and the Disadvantaged Business Enterprises.

Ethnic and Minority-Led Business Grant Program

In 2017-2018 Mayor's June Budget Message (Mayor Budget Message 6/2/2017, Item 5 (I)), Mayor Liccardo recommend that the City Manager reallocate \$50,000 in one-time funding from the Storefront Activation Grant Program to create a grant program with ethnic chambers that operate proven programs to assist businesses building capacity to engage successfully in procurement processes. The Ethnic and Minority-led Small Business Grant Program has been established, with the \$50,000 grant dispersed evenly to the Hispanic Chamber of Commerce and the Silicon Valley Black Chamber of Commerce. Both Chambers will provide City procurement workshops early 2019 to educate perspective businesses on the requirements of doing business with the City, as well as one on one counseling to directly assist businesses. In addition, the grant program has been extended for FY 18-19 for \$50,000. Staff also attended the Hispanic Chamber Event, FestivAll on October 19, 2018 and the County of Santa Clara Business Diversity Fair (hosted by Santa Clara County and Valley Transportation Authority) on November 2, 2018, to outreach to small business.

Council Priority #5- Disadvantaged Business Enterprises

Work continues on this priority that was established on June 23, 2015. On May 23, 2017, Council approved Master Agreements with Silvy Group and Keen Independent Research LLC and Milagro LLC, a Joint Venture, to provide consulting services toward the evaluation of the development of a Citywide Contracting Program. Keen Independent Research LLC is conducting research and developing programs, including resource requirements, discussed at the Community and Economic Development Committee on June 25, 2018. Silvy Group has developed an Outreach and Engagement plan focused on education by utilizing community centers and social media applications. Online tutorials, in-person workshops, and various media applications will be launched in January 2019.

Currently, the City's selected bid solicitation website, BidSync, has over 4,000 local and 2,500 small vendors registered to receive notices of contract opportunities through its bid notification system.

Conclusion

Considering the opportunities available to local and small businesses to contract with the City, they are typically very successful competing for contracts. It is important to note that many of the City's CIP construction and consultant contracts are large-scale and suited for larger and well-resourced firms. However, staff can and will seek opportunities to provide smaller project offerings directly to local/small construction firms using the minor (< \$100,000) contract process and by facilitating their ability to serve as subcontractors on larger projects. The Finance and

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

November 13, 2018

Subject: Contracting with Local and Small Businesses

Page 9

Public Works Departments will continue to track local and small business data in City contract awards in an effort to keep the CED Committee advised of participation levels.

COORDINATION

This memorandum was coordinated with the Departments of Transportation, Environmental Services, Parks, Recreation and Neighborhood Services, and the Airport.

/s/
MATT CANO
Director of Public Works

/s/
JULIA H. COOPER
Director of Finance

For questions, please contact Matt Cano, Director, Public Works at (408) 535-8477 or Jennifer Cheng, Deputy Director, Finance at (408) 535-7059.