

MAYOR'S TRANSITION TASK FORCE

on the

Metropolitan Transit
Authority

Report of the

METRO SBE Program

March 13, 2010

Committee Members

- Karen Becerra, Chair
- Shad Bogany
- Tim Dinh
- Linda Morales
- Ed Ryland

Methodology

- Total 53 meetings
- 117 interviews/surveys of small and diverse firms and organizations including
 - Houston Minority Supplier Diversity Council
 - Houston Hispanic Chamber of Commerce
 - NAMC (*National Association of Minority Contractors*)
 - CLEH (*Comerciantes Latinos Empresarios de Houston*)

Documents Reviewed

- List of Professional Service Categories of METRO, METRO Solutions & HRT
- Policy and procedures on how professional service providers are solicited, selected and negotiated.
- Policy and procedures for METRO's Mentoring Program.
- List of contractors with non-traditional fee structures (i.e. real estate, legal).
- Documentation on Contract and Program Advisors evaluation.
- Debriefing process and procedures for METRO, METRO Solutions & HRT
- Auditing and monitoring processes and procedures.

Documents Reviewed, continued

- Rating Sheet for bids.
- Organizational Chart for METRO, METRO Solutions & HRT
- Procedures to enhance small/disadvantage business enterprises.
- HRT Solicitation Summary
- List of Professional Services Categories 2009 Small/Disadvantage Participation Report.
- List of Contract and Program Managers.
- List of stand-alone projects for small businesses.
- HRT Policies and Procedures.

Current State Assessment

Key Findings

- METRO's SBE Program has good intentions but lacks sufficient, credible accountability.
- METRO's "Good Faith Efforts" have good intentions, however they also have obstacles to prevent inclusion.
- METRO's SBE Program has experienced some success but the program lacks sufficient articulation and communication of that success.
- METRO's lack of understanding of some of the professional service industries makes it unable to uncover abuse of the program in these areas.

Current State Assessment

Key Findings, continued

- Not all contracts are written with consistent SBE contract language.
- Some SBE/DBEs find it difficult to get in to do business with METRO, METRO Solutions & HRT
- Solicitations (RFPs) are put out then cancelled without any notification (*there is a cost associated to the SBE to participate*).
- Many opportunities for SB participation are not designed or attractive for SBE to participate (they seem to be designed for large firms).

Current State Assessment

Key Findings, continued

- METRO's SBE Program Managers see themselves with an "A" grade while the SBE community sees the program very differently (possibly a "D-").
- Some SBEs who ask for debriefings are not granted one.
- Some Program Advisors believe that METRO Solutions is reaching out and meeting the small business goals (#'s high), but they believe that METRO's Corporate SBE goals should be monitored as well.
- Some Prime contractors are not using Program Advisors to maximize the use of SBEs on METRO contracts resulting in subs being asked to participate in the initial phase without being allowed to carry out the work (no letter of intent).

Current State Assessment

Key Findings, continued

- Some Program Advisors believe the scope of work is altered to fit companies, and METRO's preferred vendors (politically connected), who want to do the work.
- There is a disconnect between the METRO SBE Program and the SB participants regarding their processes (*debriefings, responses, and RFPs processes*).
 - One SB complained that she was told of an award of a contract then kept receiving calls regarding the same contract and, additionally, the amount kept changing. Others have complained SBE program is just "too political."

Strategic Choices

1. To ensure full disclosure of financial and nonfinancial benefits received by contractors, as well potential conflicts of interest.
2. To implement a “Certified Accountability Program”.
3. To eliminate the “Sacred Cow” contracts.
4. To implement “Success Story” marketing.
5. That all SBE contract language be consistent in all contracts.
6. Implement an incentive or disincentive program for Primes. *(like METRO Solutions has implemented with the HRT contract).*

Strategic Choice 1: *To ensure full disclosure of financial and nonfinancial benefits received by contractors*

- Provide a full and clear understanding of how a contractor may benefit by soliciting input from industry leaders.
- Document and make third-party financial and nonfinancial benefits a part of total benefits received and include it in the SBE goals.
- Contractors, Sub-contractors, and employees must disclose their current and prior relationships with heads of departments and others in key decision making positions.

Strategic Choice 2: *To implement a “Certified Accountability Program”*

- Engage an outside CPA firm to audit and certify METRO’s and Prime Contractor’s Small/DBE Spending
- Hold Department Heads accountable for the validity and accuracy of information provided by Primes
- Hold Department Heads accountable for increasing and ensuring the maximum amount of participation of Small/DBE firms.
- Implement a “Reward Discipline” Program for all contracts with Small/DBE goals

Strategic Choice 3: *To eliminate the “Sacred Cow” contracts*

- Identify all contracts without Small/DBE goals and reevaluate.
- Implement a Task Force for each to investigate those services that have historically received little scrutiny and increase the level of Small/DBE participation i.e.
 - Legal
 - Real Estate
 - Accounting
 - Suppliers
 - Construction
 - Equipment

Strategic Choice 4: *To implement “Success Story” marketing*

- Identify Small/DBE success stories and obtain testimonials.
- Develop a METRO Success Story Campaign.
- Solicit and promote success stories internally
- Engage entire organization in building and identifying success stories. *(There needs to be a Culture Change)*

Strategic Choice 5: *To make SBE contract language consistent in all contracts*

- All contracts that have SBE goals should have the same contract language and requirements. This should be METRO's "*Standard Operating Procedure*" for all contracts with SBE goals.

Strategic Choice 6: *Implement an incentive or disincentive program*

- All contracts that have SBE goals should have
 - an incentive program to encourage Primes exceeding their SBE goals

AND

- a disincentive program (or some penalty) when Primes do not meet their SBE goals.

Strategic Choices: Implications

- Long term relationships will be disturbed and some political concerns may develop.
- Cost to implement Certified Accountability Program will require financial commitment
- There might be some reluctance by staff to change the culture.

Questions and Issues Outstanding

- The METRO Real Estate contract with McDade Smith Johnson & Mason
 - What is the number of total real estate transactions?
 - Awaiting documentation of fees associated with those transactions and who participated in the fees.
 - Oversight of McDade, Smith, Johnson & Mason SBE Utilization Plan. There is a lack of accuracy in the numbers associated with this contract.

Tactical Issues Requiring Action

- METRO staff should forecast Small Business needs so that Houston SB Community can create and build capacity to meet those future needs while keeping with “Hire Houston First” and “Buy Houston First” messages. This should be a part of the METRO Board’s Mission.
- There is a meeting pending with the Houston Hispanic Chamber of Commerce SBE community to collect additional concerns and information.

Closing Considerations

It is critical that this effort continue to raise issues, highlight successes and demand accountability; it should not end with the sunset of this committee. What we realize from our past experiences is that when oversight and questions go away the abuse and lack of accountability return. This is a tremendous opportunity to bring credibility and integrity to an agency that has been questionable for years. SBE businesses have the ability to bring value to the community while also helping to bring creative innovative cost saving solutions. This effort must and should continue.