

APPENDIX G.

Best Practices for Mega Projects and Public-Private Partnership Projects

Due to the complex nature, risk, and dollars involved in mega projects and Public Private Partnerships (P3s), an effective and sustainable small business program must be in place to strengthen small businesses and help them build capacity for required work. A successful and sustainable small business program begins with agency commitment at all levels and throughout all departments. The program should have the ability to sustain itself even in the event that key staff or program champions leave the agency. When that level of commitment is absent, the program will typically default to being driven by perfunctory efforts in lieu of strategies that enable businesses to perform work for the agency and continually build on their experience and capabilities. Leadership commitment involves decision-makers being focused, strategic, and methodical about small business initiatives and incorporating those initiatives into the core values of the organization.

BBC Research & Consulting (BBC) describes best practices for implementing strong and sustainable small business programs for mega projects and P3s. They include strategies and efforts to reduce barriers for small businesses; enable their success on projects; and build their capacity for growth. BBC describes practices that can be implemented by the agency, the project team, or both. BBC has organized best practices into the following categories:

- General Practices;
- Communication and Outreach;
- Supportive Services;
- Capacity Building;
- Program Oversight, Compliance, and Reporting; and
- Workforce Development Program.

General Practices

Consideration for small business participation and growth needs to be embedded in the general procurement process with all relevant stakeholders involved in the planning and execution of a mega project or P3. Examples of best practices that have been shown to be particularly effective in encouraging small business participation are described below.

Relationship building. It is important for agencies and project teams to establish ongoing, sustainable relationships with small and disadvantaged businesses rather than only engaging with them in a one-off manner. Doing so can result in more meaningful commitments from small and disadvantaged businesses and more competitive pricing. Project teams should begin building such relationships before the need arises for particular solicitations. Those efforts

might include working with small businesses on private sector projects. Doing so enables trusting relationships to grow and opportunities for project teams to understand the true capabilities with small and disadvantaged businesses. Agencies can emphasize the benefits of such efforts prior to awarding mega projects or P3s to prime contractors.

Project goals. Agencies should establish realistic goals for the participation of small businesses in individual mega projects and P3 projects. Those goals should be based on the availability of small businesses for the various types of work involved in each project. When feasible, agencies should reach out to both the small and large business community for input into goals (e.g., via goal setting committees or community roundtables).

Small business set asides. As part of mega projects or P3 projects, many agencies identify certain contract elements to set aside for small business bidding (e.g., contracts of particular work types worth less than \$100,000). Small business set-asides are effective in helping small businesses compete for small, manageable contract elements. Performing that work helps them build experience and increase their capacity for larger projects in the future.

Unbundling contracts. During the design phase of mega projects or P3 projects, project teams should be cognizant of the size of individual contracts associated with the project and how accessible they are to small businesses. Project teams should make efforts to unbundle contract pieces into appropriate sizes to encourage small business competition. It is important that such efforts take place during the design phase of projects and not during the scoping process to avoid confusion and any misalignment between design objectives and the final scope.

Scope definitions. Because mega projects and P3s typically use bid document management systems for soliciting small and disadvantaged businesses for contract opportunities, and those solicitations are usually organized by industry codes, it is critical that the agency or project team accurately defines the corresponding industry codes early in the process. Doing so will ensure that businesses receive bid solicitations that correspond to their primary lines of work and interest. The agency or project team should include detailed scope definitions for all available contract elements. In addition, it is often helpful for the agency to provide information about performance and pricing on similar projects for which it contracted in the recent past. Information about the required pricing structure may also be useful (e.g., lump sum, hourly pricing, or time and materials).

Providing timely communication. Once the project team has been awarded a mega project or P3, the project team and the agency must communicate information about bid opportunities, project schedules, and contract values to the business community in a timely and effective manner. Timely, detailed communications help small and disadvantaged businesses prepare for solicitations in which they are interested while effectively managing their current workloads. Both project teams and agencies should use tools to help facilitate effective communication about bid opportunities (e.g., yearly calendars or six month outlooks). In addition, it is important that project teams and agencies do not rely on passive approaches to soliciting small and disadvantaged businesses but instead use approaches that push information directly to those businesses via e-mail, mobile applications, face-to-face interactions, and other tools.

Discipline Group Opportunity Sessions (DGOSs). An effective means to provide information and communicate project requirements to small and disadvantaged businesses is for agencies and project teams to host Discipline Group Opportunity Sessions (DGOSs) during the outreach and pre-bid phases of mega projects and P3s. DGOSs are tailored specifically to particular work areas that will be relevant to upcoming mega projects and P3s and focus on providing discipline-specific information and requirements to participating small and disadvantaged businesses. It also enables those businesses to market their capabilities to the project teams. DGOSs are particularly useful for architectural, engineering, surveying, and other professional services firms, because those types of contracts are typically awarded at the beginning phases of mega projects and P3s.

Training sessions. For mega projects and P3s, part of the prequalification process should include small business participation in a specified amount of training hours to learn how to successfully bid, perform and meet contractual requirements on such projects. Agencies and project teams can be responsible for facilitating and tracking attendance at the training sessions. Training sessions should be offered on an ongoing basis rather than just before bidding. The sessions should also be attended by all relevant levels of agency and project team staff.

Partnerships. In many cases, a small business might have the experience that is relevant to performing a particular contract but not the capacity to do so (e.g., the business might be able to perform \$125,000 worth of work but the contract is \$500,000 worth of work). Agencies should provide guidance on how two or more businesses can develop partnerships that will allow them to pool their resources and compete for larger contracts. Such partnerships would not necessarily have to take the form of joint ventures (JVs). JVs tend to be complex arrangements that require legal resources that are often cost and time prohibitive for small businesses.

Supply lists. For small businesses who supply construction materials, gaining access to mega projects and P3s can be difficult, given that their pricing may not be as competitive as that of large, national suppliers. To help level the playing field, project teams can provide small and disadvantaged suppliers with lists of the types of materials that will be needed on particular projects. Small and disadvantaged suppliers may not be price competitive for all items but may be price competitive on certain items, allowing them an entry point into supplying materials on mega projects and P3s.

Contract awarding and management. As part of awarding and managing contracts on mega projects and P3s, agencies and project teams should establish clear evaluation and selection processes; value both technical capabilities and price in the selection process; and ensure that the process is fair, open, and transparent. Agencies should also ensure that evaluation team members are trained on the specifics of small business procurement processes; how to evaluate all bidders in an unbiased manner; and compliance with procurement documents. After contract award, agencies should monitor whether project teams eliminate or reduce scopes of work for small businesses.

Communication and Outreach

Ongoing communication and outreach are two foundational pillars of a successful small business program for mega projects and P3s. Those efforts drive awareness, participation, and

development among small disadvantaged businesses. In order for them to be effective, owners and project teams must take a holistic and comprehensive approach to implementing them. Examples of best practices in communication and outreach are described below.

Foundational components. There are certain types of meetings and presentations that agencies and project teams should consider foundational to effective communication and outreach plans as part of mega projects and P3s. Such events include:

- Pre-bid meetings;
- Open houses;
- Trade organization meetings; and
- One-on-one meetings.

Such events and presentations should be held at strategic venues that are well-known to the business community and at times that are convenient to most businesses that might be interested in pursuing contracting opportunities.

Other elemental components to effective communication and outreach include:

- Small and disadvantaged business databases;
- Project websites;
- Monthly newsletters;
- Community event sponsorship and participation; and
- Engagement with small business resource organizations.

Continual outreach. Agencies and project teams should communicate with and outreach to small and disadvantaged businesses on a continual basis as opposed to on a project-by-project basis. Continual outreach enables agencies and project teams to leverage resources, relationships, and knowledge gained over time as opposed to forging new relationships with small businesses just before the bid periods begin on new contract opportunities. In addition, agencies and project teams should be tracking and maintaining a database of their work histories with small and disadvantaged businesses. Doing so helps facilitate the transfer of knowledge to new personnel and builds on past relationships with small businesses.

Market assessment. It is crucial for an agency to understand what small and disadvantaged businesses exist within their local marketplaces and understand any barriers that those businesses are facing in competing for agency contracts. Information from the 2017 disparity study will provide the Los Angeles Metropolitan Transportation Authority (Metro) will provide substantial information about those topics. That information can help Metro tailor its communication and outreach efforts for future mega projects and P3s.

Identifying stakeholders. With mega projects and P3s, it is critical to identify all relevant stakeholders. Agencies and project teams can do so by developing a matrix of potential collaborators, partners, allies, and advocates early in the planning process. Those efforts should

be followed by connecting with those stakeholders and making sure that they are involved in communication and outreach efforts, as appropriate. In addition, if small businesses in the region are not used to preparing for mega projects and P3s, stakeholder engagement will provide additional opportunities for education the local business community about what to expect and how to prepare for especially large projects and associated contracting opportunities.

Targeted communications. Small and disadvantaged businesses are inundated with e-mail communications about various projects. Although some match their capabilities and interests, others do not. It is important for agencies and project teams to ensure that all project-related communications are targeted and appropriately tailored to be effective. Doing so includes ensuring that the correct businesses are receiving the communications based on work and industry types. It also includes ensuring that have current and appropriate contact information for relevant business representatives. In addition to sending more targeting communications, agencies and project teams should monitor who is benefitting from them or attending subsequent events as a result of them.

Open houses. Open houses allow agencies and project teams to be available in one location to meet directly with small and disadvantaged businesses and answer questions about contracting opportunities on mega projects and P3s. Such events help to facilitate dialogue about work scopes, expectations, timelines, and other information. It also helps small and disadvantaged businesses build relationships with agency and project team representatives.

One-on-one meetings. Agencies should offer opportunities for small and disadvantaged businesses to have one-on-one dialogue with project team members through ad hoc meetings or regularly scheduled office hours. Such meetings provide small businesses with the opportunity to market themselves and ask questions about specific contracting opportunities. It is important to designate specific, knowledgeable individuals to have responsibility for facilitating the meetings or holding office hours. The point of contact could be a small business manager or the project team's design-build manager.

Senior leadership engagement. Having agency and project team leadership visible as part of communication efforts and outreach events is crucial to set the tone for the agency's commitment to small business engagement as part of mega projects and P3s. Engaging leaders in outreach events puts them face-to-face with both the community and small businesses and provides them with an opportunity to hear first-hand about any issues or concerns from the business community that might affect competition for project-related contracts.

Planholder searches. Planholder lists offer up-to-date views of who is bidding on currently-advertised contracting opportunities. Well-developed planholder search capabilities allow prime contractors to search for small and disadvantaged businesses who have viewed plans and vice versa. Those capabilities help prime contractors build their teams and help encourage the participation of small and disadvantaged businesses in contracts associated with mega projects and P3s.

Leveraging multi-media formats. Agencies and project teams should use a combination of traditional media and social media to connect with the small business community on mega projects and P3s. Although traditional media—including e-mail, websites, and radio

announcements—are still preferred by more mature businesses, younger businesses and entrepreneurs often make use of social media, blogs, and mobile applications for information. Leveraging newer media could increase agencies' ability to connect with small and disadvantaged businesses.

Advisory committees and roundtables. Advisory committees and roundtables can be effective in engaging the local business community as part of awarding mega projects and P3s. Advisory committees are typically made up of prime contractors and other stakeholders that can provide advice and counsel to agencies and project teams and also serve as liaisons to small and disadvantaged businesses working in the region. Such committees often include members from respected and credible community associations, small business resource organizations, and prominent prime contractors. In addition, round tables or focus groups with small and disadvantaged businesses can be an effective way to generate ideas and obtain feedback on any number of specific topic areas such as capacity building; contracting goals; and barriers to bidding mega project or P3 work.

Supportive Services

Supportive services help address many of the barriers that small businesses face on mega projects and P3s. They are designed to position small and disadvantaged businesses for success and should be an ongoing component of any small business program. The components listed below have been repeatedly aligned with best practices for supportive services.

Certification support. Agencies should provide businesses with education and resources related to obtaining various certifications (e.g., small business enterprise certification or disadvantaged business enterprise certification). They should also make efforts to clearly outline their own certification requirements. In addition, establishing internal teams that can identify small businesses that are certifiable is an effective, proactive practice. Agencies should do so with enough lead time to allow small and disadvantaged business to become certified prior to upcoming mega projects and P3s. A fast track certification process may also help those businesses become certified in such circumstances.

Bonding and insurance. Agencies and project teams should identify and enlist the assistance of bonding and insurance resources to educate and assist small and disadvantaged businesses with understanding and meeting bonding requirements on mega projects and P3s. Many agencies participate in the United States Department of Transportation's Bonding Education Program (BEP) in partnership with the Surety and Fidelity Association of America. The program helps small and disadvantaged businesses obtain surety bonds and increasing bond capacity. Additional bonding and insurance measures that can help reduce barriers to entry include:

- Bond waivers;
- Having insurance requirements that are similar to those of comparable projects; and
- Eliminating requirements for expensive types of insurance professional liability and errors and omissions requirements for design and professional services firms if they are not working on critical elements of the project. This type of insurance can be expensive.

Safety and quality. Agencies and project teams can communicate safety and quality standards and help small and disadvantaged businesses adhere to those standards by requiring all subcontractors to receive initial training on safety procedures and quality expectations. In addition, it is helpful for agencies and project teams to provide daily checklists and keep subcontractors informed of any on-going safety or quality issues—particularly as they related to small and disadvantaged businesses—to explore options for reconciling them.

Financial assistance. Access to capital is a common barrier that small and disadvantaged business report experiencing as it relates to working on large government contracts. Agencies and project teams can help small businesses in accessing capital by working with appropriate federal agencies to seek resources for financing for small and disadvantaged businesses; developing and establishing effective financial and accounting systems; and establishing agreements with a diverse network of local financial assistance organizations and banks; and establishing a network of local resources for small and disadvantaged businesses on an as needed basis including:

- Accountants ;
- Licensed attorneys; and
- Bonding, surety, and insurance providers.

Prompt pay. Agencies and contractors may operate small business programs that have extensive capacity building and outreach efforts, but small and disadvantaged businesses must be paid promptly to be successful. Agencies should make prompt an explicit priority on mega projects and P3s. Doing so will communicate the importance of prompt pay to project teams. In addition, agencies and project teams should include prompt pay policies as part of flow down provisions in associated contracts. Agencies should work to make efforts to minimize their timetables for paying prime contractors so that prime contractors can then pay subcontractors as quickly as possible.

Materials and supplies. Agencies and project teams should encourage prime contractors to use joint checks for materials and supply purchases, which allows prime contractors to pay suppliers instead of subcontractors. Such assistance may help small and disadvantaged businesses to manage their cash flow more effectively.

Certified payroll support. Because of the Davis Bacon Act, or Prevailing Wage Act, all labor compliance is reported using certified payrolls. Certified payroll education is critical for businesses to report payments accurately and be in compliance with state and local laws. Payroll reporting processes may be challenging for certain small and disadvantaged businesses, particularly in industries in which computers are not used as much or in which the representation of native English speakers is lower. Such challenges can lead to situations in which the agency withholds payment from contractors, who can in turn withhold payments from subcontractors that have not followed certified payroll requirements. Providing education and training to small and disadvantaged businesses on all administrative requirements including on electronic submission of certified payrolls might help prevent such issues.

Onboarding training sessions. Many businesses are eager to start work once their contracts have been signed, but there are pre-construction activities that must occur such as enrollment in the Owner Controlled Insurance Program (OCIP). Agencies and project teams should offer onboarding training sessions to review contract and administrative requirements (e.g. certified payroll and subcontractor reporting) and project specifications and expectations (e.g., providing winter protection for equipment). Such training will better position small businesses for successful performance as well as contribute to the overall success of the project.

Softs skills training. Estimators are often not visible at outreach events and may refrain from engaging in conversations with small and disadvantaged businesses for many reasons. However, estimators are critical to identifying scopes that will be appropriate for small and disadvantaged business participation. Agencies and project teams should provide training to estimators that stresses how important it is for them to be aware of the challenges that small businesses face and helps them build the communication and interpersonal skills necessary to engage with small businesses. In addition, estimators should be included on panels at outreach events and should be expected to be present in other external forums.

Capacity Building

Effective small business programs include robust and extensive efforts to build the capacity of small and disadvantaged businesses. Both agencies and project teams should develop efforts and provide resources to grow small and disadvantaged businesses.

Capacity assessment. Agencies and project teams should assess the capabilities of individual small and disadvantaged businesses to determine the levels and scopes of work that they are able to perform. Those assessments should include identifying developmental needs that are common to different small businesses and developing strategies that would help address those needs and help grow the capacity of small and disadvantaged businesses. Capacity assessments of this kind will help agencies and project teams better align work scopes with the capabilities of interested small and disadvantaged businesses.

Mentoring programs. Mentoring programs provide small and disadvantaged businesses with opportunities to participate in a mentor-protégé-type relationship with larger, more experienced businesses working in similar industries. (High performing small businesses can serve in a mentoring role as well.) Mentoring programs on mega projects and P3s should include comprehensive mentoring and technical assistance efforts to assist small businesses in successfully completing their contracts; developing and broadening their capabilities; expanding their businesses; and yielding sustainable growth. The ultimate goal is to improve the competitive position of small and disadvantaged businesses and enable them to graduate to work as prime contractors.

Technical assistance workshops. To support capacity building, agencies and project teams should identify technical assistance needs that are relevant to particular mega projects and P3s and develop workshops and events to address those needs. Workshop content should be designed to help enhance project-relevant skills as well as expertise and knowledge. Examples of such workshops include:

- Project requirements and expectations;
- Bidding and contracting processes;
- Marketing and relationship-building;
- Design-build and other project delivery methods;
- Negotiation skills;
- Business administration and staffing; and
- Business development and strategy.

Participation in technical workshops should help small and disadvantaged businesses be in a more competitive position on future mega project and P3 contracting opportunities.

Coaching. In many cases small and disadvantaged subcontractors will have a Subcontract Monitor or “field person” assigned to them from the agency or prime contractor who can provide individualized coaching and guidance. Those individuals help ensure that subcontractors have all the information that they need to perform and be available to answer project-related questions.

Prime contract opportunities. Agencies and project teams should work to identify prime contracting opportunities for small and disadvantaged businesses on mega projects and P3s. Such opportunities might be available in only in select industries. Agencies and project teams would identify small businesses that could perform those contracts and help build their capacities for future prime contracting opportunities.

Rolling stock procurements. Rolling stock procurements are a specialty that is conceptually divided into numerous project delivery phases (e.g., design, first article assessment of subsystems functional compliance, and post-delivery oversight). Consultant support is very limited and with the exception of certain document control and clerical functions, requires subcontractors with high levels of experience. Project teams and agencies could focus on helping small businesses grow skills and possess the requisite technical expertise to provide such consulting support. That strategy would require the full participation of rolling stock suppliers in making genuine efforts to increase their use of small and disadvantaged businesses rather than relying solely on good faith efforts to meet project goals.

Operations and Maintenance opportunities. Over the life of a P3 Program, Operations and Maintenance (O&M) requirements represent the most expensive functional area. Furthermore, the potential for substantial O&M small and disadvantaged business participation is limited only by the innovation, experience, and overall outreach efforts of the Concessions Program Manager and O&M Management Teams. O&M Programs are functional and fairly straightforward in

conceptual requirements, yet, in practice, can vary substantially due primarily to policy dictates and anticipated O&M costs. Reliance upon outsourced O&M is typically driven by local customs and practices and the availability of a cost-effective pool of requisite managers, supervisors, and line employees. Recruitment for contracted O&M typically involves review of known domestic contract service suppliers. Oversight of contracted O&M is performed by the Owner, using appropriate functional subject-matter experts. As a recommended practice, the project team's O&M representative should actively engage in all functional development project phases including providing substantial input in the original design. Emphasis on the potential use of small and disadvantaged businesses in key O&M oversight areas should be reviewed during the early stages of the project and continuously evaluated up to the time when final decisions are made regarding which functions will be performed in-house and which will be outsourced. Outreach efforts related to O&M should include the use of charrettes to invite industry suppliers and qualified small and disadvantaged businesses with aspirations to participate in long term O&M Program activity.

Program Oversight, Compliance, and Reporting

Agencies and project teams should assign a full time, dedicated Compliance Officer to ensure that all prime contractors are in compliance with small business and minority- and woman owned business programs as part of mega projects and P3s. The Compliance Officer should communicate regularly with all relevant departments and disciplines. The Compliance Officers should also be very visible in the community, serving as a representative for the agency and the project team and serve as a liaison to small businesses and other external stakeholders. The Compliance Officer would be responsible for:

- Monitoring bidding and awards;
- Collecting and maintaining data relevant to program objectives;
- Performing random site visits;
- Preparing monthly small and disadvantaged business participation reports;
- Monitoring performance quality relative to contracting requirements'
- Replacing small and disadvantaged businesses when circumstances require;
- Ensuring that all businesses are performing commercially useful functions;
- Monitoring prompt payments to subcontractors;
- Auditing certified payrolls for compliance;
- Performing labor compliance activities; and
- Performing contract close-out activities.

Additional recommendations and best practices related to program oversight, compliance, and reporting are presented below.

Compliance Manager competency. The competence and capacity of the Compliance Manager has a substantial impact on the success of small business and minority- and woman-owned business programs on mega projects and P3s. Compliance Officers must possess a well-

rounded and comprehensive understanding of mega project management principles as well as federal and local contract compliance policies and practices. Compliance Officers should be expected to deliver solid management oversight coupled with innovation in project development and management.

Innovative program measures. Agencies should work to develop small and disadvantaged business programs and policies to provide clarity regarding program objectives and requirements. Such programs should address lessons-learned and also incorporate incentives for prime contractors to develop more innovative approaches to encouraging the participation of small and disadvantaged businesses.

Rebrand Compliance Manager as Success Assurance Manager. Agencies should consider rebranding Compliance Managers as Success Assurance Managers (SAMs) on mega projects at P3s. The SAM would report to the Program Manager and have the responsibility and authority to oversee the development and integrated execution of small business and minority- and woman-owned business programs. The SAM could also take the lead on influencing the development of “Innovative Value-added” approaches to the project’s functional oversight managers.

Phased performance metrics. Often, agencies and project teams give insufficient attention to early indicators of subcontractor failure; oversight requirements; and early signs of issues of non-conformance. Agencies and project teams should consider using “Four-Square” style performance metrics and associated monthly depictions of overall contract compliance results in each functional area. Agencies or project teams would develop four contract compliance measures against which each subcontractor with active assignments would be assessed. Performance on each measure would be depicted in green [compliant], yellow [partially compliant], or red [non-compliant]. That process would provide a continuous and highly objective assessment of subcontractor development and progress. Agencies and project teams would be able to identify areas of non-compliance and receive timely attention in order to enhance project performance.

Workforce Development Program

It is becoming conventional practice to include the development and implementation of workforce development efforts alongside small business programs on mega project and P3s. The long term nature of those projects and impact on regional economic development underscores the logic for implementing workforce development and small business programs in tandem. In addition, projected labor shortages based on skill and training gaps affect both large and small business and are acutely noticeable in industries like transit and construction. As a consequence, agencies and project teams should collaborate with other community stakeholders to implement workforce development efforts that align with project goals and small business program outcomes.

Workforce development requirements in requests for proposals are often high-level policy requirements that typically do not emphasize specific quantitative goals or appropriately outline the practical processes required to ensure that local workers are put in a position to be hired. In many cases, hiring practices reflect pre-existing practices in the marketplace and thus reflect the

built-in biases that favor certain stakeholder groups. Recommended practices around workforce development include two important concepts that must be inculcated in RFP requirements:

- 1) Sensitivity to the practical life-cycle of employment opportunities in the marketplace; and
- (2) Awareness of the demographics of the populations from which future workforce participants will be pulled.

In many cases, there is a disconnect between those two concepts. Reconciling them requires substantial effort and innovation on the part of agencies and project teams to account for institutional realities and challenges. A major focus on construction opportunities will require substantial cooperation from organized labor (specifically those representing construction trades and transit employees). Furthermore, the development of trade academies within the public education system is essential to producing the qualified entry-level employees of the future. Stakeholders should also work to create a robust “Ex-Offender” Program that could include the training of incarcerated men and women who could be better positioned to enter the workforce if sufficient requisite skills could be developed prior to their release.