

THIS PRINT COVERS CALENDAR ITEM NO. 14

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance and Information Technology

BRIEF DESCRIPTION:

Authorizing the Director of Transportation or his designee to take the actions necessary to enact a Small Business Enterprise Bonding and Financial Assistance Program on federally-assisted contracts, including: establishing a surety bond reserve fund of \$3 million and obtaining a letter of credit or alternate collateral for Small Business Enterprises on federally-assisted contracts and issuing bond guarantees, provided that the Program complies with all applicable federal regulations and guidance.

SUMMARY:

- The City and County of San Francisco, through its Risk Manager, currently provides guarantees to private bonding companies and financial institutions in order to induce those entities to provide required bonding and financing to eligible contractors and subcontractors bidding on and performing locally-funded public works/construction contracts.
- Pursuant to its commitment to provide a level playing field for small, economically-disadvantaged businesses, the SFMTA seeks to establish a similar program on federally-assisted contracts, including Central Subway.
- In order to ensure that funds for locally-assisted and federally-assisted projects are properly segregated, the Director of Transportation seeks the SFMTA Board's authority to establish a surety bond reserve fund of \$3 million and obtain a letter of credit or alternate collateral for Small Business Enterprises on federally-assisted contracts.

ENCLOSURES:

1. SFMTAB Resolution

APPROVALS:

DATE

DIRECTOR _____ 1/7/13

SECRETARY _____ 1/7/13

ASSIGNED SFMTA CALENDAR DATE: January 15, 2013

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PURPOSE

The San Francisco Municipal Transportation Agency (SFMTA) of the City and County of San Francisco is a recipient of federal financial assistance from the Federal Transportation Administration (FTA) of the U.S. Department of Transportation (DOT). In compliance with the federal funding regulations set forth in 49 CFR Part 26 and DOT guidance, SFMTA implements a Small Business Enterprise (SBE) Program on its federally-assisted contracts. In order to help SBEs overcome barriers to obtaining surety bonds that exclude SBEs from participating on its federally-funded construction contracts, SFMTA would like to implement a surety bonding program.

GOAL

Benefit to the SFMTA 2013 – 2018 Strategic Plan

The SFMTA will further the following goal of the Strategic Plan through the establishment of a surety bonding program on federally-assisted construction contracts:

Goal 3: Improve the environment and quality of life in San Francisco

- Objective 3.2: Increase the transportation system's positive impact to the economy.
- Objective 3.3: Allocate capital resources effectively.

DESCRIPTION

The City's Surety Bonding and Financial Assistance Program (Program) is designed to help certified Small or Micro LBE Prime Contractors or Subcontractors, who are participating in City construction projects, to obtain and/or increase their bonding and financing capacity, necessary to bid and contract on City projects. In order to be eligible for the Program, a business may be either a prime construction contractor or construction subcontractor and shall be certified by the Director of the Human Rights Commission as a Local Business Enterprise ("LBE") and participate in a bonding assistance training program.

Since its inception in 1997, the City's Program has enabled contractors to obtain bid bonds to bid on City contracts valued at \$210,342,341. Successful Program low-bidders were awarded over 31 percent, or \$65,501,976 of those contracts. In addition, the City captured \$5.3 million in contract cost savings derived from the bid spread between the program low-bid contractors and the second lowest bidders.

The SFMTA would like to expand the City's Program to federally-assisted projects. In order to do so, SFMTA staff is seeking authority to establish a surety bond fund, obtain a letter of credit, and issue bond guarantees for firms that qualify to participate in the SFMTA's Small Business Enterprise Program. Under the SFMTA's SBE Program, firms that meet certain income criteria and are certified in one of the following three programs are qualified to participate: the Federal DBE Program, the State of California Department of General Services Small Business Program, or the City's LBE Program. Table 1 lists the projected construction contract awards through September 2013.

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The City’s Risk Manager recommends a reserve bond fund of \$3 million for the SFMTA’s projected capital projects (see Table 1). The bond fund rolls from one project to the next, so that dollars earmarked under the fund fluctuate based on the number of active bond guarantees. Similar to the City’s program, the SFMTA would provide a guaranty of up to 40 percent of the face amount of the bond or \$750,000, whichever is less. The Bond fund monies are only actually expended in the event of a default. In the 15 years since the inception of the City’s program, there has been only one default for approximately \$125,000. There are administrative costs associated with the program, including a one-time start-up cost of approximately \$15,000 to establish the letter of credit or alternate collateral and consultant services to administer the program at an estimated cost not to exceed \$100,000 annually.

Table 1: Projected Construction Contracts October 2012 – September 2013

Description	Engineer's Estimate
Muni Metro System - Integrated Systems Replacement Project	\$ 26,300,000
Curtis Green Facility Roof Rehabilitation	\$ 2,800,000
Phelan Loop Development Project	\$ 4,800,000
Subway CCTV Surveillance System Project	\$ 6,800,000
Muni Metro Turnback Rail Rehabilitation	\$ 1,700,000
Presidio & Potrero ETI Bus Hoist Lifts	\$ 2,100,000
Job Order Contract	\$ 5,000,000
Job Order Contract	\$ 5,000,000
Job Order Contract	\$ 5,000,000
Job Order Contract	\$ 5,000,000
Bayview Opera House, Phase II	\$ 1,100,000
Islais Creek, Motor Coach Maintenance and Operations Facility – Phase II	\$ 2,500,000
N-Line along Carl Street Track Improvement Project	\$ 14,800,000
Muni Metro System – Escalator Replacement – Phase II	\$ 5,000,000
Total Capital (w/o Central Subway)	\$ 87,900,000
Third St. Light Rail Program Phase 2 - Central Subway Stations, Surface, Track and Systems	\$ 750,000,000
Total (Central Subway included)	\$ 837,900,000

ALTERNATIVES CONSIDERED

Staff considered joining the City’s program, but was prohibited from doing so because the City’s program only applies to locally-funded projects subject to San Francisco Administrative Code Section 14B. If establishment of the program is approved, staff will explore obtaining a letter of credit or alternate collateral jointly with the City acceptable to private bonding companies.

FUNDING IMPACT

Administrative costs associated with the program include a one-time start-up cost of approximately \$15,000 to establish a letter of credit or alternate collateral for Small Business Enterprises on federally-assisted contracts and consultant services to administer the program at an estimated cost not to exceed \$100,000 annually. Except for Central Subway, these administrative costs would be paid from SFMTA operating funds. Funds to establish the reserve bond fund of \$3 million would also come from operating funds.

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OTHER APPROVALS RECEIVED OR STILL REQUIRED

None.

The City Attorney has reviewed this report.

RECOMMENDATION

Requesting the Board of Directors to authorize the Director of Transportation or his designee to take the actions necessary to enact a Small Business Enterprise Bonding and Financial Assistance Program on federally-assisted contracts, including: establishing a surety bond reserve fund of \$3 million and obtaining a letter of credit or alternate collateral for Small Business Enterprises on federally-assisted contracts and issuing bond guarantees, provided that the Program complies with all applicable federal regulations and guidance.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The City and County of San Francisco, through its Bonding and Financial Assistance Program, provide guarantees to private bonding companies and financial institutions in order to induce those entities to provide required bonding and financing to eligible contractors and subcontractors bidding on and performing City public works/construction contracts; and

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) would like to provide similar assistance to firms that qualify for the Agency's Small Business Program for federally funded projects; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation or his designee to take the actions necessary to enact a Small Business Enterprise Bonding and Financial Assistance Program on federally-assisted contracts, including: establishing a surety bond reserve fund of \$3 million and obtaining a letter of credit or alternate collateral for Small Business Enterprises on federally-assisted contracts and issuing bond guarantees, provided that the Program complies with all applicable federal regulations and guidance.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of January 15, 2013.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency