

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: March 25, 2016

TO: Honorable Members of the Ad Hoc on Comprehensive Job Creation Plan Committee

FROM: Sharon M. Tso *ST*
Chief Legislative Analyst

Council File No: 15-1364
Assignment No: 16-02-0091

Small Business Commission

SUMMARY

This report is in response to Motion (C.F. 15-1364, Krekorian-Martinez-Wesson-O'Farrell, Attachment I) relative to the following: 1) an assessment of how many of the City's contracts are held by local small businesses; 2) options to establish a goal for small business participation in the City; and 3) options to create a small business commission. This report provides information relative to the data available on small business procurement, challenges with the small business definition, best practices, and provides recommendations with respect to the formation of a small business commission. Our review of the data portals (websites) currently available in the City and County indicate that information is unavailable relative to the level of procurement with small businesses. Further, the lack of a universal definition for small businesses also does not allow for an accurate count of small businesses with City contracts.

Regarding the request to provide options to establish goals for small business participation in the City's Request for Proposals, procurement, and contracts, we recommend that this matter is more appropriately addressed by the working group created in response to the Local Business Preference Program (C.F. 14-1277). This group will focus on improving small and local business programming to encourage greater participation.

During the Ad Hoc Committee on Comprehensive Job Creation Plan held on February 10, 2016, the Committee continued the item and the Committee requested that staff examine and report on the former State Enterprise Zone (SEZ) program. On December 18, 2013, (C.F. 13-0934) the Council adopted the Economic Development Committee Report relative to the impact of AB 93 and SB 90 which restructured the SEZ Program. Additionally, on December 15, 2015, (C.F. 13-0934-S1) the Council adopted Energy and Environment and Economic Development Committees' reports relative to the status of the Enterprise/Empowerment Zone Rate Subsidy Program which included recommendations for staff to report. This report will be transmitted under a separate cover.

RECOMMENDATIONS:

1. REQUEST the Office of the Mayor, and Office of the Controller, and INSTRUCT the Information Technology Agency, with input from CAO, EWDD, HCID, Bureau of Contract Administration and other appropriate departments to review the City's data portals and report on how these portals can be improved to include information on small businesses.

If the Council wishes to establish a Small Business Commission, the Council may adopt the following:

2. APPROVE the creation of a Small Business Commission that would collaborate with the small business community and City departments, as well as provide advice and recommendations to Council regarding issues surrounding small businesses in the City of Los Angeles and those identified by the City Council;
 - a. APPROVE the composition of the Small Business Commission to be comprised of individuals who are owners, operators, or representatives of a small business that currently operates in the City of Los Angeles;
 - b. APPROVE that the composition of the Small Business Commission, to consist of one (1) appointee from each Council District, and one appointee from the Office of the Mayor;
 - c. INSTRUCT the Economic and Workforce Development Department (EWDD) to convene and staff the Small Business Commission;
 - d. INSTRUCT the EWDD to report with an estimate on the cost to staff the Small Business Commission, if any;
 - e. INSTRUCT the Small Business Commission to provide recommendations for a uniform small business definition, to the extent allowable by law and federal and state regulations;
 - f. INSTRUCT the Local Business Preference Working Group to provide options to establish goals for small business participation in the City's Request for Proposals, procurement and contracts.

DISCUSSION

In order to determine the number of City contracts awarded to local small businesses, our Office conducted a review of City department online data portals and consulted with several City departments. Data can be found among several different City data portals, including the Mayor's Office, Controller, and Office of Finance. After a general review of the data portal information, we have determined that small business data is not available. Additionally, we consulted with the Office of the Controller and the Bureau of Contract Administration and determined that contract award information relative to small businesses was not readily available, nor easy to compile. Further discussion with City departments is necessary to ensure that small business data is identified and made available for analysis. Below is a summary of small business data that is currently available in the following City departments and County.

Small Business Data

The Mayor's Office

The Mayor's Office website, <https://data.lacity.org/en/>, is a data portal that provides a listing of various data sets from active businesses to building permits. According to the site, there are 429,209 businesses in the City. Information is available relative to business location, business name, dba name, street address, city, zip code, location description, mailing address, mailing city, mailing zip code, North American Industry Classification System (NAICS), primary NAICS, council district, location start and end date. The data can be sorted, and filtered in any of those categories. All businesses that have a Business Tax Registration Certificate are listed online. Data on the number of small businesses

or the businesses that have City contracts is unavailable. Therefore, filtering and determination of businesses based on size is not feasible.

The Controller's Office

The Office of the Controller website, <https://controllerdata.lacity.org/>, provides data (echeckbookdata) on the top procurement contractors by fiscal year. Data are available for the past four fiscal years (2011-2012, 2012-2013, 2013-2014, 2014-2015). This data portal provides information relative to vendor name, dollar amount, fiscal year, and data source. Additionally, data is also available relative to City department procurement and lists payments to vendors. Although there are a variety of categories for procurement analysis, no information is available by business type or size. However, according to the Controller, it may be possible to cross-reference vendor information with Business Tax Registration Certificate or tax identification number data sets to help identify vendors that have contracts with the City.

Office of Finance

The Office of Finance (Finance) is charged with issuing and collecting business tax fees for the City. Finance accounts for active licensed businesses and coordinates with the Mayor's Office to list active businesses on the Mayor's website. Data maintained by Finance enables compilation for the total number of businesses Citywide. The data maintained by Finance and available on the Mayor's website identifies businesses in the City, but does not specifically identify those with City contracts.

GeoCode (Los Angeles County)

Another data portal that we examined to obtain data on small business contracts is the <http://geohub.lacity.org>. This website is maintained by the County of Los Angeles Location Management System on a single, comprehensive geographic database of locations countywide, including the City, surrounding jurisdictions and unincorporated areas. The benefit of this program is that data can be mapped. Inasmuch, as data are specific to the County and administered by the County, it may be challenging to modify its contents for City purposes.

Small Business Definition

One of the outstanding issues related to the analysis of small businesses is that there is no standard definition for a "small business" used universally by the City, County, State, and Federal Government. Therefore, City programs use different definitions depending on the funding source or program. For example, for participation in City contracting, businesses must meet one of a variety of certification requirements such as the Small Local Business Program, which requires that businesses have gross receipts of less than \$3 million and a principal office in the County of Los Angeles. In contrast, the Office of Finance small business definition is dependent wholly on taxable gross receipts. Additionally, the Economic and Workforce Development Department is required to use the Federal Government guidelines for small business assistance programs. Attachment II summarizes the various requirements. Depending on the program, small business definitions are used for distinct purposes making it difficult to accurately determine the level of small business participation on contracts. A clearer definition is necessary to appropriately monitor, evaluate, and measure the participation of small businesses in the City. Below are small business definitions utilized by City departments for various programs.

- Office of Finance–Small Business Exemption is applied to businesses with total taxable gross receipts of \$100,000 or less (or \$300,000 or less for individual "Creative Artists"). (C.F. 12-0402).

- Bureau of Contract Administration –
 - The Small, Local Business Certification Program (Ordinance 174048) defines Small, Local Businesses as those with annual receipts, including its affiliates if any, of less than \$3 million, and its principal office located within Los Angeles County.
 - The Business Inclusion Program, implemented through Mayor’s Executive Directive 14, has three certification categories: Small Business Enterprise, Emerging Business Enterprise, and Disabled Veteran Business Enterprise. The following qualifications are those for a Small Business Enterprise:
 - Small Business Enterprise –
 - Applicant must be certified by the State of California Department of General Services (DGS) as a small business:
 - A Small Business per the State is independently owned and operated; not dominant in field of operation; principle office located in California; Owners (officers, if a corporation) domiciled in California; and, be either,
 - A business with 100 or fewer employees; an average annual gross receipts of \$14 million or less, over the last three tax years; a manufacturer with 100 or fewer employees; or, a microbusiness (gross annual receipts less than \$3.5M or a manufacturer with 25 or less employees).
 - or
 - Firm’s three (3) year average gross receipts must be less than \$7.0 million (for Non-Construction) or
 - Firm’s three (3) year average gross receipts must be less than \$14 million (for Construction)
- Economic and Workforce Development –
 - The Small Business Loan Program defines small business as those with less than 500 employees and \$10 million or less in gross revenues.
 - The Business Source Program defines small business as those with more than six employees and up to \$20 million in gross revenue. A microenterprise is a business with five or less employees, one of which owns the business and has operating income less than \$200,000.
- Minimum Wage Ordinance (Ordinance No. 183612) - The ordinance applies to all employers. Implementation of the Minimum Wage Ordinance is delayed for small businesses with 25 or fewer employees.

These small business definitions highlight the complications associated with compiling small business data. If a Small Business Commission is created, it can be the entity that addresses this issue and works to provide input in this area. Once a small business definition or definitions is determined, then the City can continue to examine and evaluate relevant data.

Small Business Commission – Other Cities

Our Office also conducted a review of other small business commissions in the United States. We examined the structure, membership, role, and authority of Small Business Commissions in Salt Lake City, San Diego, Chicago, San Francisco, and Los Angeles County. Below is a summary of this information.

- Salt Lake City – Business Advisory Board:

- The Business Advisory Board advises the Mayor and City Council with regard to issues affecting the City's business community. The Board is housed in the Department of Community and Economic Development and helps advocate for economic development and target industry relocation into the City. The Board acts as a City liaison to the business community and helps drive economic policy by promoting small business growth, supporting local entrepreneurship, and advising on issues with regard to impact fees, business licenses, etc.
- The membership of the Board consists of 11 voting members that are appointed by the Mayor to a maximum of two consecutive four-year terms. Voting members of the Board shall be residents of the city or nonresidents who have an ownership interest in a business within the City. No more than two members of the board shall be from the same occupation. The Board also consists of up to five non-voting members who are appointed by the Mayor with advice and consent from the Council, and serve a maximum for four consecutive one-year terms. The Director of the Community and Economic Development shall be an ex officio member with no voting privileges.
- All actions taken by the Board are constituted as recommendations to the Mayor and the City Council who have the power to review, ratify, modify or note and file recommendations. The Board meets once a month.

- San Diego – Small Business Advisory Board:

- The Small Business Advisory Board advises the Mayor and City Council on matters that enhance the capability of small businesses in San Diego. The Board helps formulate laws, policies, or procedures that may affect the management, operation, or financial stability of small businesses. More specifically, the Board works to reduce regulations, streamline the permit process, and reduce taxes for small businesses. The Board acts as a liaison between the business community and the City of San Diego.
- The Board consists of 11 members who are appointed by the Mayor and confirmed by the City Council. Representatives from the Board are from small business organizations, such as the U.S. Small Business Administration, the Greater San Diego Chamber of Commerce, and leaders from the small business community. Members of the Board serve two-year terms. One member from the Board must be a representative of the Small Business Administration District Director. One other member of the Board must be a representative of the President of the Business Improvement District Council.
- The Board works in an advisory capacity to the Mayor and City Council. The Board meets every other month on a regular basis.
- Board Accomplishments include:
 - Guided the efforts of the Office of Small Business staff in the development of the Small Business Enhancement Program.
 - Promoted the reduction of the Business License Certificate (business license) fee from \$70 to \$34, for business with 12 or fewer employees.
 - Worked in cooperation with the City's Fire Department on the interpretation of rigorous fire codes to provide more flexibility in dealing with unrealistic safety measures for vitally needed affordable housing in the San Diego community.

- Eased sign code enforcement for major construction projects in conjunction with the Office of Small Business' Infrastructure Impact Program staff, City Code Enforcement representatives, and members of the small business community.
 - Testified before the State Legislature's Revenue and Taxation Committee which helped reduce by 25 percent the Minimum Franchise Tax for corporations with gross receipts of \$1 million or less.
- Chicago – Small Business Advisory Council:
 - The Small Business Advisory Council (Council), consists of 21 members that are all appointed by the Mayor. The Council is tasked with developing the City's small business growth strategy, which includes the goals of: reducing impediments to business development, expanding access to capital, promoting innovation and entrepreneurship, and increasing support resources for small businesses.
- San Francisco – Small Business Commission
 - The Small Business Commission (SBC) oversees the Office of Small Business. The mission of the Small Business Commission, in conjunction with the Office of Small Business and the Small Business Assistance Center, is to foster, promote, and retain small businesses in the City and County of San Francisco.
 - The Small Business Commission has four goals:
 - Establish a continuous improvement policy for reviewing and evaluating progress.
 - Maximize the Office of Small Business' outreach to the small business community.
 - Work to streamline the permitting process in the City and County of San Francisco.
 - Advocate for San Francisco small businesses through involvement in policy discussions and the legislative process.
 - The Office of Small Business is the City of San Francisco's liaison and point of information for entrepreneurs and small businesses located in the City/County. The SBC and Office of Small Business promote the benefits of small businesses and their contributions to the overall business landscape of the City. The SBC promotes assistance programs and policies that help small businesses flourish. The SBC reviews small business legislation and policy and makes recommendations to the sponsor of the legislation, including the Mayor, Board of Supervisors, or other City agencies. The SBC reviews rules and regulations adopted by City departments that affect small businesses and recommends modifications that promote small businesses; recommends to the Mayor for submission to the Board of Supervisors rates, fees, and similar charges coming within its jurisdiction; oversees grants and programs concerning and benefitting small businesses and neighborhood business districts; and, analyzes information about the small business economy in San Francisco with regard to governmental operations that affect small business, leading to recommendations to the Mayor or Board of Supervisors.
 - The SBC is comprised of seven voluntary members with four members appointed by the Mayor and three members by the Board of Supervisors. Five members of the SBC must be an "owner, operator, or officer of a San Francisco small business," one member must be a "current or former owner, operator, or officer of a San Francisco small business," and the last member must be an "officer or representative of a neighborhood

economic organization or an expert in small business finance.” The SBC meets twice a month.

- The SBC was created through an amendment to the City and County Charter. The San Francisco Administrative Code enumerates the powers and duties of the Commission. The officers of the Commission consist of a President and Vice President. The President presides over the meetings and appoints committee members and chairs that are established by the Commission. The President also conducts an annual review of the Director and staff that support the SBC, Officer of Small Business, and Small Business Assistance Center.

- LA County – Small Business Commission

- The Los Angeles County Board of Supervisors appoints small business commissioners to serve on the Commission in each of the five supervisorial districts. Its mission is to provide ongoing advice and support to the Board of Supervisors on matters that help small businesses grow and do business within the County. Meetings of the Commission are held on a quarterly basis. The Commission carries out its mission based on the implementation of the “Bold Steps Forward” report adopted by the Board for improving the County’s procurement practices, and makes recommendations regarding issues that affect small businesses.
- The Commission consists of 20 members, and is inclusive of four nominated by each Supervisor. Ex officio nonvoting members include: deputies from the five supervisorial districts, the County Executive Officer and the departments of Internal Services, Public Works, Auditor-Controller, Health Services, Sheriff, County Counsel, Community Development Commission, U.S. Small Business Administration, and the State Department of General Services. The Board of Supervisors can designate one alternate for meetings for commission members who are not present. Members must reside in Los Angeles County and be a representative from the business community.
- Commissioners serve three-year terms with no compensation. The officers of the Commission include a chairperson and vice chairperson. Recommendations are reported to the Board of Supervisors for approval at least once a year. The Commission was created by Board Order and established through an ordinance.

City of Los Angeles - Small, Local Business Advisory Committee

- In 2006, the Ad Hoc Small, Local Business Advisory Committee (SLBAC) provided recommendations relative to improving the City’s contracting process. The SLBAC was created to promote small business growth in Los Angeles. In December 2006, the Office of the Chief Legislative Analyst and City Administrative Officer provided a report relative to the recommendations which was noted and filed.

Options for a Small Business Commission

A Small Business Commission may be established in a variety of different ways:

- Mayor Appoints – The Mayor may establish a Commission and appoint members. The Council may have input as to membership, at the discretion of the Mayor.
- Council Appoints – The Council may establish a Commission and appoint members. The Council would determine the size, appointment authority and membership criteria.

Establishment of a Commission would not require amendments to the City Charter or an Ordinance.

- City Department Establishes – A City Department may establish an advisory group which could provide recommendations on any variety of topics relative to small business activity in the City.

Possible Structure of a Small Business Commission

- Advisory – A Small Business Commission would serve in an advisory capacity. Work of the Commission may be directed by the Commission members, by the City Council or a combination of both. All actions taken by the Small Business Commission would be made in the form of recommendations to the City Council.
- Mission – In order to best direct the work of the Commission, its mission should be clearly stated. For example, the objective of the Small Business Commission may be to facilitate a friendlier business environment that will recruit, retain, promote, and expand small business in the City of Los Angeles. Issues that the Small Business Commission may study include, but are not limited to, laws, policies, legislation, or procedures that may affect the operations or financial stability of small businesses. Additionally, the Small Business Commission may provide recommendations and input regarding existing and past small business programming.
- Composition/Term of Office – Due to the diverse nature of the business community within the City of Los Angeles, appointees to the Small Business Commission may consist of individuals who are active and representative members of the small business community. Appointees to the Small Business Commission may include individuals who are owners, operators, or representatives of a small business located in the City of Los Angeles. To best represent the business communities of the City, each Council District may appoint one (1) representative to the Commission. In addition, one or more representative(s) may be appointed by the Office of the Mayor. Appointments may or may not be subject to a confirmation by the Council.

The Small Business Commission at the beginning its term would elect a Chairperson to the Commission. Appointees to the Small Business Commission would serve terms that are determined by the establishing authority. Commissioners would serve in a voluntary capacity and are not recommended to be compensated.

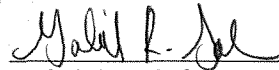
The length of time provided for the Small Business Commission to conduct its works may also be determined at the time of establishment. The Commission on Revenue Efficiency was created in 2010 through Motion (C.F. 09-2650, Garcetti-Parks) for a two-year term. Similarly, the Small Business Commission can be created for a fixed time-frame and then be recommended for an extension(s) as determined appropriate by the Council.

- Work - The Commission may consider issues as introduced by Commission Members or at the request of Council Members.
- Department Support – A City Department may be assigned to assist and support the Small Business Commission. The Economic and Workforce Development Department because of its relationship to the small business community may be a good candidate for this role.

Former State Enterprise Zone

On December 18, 2013, (C.F. 13-0934) the Council adopted several actions to continue existing City programs associated with the SEZ, including the continuation of the reduced parking ordinance in the Administrative Code for businesses in the SEZ and the electrical rate discount offered by the Los Angeles Department of Water and Power (LADWP), which provides 35 percent and declining discount for five years for qualifying businesses, as legally permissible. Subsequently, on December 15, 2015, (C.F. 13-0934-S1) the Council adopted Energy and Environment and Economic Development Committees' reports relative to the status of the Enterprise/Empowerment Zone Rate Subsidy Program which: (1) directed the Office of the Chief Legislative Analyst (CLA) to work with the LADWP and the EWDD to create program guidelines that would encourage the development of new businesses in underserved communities and (2) instructed the LADWP and the EWDD to report on a plan for outreach that includes strategies on how to reach users who have not been able to take advantage of past programs. This report will be transmitted under a separate cover.

FISCAL IMPACT: There is no fiscal impact. The establishment of a Small Business Commission may require staff resources; however, this is yet to be determined as EWDD is instructed to report with an estimate of staff costs.



Gabriel R. Salazar
Analyst

SMT:KEK:IS:JW

ATTACHMENT: I. Motion (Krekorian-Martinez-Wesson-O'Farrell)
II. Small Business Definition Table

MOTION


With the formation of the Ad Hoc Committee on Comprehensive Job Creation Plan, the City Council declared job creation a top priority. As the Committee seeks to create a more business friendly Los Angeles, it will seek the input of businesses throughout the city. Los Angeles County has approximately 200,000 small businesses. These businesses provide about half of the 3.5 million private sector jobs in the County. Some city policies, like the minimum wage policy, albeit well-intended and beneficial overall, can be particularly burdensome to small businesses.

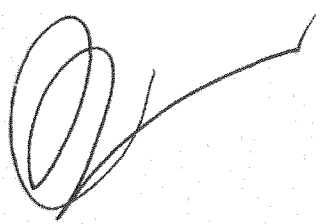
Small businesses are engines of economic growth and are a vital part of the local economy, providing jobs and neighborhood stability. In recognition of this, some local governments, including the County, have created a small business commission to allow small businesses to play a greater role in the policymaking process and to ensure they have effective representation. A small business commission could offer the City insight on the needs, challenges, and priorities of small business.

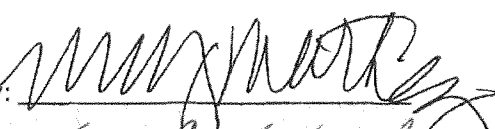

In acknowledgement of the importance of local businesses, the Council implemented a local preference ordinance in 2010 to provide a competitive advantage to local businesses and to create opportunities for growth. Despite the creation of this program, it is unclear what percentage of the city's contracts are held by local small businesses. The City should use its purchasing power strategically to stimulate economic growth and create jobs.

I THEREFORE MOVE that the Council instruct the Chief Legislative Analyst to report back with an assessment of how much of the City's contracts are held by local small business, and options to establish a goal for small business participation in the City's RFPs, procurements and contracts.

I FURTHER MOVE that the Council instruct the Chief Legislative Analyst to report back on options to create a small business commission.

Presented by: 
PAUL KREKORIAN
Councilmember, 2nd District



Seconded by: 


NOV 18 2015

SMALL BUSINESS DEFINITION TABLE

ATTACHMENT II

(Small Business Enterprise, Local Business Preference, Small, Local Business Enterprise, Finance, Economic and Workforce Development, and Minimum Wage Ordinance)

	Small Business Enterprise	Local Business Preference	Small, Local Business	Office of Finance	Economic and Workforce Development (Small Business Loan Program)	EWDD (Business Source Program)	Minimum Wage Ordinance
Size Standards (Avg. of 3 yrs gross receipts, including affiliates) ¹	State = \$14 Million for all City = < \$14 Million for Construction; < \$7 Million for Non-Construction plus a statement from the firm's CPA or paid tax preparer	Not applicable (Geographically Based)	\$3 million or less	Total Taxable Gross Receipts of \$100,000 or less (or \$300,00 or less for individual Creative Artists)	Less than 500 employees or \$10 million or less in gross revenues	More than six employees and up to \$20 million in gross revenue	25 or fewer (de facto small business definition)
Type of Business	Any for-profit, independent business pursuing business on City-funded contracts	Any independent business pursuing competitively bid City contracts greater than \$150,000	Any for-profit, independent business pursuing competitively bid City procurement contracts less than \$100,000	Any for-profit, independent business	Any for-profit, independent business	Any for-profit, independent business	Any for-profit, independent business

