



CALIFORNIA

High-Speed Rail Authority

Small Business Program

September 2024

Prepared by the Audit Office

Report Number: 23-04

EXECUTIVE SUMMARY

The Audit Office of the California High-Speed Rail Authority (Authority) performed an audit to evaluate the Authority's Small Business Program.

The purpose of the audit was to determine the accuracy of the Authority's small business utilization rates reported and the contractor's compliance to their contract, the Authority's small business participation goal, and state and federal requirements by evaluating contractors' small business activities and efforts.

The scope of the engagement was limited to contracts with the small business utilization requirements and their contract terms through 2022. Our audit included examining policies, procedures, and other relevant criteria, interviewing personnel, and conducting tests necessary to complete the objectives.

We found that the accuracy from the Small Business Program for reported small business utilization has improved from 2018 to 2022. Moreover, the Authority, its Small Business Program, and the prime contractors continue to work towards meeting the established small business utilization goal. Although there is opportunity for the prime contractors to track and document their good faith efforts on a more consistent basis, the prime contractors generally complied to their contracts and maintained their proposed teams according to their small business plan as proposed during the procurement of the contracts.

We look forward to following up with the Small Business Program.

Paula Rivera

Paula Rivera, Audit Chief

August 13, 2024

Date

Audit Report

BACKGROUND

The California Legislature created the California High-Speed Rail Authority (Authority) as part of the California High-Speed Rail Development Act of 1994. The Authority is responsible for planning, designing, building and operation of the first high-speed rail system in the nation. California high-speed rail will connect the mega-regions of the state, contribute to economic development and a cleaner environment, create jobs, and preserve agricultural and protected lands. The Authority is responsible for overall management, oversight, and monitoring of state and federal awards received. This function requires accountability and transparency and must provide a means of tracking and monitoring program goals, accomplishments, and compliance with grant requirements.

The Audit Office completed a review of the Small Business Program in 2014 and found multiple issues including inconsistent tracking of small business participation and utilization reporting. A follow-up review was completed in 2018 that found errors in the utilization reporting and inefficient data collection processes.

The Audit Office conducted this audit in 2023-24 of the Authority's Small Business Program. This report details the Small Business Program's compliance and reporting elements and makes recommendations the Authority may consider implementing to improve the Small Business Program.

As a condition of federal financial assistance from the Federal Railroad Administration (FRA) for design and construction of the high-speed train project, the Authority ensured the FRA that small and disadvantaged businesses have an equitable opportunity to participate in federally funded contracts. The Authority established the Small Business Policy and Small Business Program to oversee, monitor, and track the achievement of the small business goal as approved by the Board in 2012.

The Authority had an overall combined small business goal of 30% which incorporated the federal 10% Disadvantaged Business Enterprise (DBE) goal, the state 3% Disabled Veteran Business Enterprise (DVBE) goal, and the state 25% Small Business (SB) overall participation goal.

On November 2, 2023, the Small Business Program received approval from the Board to implement a new Small Business Policy. The policy set Small Business goals for new contracts with varying levels of small business participation depending on the funding source of each contract. Contracts funded by blended funds (state and federal) have a 25% SB goal, 10% DBE goal, and a 3% DVBE goal. Contracts fully funded by state funds have a 25% SB goal and a 3% DVBE goal. Contracts fully funded by federal funds have a 17% DBE goal. These revised goals are outside of our audit period and were not included in our analysis.

The reporting process for small business utilization begins with prime contractors submitting the required Small Business Report Summary and Verification Form (form 103). The Small Business Program uses the information from the form 103 to update their tracking of the small business utilization for each contract on their master list. Reports for internal and external stakeholders, such as for the FRA, are generated from their master list.

Furthermore, prime contractors also submit other required forms, reports, plans, and good faith efforts documentation to the Small Business Program to comply to the contract, program, state and federal requirements and goals.

OBJECTIVES, SCOPE, and METHODOLOGY

The purpose of the audit was to determine the accuracy of the Authority's small business utilization rates reported and contractors' compliance to their contract, Authority's small business participation goal, and state and federal requirements by evaluating Contractors' small business activities and efforts. The objectives of the audit were to provide the Board and the general public assurance that the Authority's Small Business Program is reporting small business utilization accurately and contractors are in compliance with their contracts and state and federal requirements.

The scope of the engagement was limited to contracts with Small Business requirements within their contracts from the period of January 2018 to December 2022. Our audit included examining policies, procedures, and other relevant criteria, interviewing personnel, and conducting tests necessary to complete the objectives. We tested 20% of the Quarterly FRA Reports, 3% of the monthly Financial Reports Executive Summaries, 10% of the FRA Semi-Annual DBE Reports, and 20% of the Department of General Services Consolidated Annual Reports. Also, we sent out surveys to all subcontractors and tested approximately 20% of all contracts with the small business utilization requirements for contractor compliance.

The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing. The results of this audit were discussed with the Chief Administrative Officer and the Chief of the Process and Program Development Branch on March 19, 2024. The Administrative Office provided a response to this audit, which is included as Attachment B. The report is intended as information for Authority management's use; however, this report is a public document, and its distribution is not limited. We appreciate the Authority's time and cooperation throughout the audit and look forward to assisting the Administrative Office and the Small Business Program as needed.

CONCLUSION

The audit of the Small Business Program found that the Authority's reported small business utilization rates by the Small Business Program has shown consistent improvements in accuracy from 2018 to 2022. We acknowledge the improvement efforts

of the Small Business Program in implementing a new cloud-based software system, B2Gnow, to further improve the accuracy of the data used for reporting the utilization rates and track contractor prompt payment. B2Gnow allows subcontractors (SB, DVBE, DBE) to verify the amount paid to them by their prime contractor. B2Gnow reporting was not fully functional for testing during our audit.

We found that the Authority, the Small Business Program, and the prime contractors are continuing to work towards meeting the established small business utilization goal. There were 43 inactive contracts, of which 56% met the Authority goal and an additional 14%, at the minimum, met the state 25% small business utilization goal. At the end of our testing period, December 2022, the Small Business Program was tracking the small business utilization of 31 active contracts. At that time, approximately 35% of the active contracts were meeting the Authority's goal and 16% of active contracts met the state goal. As firms approached their end of contract date, firms were close to or met the small business utilization goal. We found that exceptions include firms that were small businesses that has a 100% utilization rate, firms that has contracts related to Right-of-Way and real property services that does not allow for many small business opportunities, and firms that has contracts that are on a as-needed basis. See Attachment A for additional details.

In terms of contractor compliance, we found that contractors generally complied to their contracts and utilized the small business subcontractors they initially proposed in their small business plan or their proposed Statement of Qualification at the beginning of their contracts. However, contractor good faith efforts are not tracked, and documentation is not maintained consistently.

Additionally, we received 79 responses from subcontractors surveyed and found that most of the subcontractors, 92% felt that they could go to their prime contractor for assistance when needed. Furthermore, approximately 68% would work on another Authority contract in the future and 14% were indecisive.

The identified observation items for the Small Business Program are detailed below.

Observation 1: Small business utilization rate accuracy are improving.

Form 103s are submitted by prime contractors to report their small business utilization. The Small Business Program creates a master list to generate reports on small business utilization rates to internal and external stakeholders based on the data obtained from the prime contractors' submitted Form 103s. The reported rates do not always match to the source data (Form 103s). However, from 2018 to 2022 the accuracy from the Small Business Program for reported small business utilization has improved.

Recommendation:

The Small Business Program should improve their processes to accurately track the information from the prime contractors to report accurate small business utilization rates. We acknowledge the Small Business Program efforts in the implementation of their new B2Gnow system which should increase accuracy of their reporting.

Response:

“The Small Business Program concurs with the recommendation. In addition to the implementation of the new B2G Now system, the Small Business Program is updating the Form 103. This update to the Form 103 will track utilization goals more accurately and provide the Authority with information regarding prime contractor small business utilization rates based on calculations for the total contract value, as well as dollar amounts that have been paid to date.

Planned Completion Date: December 2024”

Analysis:

We agree with the corrective action identified.

Observation 2: Work towards the small business goal is a continued effort.

The Authority’s Small Business Policy, POLI-SB-01, and the prime construction contracts, establishes small business participation goals. Varying factors cause the prime contractors to fall short of the 30% overall small business utilization goal, such as a lack of work and insufficient small businesses in the geographic area to complete the work. However, there are continued efforts to accomplish the established goal.

Recommendation:

Require periodic updates from prime contractors on how they plan to meet small business goals.

Response:

“The Small Business Program concurs with the recommendation. The Small Business Program has made significant revisions to its internal compliance processes to address contractors who are not meeting small business goals due to lack of work or insufficient businesses in their geographic area.

The Small Business Compliance Unit (SBCU) has joined a collaborative effort with the Authority’s Contracts and Procurement Branch to review small business goals and contract language before contracts are executed. This effort will help determine how goals

should be applied to each contract under the new goal structure per the revised 2023 Small Business Program Plan.

The SBCU has established regular quarterly meetings with prime contractors to review all small business efforts, with a specific focus on firms whose small business utilization is not commensurate with what they have been paid to date. Additionally, the Authority includes in contract language, a reference to the Authority's 2023 Revised Small Business Program Plan that requires prime contractors to report their efforts to achieve participation on a monthly basis.

Planned completion Date: Implemented July 2024”

Analysis:

We agree with the corrective action identified and acknowledge completion.

Observation 3: Tracking of good faith efforts is inconsistent.

The Authority's Small Business Policy, POLI-SB-01 and Program plans for Professional Services and for Design Build Contracts, requires good-faith efforts to be tracked. Good-faith efforts tracking by the prime contractors were inconsistent. Contractors that were already meeting their small business goals did not need to find new small business firms to increase their small business utilization. Additionally, contractors that lacked adequate work to bring on more small businesses did not have good faith efforts.

Recommendation:

Ensure contractors are fulfilling their good faith efforts by reviewing their submittals for good faith efforts and verifying their efforts.

Response:

“The Small Business Program concurs with the recommendation. To provide clarity of the Authority's Small Business Program's good faith effort requirements, the Small Business Program implemented its new Efforts to Achieve Participation (EAP) guidelines. These guidelines clarify acceptable demonstrable efforts toward both state and federal small business goals.

The document clarifies:

- What is a demonstrable effort;
- What EAP types are recognized by the Authority's SBCU (8 different demonstrable types are defined);
- What is required of each EAP type to be considered a valid and demonstrated effort;
- A standard reporting process which allows a more efficient review by the SBCU;

- A standard corrective action process for prime contractors who may fall out of compliance.

The SBCU will receive its first EAP reports from prime contractors in September 2024.

Planned completion date: Implemented July 2024 “

Analysis:

We agree with the corrective action identified and acknowledge completion.

Attachment A

List of active contracts

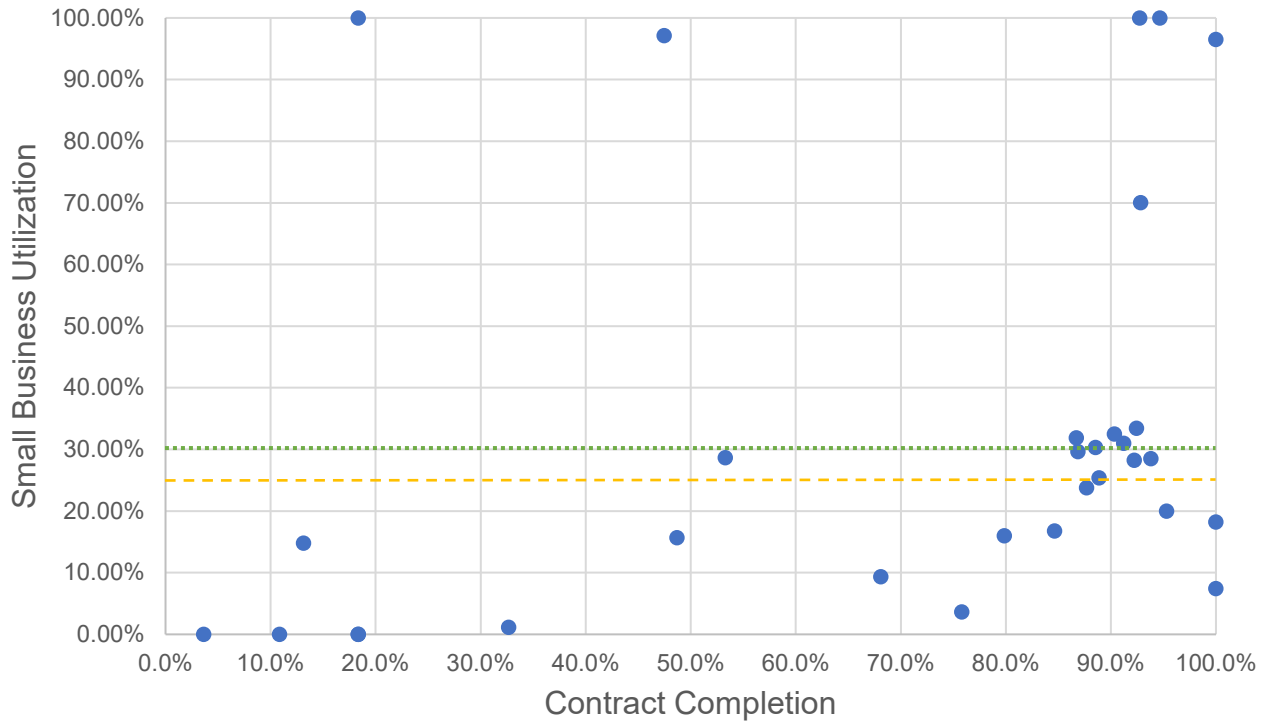
Number	Contract Completion	SB %
1	88.5%	30.33%
2	92.2%	28.22%
3	94.6%	100.00%
4	86.7%	31.87%
5	91.2%	30.98%
6	86.9%	29.64%
7†	75.8%	3.62%
8	79.8%	15.98%
9	93.8%	28.50%
10	90.3%	32.51%
11	87.7%	23.75%
12	92.8%	70.02%
13 Π	68.1%	9.36%
14	92.7%	100.00%
15	92.4%	33.42%
16	84.6%	16.75%
17†	32.7%	1.12%
18	53.3%	28.66%
19	48.7%	15.70%
20	47.5%	97.14%
21±	100.0%	7.41%
22	100.0%	96.50%
23	3.6%	0.00%
24	18.3%	99.98%
25	18.3%	0.00%
26	18.3%	0.00%
27	13.2%	14.80%
28	10.9%	0.00%
29	88.9%	25.37%
30	100.0%	18.23%
31	95.3%	20.01%

† - Contract is for the acquisition of property for environmental preservation.

Π - Contract is utilized on an as-needed basis for environmental work.

± - Contract is for ROW and real property.

Small Business Utilization vs Contract Completion



Overall Authority combined 30% small business participation goal
State 25% small business participation goal



DATE: September 12, 2024

TO: Paula Rivera, Audit Chief

FROM: Catrina Blair, Chief Process and Program Development Branch

CC: Pam Mizukami, Chief Deputy Director
Mahsa McManus, Chief Administrative Officer

SUBJECT: Small Business Program Audit Response and Corrective Action Plan

The Authority's Small Business Program has prepared a corrective action plan which details our intent to implement the recommendations identified by the Authority's Chief Auditor in the report issued in August 2024. We concur with the audit recommendations and have begun the work to improve internal processes that will remedy the issues that have been identified.

The audit observations, recommendations and Small Business Program responses are as follows:

Observation 1: Small business utilization rate accuracy is improving.

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Small Business Program Response:

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Observation 2: Work towards the small business goal is a continued effort.

The Authority's Small Business Policy, POLI-SB-01, and the prime construction contracts, establishes small business participation goals. Varying factors cause the prime contractors to fall short of the 30% overall small business utilization goal, such as a lack of work and insufficient small businesses in the geographic area to complete the work. However, there are continued efforts to accomplish the established goal.

Recommendation:

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Small Business Program Response:

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