

City of Clearwater Small Business Enterprise Readiness Report

Phase 1 – Evaluation



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INTRODUCTION:

Phase One (1) of the scope of work projected a series of evaluation benchmarks to begin building the basis for an effective and efficient Small Business Enterprise (SBE) Program. In taking this stair-step approach, the City of Clearwater appropriately sought to begin by building an infrastructure assessment. The Report will isolate those significant key infrastructure components that historically spoke to the effectiveness and efficiency that universally has been embraced as a city leadership goal for this SBE Program Initiative.

Vendor Eligibility and Availability

When determining the strength of a SBE Program, one of the initial factors that must be structured is how does one determine the independent vs. dependent variables. In the classic research setting, the independent variable is something the researcher changes or controls. The dependent variable is the factor that is measured and/or observed.

One of the metrics used to measure program effectiveness is whether the government's policy or practices have a discriminatory effect. SBE Programs are not covered by the laws that govern protected classes, such as race or gender, so government agencies have the latitude to create preferences and other encouragement policies and practices to enhance the door of opportunity for all small businesses. The warning, however, that any small or local business initiative should never lose sight, however, is that the U.S. Supreme Court case of Croson vs. the City of Richmond and those that follow this landmark case stand for the proposition that government must always act with caution to shape their small or local business programs to not violate the rights of those that are within the protected classes of race and gender.

So...how does an agency create a small or local business program to avoid the Croson warning? Croson and the cases that followed sought to establish two variables to guide the statistical analysis of these cases.... availability and utilization.

The initial target surrounds who is available in your market. It is not availability though in the classic sense of "open for business". The definitive phrase most often used is what vendors are "ready, willing and able" to perform. For this Report, our best practices focus drives us to the twin independent variables of vendor eligibility and communication. Why? The mistake that many new or existing programs commit is that even when vendor eligibility is properly and intentionally defined to meet the Croson test, your communication capabilities will dictate whether your vendor solicitation net is sufficiently deep or sufficiently wide.

Thus, for economic development purposes, your vendor eligibility will need to be larger than the City of Clearwater or Pinellas County. Why? Because your residents do not only benefit from work in the City or County...they work for businesses with offices in Sarasota, in Bradenton, in Dade City, in Tampa or in Lakeland who are already doing business in your city. Moreover, every mature small business program model in Pinellas or Hillsborough County views the seven – county SMSA of Tampa Bay as the proper dimension of your vendor eligibility framework. If the desire is to maintain a successful race-neutral program, then your guideposts must avoid failure of the availability test. That test failure would guarantee the legal predicate that dictates the creation of a race-based program.

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Vendor Communication

The companion variable of availability and utilization has a necessary bridge...vendor communication capacity. Again, best SBE practice has long concluded that the traditional random one- or two-time published notice has symbolic value but ignores the reality of the small business owner (and the loss of competition) who's balancing the business requirement for technical expertise while lacking the time or the resources to cover the business's administrative needs. The reality...if the owner or his/her designee fails to read the legal notice on the correct day or time, the opportunity is lost.

The solution requires a complimentary feature...confirmation that the communication solution has an audience platform that offers to those potential vendor competitors notice of relevant opportunities. The building of this critical infrastructure element envisions a database that cross references certified small businesses that have designated the service or product as part of their business menu.

The City of Clearwater's Procurement Department has taken solid strides to meet this vendor communication contingency by the implementation of the software program that it currently possesses. The challenge before us is to explore the implementation strategy both internally and externally to accelerate its readiness to address the needs of a meaningful, successful SBE Program. The next step in this scope of work - the Development Phase - is positioned to examine how the variables that will need to be isolated and reinforced need to be blended to meet and maintain a new normal.

Internal Infrastructure

Morrison & Associates (M&A) has developed an evaluation process that builds upon the vision of an infrastructure assessment. This best practice assessment anticipates a review of the underpinning of the City's potential SBE service delivery systems to match the preexisting strength of the City's infrastructure. In this assessment, there are a variety of benchmarks we will pose to assist in crafting a roadmap to SBE Program development success.

First, can vendor status be confirmed and inventoried? Answer: No

Any internal infrastructure analysis must begin with the capability to measure eligibility determination. Currently, there appears to be no capability to track small business utilization by the city - either overall or by department. The City of Clearwater's vendor registration process is a positive step in the needed direction but our preliminary discussion with key department leadership suggests that entry and coding of the eligible prospective vendors by business size or diversity categories is not part of the current software development program.

Second, is the city positioned to track construction prime and subcontractor/subconsultant small business utilization? Answer: No

The use of general contractors, construction management firms and other construction - related firms either by hard bid or thru the Consultant Competitive Negotiation Act (CCNA) requires a parallel monitoring capability. Why? because the city is engaging prime vendors to contract and spend on its behalf. The absence of tracking of small business utilization, or that of women or minority owned businesses in trade / professional services subcontracting, equates to a significant exemption of otherwise eligible tax dollar expenditures from the city's expectation of small business utilization. The challenge - because subcontractors or subconsultants are paid by the prime vendor, not the city, vendor coding doesn't provide the needed accountability and tracking of this critical small business utilization platform.

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Third,** does the city currently create a self-inflicted wound to its SBE Program vision by the failure of city tax funded governmental agencies to model a smaller version of the city's SBE program? **Answer: Yes

Most SBE Programs rarely examine the significant area of tax dollar transfer to other government entities. Even when the unfortunate conclusion is reached that the availability and utilization tests have been failed, there's an absence of appreciation that receiving agencies that operate in a traditional procurement model are pregnant with SBE program opportunities. A robust small business program that does not include inter agency transfers equates to another spending category miss, within which the City of Clearwater's small business community loses again the capability to compete and serve.

Fourth,** does the City of Clearwater have a data capture capacity to measure P-card related small business utilization? **Answer: No

Most agency purchasing authority includes the capacity for supervisors and managers to have the limited purchasing capability for non- bid list items – mostly done thru P-cards. The out of sight alignment of this range of discretionary spending means that classic “low-hanging fruit” has been missed – when a supervisor or manager could immediately impact small business utilization. A collaboration between IT, Procurement and Accounts Payable is required to efficiently marry the requisition process with vendor registration and coding. An electronic solution that examines how to take the existing requisition process and isolate an identifying field to track this bucket of opportunity is suggested to be part of the Development Phase of this scope of work. Utilizing MUNIS' capacity will avoid an elementary feature of an efficient program ... avoiding the staff burden in determining something as simple as who are true eligible small businesses.

Fifth,** can City staff currently access a seamless path to determine SBE vendor eligibility? **Answer: No

Nothing reflects the frustration of staff and SBE Programs than the inability to match vendor opportunity with pre-identified certified small businesses. In the absence of that match, the City's program rests upon prayer, good will and departmental discretion. Any implementation must allow for this natural link as a base element that's no longer a periodic practice but part of the City's procurement and staff training DNA.

Sixth,** does the City of Clearwater's organizational placement of the Small Business Encouragement Program align with industry best practices? **Answer: Yes

The most successful SBE Programs have a key variable – small business utilization as part of the organization's strategic thinking. Our analysis often seeks to confirm that there's both an intentional external message, but also an aligned internal emphasis. The link to both - whether small business utilization reflects a long-term view of institutional messaging.

The strength of placement of the SBE Program in the City of Clearwater's Economic Development & Housing Department is captured by two distinct considerations. First, when looking at successful SBE Programs, their DNA is always grounded with solutions that require an understanding of the internal organization's strengths and challenges as well as a natural listening ear to the public.

Second, the Economic Development & Housing Department is driven by and comfortable with analytics. Thus, when an organization is measured by targets, objectives and expectations, then there is no need to change or have a clash of cultures. When small business utilization is an afterthought, it is not by accident. Simply put, organizational placement of small business accountability directly impacts small business utilization sustainability. This placement by the City of Clearwater leadership mirrors the optimum organizational crosswalk in addition to an outreach comfort that are keys to elevating the most successful SBE Programs.

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Performance Assessment

Whenever M&A has provided its program evaluation services, it has always identified a third structural principal of small business program excellence – performance assessment. The change in approach, however, is guided by a series of feeder concepts that develop the template for performance assessment.

Software Assessment

The first feeder concept reflects the growth of software tools that either did not exist a decade ago or have seen a significant level of refinement for new or existing program evaluation. Thus, we have altered our traditional evaluation analysis to take an early look at the client's software capacity and how it aligns with the analytic-related needs that progressive SBE Programs require.

Our team has engaged in a series of conferences with the City of Clearwater IT leadership to begin an overview of the City's existing financial software – MUNIS – and its ability to provide the projected SBE Program's data collection requirements. Our team was pleased to be advised that MUNIS contained a module for SBE reporting that suggests an integration capability between the SBE reporting suite and the City's existing financial system.

For purposes of this Evaluation Phase, the M&A team undertook three levels of assessment:

Level #1: MUNIS IT Overview

There are several evaluation features that the next phase will have to evaluate to determine the MUNIS SBE viability:

- a) What fields are available vs. needed?
- b) How to blend existing vendors and their commodity codes with the expanded SBE reporting feature.
- c) If it is determined that the B2G is a needed asset, evaluating the B2G Interface Guide to isolate any issues or considerations.
- d) How to manage Procurement's vendor self-service software as one of several assets in the City of Clearwater SBE reporting suite.
- e) If the City is processing 1,500 P.O.'s per month, any data integration plan must determine a timeline to expand the existing reporting and operational systems seamlessly.
- f) Finance and Procurement must join Economic Development as part of an overall application team.

Level #2: Pinellas County Economic Development Collaboration

One of the steps that M&A and Economic Development felt would be valuable in the Evaluation Phase would be meeting with the leadership of Pinellas County Economic Development and their experience with B2G software, which has been adopted by several SBE / WMBE Programs in the Tampa Bay area.

- a) One key point of analysis – is there an approach with which the City of Clearwater can accelerate its SBE program intention by a partnership with Pinellas County?

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- b) Pinellas County can provide vendor names in an excel spreadsheet format, but there are limits of how much can be shared. Thus, vendor contact information, for example is available, but race & gender is not and will require additional due diligence
- c) Can the City of Clearwater registration system and payment systems speak to B2G?
- d) B2G's strength – reports can be customized.

Level #3: Functional City of Clearwater Issues

- a) Before investing the money with B2G, it may be worth Clearwater's time to look deeper into what could be done using MUNIS compared to adding B2G
- b) This exercise would not lose time because that knowledge could be used for the B2G project if City does move to an external solution.
- c) If MUNIS can do the work, Clearwater needs to think on two topics:
 - Do they like the separation between B2G and the agency? Meaning... this gives the department an outside source to do the work and not face any internal conflicts
 - Resources on internal staff vs. outsource because
 - IT has enough on their plate and
 - Perhaps B2G can respond to request sooner or
 - Stay internal, because there would have to be a resolute internal unit to oversee the integration of the B2G software anyway.
- d) A couple of unanswered question...does MUNIS contain canned reports and if so, what are they?
- e) M&A can provide to the city the data parameters of what would be standard reports to allow IT to determine how to align existing data collection software currently deployed by Finance and Procurement.

Evaluation Assessment Minimums:

Small Business Encouragement vs. Women/Minority Business Enterprise Programs

To understand the philosophical basis for performance evaluation metrics in this discipline, any assessment must be explained in the context of race-based minority business programs vs. race-neutral small business program litigation. The statistical analytics this litigation triggered became the key determinant in the argument that utilization differences based upon race or gender was either legally defensible or indefensible.

Although utilization is the final factor in the analytical formula, the dynamic of racial or local disparity in business utilization remains measured by a variety of factors – such as market definition, vendor availability and vendor readiness/willingness/ability. As a result, the line of cases following Croson vs. the City of Richmond established two conditions – first, saying racial discrimination exists alone was not legally sufficient to prove discrimination and second, that once statistical disparity that led to conclude the existence of racial discrimination is eliminated, the race-based program with goals must be ended.

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What is the translation? Two initial thoughts. First, the initial take-away – the establishment of a viable race-neutral small business program becomes the base to institute, measure and ensure balanced equity between best bidder purchasing policy and sustaining a discrimination-free business solicitation and utilization conclusion in tax dollar spending assessment.

The second parallel take-away - establish performance assessment that documents service delivery systems are truly offering structural checks and balances to successfully respond to any challenge that the City of Clearwater has not provided opportunity equity.

The solution – the identification and institution of assessment criteria that allows electronic documentation of performance measurements which lead to variables that either confirm or refute assertions of either race -based disparity or a lack of fairness in utilization of local business.

Employee Support Requirements

M & A has been asked to provide an initial snapshot of what employee support would be required to establish not only the foundation of a sustainable City of Clearwater SBE Program but also where that support talent is deployed.

To fairly structure the staff-related considerations, it is important to begin with some base benchmarks that distinguishes that these deployments are connected to short and long-term deliverables while recognizing the limited staff tools currently available.

- A point-person with no support leads to the inability to serve either internal or external stakeholders.
- Building an effective SBE program must understand that there is both an internal and external audience that must be served, otherwise the program vision is undercut.
- This is a cross-departmental initiative. Support for Economic Development without recognizing the need faced by Procurement, IT and Finance to complement software development and report accountability positions the city for a program that will otherwise have a nice narrative but miss the sustainability the initial short-term three-five years and the local businesses will require to meet a clear legal and operational commitment.

What does this mean? M & A would recommend that following FTE units be deployed to guide program launch and day-to-day operational requirements.

Economic Development:

- One new full-time equivalent unit for vendor outreach, maintenance and policy implementation
- One new full-time equivalent unit as a data analyst to develop reporting tools and evaluation metrics needed for quarterly and annual reporting development and analysis.

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Procurement:

- One new full-time equivalent unit to serve as the direct report responsible for establishment of revised bid standards, working with Economic Development and individual departments to examine how to expand small and local business traditional bid and RFQ/RFP solicitation opportunities and with IT on Vendor Registration modifications to meet additional data needs, working with Clearwater Gas and those departments that utilize the Consultant Competitive Negotiation Act (CCNA) for design professional solicitation as well as construction management at-risk construction projects.

IT / Finance:

- One new full time equivalent unit responsible for a software coordination between existing the vendor self - registration program , MUNIS and the need for development of the necessary SBE Program software development and implementation (whether internally developed thru MUNIS or in tandem with a third-party provider) and vendor coding to facilitate payments tracking that will align with the desired SBE Program accountability reporting best practices.

CONCLUSION:

Undefined “good faith” solicitation as the formula for Small / Local Business Enterprise Program standards has proven to be an escape hatch, which cripples the prospects for true small / local business opportunity and deliverables measured by actual spending. Repeatedly, establishing program expectations are valuable for both internal and external efforts, while being guided by the legal framework that began with the U.S. Supreme Court case of Croson vs. City of Richmond and its successor cases as to how to avoid allegations of discriminatory effect.

This Readiness Report seeks to guide the City of Clearwater thru the scope of work projected Evaluation Phase, establishes a foundational document that not only speaks to the purposes associated with a SBE Program but is intentionally segmented into the following categories:

- **Vendor Eligibility and Availability**
- **Vendor Communication**
- **Internal Infrastructure**
- **Performance Assessment**
 - **Software Assessment**
- **Employee Support Requirements**

These M&A Evaluation Benchmarks provides to the City of Clearwater a roadmap that structures the platform that allows for an understanding of the early -decision points and conclusions that allows city leadership to develop its vision for a Small / Local Business Enterprise Program that reflects the lessons-learned from the experiences of other programs locally and around the country.

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