



**Battery Park
City Authority**

Diversity Utilization Updates: BPCA Resiliency

Board Briefing

June 26, 2024

Program Overview	MWBE	SDVOB
Applicable Law	NYS Executive Law 15-A	NYS Veterans' Law, Article 3
Goals	15% MBE, 15% WBE	6%
Applicability	Non-construction contracts >\$25K Construction contracts >\$100K	All Procurement expenditures
Exemptions and Exclusions	- Expenditures not subject to MWBE/SDVOB goals (e.g., Rent, Taxes, Emergency Procurements, a lack of subcontracting opportunity). - Identified prior to execution of the contract, in consultation with ESD/OGS as appropriate.	
Waivers	- When a contractor will not meet their MWBE/SDVOB participation goals, vendors must submit documented good faith efforts and a written request for a waiver. - BPCA evaluates the request and determines whether the goal should be modified based on the presented information. The request is then sent to Empire State Development (ESD) for review and approval.	
Good Faith Efforts	Good faith efforts constitute a detailed statement of the efforts made to take all necessary and logical steps toward achieving participation goals, including the contact, negotiation, and utilization of MWBE/SDVOB vendors. "Good faith" will be determined by quantity, quality, and intensity of the various efforts.	
Penalties	- Liquidated damages may be imposed after intensive review of good faith efforts and clear documentation of willful noncompliance with diversity goals. - Depending on delays in reaching MWBE procurement goals or noncompliance with payment reporting requirements, payments can be withheld.	

Waiver Eligibility and Process

What contract expenses could yield a waiver request and goal reduction?

General Conditions: costs incurred for liability insurance, bonding, permitting fees, etc.

Allowances: would only be included as “eligible spend” if the amount is authorized pursuant to the contract (e.g., change order allowances)

Specialty Trades: highly specialized scope (e.g. architectural concrete, flip up gates) that can only be performed by very limited pool of vendors (none of which are MWBEs) specified in the project design documents.

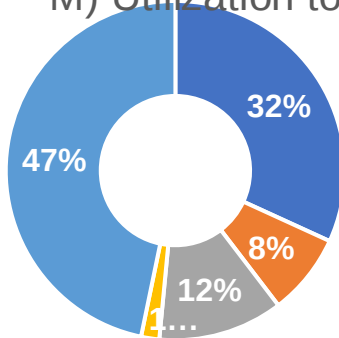
What is evaluated during the waiver process?

Documentation is submitted by the prime during the course of the contract, requesting a reduction in the overall goal.

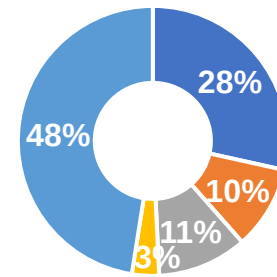
Waivers may be granted for (a) documented, detailed evidence of good faith efforts and (b) contract expenses that cannot be subcontracted.

Resiliency Utilization Overview

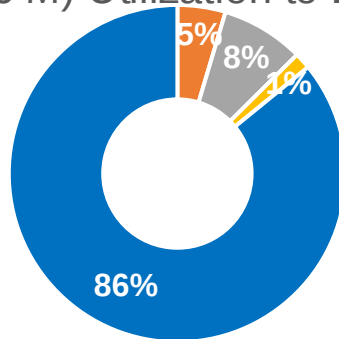
South **Award** (Total: \$254.2 M) Utilization to Date



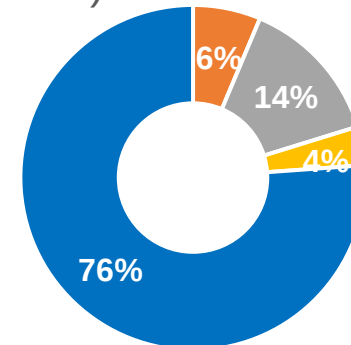
North/West **Award** (Total: \$105.8 M) Utilization to Date



South **Payment** (Total: \$75.6 M) Utilization to Date



North/West **Payment** (Total: \$55.2 M) Utilization to Date



- In Consideration for Waiver
- MBE
- WBE
- SDVOB
- Non-M/WBE



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South Battery Park City Resiliency

South Battery Park City Resiliency Overview

The South Battery Park City Resiliency portfolio consists of the following prime contractors:

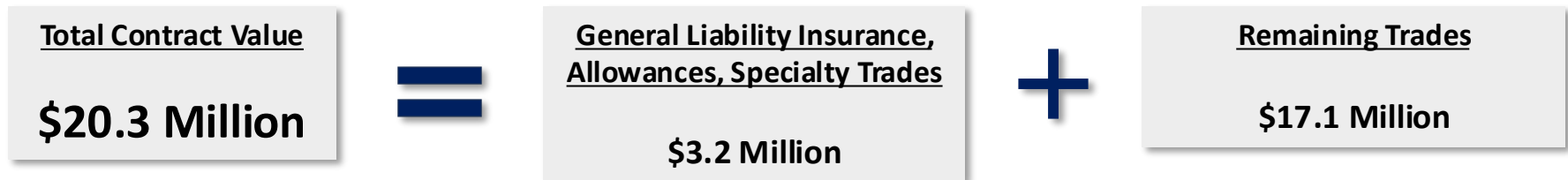
Contractor	Scope	Contract Value
AECOM (South)	Design	\$20,353,477
LiRo	Construction Management	\$11,212,841
Posillico Bove JV	Package #2 Wagner Park MJH Site Work	\$77,653,200
E.W. Howell	Package #3 Wagner Park Pavilion Construction	\$70,313,459
Battery Park Constructors	Package #4 Pier A Plaza Battery Package Sitework/NSI Construction	\$73,593,000
Amaracon Testing & Inspections*	South BPC Resiliency Special Inspections and Laboratory Testing	\$1,031,250
Total		\$254,157,227

* Amaracon is an M/WBE prime

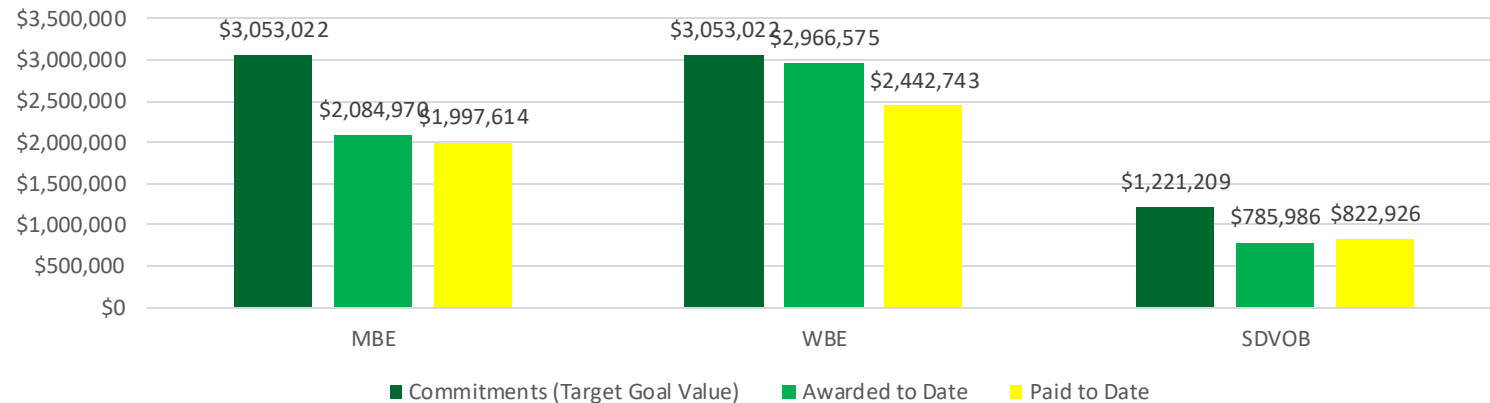


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AECOM: Design



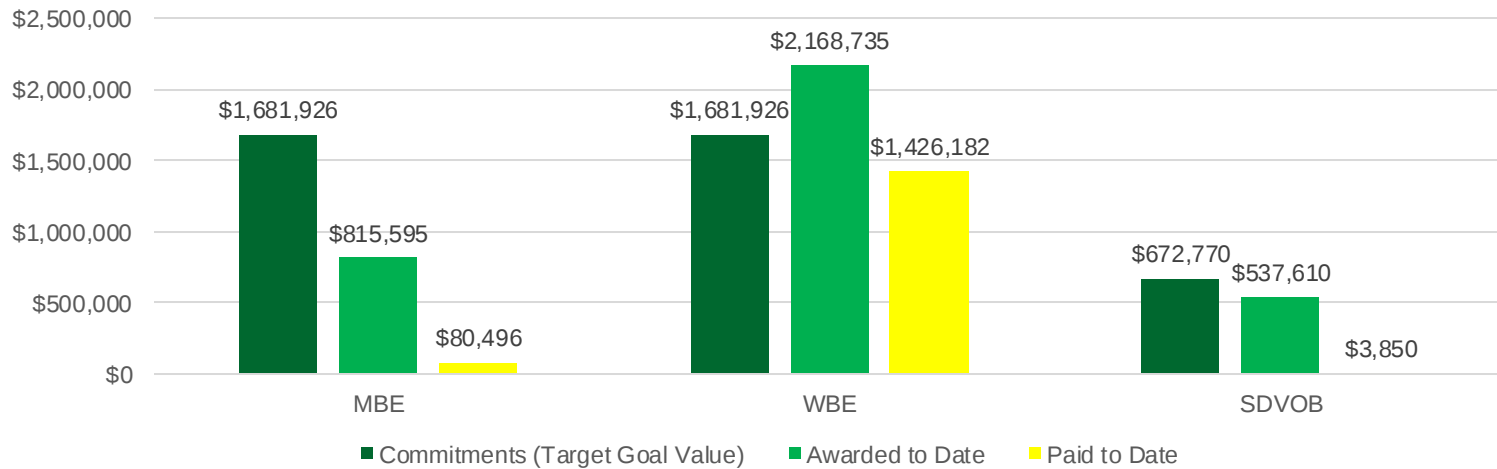
M/WBE and SDVOB Utilization



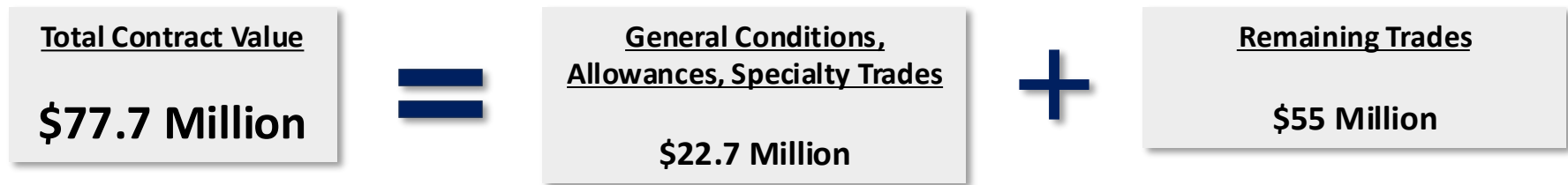
LiRo: Construction

Total Contract Value
\$11.2 Million

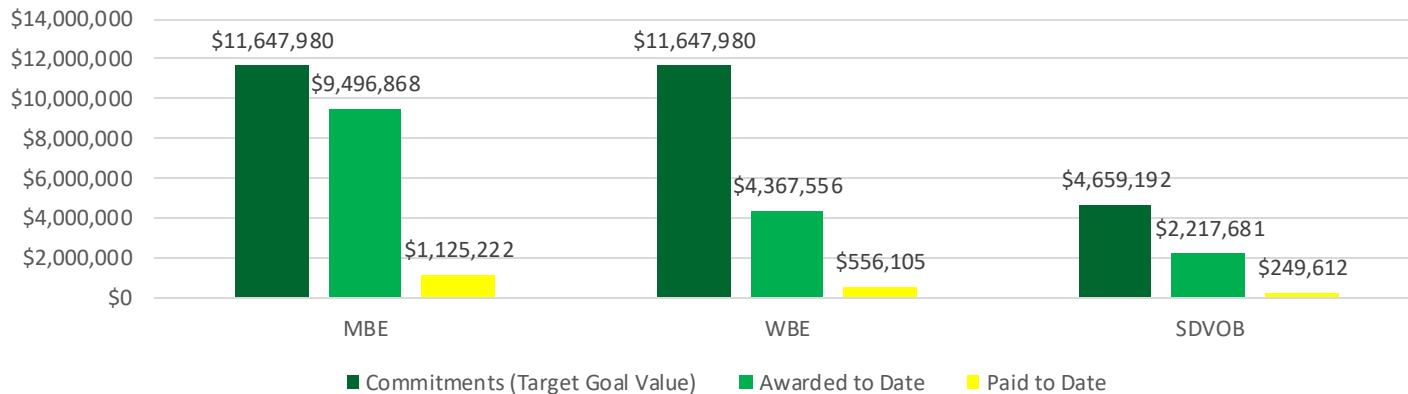
M/WBE and SDVOB Utilization



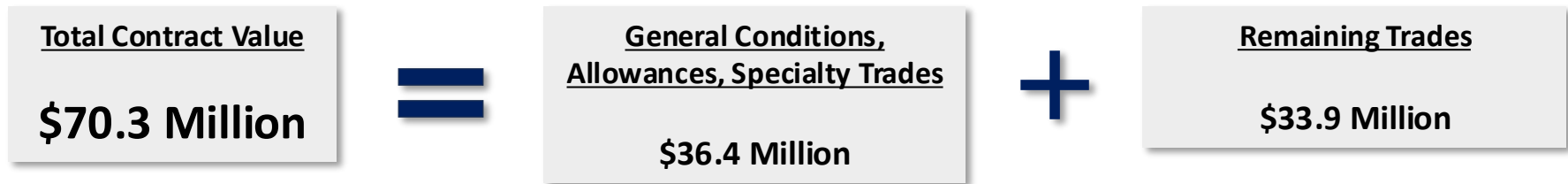
Posillico Bove JV: Package #2 (Wagner Park MJH Sitework)



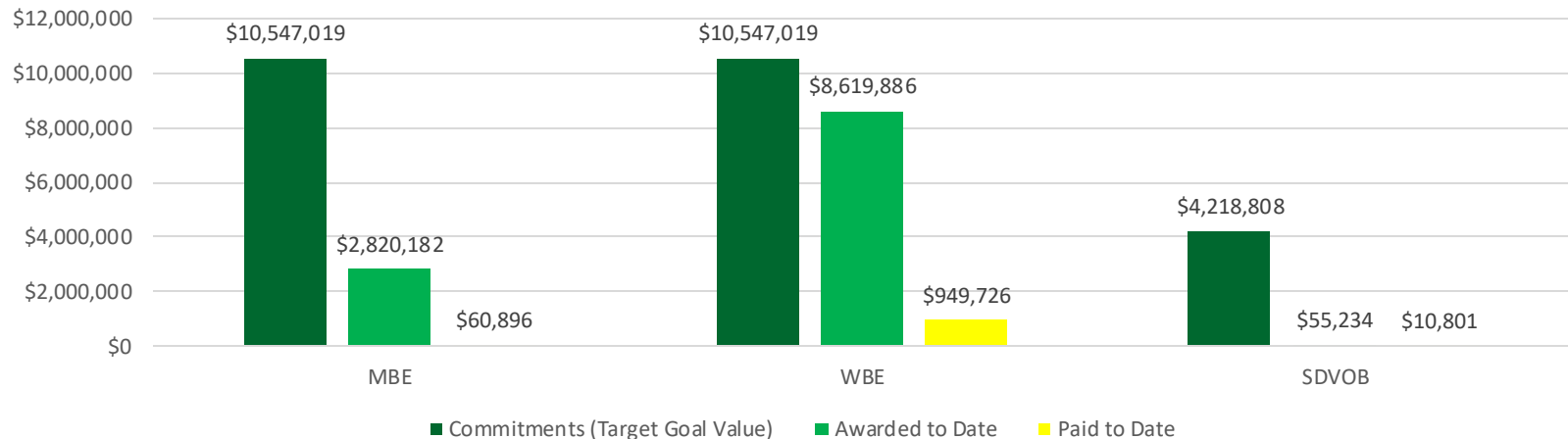
M/WBE and SDVOB Utilization



E.W. Howell: Package #3 (Wagner Park Pavilion)



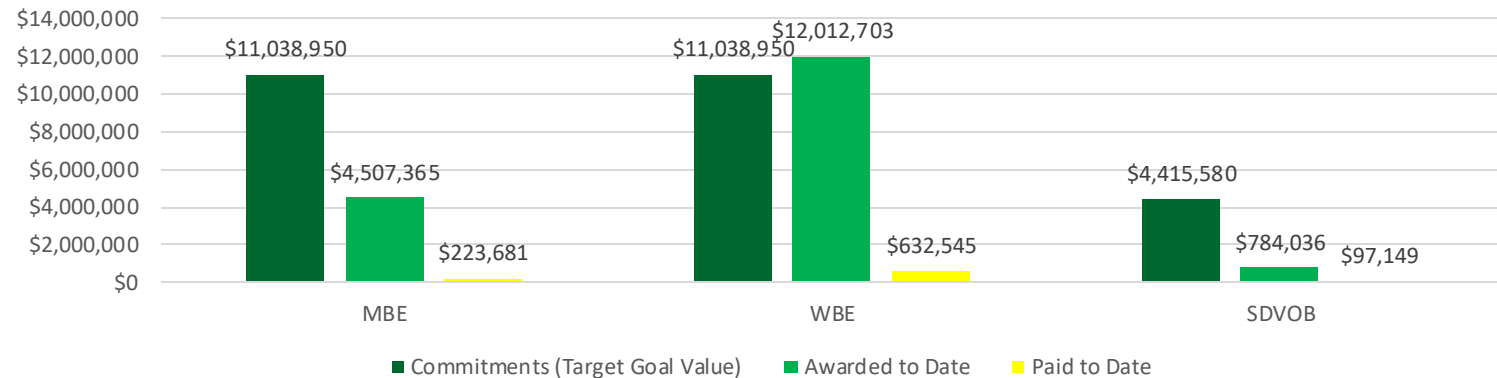
M/WBE and SDVOB Performance



Battery Park Constructors: Package #4 Pier A/Battery & NSI

<u>Total Contract Value</u> \$73.6 Million	=	<u>General Conditions, Allowances, Specialty Trades</u> \$18.3 Million	+	<u>Remaining Trades</u> \$55.3 Million
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M/WBE and SDVOB Utilization

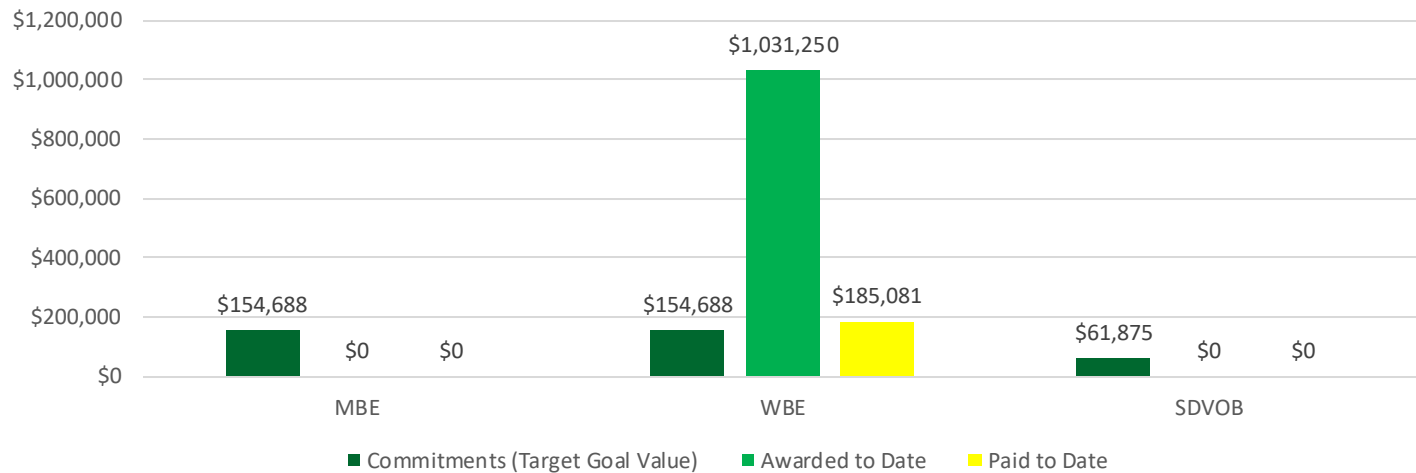


Amaracon: Special Inspections and Lab Testing

Total Contract Value

\$1 Million

M/WBE and SDVOB Utilization



North/West Battery Park City Resiliency



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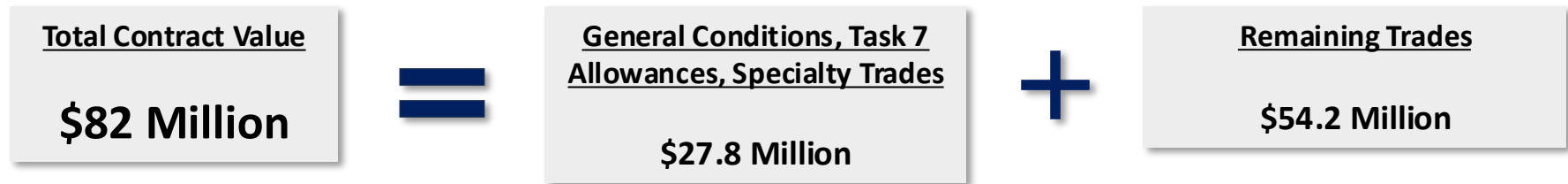
North/West Battery Park City Resiliency Overview

The North/West Battery Park City Resiliency portfolio consists of the following prime contractors:

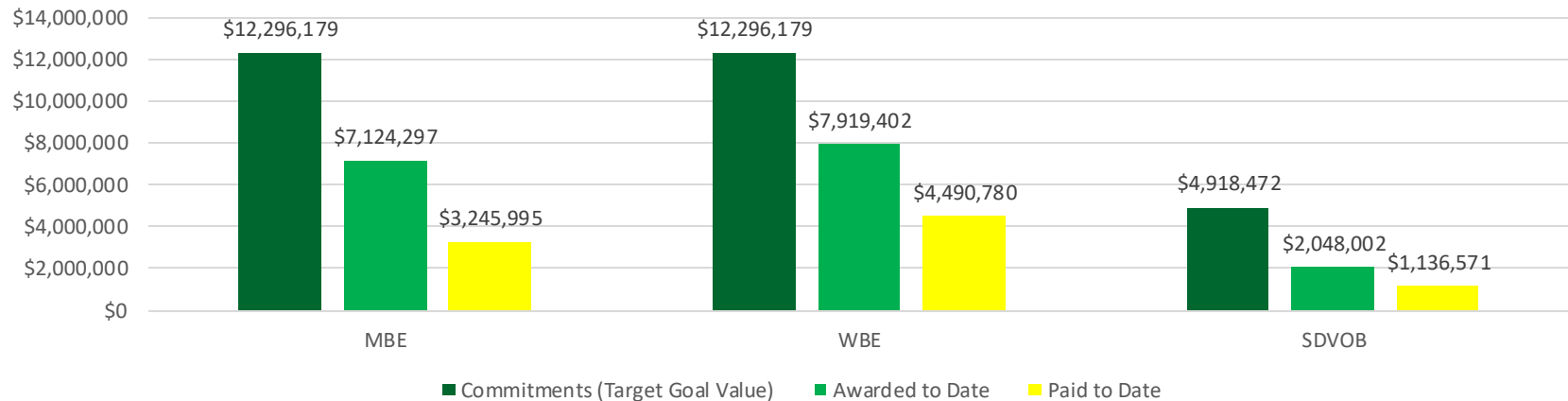
Contractor	Project Name	Contract Value
Turner—EE Cruz JV	Progressive Design-Build Services	\$81,974,529 (Overall*)
		\$59,439,601 (Tasks 1-6, 8)
AECOM	Consulting Engineer Services	\$23,855,010

*This value is inclusive of Task 7—60%-90% Design—that has not yet been approved.

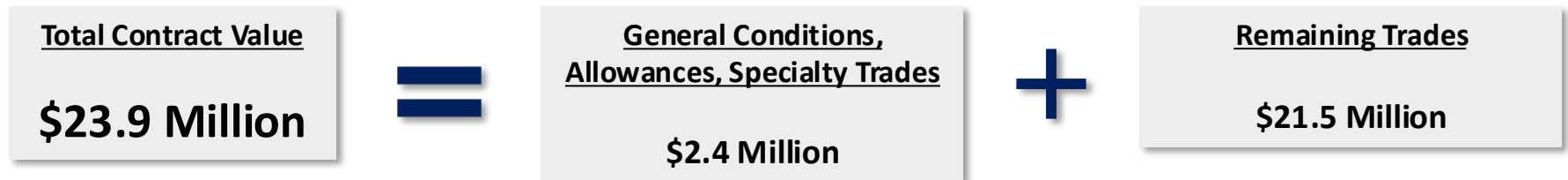
Turner-EE Cruz: Progressive Design-Build Services



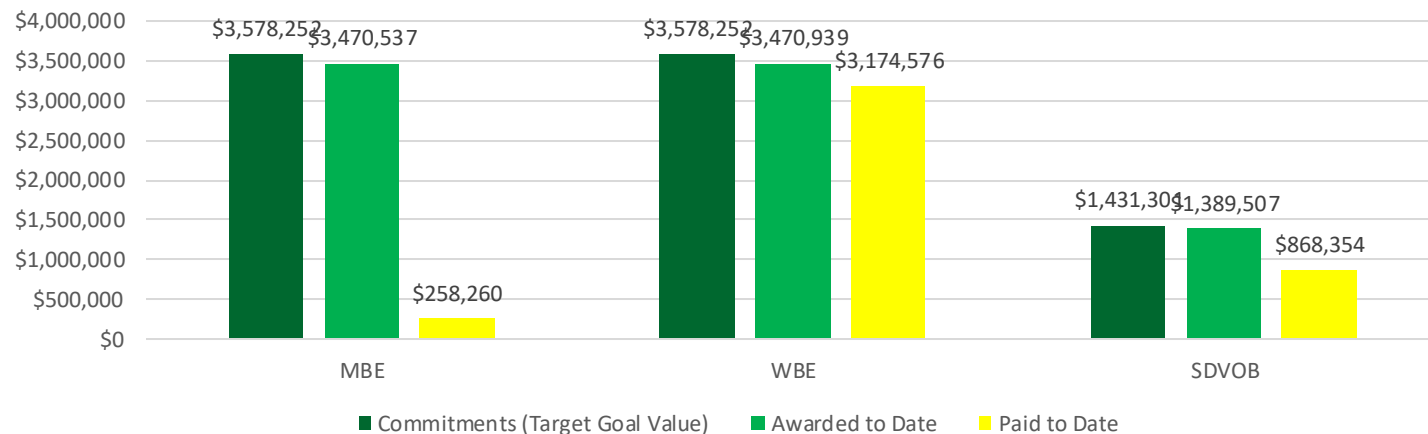
M/WBE and SDVOB Utilization



AECOM: Consulting Engineer Services



M/WBE and SDVOB Utilization



Diversity Compliance

Areas of Focus & Next Steps

Areas of Focus

Planned MBE utilization does not meet goals on AECOM (SBPCR), LiRo, Howell, and Battery Park Constructors' contracts
Planned WBE utilization does not meet goal on PBJV's contract

Next Steps

Ensure prime contractors document good faith efforts and submit accurate, updated M/WBE utilization plans as work progresses
BPCA diversity team + design and construction team working on timely and accurate payment reporting in B2G
BPCA diversity team + design and construction team working with primes to ensure detailed documentation of all good faith efforts to support any waiver requests

