



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Staff Report
July 15, 2008

**Honorable Mayor and
Members of the City Council**

Title: Approval of Disadvantaged Business Enterprise Race-Neutral Program and Goal for FY 2008-2009

Location/Council District: Citywide

Recommendation: This report recommends that the City Council adopt the attached resolution, which 1) reaffirms the minimum Disadvantaged Business Enterprise (DBE) race-neutral participation goal at twenty-five (25%) for Federal-Aid Transportation projects for the 2008-2009 Federal fiscal year; and 2) authorizes the City Manager to execute the previously approved "DBE Race-Neutral Program Implementation Agreement" and "Annual Submittal Form."

Contact: Charlotte A. Broussard, Business Services Advocate, Economic Development Department, 808-8174; Trevor Walton, Business Services Manager, 8080-6476

Presenters: N/A

Department: Economic Development Department

Division: Office of Small Business Development

Organization No: 18001031

Description/Analysis

Issue: The Federal Highway Administration (FHWA), through the State of California Department of Transportation (Caltrans), requires all agencies to adopt a Disadvantaged Business Enterprise (DBE) Program and an annual goal for DBE participation in all program activities funded wholly, or in part, by any Federal-Aid transportation monies. The City of Sacramento currently has a DBE program participation goal of 25%. Caltrans is awaiting FHWA approval of 13.5% program participation, representing 6.75% race neutral and 6.75% race-conscious goals, as supported by the state-wide disparity study. Council is requested to adopt a resolution to continue 25% as its Annual Program Goal and Methodology for Federal Fiscal Year 2008-2009, until further directions from Caltrans. Adoption of

this resolution will maintain the City's eligibility for reimbursements through the State of California Department of Transportation.

Policy Considerations: This report is consistent with the Council's policy to utilize DBE's in all aspects of contracting to the maximum extent possible and to substantially increase DBE participation in all activities funded wholly, or in part, by any Federal-Aid Transportation monies.

Environmental Considerations:

California Environmental Quality Act (CEQA):

CEQA Guidelines Section 15378(b)(2) would exempt continuing administrative activities, such as general policy and procedure making, and CEQA Guidelines Section 15378(b)(5) would cover administrative activities that will not result in direct or indirect physical changes in the environment. CEQA Guidelines Section 15378(b)(4) relating to City's fiscal activities may also be applicable since the subject matter being covered in the staff report and resolution have a direct relationship to City receiving federal reimbursement for transportation projects.

Sustainability Considerations: N/A

Other: N/A

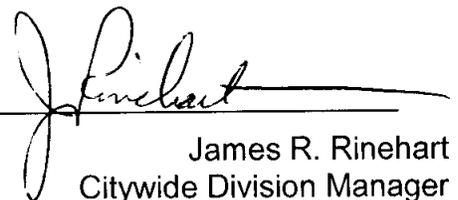
Commission/Committee Action: N/A

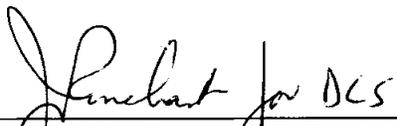
Rationale for Recommendation: The adoption of a DBE participation goal is required to maintain the City's eligibility for reimbursements through the State of California Department of Transportation. The actions recommended in this report are consistent with earlier Council actions regarding compliance with CalTrans and FHWA requirements.

Financial Considerations: Adoption of a race-neutral DBE Program is required so that the City retains its eligibility to receive Federal Aid Transportation reimbursements through the State of California Department of Transportation.

Emerging Small Business Development (ESBD): The Emerging and Small Business Development Program does not apply to contracts with federal Disadvantaged Business Enterprise (DBE) Program requirements, as defined in Code of Federal Regulations 49 Part 26.

Respectfully Submitted by: _____


James R. Rinehart
Citywide Division Manager

Approved by: 
David L. Spaur, CECD, EDFP
Economic Development Director

Recommendation Approved:


for Ray Kerridge
City Manager

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Attachment 1

Background Information: 98

On May 1, 2006, Caltrans implemented a race-neutral DBE program, which includes the following changes:

- Local agencies will no longer have separate DBE programs, unless such programs have been approved directly by a federal agency.
- Local agencies cannot advertise or award transportation contracts that utilize race-conscious DBE goals of evaluation criteria without approval directly from a federal agency.
- All DBE procurements shall contain race-neutral contract language provided by Caltrans.
- Caltrans has completed a state-wide disparity study. Based on that study, Caltrans is now proposing to FHWA a program goal of 13.5%, with 6.75% race-neutral and 6.75% race-conscious goals.
- The State's DBE goal currently is 10.5%, pending FHWA approval of 13.5%.
- Caltrans is in agreement to approve City's DBE participation goal at 25%, based on the City's previously conducted disparity study, until FHWA approves the state participation of a race-neutral and race-conscious goals.
- Local agencies may submit goals different from State goals that are supported by a disparity study or methodology application.

Caltrans required local public agencies to submit for approval a "Disadvantaged Business Enterprise Race-Neutral Implementation Agreement" and DBE projected goal and methodology and DBE compensation. Caltrans approved Council's adopted Implementation Plan on June 13, 2006, which continued a 25% program goal, based on the City's previously conducted disparity study. The 25% goal was supported by the City's disparity study, which captured DBE utilization and projections, 2001 through 2005. City staff is working with Caltrans, in the interim of FHWA approval, regarding program race-conscious goal participation. Staff will report back to Council when Caltrans provides further directions.

RESOLUTION NO.

Adopted by the Sacramento City Council

RESOLUTION ESTABLISHING THE MINIMUM DISADVANTAGED BUSINESS ENTERPRISE (DBE) RACE-NEUTRAL PARTICIPATION GOAL OF 25%, FOR FEDERAL FISCAL YEAR 2008-2009; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROVED IMPLEMENTATION AGREEMENT AND ANNUAL SUBMITTAL FORM FOR USE ON PROJECTS RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION; AND AS ESTABLISHED BY THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

BACKGROUND

- A. The City of Sacramento has received and expects to continue to receive federal financial assistance through the California Department of Transportation (Caltrans).
- B. As a condition of receiving this assistance, the City of Sacramento must execute the approved Implementation Agreement (as of June 13, 2006) and the Annual Submittal Form for the Federal fiscal year beginning October 1, 2008, which is in compliance with the guidelines promulgated by the Federal Highway Administration (FHWA).

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City of Sacramento hereby reaffirms its adoption of the State of California Race Neutral Disadvantaged Business Enterprise Program and Implementation Agreement for the purpose of receiving federal financial assistance from Caltrans for transportation projects.
- Section 2. The City of Sacramento adopts the minimum race-gender neutral participation goal of 25% for DBE's on transportation projects receiving federal financial assistance from Caltrans for the Federal fiscal year beginning October 1, 2008, effective for the period 10/1/08 through 9/30/09, until further directions are received from Caltrans.
- Section 3. The City Manager is hereby authorized to execute the documents required for the Race Neutral Disadvantaged Business Enterprise Program Implementation Agreement and Annual Submittal Form for the Federal fiscal year beginning October 1, 2008 effective for the period 10/1/08 through 9/30/09.

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Exhibit A

Exhibit 9-B Local Agency DBE Annual Submittal Form

TO: CALTRANS DISTRICT 3
District Local Assistance Engineer

The amount of the Annual Anticipated DBE Participation Level (AADPL) and methodology are presented herein, in accordance with Title 49 of the Code of Federal Regulations Part 26, and the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan.

The City of Sacramento submits our AADPL information. We have established an AADPL of 25% for the Federal Fiscal Year 2008/2009, beginning on October 1, 2008, and ending on September 30, 2009.

Methodology

The approach to methodology for the City of Sacramento Disadvantaged Business Enterprise (DBE) Program was to incorporate the business utilization study, conducted by MGT of America in establishing the City's base figure and relative ability of DBEs that are ready, willing and able to participate in the federal-aid contracting program. Objectives of the methodology applied here analyzed the amount of participation of Disadvantaged Business Enterprises (DBE) in procurement of goods and services and determined whether DBE's had been under or over utilized in the procurement of those goods and services. In addition to the data collected by MGT for the previous years' adoption of the City's DBE program and overall annual goal, the City of Sacramento, for establishment of this current year's goal, captured DBE utilization for federal fiscal years 2002-03 through 2007-08 and projections of DBE utilization for federal fiscal year 2008-2009. The analysis of data included:

- Number of DBE firms in the relevant business categories, with the City's relevant market areas.
- Utilization of DBE firms according to dollar thresholds;
- Utilization of DBE subcontractors according to dollar thresholds
- Analysis of Bid Data.

In compliance with the State of California Department of Transportation (CalTrans) mandates for transition to a race-neutral program, the overall goal of 25% is supported by the City's disparity study and has been approved by Caltrans in the current and previous fiscal years. Considerations of options to modify this current goal and methodology will be given after additional information becomes available from Caltrans and other potential avenues of relevant supporting data, to ascertain a goal appropriate for the City of Sacramento's DBE Program.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

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Prompt Pay

Federal regulation (49 CFR 26.29) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage, kept by the prime contractor or subcontractor, to a subcontractor. (Attached is a listing of the three methods. On the attachment, the prompt payment provision is designated the City of Sacramento will use.)

(Signature)

Ray Kerridge, City Manager
ADMINISTERING AGENCY
(Authorized Governing Body Representative)

Date

916) 808-5704
Phone Number

Reviewed by Caltrans:

Signature, Ben J. Bramer,
Caltrans District 3 Local Assistance Engineer (DLAE)

Date

Distribution: (1) Original - DLAE
(2) Signed copy by the DLAE – Local Agency