

AGENDA: September 1, 2005

TO: Regional Transportation Commission

FROM: Rachel Moriconi, Senior Transportation Planner

RE: Adoption of the FY 05/06 Disadvantaged Business Enterprise Program

RECOMMENDATIONS

Staff recommends that the Commission adopt the FY 2005/06 SCCRTC Disadvantaged Business Enterprise Program (DBE) with an overall annual goal of 12% DBE participation in federally funded contracts and use DBE conscious methods to meet that goal.

BACKGROUND

Since 1983, the U.S. Department of Transportation has required agencies which receive federal funds to implement a plan and establish a goal for Disadvantaged Business Enterprise (DBE) participation to ensure that small minority-owned and women-owned businesses are not disadvantaged by unlawful discrimination. Legislation requires agencies to annually establish unique goals for DBE participation in federally funded contracts and monitor these contracts for DBE compliance. Last year, the Commission adopted an overall annual goal of 14%, taking into consideration the number of DBEs in the Commission's consultant mailing list (14%), the percentage of DBE firms that bid on the Highway 1 Widening/Carpool Lane project PA/ED contract (34%) as both prime and subcontractors, and the percentage of the work DBE firms constituted in bids on the Highway 1 Widening/Carpool Lane project (12%).

DISCUSSION

The Commission did not have any new federally-funded consultant contracts last year and may have only one new federally-funded contract for the Sanctuary Scenic Trail Master Plan during the 2005/06 federal fiscal year, beginning on October 1, 2005 and ending September 30, 2006. SCCRTC staff worked with Caltrans to develop the draft Fiscal Year 2005/06 Disadvantaged Business Enterprise Program. This year's plan, based on the Caltrans approved "boilerplate," incorporates current information on the availability of DBE firms to work on SCCRTC contracts. The draft is available for review online at <http://www.sccrtc.org/pdf/DBEDraft2006.pdf>.

Methodology

SCCRTC is mandated to establish the overall goal based on a "bidders list." In the past, due to the small number of contractors that had ever bid on federally funded Commission contracts,

staff instead divided the number of DBE firms on SCCRTC's consultant mailing list by the total number of businesses in the mailing list. Two years ago, with the addition of over 30 consultants and subconsultants that bid on the PA/ED contract for the Highway 1 Widening/Carpool Lane project to the Commission's "bidders list," staff was able to use its bidders list to establish a Base Figure for relative DBE availability, 34%. Since no new federally-funded contracts were issued last year this Base Figure from a "bidders list" has not changed.

Since the base figure is only based on bids for one federally-funded project, staff determined that adjustments to the Base Figure were needed. Staff then reviewed and assessed other known relevant evidence, described below, to determine what additional adjustments, if any, were needed to narrowly tailor the Base Figure to SCCRTC's marketplace:

1. Database of Interested Firms

This methodology, used by the Commission in the past, considers the number of DBE consultants among all consultants that have asked the SCCRTC to include them in our consultant mailing list. Application of this methodology shows that only 12.7% of available firms are DBEs. In FY04/05 this methodology was used and DBEs accounted for 14% of firms in the consultant database.

2. DBE Representation in Bid Proposals with Multiple Subconsultants—Current Capacity of DBEs:

Though DBEs constitute 34% of the consultant firms in the Commission's Bidders List, the majority of these firms were subconsultants on a few bids with multiple subconsultants. Of the overall bids received for the PA/ED phase of the Highway 1 Widening/HOV project, DBEs constituted 12% of the work within the bid proposals.

After considering the above stated factors, especially the current capacity of DBEs based on the volume of work DBEs have performed, staff determined that 12% DBE participation is a reasonable goal for FFY05/06.

Staff recommends that the Commission readopt an overall annual goal for 12% DBE participation for federally funded contracts during FFY05/06.

Breakout of Estimated DBE-Neutral and DBE-Conscious Participation

The Commission is also required to determine what percentage of the 12% goal will be met using DBE-neutral and DBE-conscious methods. DBE-neutral methods include: making efforts to assure that bidding and contract requirements facilitate participation by DBEs and other small businesses; unbundling large contracts to make them more accessible to small businesses; encouraging prime contractors to subcontract portions of the work that they might otherwise perform themselves; listing contract opportunities on the internet; and providing technical assistance, and other support services to facilitate consideration of DBEs and other small businesses. DBE-conscious measures include establishing contract specific goals on contracts with subcontracting possibilities, when needed to meet the Commission's overall annual goal.

Since the SCCRTC anticipates having few, if any, federally funded contracts this year, **for FY05/06 staff recommends that the Commission meet the goal using DBE conscious methods, as was done in years past.**

Public Review of the Program

Staff sent the draft SCCRTC FY 05/06 Disadvantaged Business Enterprise (DBE) Program to Caltrans in June for review and comment. After Caltrans reviewed the program, staff released a public notice soliciting public comments on the draft program. Staff also sent public notices to local chambers of commerce and minority business groups, posted the Draft DBE Program on the Commission's website, and included public notices in local newspapers in July. No comments were received on the program.

SUMMARY

SCCRTC will receive federal funding assistance from the U.S. Department of Transportation in FY05/06 and is required by federal law to implement a Disadvantaged Business Enterprise (DBE) Program to ensure that small minority-owned and women-owned businesses are not disadvantaged by unlawful discrimination in the issuance of federally-funded contracts. SCCRTC staff prepared and circulated notices about the draft DBE plan. No comments were received. **Staff recommends that the SCCRTC adopt the FY 2005/06 DBE Program** (available in full at www.sccrtc.org and summarized herein), which complies with federal regulations and is due to Caltrans this month.

Enclosure: Draft 2005/06 DBE Program (distributed to Commissioners only)

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