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Memorandum

TO: MTC Advisory Council

DATE: September 3, 2008

FR: Administrative and Technology
Services

RE: **Summary and Status of SBE, DBE, and WBE Outreach**

The purpose of this report is to update the Advisory Council outreach effort to the DBE, SBE and WBE communities. With that, staff will also summarize changes to the DBE Program for federally funded contracts.

DBE Program Background

This report summarizes significant changes to the DBE Program, resulting from a Ninth Circuit Court decision, including a Caltrans requirement that MTC implement a wholly race-neutral DBE Program and submit an annual DBE availability report instead of the previous overall goals report. While the court decision does not change the existing federal DBE regulations, Caltrans determined that its implementation of the regulations required interim changes pending the outcome of a DBE Disparity (Availability and Utilization) Study.

Effective May 1, 2006, Caltrans implemented a race-neutral DBE program pending the results of a more comprehensive disparity study. All local agencies, including MTC, that receive federal funding from Caltrans (FHWA and FTA) may no longer have their own separate DBE program, unless approved directly by the US DOT. Because of the change to a race-neutral DBE Program, local recipients are no longer allowed to stipulate contract goals for any federally funded agreements executed May 1, 2006 or thereafter. Our primary federal funding agencies, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have concurred in Caltrans' interpretation. Since the 2006 ruling, MTC has submitted an Annual Anticipated DBE Participation Level Report (AADPL) which summarizes the federally funded contracts that MTC expects to award during the fiscal year.

In June 2007, Caltrans finalized a state-wide disparity study covering the contracting opportunities it funds and has submitted the study results to FHWA for review and approval. Caltrans has instructed its subrecipients to continue to follow "race neutral" means of contracting and determining the Annual Availability Disadvantaged Business Enterprises (DBE) Participation Level (AADPL), pending approval of its study by FHWA.

Annual Anticipated DBE Participation Level Report

MTC’s FY 2008-09 AADPL Report, which has been approved by Caltrans, is provided as Attachment A. In summary, the FY 2008-09 Overall Annual DBE Availability for new contracting opportunities is:

Funding Source	New Federally-Funded Third Party Contracts	Projected DBE Availability	Annual DBE Availability
MTC-FHWA	\$26,676,311	4.78%	4.78%
MTC/SAFE-FHWA	\$350,000	1.63%	1.63%
MTC – FTA	\$1,779,627	1.70%	1.70%

Historical DBE Participation

Below is a seven year summary of the cumulative DBE participation in all federally funded contracts awarded by MTC and SAFE for the period of FY 1999-00 thru FY 2005-06:

FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	7-Year Total
10.62%	16.46%	12.62%	4.93%	3.86%	5.37%	6.25%	7.53%

DBE participation peaked in FY 00-01, then began a sharp decline in FY 02-03 as court-mandated changes to the DOT DBE program requirements with regards to setting contract-specific DBE goals were implemented. Nevertheless, over the seven year period starting in FY 99-00, contracts in the areas of marketing, performance measures, TETAP and the Freeway Service Patrol had overall DBE participation of 10% or greater. For more detailed information, see Attachment B. Staff is in the process of updating this information to include data through FY 07-08.

DBE Outreach Program and Events

Working in conjunction with the MCAC Subcommittee on Contracting, Staff began to research ways that MTC could maximize it’s “race neutral” measures and increase awareness of MTC’s contracting opportunities within the SBE, DBE and WBE communities. As a result of this collaboration, MTC has significantly increased it’s outreach and marketing efforts to include:

- a. Updating the MTC website to include information on awarded contracts including awardee and contract amount
- b. Posting a list of upcoming contracts
- c. Posting a downloadable version of the MTC Consultant Form (for entry into vendor database)
- a. Actively participating with other agencies in their DBE and minority outreach efforts,
- b. Notifying certified DBEs and vendors in MTC’s consultant database of solicitations exceeding \$10,000,

- c. Working with Caltrans and other agencies involved in the implementation of the state's infrastructure bond projects,
- d. Working with Caltrans and the BATA on the solicitation of contracts for the Toll Bridge projects, and
- e. Reviewing pending solicitations to determine the feasibility of breaking the proposed contract into smaller scopes of work aimed at providing more opportunities for minority, women, and local and small business participation.

MTC staff participated in the following outreach events to inform the public about MTC and its contracting opportunities:

1. MTC Procurement Workshop and Networking event at the MetroCenter on December 12, 2007
2. Caltrans Business Procurement Fair on March 21, 2007,
3. Interagency Cooperative Infrastructure Bond & Small Business Outreach Event on March 23, 2007 (note MTC actively participated in development and participation in the event),
4. Caltrans District 4, Contractor Outreach Meeting event on March 29, 2007,
5. California Unified Certification Program (CUCP) Public Participation Meeting held at MTC on April 13, 2007
6. The Bay Area Vendor Fair on May 24, 2007 at the Oakland City Center Marriott.
7. Congresswoman Ellen Tauscher's Small Business Government Contracting Seminars on February 14, 2008 held at the Solano County Government Building in Fairfield, CA.
8. The April 3, 2008 Cal Mentor Annual Meeting hosted by Caltrans.
9. MTC hosted and participated in the Business Outreach Committee's (BOC) first public participation meeting on April 23, 2008.
10. MTC as a member of the BOC participated in the BOC's outreach and networking event for architectural and engineering firms, held at the San Francisco Municipal Transportation Authority (SFMTA) offices.

Business Outreach Committee

MTC was actively involved in the establishment of the Business Outreach Committee (BOC), formed in November 2007, with the mission to help disadvantaged business enterprises and other small and/or local companies to expand of their businesses by developing relationships with transit agency staffs and the contracting community of the San Francisco Bay Area. Its membership is comprised of Alameda–Contra County Transit District (AC Transit), Golden Gate Bridge, Highway & Transportation District (GGBH&TD), MTC, San Francisco Bay Area Rapid Transit District (BART), Central Contra Costa Transit Authority (CCCTA), San Francisco Municipal Transportation Agency (SFMTA), San Mateo County Transit District (SamTrans), Alameda County Congestion Management Agency (ACCMA), Water Emergency Transportation Authority (WETA), and Santa Clara Valley Transportation Authority (VTA). Working together the BOC. Collectively, the work of the BOC includes:

1. Holding public participation meetings, outreach and networking events on a quarterly basis,

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2. Producing a quarterly newsletter with upcoming contracting opportunities, helpful hints on how to respond to bids, information on no-cost educational courses, and contact information for each agencies DBE Liaison and/or Contracts Administrator, and
3. Planning upcoming BOC outreach events.

Since its inception the BOC has already held two outreach events. A public participation meeting was held on April 23, 2008 at MTC, and an outreach event for architectural and engineering firms was held on July 23, 2008 at SFMTA. The next event (tentatively scheduled for October 22, 2008) will be directed at construction firms and hosted by MTC.

MTC takes the lead in producing a quarterly BOC newsletter; copies are included as Attachment C.

Next Steps

Staff will also work to identify ways to achieve greater participation of DBEs and local/small business participation in MTC contracts. These steps are consistent with Governor Schwarzenegger's Executive Order S-11-06, which encourages small business participation, including DBEs, in federally assisted highway and transit-related projects statewide.

We encourage the support and participation of the Advisory Committee to strengthen our outreach efforts by appointing members to work with staff and the MCAC Subcommittee on Contracting.

Denise Rodrigues, Contract Administrator