



Agenda Item No. 2

To: Rules, Policy and Industrial Relations Committee/Committee of the Whole Meeting of June 8, 2007

From: Gail Jackson, Acting DBE Program Administrator
Teri W. Mantony, Deputy General Manager, Administration & Development
Celia G. Kupersmith, General Manager

Subject: **APPROVE FY 07/08 ANNUAL DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOALS**

Recommendation

The Rules, Policy and Industrial Relations Committee recommends that the Board of Directors approve actions relative to the FY 07/08 annual overall Disadvantaged Business Enterprise (DBE) goals, as follows:

- 1) In accordance with federal regulations governing the establishment of DBE goals, establish a four percent (4%) proposed goal applicable to \$23,147,375 in contracts assisted by the Federal Transit Administration (FTA), and a one percent (1%) project DBE goal for the Larkspur Berth Dredging, applicable to \$1,180,000 of FTA dollars, and authorize the General Manager to publish notice of the proposed goals in accordance with federal regulations;
- 2) Authorize the General Manager to formally adopt the FTA goals if no public comments are received that require further consideration or modifications of the proposed goals by the Board; and
- 3) Authorize staff to submit the District's annual overall DBE goals for federally-assisted contracting opportunities to FTA by August 1, 2007.

No new Federal Highway Administration (FHWA) -assisted contracts are anticipated at this time for the coming fiscal year. Therefore, no FHWA goal is being proposed.

Summary

The steps taken in the development of the annual overall goals are in accordance with 49 Code of Federal Regulations Part 26, issued by the U.S. Department of Transportation (U.S. DOT). The regulations prescribe a two-step process. In Step 1, base figures are calculated to determine the relative availability of DBEs in the specific areas of expertise involved in the District's expected contracting activities. The District used the Census Bureau's 2002 County Business Pattern database and the California Unified Certification Program (CUCP) DBE database to determine the

base figures. In Step 2, an assessment of known relevant evidence available to the District is analyzed to determine what adjustments, if any, are needed to narrowly tailor the base figures to the District's marketplace. The District analyzed data on actual DBE participation in the District's race/gender-neutral contracts in recent years to adjust the base figures.

Staff determined an annual overall goal for FTA-assisted contracts that will be awarded and completed in FY 07/08. For contracts that will be awarded in FY 07/08, but are part of projects that will take longer than one year to complete, project goals were determined for these multi-year contracts. (Contracts are summarized in Attachment A.)

Ten FTA- assisted contracts were identified to be considered for the FY 07/08 annual overall goal. Staff determined an overall base figure of 9.27 percent for these contracts by identifying the North American Industry Classification System (NAICS) codes that closely match the types of work (prime and sub) required for the contracts and determining the DBE percentage for each identified NAICS code. The DBE percentage for each NAICS code was then weighted by multiplying the percentage of FTA funds to be expended for each NAICS code. An additional two contracts were identified for the Larkspur Berth Dredging project goal. Staff determined a base figure of 17.9 percent for this project. A summary of the base figure and adjustment determined for each group follows.

Annual Overall Goal. Staff determined an overall Step 1 base figure of 9.27 percent. After closer examination, it was determined that a downward adjustment to a 3.76 percent goal is warranted, based on past participation statistics on similar contracts and because several of the contracts are highly specialized. For example, three of the contracts, amounting to \$2,412,000 in FTA dollars, were found to be highly specialized, with virtually no chance of DBE participation. These are 1) Ferry Main Propulsion Component Replacement; 2) Replacement of Fareboxes; and 3) Repower MV Mendocino, Naval Architect. The ferry propulsion unit consists of a five- to six-foot stainless steel propeller. Although a search of DBE firms in NAICS 332999 All Other Miscellaneous Fabricated Metal Product Manufacturing revealed five firms, further investigation determined that none of them had the capability to manufacture this product. Regarding the replacement fareboxes, while a search of NAICS 336322 Other Motor Vehicle Electrical Equipment Manufacturing revealed DBE availability, staff was able to locate only two firms with the potential for manufacturing this highly specialized equipment, neither of which is a DBE. Similar results were determined for the naval architect. Although DBEs are available under NAICS 541330 Engineering Services, the category is broad, and this contract specifically requires the services of a naval architect. In each of these three cases, the DBE Availability figure was adjusted downward to 0 percent.

After investigating past participation on similar contracts, DBE availability percentages were adjusted on three contracts amounting to \$11,064,975 in federal dollars. While two of these contracts were adjusted downward (Replace Bus Washers and Water Recycling Systems and Larkspur Ferry Terminal Parking Lot Improvements), the third contract was adjusted upwards (High-Speed Passenger Vessel Construction). Past DBE participation on ferry vessel construction contracts has been relatively high. Although none of the major shipyards are DBEs, the subcontracting opportunities on these contracts have fallen into areas where DBEs are available, such as interior furnishings and concession equipment. Thus the anticipated DBE participation was

increased from the overall base figure of 0.63 percent to 3.32 percent.

Project Goal for Larkspur Berth Dredging. Staff determined an overall Step 1 base figure of 17.9%. As with the Annual Overall Goal, this figure was adjusted downward, in this instance to 1%, based on contract specialization and past participation. Approximately 88% (\$1,040,000 in federal dollars) of the money expended on this project will be used for dredging construction. This prime work is highly specialized; contracts awarded in recent years show that the District was unable to achieve DBE participation. Subcontracting opportunities do allow for some DBE participation, however.

The U.S. DOT regulations require that the maximum feasible portion of the annual overall DBE goals be met by using race/gender-neutral methods. Because of the emphasis placed on race/gender-neutral methods, the District does not propose to set contract-specific DBE goals on new contracts to be awarded in FY 07/08. To date, the District has met or exceeded its annual DBE goals using race neutral means.

The proposed 4 percent annual overall goal for FTA-assisted contracts and 1 percent project goal for Larkspur Berth Dredging reflect staff's determination of the level of DBEs ready, willing and able to participate in the District's U.S. DOT-assisted contracting activity for FY 07/08. The regulations require the proposed goals to be published for public inspection and comment to ensure public participation in the goal-setting process. (See Attachment B.) The regulations also require that the goals be submitted to FTA by August 1, 2007. FTA may review and suggest adjustments to the goals upon consultation with the District; however, prior concurrence with the goals is not required.

The annual overall DBE goals comply with the California Proposition 209, the 1996 California Civil Rights Initiative, in that they are only applicable to U.S. DOT-assisted contracts. No DBE goal will apply to contracts that are not federally-assisted.

Fiscal Impact

There is no fiscal impact associated with this report. However, the District's proposed FY 07/08 DBE goals for federally-assisted contracts must be submitted by August 1, 2007, to qualify for continued federal funding.

Attachments

Attachment A

**FY 2007-2008 Annual Overall DBE Goal
for FTA-Assisted Contracts**

The availability figures determined for the FTA-assisted contracts were calculated into projected DBE participation dollars by taking the FTA dollars budgeted for each contract and multiplying it by the availability figures. The total of the projected DBE participation dollars was then divided by the total of the budgeted FTA dollars for all contracts, resulting in a 4% annual overall goal.

ANNUAL OVERALL GOAL			
Contract	FTA \$ Budgeted	Availability Figure	FTA \$ Projected For DBE
Bus Radio Communications System Replacement	\$8,000,000	5.72%	\$457,600
Replace Bus Washers and Water Recycling Systems	\$801,000	3.37%	\$26,994
Ferry Main Propulsion Component Replacement	\$68,000	0.0%	\$0
Replacement of Fareboxes	\$2,244,000	0.0%	\$0
LFT Parking Lot Improvements	663,975	9.89%	\$65,667
Replace Ferry Deck Covering on Vessels	\$10,400	3.57%	\$371
High-Speed Passenger Vessel Construction	\$9,600,000	3.32%	\$318,720
Repower MV Mendocino: Naval Architect	\$100,000	0.0%	\$0
Repower MV Mendocino: Procurement	\$1,120,000	0.0%	\$0
Repower MV Mendocino: Construction	\$540,000	0.0%	\$0
Total	\$23,147,375		\$869,352
FTA \$ Projected for DBE	FTA \$ Budgeted	Annual Overall Goal	
\$869,352	÷ \$23,147,375	=	3.76% (4%)

BERTH DREDGING PROJECT GOAL

Contract	FTA \$ Budgeted	Availabil ity Figure	FTA \$ Projected For DBE
Berth Dredging - Design	\$140,000	7.76%	\$10,864
Berth Dredging - Construction	\$1,040,000	0%	\$0
Total	\$1,180,000		\$10,864
FTA \$ Projected for DBE	FTA \$ Budgeted	Annual Overall Goal	
\$10,864	÷	\$1,180,000	= .92% (1%)

**NOTICE OF PROPOSED ANNUAL OVERALL
DISADVANTAGED BUSINESS ENTERPRISE GOALS
FOR FISCAL YEAR 2007-2008**

The Board of Directors of the Golden Gate Bridge, Highway and Transportation District announces proposed annual overall goals for the participation of Disadvantaged Business Enterprises in contracting opportunities that are budgeted to receive federal financial assistance from the U.S. Department of Transportation: a 4% annual overall goal and a 1% project goal for the Larkspur Berth Dredging for the period beginning July 1, 2007, and ending June 30, 2008;

Information on the development of the proposed goals and their rationale is available for inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday, at the DBE Program Office, District Administration Building North, 1011 Andersen Drive, #108, San Rafael, CA 94901-5381 for 30 days following the date of this notice. Comments will be accepted on the goals for 45 days from the date of this notice. Comments may be submitted to the DBE Program Administrator at the above-mentioned address, to the Regional Civil Rights Officer, Federal Transit Administration, Region IX, 201 Mission Street, Suite 2210, San Francisco, CA 94105 or to the Regional Civil Rights Officer, U.S. Department of Transportation, Federal Highway Administration, 980 – 9th Street, Suite 400, Sacramento, CA 95814.

/s/Janet S. Tarantino, Secretary of the District. Dated: June 8, 2007