

CITY COUNCIL MEETING
AUGUST 5, 1987

NEW LANGUAGE FOR THE
CITY'S DISADVANTAGED
BUSINESS ENTERPRISE
PROGRAM WHICH INCLUDES
COMBINING THE MINORITY
(DISADVANTAGED) BUSINESS
ENTERPRISE AND WOMEN
BUSINESS ENTERPRISE
GOALS FOR FEDERAL HIGHWAY
ADMINISTRATION PROJECTS
APPROVED

RES. NO. 87-103

CC-6
CC-7(d)

Council adopted Resolution No. 87-103 adopting new language for the City's Disadvantaged Business Enterprise Program which includes combining the Minority (Disadvantaged) Business Enterprise (MBE) and Women Business Enterprise (WBE) goals into one Disadvantaged Business Enterprise (DBE) goal for Federal Highway Administration projects.

Council was apprised that in 1984 the City adopted a Minority Business Enterprise Program. This was required because the City was using Federal Highway Administration funds (Federal Aid Urban) for street projects.

Since the time the City's program was adopted, the following changes have been made and Caltrans requested that we conform:

1. Minority businesses are now referred to as disadvantaged businesses;
2. Sections IV and V have been combined into one section;
3. Wording in several areas has been changed; and
4. Under the Federal Aid Highway Act of 1987, it is unacceptable to establish separate goals for women. Therefore, we are combining our goals as one DBE goal. Our combined goal is 11%. The previous goals were DBE 10%, WBE 1%.

Combining the DBE and WBE goals is the only major change.



CITY OF LODI

PUBLIC WORKS DEPARTMENT

COUNCIL COMMUNICATION

TO: City Council

FROM: City Manager

MEETING DATE: August 5, 1987

AGENDA TITLE: Adopt Resolution Adopting New Language for the City's Disadvantaged Business Enterprise Program Which Includes Combining the Minority (Disadvantaged) Business Enterprise and Women Business Enterprise Goals for Federal Highway Administration Projects

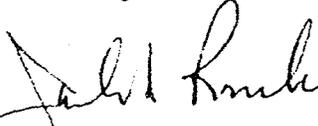
RECOMMENDED ACTION: That the City Council adopt a resolution adopting new language for the City's Disadvantaged Business Enterprise Program which includes combining the Minority (Disadvantaged) Business Enterprise (MBE) and Women Business Enterprise (WBE) goals into one Disadvantaged Business Enterprise (DBE) goal for Federal Highway Administration projects.

BACKGROUND INFORMATION: In 1984, the City adopted a Minority Business Enterprise Program. This was required because we were using Federal Highway Administration funds (Federal Aid Urban) for street projects.

Since the time our program was adopted, the following changes have been made and Caltrans requested that we conform:

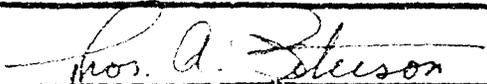
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Combining the DBE and WBE goals is the only major change.


 Jack L. Ronsko
 Public Works Director

JLR/SB/ma
 Attachments

APPROVED:


 THOMAS A. PETERSON, City Manager

FILE NO.

RESOLUTION NO. 87-103

RESOLUTION ADOPTING NEW LANGUAGE FOR DISADVANTAGED
BUSINESS ENTERPRISE PROGRAM FOR THE CITY OF LODI

RESOLVED, that the City Council of the City of Lodi does hereby adopt new language for the City's Disadvantaged Business Enterprise Program which includes combining the Disadvantaged Business Enterprise and Women Business Enterprise goals, a copy of which is attached hereto marked Exhibit A and thereby made a part hereof.

Dated: August 5, 1987

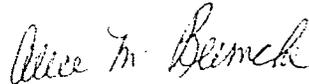
I hereby certify that Resolution No. 87-103 was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 5, 1987, by the following vote:

Ayes: Councilmembers - Olson, Snider and Reid

Noes: Councilmembers - None

Absent: Councilmembers - Hinchman and Pinkerton

Abstain: Councilmembers - None



ALICE M. REIMCHE
City Clerk

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DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

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I. Policy Statement

It is the policy of the City of Lodi to utilize Disadvantaged Business Enterprises (DBE) firms as defined in 49 CFR Part 23 in all aspects of contracting to the maximum extent feasible. This policy which is fully described herein constitutes policy and commitment to substantially increase DBE utilization in all program activities funded wholly or in part by any U.S. Department of Transportation modal element.

This Agency, its contractors and subcontractors, which are the recipients of Federal aid funds, agree to ensure DBE firms have the maximum opportunity to participate in the performance of contracts and subcontracts. In this regard, this Agency and all of its contractors and subcontractors will take all reasonable steps in accordance with 49 CFR 23 to ensure that DBE firms have the maximum opportunity to compete for and perform contracts.

II. Disadvantaged Business Enterprise (DBE)

Liaison Officer

G.E. Robison, Assistant City Engineer, is the DBE Liaison Officer for this agency and shall report to the City Manager. He will be assigned such staff as is necessary to fully implement the provision of 49 CFR Part 23 and such other DBE programs as may be required. The reporting structure and duties of support staff are shown on Attachment A.

III. Duties of the DBE Liaison Officer

The DBE Liaison Officer shall develop, manage and implement the DBE Program on a day-to-day basis. The Liaison Officer shall:

- o Develop and carry out technical assistance programs for DBE's.
- o Arrange solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of DBE's. Where such changes are found necessary to increase DBE utilization, they will be made in consultation and cooperation with the functional unit involved.
- o Provide guidance to DBE's in overcoming barriers, such as inability to obtain bonding or financing.
- o Carry out information and communication programs on contracting opportunities in a timely manner. Programs shall be bilingual where appropriate.
- o Investigate the services offered by banks owned and controlled by Disadvantaged Business Enterprises.
- o Unless noted elsewhere herein the listing of DBE's certified by Caltrans will be utilized. Said listing is to be made available to all project bidders. Such listing will include the following information: Name, address, telephone number, ethnic and/or sexual ownership, type of work performed by firm.

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- o Prior to approval of the substitution of any DBE subcontractor, the prime contractors will be required to provide performance of good faith efforts to replace the DBE with another eligible DBE.
- o Establish a DBE overall annual goal. The goal shall be evaluated annually and adjusted as necessary.
- o Establish an appropriate individual project DBE goal for each Federal-aid project advertised.
- o Perform good faith analysis when the project goal is not achieved.
- o Maintain such documentation as is necessary to verify performance of all activities included in this program.

IV. Public Notification

1. At the time of submittal of this program to the State Department of Transportation, a notice in both minority and majority local media will be published. Said publication shall include:
 - o The annual overall DBE goal.
 - o Notification that a description of how the goal was set is available for public inspection for a period of 30 days.
 - o Notification that both U.S. DOT and this agency will accept comments on the goal for 45 days from the date of the notice. The notice shall advise interested parties that comments are for information purposes only.
2. This program will be reaffirmed by public notice annually at the time of publication of overall goal. If substantial changes are made to this document, the entire document shall be subject to notification noted in (1) above.
3. In addition to the foregoing, interested disadvantaged and majority contractor organizations will receive direct mailings of this complete program.

V. Establishment of Goal

1. The DBE goal will be established both annually (overall) and on a per contract basis. The overall goal will be based on planned contract activity for the coming year. The overall goal established will be subject to methodology and procedures established in 49 CFR 23, Subparts (C) and (D) and take effect on October 1 of each year.
2. The overall DBE goal established with this initial program is 11% and covers the period October 1, 1987 to September 30, 1988.
3. Individual project goals will be established based on the following criteria:
 - o Attainment of established overall goals

opportunity to receive complimentary plans and specifications for projects within their geographical area of responsibility.

VIII. Selection Criteria for Projects with DBE Goal

Every project containing a DBE goal shall be evaluated by the DBE Liaison Officer or his/her designee to ascertain bidding contractors' efforts to attain the DBE goal. The award of any project must be concurred with by the DBE Liaison Officer or his/her designee before said contract may be awarded. Should there be disagreement between functional units concerning contractors' efforts to attain contract goals for DBE participation, the matter shall be referred to the City Manager or his/her designee, for final determination.

Competitors that fail to meet the DBE goal and fail to demonstrate sufficient reasonable good faith efforts shall be declared nonresponsive and ineligible for award of the contract.

All contracts that contain a DBE goal, pursuant to this policy, will be monitored on an ongoing basis by project personnel during the course of construction. The DBE Liaison Officer is to be immediately advised of any circumstances wherein contractor compliance with the DBE provision is questionable. The contractor shall submit a final report for each project which includes total payments to the prime contractor as well as any payments the prime contractor has made to DBE subcontractors, vendors and suppliers. If the report indicates the prime contractor has not achieved the project goal, project personnel shall attach an evaluation, in narrative form, of the reasons for failure to attain the goal and any corrective action that was taken.

Prime contractors will be required to notify this Agency of any situation in which regularly scheduled progress payments are not made to DBE subcontractors, vendors or suppliers.

IX. Set-Asides

If determined necessary by the DBE Liaison Officer, DBE Set-Asides will be considered as a tool to achieve annual overall goals.

X. Counting DBE Participants

This Agency, its contractors, and subcontractors shall count DBE participation in accordance with the provisions of Section 23.47, Title 49, of the Code of Federal Regulations.

XI. Records and Reports

1. The DBE Liaison Officer shall maintain such records, and provide such reports, as are necessary to ensure full compliance with this policy. Such records and reports shall include, as a minimum, the following information:

- o Awards to DBE's
- o Awards to majority contractors
- o Final project reports concerning DBE utilization

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- o Size of project.
- o Opportunities for DBE's as subcontractors, vendors, and suppliers.
- o Minority population of geographic area in which work is to be performed.
- o DBE goals being utilized in the geographic area by other State, Federal or local jurisdictions.
- o Availability of certified DBE's.
- o Past experience on projects similar to the project being evaluated.
- o Such other factors as may affect the utilization of DBE's.

Complete evaluation documentation will be retained for each project.

4. Projects which do not contain a specific goal will contain the following provisions:
 - A. "Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this agreement."
 - B. "DBE Obligation. (i) The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts."

VI. Contract Procedure

This program shall be implemented through the utilization of a contract special provision which will be provided/updated as necessary by Caltrans' Division of Local Streets and Roads. These procedures require bidders to submit the names of DBE subcontractors and suppliers, a description of the work each is to perform or material to be furnished, and the dollar value of each DBE subactivity.

VII. DBE Notification

Projects will be advertised in local newspapers and minority focus newspapers when possible. These ads will include reference to DBE requirements and will indicate the DBE project goal.

DBE supportive service assistance centers will receive notification of projects scheduled to be advertised. Such centers will be afforded the

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- o Such other data as is needed to fully evaluate compliance with this program.
- 2. The DBE Liaison Officer shall submit reports to Caltrans and/or to the appropriate U.S. DOT element as required. These reports will include:
 - o Number and dollar value of contracts awarded.
 - o Number and dollar value of contracts and subcontracts awarded to DBE's.
 - o Description of general categories of contracts awarded to DBE's.
 - o The percentage of the dollar value of all contracts awarded during the year which were awarded to DBE's.
 - o Indication as to the extent of which the percentage met or exceeded the overall goal.
 - o Reports shall be broken down separately by ethnic grouping and sex.

XII. Complaints

Any complaints received by the Agency concerning this program will be investigated by the DBE Liaison Officer. He/She will endeavor to resolve said complaints within 90 days of receipt by the DBE Liaison Officer. The appropriate DOT element and Caltrans will be furnished a copy of the complaint and may be invited to participate in the investigation/resolution. The DOT element and Caltrans will receive a complete investigative report on the complaint and may be requested to concur in the proposed disposition of said complaint.

Contractors will be directed to notify the Agency of any complaints they may receive concerning this program.

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