



Agenda Item No. 2

To: Rules, Policy and Industrial Relations Committee/Committee of the Whole
Meeting of June 13, 2008

From: Gail Jackson, DBE Program Administrator
Celia G. Kupersmith, General Manager

Subject: **APPROVE FY 08/09 ANNUAL DISADVANTAGED BUSINESS ENTERPRISE GOAL**

Recommendation

The Rules, Policy and Industrial Relations Committee recommends that the Board of Directors approve the following actions relative to the FY 08/09 annual overall Disadvantaged Business Enterprise (DBE) goal:

1. Establish a 4.5 percent proposed goal applicable to \$32,123,000 in contracts assisted by the Federal Transit Administration (FTA), in accordance with federal regulations governing the establishment of DBE goal, 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 goal if no public comments are received that require further consideration or modifications of the proposed goal by the Board; and
3. Authorize staff to submit the District's annual overall DBE goal for federally-assisted contracting opportunities to FTA by August 1, 2008.

Summary

The steps taken in the development of the annual overall goal 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 2005 County Business Patterns 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 also 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 08/09. Contracts are summarized in Attachment A.

Thirteen FTA- assisted contracts were identified to be considered for the FY 08/09 annual overall goal (two Bus Division contracts, one District Division contract, one Bridge Division contract, and nine Ferry Division contracts). Staff determined an overall base figure of 5.78% 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. A summary of the base figure and adjustments determined follows.

Annual Overall Goal. Staff determined an overall Step 1 base figure of 5.78 percent. After closer examination, it was determined that a downward adjustment to a 4.5 percent goal is warranted, based on past participation statistics on similar contracts and because several of the contracts are highly specialized.

For example, two of the contracts, amounting to \$132,000 in FTA dollars, were found to be highly specialized, with virtually no chance of DBE participation. These are 1) Ferry Main Propulsion Component Replacement; and 2) Repower M.V. Del Norte, 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 seven firms, further investigation determined that none of them had the capability to manufacture this product.

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. Past participation on similar contracts resulted in 0 percent DBE participation. In each of these cases, the DBE Availability figure was adjusted downward to 0 percent.

Past participation on two comparable projects (which achieved 0 percent and 6 percent DBE participation respectively) that had similar objectives -- improvements to roadways and parking lots, access walkways, crosswalks, street lights, pavement markings, signage, and landscaping, etc. -- was the determining factor in adjusting the DBE availability percentage for the Larkspur Ferry Terminal Parking and Access Improvements contract, which accounts for \$1,440,000 in federal dollars. A Class A General Engineering Contractor's license is required for the prime contractor. This licensing requirement limits the pool of DBE prime contractors available to bid on the project. The DBE Availability figure was adjusted downward from 32.45 percent to 17.8 percent.

U.S. DOT regulations require that the maximum feasible portion of the annual overall DBE goal 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 08/09. To date, the District has met or exceeded its annual DBE goals using race neutral means.

The proposed 4.5 percent annual overall goal for FTA-assisted contracts reflects 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 08/09. 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, 2008. FTA may review and suggest adjustments to the goal upon consultation with the District; however, FTA's prior concurrence with the goal is not required.

The annual overall DBE goal complies with California Proposition 209, the 1996 California Civil Rights Initiative, in that it is only applicable to U.S. DOT-assisted contracts.

Fiscal Impact

There is no fiscal impact associated with this report. However, the District's proposed FY 08/09 DBE goal for federally-assisted contracts must be submitted by August 1, 2008, to qualify for continued federal funding.

Attachments

Attachment A

**FY 2008-2009 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 by the availability figure for each contract. 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 4.5% annual overall goal.

Description of Contract	FTA Dollars	Availability Figure	FTA \$ Projected for DBEs
Advanced Communication and Information System	\$ 8,000,000.00	0.80%	\$ 64,000
Asset and Vehicle Fluid Management Systems	\$ 1,280,000.00	2.60%	\$ 33,280
Bus Catalyst Devices	\$ 120,000.00	0.00%	\$ -
South Approach and Pier Security Improvements	\$ 3,400,000.00	19.27%	\$ 655,180
High Speed Ferry Construction	\$ 11,760,000.00	0.63%	\$ 74,088
Main Propulsion Component Replacement/Propeller	\$ 32,000.00	0.00%	\$ -
Main Propulsion Component Replacement/Main and Auxiliary Equipment	\$ 48,000.00	0.00%	\$ -
Larkspur Ferry Terminal Parking Garage A&E	\$ 1,440,000.00	9.92%	\$ 142,848
Secure Fendering and Oil Containment Systems	\$ 40,000.00	0.00%	\$ -
Repower MV Del Norte/Engineering Design	\$ 100,000.00	0.00%	\$ -
Repower MV Del Norte/Construction and Procurement	\$ 2,560,000.00	0.22%	\$ 5,632
Larkspur Ferry Terminal Parking and Access Improvements	\$ 1,743,000.00	17.80%	\$ 310,254
Gangways and Piers, Concept and Design	\$ 1,600,000.00	9.15%	\$ 146,400
TOTAL	\$ 32,123,000.00		\$ 1,431,682

FTA \$ Projected for DBE	FTA \$ Budgeted	Annual Overall Goal
\$1,431,682	\$32,123,000	4.5%

**NOTICE OF PROPOSED ANNUAL OVERALL
DISADVANTAGED BUSINESS ENTERPRISE GOALS
FOR FISCAL YEAR 2008-2009**

The Board of Directors of the Golden Gate Bridge, Highway and Transportation District announces a proposed 4.5% annual overall goal 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 administered by the Federal Transit Administration for the period beginning July 1, 2008, and ending June 30, 2009.

Information on the development of the proposed goal and its 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 13, 2008.