

DEPARTMENT: Public Works

By: Amy Roberts, Transportation Planner Phone: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Resolution to approve the Disadvantaged Business Enterprise Program.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board approved a draft version of the Disadvantaged Business Enterprise Plan on October 10, 2000. Since that time, staff has refined the methodology for the overall goal and provided the public an opportunity to comment on the Plan.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Until a DBE is approved, the County will not receive Federal Transportation Funding for future projects.

<p>COSTS: (X) Not Applicable</p> <p>A. Budgeted current FY> \$ _____</p> <p>B. Total anticipated Costs> \$ _____</p> <p>C. Required additional funding> \$ _____</p> <p>D. Internal transfers> \$ _____</p> <p>COSTS: () 4/5th Vote Required</p> <p>A. Unanticipated revenues> \$ _____</p> <p>B. Reserve for contingencies> \$ _____</p> <p>C. Source description: > _____</p> <p>Balance in Reserve Contingencies, If Approved: \$ _____</p>	<p>SPECIAL INSTRUCTIONS:</p> <p>List the attachments and number the pages consecutively:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
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CLERK'S USE ONLY

Res. No.: 01-74 Ord. No.: _____

Vote - Ayes: 5 Noes: _____

Absent: _____ Abstained: _____

Approved Denied

Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office

Date: _____

ATTEST: _____

MARGIE WILLIAMS, Clerk of the Board

By: _____

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

_____ Recommended

_____ Not Recommended

_____ For Policy Determination

_____ Submitted with Comment

_____ Returned for Further Action

Comment: _____

C.A.O. Initials: AR

**DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM
FOR THE COUNTY OF MARIPOSA**

performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, Mariposa County will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

IV DBE Program Updates (§26.21)

The County of Mariposa will continue to carry out this program until the County of Mariposa has established a new goal setting methodology or until significant changes to this DBE Program are adopted. The County of Mariposa will provide to Caltrans a proposed overall goal and goal setting methodology and other program updates by June 1 of every year.

V Quotas (§26.43)

The County of Mariposa will not use quotas or set asides in any way in the administration of this DBE Program.

VI DBE Liaison Officer (DBELO) (§26.45)

The County of Mariposa has designated the following individual as the DBE Liaison Officer: Amy D. Roberts, Mariposa County Department of Public Works, 4639 Ben Hur Road, Mariposa, CA 95338, phone 209-966-5356. In that capacity Amy D. Roberts is responsible for implementing all aspects of the DBE program and ensuring that Mariposa County complies with all provisions of 49 CFR Part 26. Amy D. Roberts has direct, independent access to all matters concerning the DBE program. The DBELO will work independently on DBE issues but have available to him as many part time assistants as necessary to meet the guidelines of the program. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all divisions to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes Mariposa County Department of Public Works progress towards goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.

XI Monitoring and Enforcement Mechanisms (§26.37)

Mariposa County will assign a Contract Manager to monitor and track actual DBE participation through contractor and subcontractor reports of payments in accordance with the following:

After Contract Award

After the contract award, Mariposa County will review the award documents for the portion of items each DBE and first tier subcontractor will be doing and the dollar value of that work. With these documents the Contract Manager will be able to determine the work to be performed by the DBEs or subcontractors listed.

Preconstruction Conference

A preconstruction conference will be scheduled between the Contract Manager and the contractor or their representative to discuss the work each DBE subcontractor will perform.

Before work can be started on a subcontract, the local agency will require the contractor to submit a completed "Subcontracting Request," Exhibit 16-B of the LAPM. When the Contract Manager receives the completed form it will be checked for agreement of the first tier subcontractor and DBEs. The Contract Manager will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed "Local Agency Bidder DBE information." The "Subcontracting Request" will not be approved until any discrepancies are resolved. If an issue cannot be resolved at that time, or there is some other concern, the Contract Manager will require the contractor to eliminate the subcontractor in question before signing the subcontracting request. A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date.

Suppliers, vendors, or manufacturers listed on the "Local Agency Bidder DBE Information" will be compared to those listed in the completed LAPM. Differences must be resolved by either making corrections or requesting a substitution.

Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). Local agencies will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4144. FPA requires the contractor to list all subcontractors in excess of one half of one percent (0.5%) of the contractor's total bid or \$10,000, which ever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except with the approval of the awarding authority.

The Contract Manager will give the contractor a blank "Final Report Utilization of Disadvantaged Business Enterprises," form, and will explain to them that the document will be required at the end of the project, for which payment can be withheld, in conformance with the contract.

- 1 The name and business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE trucking company.
- 2 The date of payment and the total dollar figure paid to each of the firms.
- 3 The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

When a construction contract has been completed the contractor will provide a summary of the records stated above. The DBE utilization information will be documented and will be submitted to the DLAE attached to the Report of Expenditures. The Contract Manager will compare the completed Final Report Utilization of DBE Form to the contractor's completed Local Agency Bidders DBE Information form, and, if applicable, to the completed Subcontractor Request form. The DBEs shown on the Final Report Utilization of DBE form should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBEs and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed Local Agency Bidder DBE Information form when:

- There have been no changes made by the Contract Manager.
- The contractor has not provided a sufficient explanation in the comments section of the completed Final Report Utilization of DBE form.

The explanation will be attached to the Utilization report form for submittal. Mariposa County will bring to the attention of the FHWA any false, fraudulent, or dishonest conduct in connection with the program, so that FHWA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FHWA Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

XII Overall and Contract Goals (§26.45 and 26.51)

Amount of Goal

Mariposa County's overall goal for the Federal fiscal year FY 2001 is the following: 8% of the Federal financial assistance in FHWA-assisted contracts. This overall goal is broken down into 3% race-conscious and 5% race-neutral components.

Methodology

The methodology used to determine an appropriate annual DBE goal for the County of Mariposa was a comparison of available DBE contractors within six surrounding counties compared to the total number of companies doing comparable work within the same geographic area. The available DBE contractors were found by sorting the Work Category Codes (WCC's) of the certified DBE database maintained by Caltrans to select those activities that match our upcoming project needs. The total available number of companies in the same geographic area was arrived

will be compared with eligible DBE contractors willing to work on the project. A determination will also be made to decided which items are likely to be performed by the prime contractor and which ones are likely to be performed by the subcontractor(s). the goal will be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

XIV Transit Vehicle Manufacturers (§26.53)

If DOT-assisted contracts will include transit procurements, Mariposa County will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has compiled with the requirements of 49 CFR Part 26, Section 49. Mariposa County will direct the transit vehicle manufacturer to the subject requirements located on the internet at <http://osdbuweb.dot.gov/programs/dbe/dbe.htm>.

XV Good Faith Efforts (§26.53)

Information to be submitted

Mariposa County treats bidder/offerors' compliance with good faith effort requirements as a matter of responsiveness.

Each solicitation for which a construction contract goal has been established will require the bidders/offerors to submit the following information to Mariposa County no later than 4:00pm on or before the first Monday following the bid opening:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Demonstration of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts we will consider are:

1. Soliciting through all reasonable and available means, the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest with sufficient time to allow the DBEs to respond to the solicitation.
2. Selecting portion of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved.
3. Provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

Mariposa County ensures that only DBE firms currently certified on Caltrans' directory will participate as DBEs in our program.

XVIII Information Collection and Reporting

Bidders List

Mariposa County will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on FHWA-assisted contracts. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms. Initially, the results from a Caltrans' contractor survey will be used to start a bidders list.

Monitoring Payments to DBEs

Mariposa County will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of Mariposa County, Caltrans or FHWA. This reporting requirement also extends to any certified DBE subcontractor.

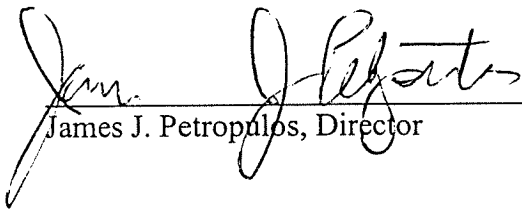
Mariposa County will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to Caltrans

Mariposa County will report final utilization of DBE participation to the DLAE.

Confidentiality

Mariposa County will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state and local laws.



James J. Petropoulos, Director

Date 2/1/01

This Disadvantaged Business Enterprise Program is accepted by:

Laurie Barton, District X DLAE

Date _____

**MARIPOSA COUNTY
OVERALL ANNUAL DBE GOAL AND METHODOLOGY**

1. DOT-Assisted Contracting Program for Federal Fiscal Year (FFY) 2000-2001

The following represents Mariposa County's projected FHWA funded contracts and expenditures by Work Category Code (WCC) and corresponding Standard Industry Classifications (SIC) for FFY 2000-2001. The breakout of projects and their respective work categories is shown in Attachment 1.

Table A

Work Category	WCC Codes*	SIC Codes	Estimated Dollar Value	% of Federal Funding by Work Category
Consultants	C87xx	8711,8713, and 8734	\$ 50,000	38.5%
Road Construction	C06xx, C07xx, C12xx, C16xx, C19xx, C26xx, C39xx, C42xx, X56xx, C65xx, C69xx, C71xx, C73xx, C75xx, C80xx, C81xx, C84xx, C85xx, C86xx, C96xx, and C99xx	1442,1610, 1770,1794, 1795,2951, 3273, and 7353	\$ 50,000	38.5%
Bridge Work	C06xx, C07xx, c15xx, C16xx, C19xx, C49xx, C50xx, C51xx, C52xx, C69xx, C72xx, C75xx, C83xx, C96xx, and C99xx	1741,1751, 1770,1794, 1795,3273, and 7353	\$ 30,000	23%
TOTAL			\$130,000	100%

*Because there are so many relevant WCCs, only the first two digits are shown and the whole cluster of related numbers is accepted for seeking DBEs.

2. Goal Methodology

Step 1: Determination of a Base Figure (26.45)

To establish Mariposa County's Base Figure of the relative availability of DBE firms in relation to all comparable firms available for the Mariposa County FYY 2000-01 FHWA funded program, Mariposa County has elected to use the Caltrans DBE Directory of certified firms (filtered to represent only DBE firms within Stanislaus County, Merced County, Tuolumne County, Fresno County, Madera County and Mariposa County) for calculating the numerator and the Census Bureau's Business Pattern Database within the same geographical market area to calculate the denominator.

To arrive at the relative availability of DBEs, the number of DBEs available in Caltrans' DBE Directory was divided by the number of all comparable Census Bureau Pattern (CBP) firms available for the same work elements. That figure was then multiplied times its corresponding percent of the anticipated work share of the overall annual program as shown below:

Base Figure = [.385 x (DBEs/CBPs) for consultants] + [.385 x (DBEs/CBPs) for road construction] + [.23 x (DBEs/CBPs) for bridge work].

The DBE was queried for the WCCs indicated in Table A and the results are shown as Attachments 1, 2, and 3 for each element of the overall program. A spreadsheet was constructed to show the number of available firms in the Census Bureau's Business Pattern Database for each element in the six county area covered by the DBE information. This spreadsheet is also included as Attachment 4.

The results of the information gathered produces the following:

$$\begin{aligned} \text{Base Figure} &= [.385 \times 15/199] + [.385 \times 34/360] + [.23 \times 29/486] \\ &= .0290 + .0364 + .0137 \\ &= .0791 \text{ or approximately } 8\% \end{aligned}$$

Step 2: Adjusting the Base Figure

Our base figure calculated in Step 1 is a bit misleading relative to truckers and trucking brokers in that they constitute 4 of the 71 DBE firms in the six county area. There was no equivalent work class in the SIC codes to choose from so truckers are not represented in the Census Bureau figures. This skews the results upward for DBE participation. If the trucking related firms are deleted from WCC list to balance the advantage and the equation is reworked, the DBE goal would be 7.2%.

Sort by County and Consultant
 (data obtained from Caltrans DBE Directory)

	PGM	WCC	DESCRIPTION	DBA	COUNTY	ZIP
1	DBE	C8700	CONSULTANT	AUGUSTINE LAND USE PLANNING	Tuolumne	95370-
2	DBE	C8705	DESIGN	CERTIFIED SPECIALISTS, INC.	Fresno	93710-
3	DBE	C8700	CONSULTANT	CHINN PLANNING	Tuolumne	29201-
4	DBE	C8711	COMPUTER	DLS COMPUTER CONSULTANTS, INC.	Fresno	93612-
5	DBE	C8760	SURVEYOR	ESPINOSA SURVEYING	Fresno	93706-
6	DBE	C8700	CONSULTANT	EXCEL CONSTRUCTION SERVICES	Fresno	93711-1312
7	DBE	C8700	CONSULTANT	FRANCIS HERITAGE SERVICES	Tuolumne	95370-
8	DBE	C8700	CONSULTANT	GMJ GEOSERVICES	Tuolumne	95375-0125
9	DBE	C8705	DESIGN	NIA'S ORIGINALS	Fresno	93705-0000
10	DBE	C8700	CONSULTANT	PLANNED SYSTEMS INTERNATIONAL, INC	Tuolumne	21044-
11	DBE	C8705	DESIGN	PRIAULX IRRIGATION DESIGN	Fresno	93611-
12	DBE	C8770	CONSTRUCTION MANAGEMENT	RONE ENTERPRISES, INC.	Fresno	93755-0000
13	DBE	C8700	CONSULTANT	SEE'S CONSULTING	Fresno	93711-
14	DBE	C8744	LANDSCAPE ARCHITECTS	SUSAN ASADOOR LANDSCAPE ARCHITECTURE	Fresno	93611-
15	DBE	C8700	CONSULTANT	VRPA TECHNOLOGIES	Fresno	93722-6422

Sort by County and Bridge Work
(data obtained from Caltrans DBE Directory)

	PGM	WCC	DESCRIPTION	DBA	COUNTY	ZIP
1	DBE	C0600	MISC SUPPLIES	ALERT-O-LITE	Fresno	93721-0000
2	DBE	C0600	MISC SUPPLIES	BROWN'S DOCK & DOOR, INC.	Fresno	93722-0000
3	DBE	C0600	MISC SUPPLIES	VALCOM TECHNOLOGY CENTER	Fresno	93711-
4	DBE	C0600	MISC SUPPLIES	BLACK DIAMOND ASPHALT, INC	Stanislaus	95353-
5	DBE	C0612	SAFETY	HUNSAKER SAFETY & SIGN, INC.	Fresno	93773-1487
6	DBE	C0612	SAFETY	SEQUOIA TRAFFIC, INC.	Merced	95344-
7	DBE	C0620	LANDSCAPING & NURSERY	CONTRACTOR'S INTERNATIONAL RESOURCE	Fresno	93611-0522
8	DBE	C0620	LANDSCAPING & NURSERY	W T B, INC	Fresno	93722-
9	DBE	C0620	LANDSCAPING & NURSERY	WESTURF, INC	Stanislaus	95357-
10	DBE	C0625	SAND & GRAVEL	TOUGHNUT TRUCKING	Mariposa	95338-
11	DBE	C0651	CONCRETE & CEMENT	G. RAMIREZ CONCRETE	Merced	95348-
12	DBE	C0680	FENCING	TORRES FENCE COMPANY, INC	Fresno	93725-
13	DBE	C0683	GUARD RAILINGS & BARRIERS	TURNER MANUFACTURING CO INC	Fresno	93703-
14	CFMBE	C0700	CONSTRUCTION STAKING	TRI-CITY ENGINEERING	Fresno	93722-3400
15	DBE	C1522	RESET, ADJUST ROADWAY ITEM	RAGSDALE & SON, INC.	Stanislaus	95386-
16	DBE	C1531	PLANE ASPHALT CONCRETE	WYRICK CONCRETE SAWING, INC	Fresno	93611-
17	DBE	C1531	PLANE ASPHALT CONCRETE	B D S CONSTRUCTION, INC	Madera	93610-
18	DBE	C1601	CLEARING & GRUBBING	M G PAVING COMPANY	Fresno	93778-
19	DBE	C1901	ROADWAY EXCAVATION	FOSTER & SONS GENERAL ENGINEERING CO	Fresno	93611-0000
20	DBE	C1901	ROADWAY EXCAVATION	SANCHEZ GRADING	Fresno	93611-
21	DBE	C5105	MINOR CONCRETE STRUCTURE	FRESNO CONCRETE CONSTRUCTION, INC.	Fresno	93702-
22	DBE	C9602	BOTTOM DUMP TRUCKING	DIRT MASTER ENTERPRIZES	Fresno	93711-
23	DBE	C9602	BOTTOM DUMP TRUCKING	F. S. ROD, INC.	Merced	93635-
24	DBE	C9602	BOTTOM DUMP TRUCKING	F. J. TRANSPORT	Stanislaus	95326-
25	DBE	C9670	TRUCK RENTAL	BRADEN WATER TRUCKS	Fresno	93611-
26	DBE	C9903	CONSTRUCTION CLEAN UP	F & A HARRIS, INC	Fresno	93706-0000
27	DBE	C9904	CORING	H & K CONCRETE CUTTING	Fresno	93612-
28	DBE	C9904	CORING	AUSTIN'S CONCRETE & ASPHALT CUTTING S	Stanislaus	95355-
29	DBE	C9999	MISC	SALES EQUIPMENT SUPPLY	Madera	93637-