



Legislation Text

File #: 09-0625, **Version:** 1

Transportation Department recommending the following pertaining to the Local Agency Disadvantaged Business Enterprise Annual Submittal Form (AGMT 09-52705):

- 1) Adopt Resolution approving the Local Agency Disadvantaged Business Enterprise Annual Submittal Form for Federal Fiscal Year 2009/2010; and,
- 2) Authorize the Chairman to sign the Local Agency Disadvantaged Business Enterprise Annual Submittal Form with the State of California Department of Transportation for Federal Fiscal Year 2009/2010.

Resolution 151-2009

Fiscal Impact/Change to Net County Cost:

There is no Fiscal Impact associated with this agenda item. There is no Net County Cost.

Background:

On March 5, 2009 the State of California Department of Transportation (Caltrans) notified the Transportation Department (Department) that they had just received conditional approval from the Federal Highway Administration (FHWA) to immediately implement Caltrans Federal Fiscal Year (FFY) 2009/2010 Disadvantaged Business Enterprise (DBE) Goal and Methodology. This approval requires the immediate implementation of a new DBE Program which includes a Race Conscious component (RC DBE Program). Because of the potential opportunities for transportation funding from the recently enacted American Recovery and Reinvestment Act (ARRA), Caltrans and local agencies receiving federal-aid funds must begin transitioning to the new RC DBE Program.

The new RC DBE Program will reinstate contract goals and the Good Faith Effort; however, they will be limited to Underutilized DBEs (UDBEs). Four (4) statistically underutilized groups were revealed in the Caltrans Availability and Disparity Study. The four (4) groups are: African-American, Asian Pacific American, Native American, and Women. Use of UDBEs above the contract goal and/or use of DBEs owned and controlled by Hispanic Males or Subcontinent Asian Males will be reported and counted toward the Race Neutral portion of the local agency's overall Annual Anticipated DBE Participation Level (AADPL).

On May 5, 2009, per Resolution No. 088-2009, the Board approved the Caltrans new DBE Program for projects involving United States Department of Transportation Federal funding for El Dorado County and authorized the Board Chairman to sign the Local Agency DBE Implementation Agreement. Caltrans provided their approval on May 8, 2009. In the agenda item for this Board action the Department noted that the Department would return to the Board for approval of the FFY 2009/2010 AADPL once Caltrans established the guidelines and the Department calculated the new AADPL.

Caltrans requires local agencies to complete and submit a Local Agency DBE Annual Submittal Form (AGMT 09-52705) that includes the AADPL, methodology for establishing the participation level, the name and contact information of the agency's designated DBE Liaison Officer, the Race Neutral measures that the local agency intends to implement in that year, and the agency's choice of prompt

payment provisions to be used by the agency for the FFY 2009/2010.

As part of the new DBE program, FHWA requires a new methodology for establishing the AADPL. Past guidelines that allowed adjustments to the calculated AADPL based the volume of work performed by DBE's on El Dorado County projects in recent years are no longer valid. Using this new methodology, the Department has calculated an overall AADPL of 18% consisting of a Race Conscious portion equal to 6.6% and a Race Neutral portion equal to 11.4%. The methodology used to arrive at these figures is described in Attachment "A" of AGMT 09-52705.

Attachment "B" of AGMT 09-52705 lists the Race Neutral Measures that the Department believes it can reasonably implement in FFY 2009/2010.

Attachment "C" of AGMT 09-52705 indicates that, in accordance with Section 9203 of the Public Contract Code, the Department elects to retain funds from the prime contractor. The selected method describes the conditions for release of retained funds and the requirements and timelines prime contractors must abide by for the release of retention withheld from their subcontractors.

The Department has been successful in the past in meeting established Race Conscious goals. For the Race Neutral portion, the Department intends to enhance its historical experience by employing the measures listed in Attachment "B". There are no penalties for failure to meet the AADPLs provided the County implements the provisions of the DBE program.

Action to be taken following Board approval:

1. The Board Clerk will obtain the Chairman's signature on the Resolution and the two (2) originals of the Local Agency DBE Annual Submittal Form (AGMT 09-52705).
2. The Board Clerk will forward the two (2) originals of the executed Local Agency DBE Annual Submittal Form (AGMT 09-52705) to the Department to send to Caltrans for its review, approval, and signature. The Board Clerk will forward a copy of the Resolution to the Department to send to Caltrans for its files.
3. The Department will return one (1) original of the fully-executed Local Agency DBE Annual Submittal Form (AGMT 09-52705) to the Board Clerk for filing.

Contact:

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Concurrences: Approved by County Counsel