County of Los Angeles
CHIEF EXECUTIVE OFFICE
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WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
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First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

August 23, 2010

To: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

STATUS REPORT ON COUNTY GOALS FOR SMALL BUSINESSES (RESPONSE TO ITEM 35, AGENDA OF JULY 20, 2010).

At the July 20, 2010 Board meeting, Supervisor Ridley-Thomas requested an update to the October 9, 2009 report on the Community Business Enterprise (CBE) and Local Small Business Enterprise (LSBE) programs. In addition, Supervisor Ridley-Thomas asked for the following information:

- What savings, if any, are being achieved as a result of the CBE and LSBE programs?
- How are the CBE and LSBE programs advantageous to the County?
- What are the County's goals, priorities, values and opportunities for small businesses, minority-owned businesses, disadvantaged businesses, women-owned businesses and local businesses?

This status report includes: (1) the status of action items from the October 2009 report to your Board, and (2) a response to the above additional questions.

The October 2009 report (Attachment) identified areas where the County could improve contracting opportunities for community and local small business enterprises. The report also provides a detailed discussion of: the history of the CBE and LSBE programs; the results of County outreach efforts to small businesses; and the

limitations imposed by California Proposition 209, the 1996 initiative that eliminated government affirmative action contracting preferences.

October 2009 Report Action Item: Capturing and Reporting on LSBE Subcontractor Activity

Small businesses may provide goods/services directly to the County, or provide goods/services as subcontractors to prime contractors.

Measuring the participation of small businesses as subcontractors is a challenge. Payments are made directly to prime contractors and the County's financial systems do not capture subcontractor data. To capture this information, the County must rely on prime contractors to provide subcontractor payment data.

To establish a County process for capturing and measuring LSBE subcontractor activity, the Internal Services Department (ISD) evaluated processes used by the Department of Public Works (DPW), the City of Los Angeles, and Fairfax County, Virginia. ISD also developed standardized solicitation and contract language for contractor LSBE subcontractor reporting requirements.

Under the new process, prime contractors will be required to report on dollars paid to LSBE subcontractors on a quarterly basis. Countywide LSBE subcontractor information will be maintained by the County's Office of Small Business. These requirements have been implemented in ISD's commodity contracts. For service contracts, the required provisions will be included in the countywide model contract language beginning in September 2010.

October 2009 Report Action Item: Pilot Program for LSBE Preference to be Extended to Subcontractors

Our October 2009 report discussed developing a pilot program for construction contractors to provide a bid preference similar to the bid preference available in the LSBE preference program. In coordination with this Office, DPW has developed a draft program to offer incentives to prime contractors who utilize certified small businesses as subcontractors or joint venture partners on their projects. The draft language and parameters of this pilot program are currently under review with County Counsel.

October 2009 Report Action Item: Consolidation CBE and LSBE Programs

We have considered combining the CBE and LSBE programs to enhance their overall effectiveness. However, we determined that there is not an operational benefit from

merging these two programs. Although the CBE and LSBE programs share a common goal as it relates to outreach, their operational applicability is significantly different. Because State law precludes preferences in government contracting based on gender or race, the County CBE program's focus is outreach. The LSBE program requires a more rigorous certification process and provides tangible benefits such as bid preference, 15-day prompt payment commitment, and inclusion in the LSBE "Yellow Pages" Directory.

Savings Achieved as a Result of the CBE and LSBE Programs

The goal of the LSBE program is to further the development of small businesses within the County, since small businesses foster job growth and wealth creation in the local economy. The goal of the CBE program is to maximize access by women- and minority-owned businesses to County contracting opportunities. In providing bid preferences for LSBEs and in reaching out to minority- and women-owned businesses, the County expects to receive no cost savings.

The LSBE bid preference program provides certified LSBEs with a 5 percent cost preference on County solicitations for goods and services, with limited exceptions. Where awards are made based on this cost preference, the program results in additional costs to the County. For example, of the more than $70 million that the County awarded to certified LSBE vendors during Fiscal Year 2009-10, there were 53 commodity purchase awards, totaling approximately $900,000, where the LSBE vendor did not have the lowest bid price. These awards resulted in an additional $20,000 in cost over the otherwise lowest bidder.

How are the CBE and LSBE Programs Advantageous to the County?

On July 30, 1991, your Board adopted the Los Angeles County Minority and Women-Owned Business Enterprise (MWBE) program. This program was adopted primarily to ensure that minority and women-owned businesses enjoy full and equal access to all the County's procurement and contracting activities. This later became part of the County's CBE program. After Proposition 209 eliminated affirmative action preferences in public contracting in 1996, the CBE program has been based on good-faith outreach efforts to encourage CBEs to compete for County business, without financial preferences. We believe these outreach efforts have provided expanded access to County contracting opportunities for minority- and women-owned businesses.

In adopting the LSBE Ordinance in July 2002, your Board found that the County should aid and assist, to the maximum extent possible, the interests of local small business concerns in order to preserve free competitive enterprise, and to ensure that a fair

proportion of the total purchases and contracts or subcontracts for procurement of goods or services for the County be placed with such enterprises. The LSBE program is a race- and gender-neutral program designed to enhance contracting and procurement opportunities for local small businesses within the County by providing a 5 percent bid price reduction to bids submitted by certified LSBEs. While we believe this program has resulted in expanded contracting with small businesses, there are opportunities to enhance these efforts as discussed above.

What are the County's goals, priorities, values and opportunities for small businesses, minority-owned businesses, disadvantaged businesses, women-owned businesses and local businesses?

The County's CBE program and its M/WBE component pre-date Proposition 209, which imposed restrictions on the use of race- and gender-based preferences in government contracting. The County's goal of 25 percent of contracts awarded to M/WBE is considered an "aspirational" goal, and based on good-faith outreach efforts. No pre-bid goals are established, nor are benefits given to certified M/WBEs, in the award process.

The County's LSBE program provides incentives and preferences for small businesses to participate in County purchasing and contracting opportunities. To some degree, the business demographics (e.g., business size, number of employees, economic status, revenues, etc.) between small businesses and women- and minority-owned businesses are often similar. The LSBE program and related outreach efforts are intended to assist and develop all types of small businesses within the County, including women- and minority-owned enterprises.

Should you have questions regarding this status report or require further information on this matter, please let me know or have your staff contact Ellen Sandt, Deputy Chief Executive Officer at (213) 974-1186, or via email at esandt@ceo.lacounty.gov.

WTF:BC:MKZ
FC:JH:ib

Attachment

c: Executive Office, Board of Supervisors
County Counsel
Internal Services Department

ATTACHMENT

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Fifth District

October 9, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

REPORT ON COMMUNITY BUSINESS ENTERPRISE AND LOCAL SMALL BUSINESS ENTERPRISE PROGRAMS

On May 12, 2009, on motion of Supervisor Ridley-Thomas, and as amended by Supervisor Yaroslavsky, your Board directed the Chief Executive Officer, Director of Internal Services, Affirmative Action Compliance Officer, and Acting County Counsel to prepare a report to the Board within sixty days, to include the following:

- A report on whether the County has: 1) achieved its 25 percent goal for Community Business Enterprise (CBE) participation in County contracting and purchasing programs; including 2) a breakdown by each department; 3) an evaluation on whether this goal could be increased, and to what percentage; and 4) to consider whether achieving these goals should be included in annual managerial performance reviews;

- Recommendations on outreach methods to the business community to encourage minority-, woman-, disabled veteran-, and disadvantaged-owned businesses to become certified and to bid successfully at all levels of government, including outreach to mainstream business entities to encourage them to partner with these CBEs.

- Identify obstacles to CBE participation in County contracting, including entity formation issues, business credit issues, bonding, and County bidding procedures and include recommended measures to resolve these obstacles;

- Recommendation as to whether creating the position of a Director to coordinate and develop all of these programs countywide and to assist County departments in meeting goals established by the Board, is advisable. Include recommendations on where this position should be placed within the County organization, job description, recommended salary range, minimum requirements, and recommended experience a candidate should possess.

- A review and evaluation of the efforts of other cities throughout the country which have developed CBE participation programs, including but not limited to, Washington, D.C., Baltimore, Oakland, and Atlanta;

- Recommendations on roles of various County commissions and related agencies, including but not limited to, the Small Business Commission and the Los Angeles County Economic Development Corporation, in the CBE participation effort; and

- A recommendation as to whether the establishment of a separate commission dedicated to promoting CBEs is advisable.

The attached report provides responses to the individual components of this Board Order and information on the following:

- Background of Proposition 209 as it relates to the County's CBE program;

- CBE history, background, and current status of the program;

- Local Small Business Enterprise (LSBE) program and current status; and

- A discussion of possible options for your Board's consideration.

Summary/Conclusion

Based on our analysis, we believe the County can improve contracting opportunities for community and local small business enterprises, as well as the monitoring and tracking of countywide contracting.

As discussed in the attached report, the CEO will convene a team of County departments, led by ISD, to evaluate methods for gathering and tracking subcontractor data from the prime or awarded vendor. Also, ISD will seek to develop a method to capture data for those small businesses that are already doing business with the County

as a subcontractor or distributor to a larger business that has purchasing and other agreements with the County.

While we have provided several options below that might improve outreach efforts, enhanced efforts or changes to the CBE program would be a Board policy decision requiring further direction from your Board. Each of the options discussed may also require additional funding, systems improvements, and County resources to implement and may involve additional efforts from the contractors:

1. Piloting a program with the Department of Public Works (and other departments as applicable) to provide a bid preference similar to the bid preference available in the LSBE Preference Program. The program would seek to offer incentives to prime contractors who utilize a percentage of certified small businesses as subcontractors or joint venture partners on their projects. This program would require significant changes to contract monitoring systems and would also require the County to incur additional costs to support the preference and contract monitoring. Prime contractors would also incur additional costs that would likely be passed on to the County.

2. Consolidating the CBE and LSBE programs into one County program based on retaining the current LSBE certification requirements and incentives to ensure that future program enhancements, benefits, and support strategies for outreaching are directed to all segments of the business community.

Should you have questions regarding this memorandum or report, please let me know, or your staff may contact Martin Zimmerman at (213) 974-1326 or mzimmerman@ceo.lacounty.gov.

WTF:ES:MKZ
FC:JH:pg

Attachments

c: Executive Officer, Board of Supervisors
Acting County Counsel
Affirmative Action Compliance Officer
Director of Internal Services
Director of Public Works

ATTACHMENT

REPORT ON COMMUNITY BUSINESS ENTERPRISE AND LOCAL SMALL BUSINESS ENTERPRISE PROGRAMS

Background

California Proposition 209, passed by the voters in November 1996, eliminated State and local government affirmative action programs in the areas of public employment, public education, and public contracting to the extent these programs involve "preferential treatment" based on race, sex, color, ethnicity, or national origin. This constitutional provision eliminated programs that give preference to women-owned or minority-owned companies on public contracts. However, outreach and other efforts to increase participation by such businesses, short of preferences, are still permitted.

The County CBE Program, and its Minority/Women Business Enterprises (M/WBE) component, predates Proposition 209. Since Proposition 209, the trend in California has been to make governmental outreach programs race and gender neutral. Such programs focus on entities including Disadvantaged Business Enterprises, Small Business Enterprises (SBE), Disabled Veterans Business Enterprises, and Local SBEs (LSBE). Similarly, the County began focusing its contracting outreach policy objectives towards race/gender neutral SBE and LSBE programs with the Board's adoption of the "Bold Steps Forward" initiative in 1998.

The Office of Affirmative Action Compliance (OAAC) manages the CBE program, while the Office of Small Business (OSB) within the Internal Services Department (ISD) manages the LSBE program, as described below.

Community Business Enterprise (CBE) Program

The County's CBE Program was established in November 1994 under Board Policy 5.130 (Contracting with Minority/Women/Disadvantaged/Disabled Veteran-Owned Firms). The primary elements of the CBE Program consist of: 1) certifying eligible CBEs; 2) conducting outreach efforts to encourage greater participation of CBEs in County contracting opportunities; 3) establishing a 25 percent overall CBE participation goal for County construction, commodity, and services contracts based on the total amount of contract dollars awarded; and 4) tracking the participation of CBEs in meeting the County's aspirational 25 percent goal.

Because the CBE Program specifically provides that contracts are to be awarded without consideration of the contractors' race or gender, it complies with the mandate of Proposition 209.

It is important to note the established goals and utilization rates of the CBE Program are applicable to only prime contract dollars. There are no requirements for prime contractors to identify and meet subcontracting participation goals for qualified CBE subcontractors, with the exception of subcontracting Disadvantaged Business

Enterprise goals, as required under Federally-funded Department of Public Works construction projects.

The CBE Program is currently based on good-faith outreach efforts to encourage CBEs to compete as prime contractors. Certified CBEs are listed in the County's CBE database and directory, and receive notification by the County on contract solicitations in areas of work of interest to the CBEs. The primary program objectives are outreach, certification, and encouragement of CBEs to compete in the County's contracting process. The OAAC has the administrative responsibility for the current CBE program efforts, and tracks utilization data on efforts to achieve the 25 percent CBE participation goal.

There are no pre-bid goals established, monetary incentives, or other benefits given to certified CBEs in the award process.

Local Small Business Enterprise (LSBE) Program

The LSBE program, developed in response to the "Bold Steps Forward" report adopted by the Board in September 1998, was designed to be race and gender neutral with the objective to expand small business opportunities in the County's purchasing and contracting activities.

As discussed later in this report, the LSBE program provides incentives and preferences for small businesses to participate in County purchasing and contracting opportunities. To some degree, the business demographics (e.g., business size, number of employees, economic status, revenues, etc.) between small business and women and minority owned businesses are similar. The LSBE program and related outreach efforts are intended to assist and develop all types of small businesses within the County. This includes, but is not limited to, women and minority owned enterprises.

Response to Board Instruction

The following provides responses to the individual components of the Board Order referenced above.

1. **A report on whether the County has: 1) achieved its 25% goal for Community Business Enterprise (CBE) participation in County contracting and purchasing programs; including 2) a breakdown by each department; 3) an evaluation on whether this goal could be increased, and to what percentage; and 4) to consider whether achieving these goals should be included in annual managerial performance reviews.**

CBE Program

For purposes of CBE utilization, only OAAC-certified CBEs are counted against contract dollars paid to prime-contractors. To be eligible for certification, a CBE must be:

- At least 51 percent owned by a minority, women, disadvantaged business owner, or disabled veteran;
- Managed by and the daily business operations are controlled by a minority, woman, disadvantaged business owner, or disabled veteran; and
- A domestic business or corporation with its home office residing in the United States, which is not a branch or subsidiary of a foreign corporation, firm, or other business.

County contracting data indicates that certified CBEs have received less than 25 percent of the contract dollars paid. OAAC identified the following certified CBE utilization levels for 2005-06 through 2007-08. The data represents "Prime Contractor" dollar amounts paid for all construction, commodity, and service contract dollars.

Fiscal Year	Certified CBE Payments	Total Payments	Utilization Percentage
2005-06	$216.7Million	$3.688 Billion	5.87%
2006-07	$246.6 Million	$4.102 Billion	6.01%
2007-08	$278.0 Million	$4.226 Billion	6.58%

The three year average is 6.15 percent. Exhibit I includes certified CBE utilization data by department.

As the current CBE program is designed to track prime-contractor payments only, anecdotal evidence suggests that additional certified CBEs receive subcontracting dollars from prime contractors, but subcontractor data is not captured above. We believe that expanding the current CBE program to include tracking dollars paid to all certified CBE subcontractors would demonstrate significant additional CBE participation in the County contracting process.

Available information also suggests that utilization percentages would increase if all eligible CBEs receiving County contract dollars are certified. However, without monetary incentives to improve CBE's contracting opportunities, many potentially eligible CBEs will continue without certification.

LSBE Program

Exhibit II provides ISD's detailed report on the LSBE program. There are several ways to measure business activity between the County and local small businesses:

- "Certified" Local Small Business Enterprises To qualify for bid preferences and other program benefits, vendors must qualify, apply for, and be certified by the County as an LSBE. LSBEs currently hold 7 percent of all Purchasing Agent commodity agreements (61 of 876). Over the last two fiscal years, LSBEs' share of County business has increased as follows:

- 24 percent increase in the number of awards made to certified LSBEs, from 10,949 in 2006 to 13,466 in 2008.

- 32 percent increase in the dollar amounts awarded to certified LSBEs, from $58 million in 2006 to $93.7 million in 2008.

- "Uncertified" Small Businesses This category reflects small businesses who self-report that they meet the general requirements to become certified LSBEs. However, they have not registered as such via the LSBE certification process. That is, these vendors have self-identified in the County's vendor registration program as meeting the County's small business criteria (e.g., 100 or fewer employees, and less than $12 million in revenue per year over the past three years). In FY 2008-09, the number of purchase order and contract awards for such self-identified small business vendors was 170,540, and equated to more than $1.3 billion. This represents nearly 24 percent of all dollar amounts awarded by the County in purchasing and contracting acquisitions.

- Small Business Subcontractors to Prime Vendors These include small businesses that provide services to the County as subcontractors to other businesses. Measuring subcontractors' participation is a challenge faced by all public agencies, including the State of California and the City of Los Angeles. Payments are made directly to prime contractors, so financial systems do not capture data on small business subcontractors. The current process for capturing subcontracting dollars is accomplished manually, and relies primarily on the prime contractors providing payment information for their subcontractors.

The County's Small Business Commission has recommended a 25 percent goal for small business awards in purchasing and contracting in its 2008 Strategic Plan and Report. To assess the feasibility of the County achieving this goal, the CEO will convene a team of County departments, led by ISD, to evaluate methods for gathering and tracking subcontractor data from the prime or awarded vendor. Also, ISD will seek to capture data for those small businesses that are already doing business with the County as a subcontractor or distributor to a larger business that currently have purchasing and other agreements with the County. As eligible small businesses are identified, ISD will encourage them to become certified in order to take full advantage of the LSBE program, including a 5 percent cost preference in County solicitations, 15-day prompt payment program, etc.

Exhibit III provides a report on 2008 countywide purchasing and contracting activities, depicting awards and dollar amounts to certified local small business as compared to overall awards and dollar amounts. Also included are awards made by County departments.

With respect to the issue of whether achievement of the 25 percent goal for CBE participation in County contracting should be included as a factor in annual managerial performance reviews, it should be noted that CBE certification is not granted on a race-

and gender-neutral basis – in other words, there is no "other business entity" category within the CBE program under which business entities which are not owned by minorities, women, disabled veterans, or the disadvantaged can qualify for CBE certification. If management were to be evaluated based on the achievement of specific progress in reaching goals for CBE participation in County contracting, it would appear to create a strong incentive for management to use a business entity's CBE certification, which is not awarded on a race- and gender-neutral basis, as a preference in awarding County contracts. A County contract awarded on the basis of such a preference would violate the provisions of Proposition 209.

Of course, the County's current solicitation processes impose controls designed to prevent management's ability to steer the award of County contracts solely on the basis of a business entity's CBE certification. Nonetheless, the appearance of the granting of an improper preference based on CBE certification would still remain with respect to any County contract awarded to a certified CBE. Therefore, if the achievement of the 25 percent goal for CBE participation in County contracting is included as a factor in annual managerial performance reviews, it could very well lead to an increased risk of protests and litigation brought by non-certified vendors over the award of County contracts to certified CBEs.

2. Recommendations on outreach methods to the business community to encourage minority-, woman-, disabled veteran-, and disadvantaged-owned businesses to become certified and to bid successfully at all levels of government, including, including outreach to mainstream business entities to encourage them to partner with these CBEs.

Currently, each department is responsible for outreach to promote the County's CBE program. In general, CBE outreach has been limited to solicitation language and pre-bid conferences. Departments are instructed to include CBE outreach language in solicitation documents. The standard solicitation language contained in the County's Purchasing and Contracting and Services Contracting Manuals states: "*encourage CBEs to bid*" and "*whenever possible, vendors are encouraged to subcontract portions of the work to responsible and qualified CBEs.*" The current outreach guidelines and solicitation language are based on the good-faith efforts of prime contractors, and CBE participation is not a factor in the award of the contract.

The OAAC engages in outreach activities with other government agencies, local business chambers, minority and women business associations, and attends various business trade shows and outreach events. In addition, the OAAC attends many County contracting outreach events with the OSB. Both the OAAC and OSB engage in extensive outreach activities to encourage businesses in Los Angeles County to apply for CBE and LSBE certification, and to encourage businesses to compete for County contracts. During the past three years, OAAC participated in 25 CBE specific outreach events; and also participated in many OSB sponsored workshops outreaching to CBEs (Exhibit IV).

The "Doing Business with the County" Web portal provides information on contracting opportunities, services available, links to OAAC, OSB, and ISD procurement/contracting programs and links to departments that are involved in contracting/procurement. Business opportunities are also posted on ISD's website "About Purchasing and Contracting," with links to County Contract Managers, Construction Contracting Manual, County Insurance and Indemnification requirements, etc.

In addition, OSB sponsors outreach programs and events to educate, assist and support small businesses and increase the number of contracts they receive (Exhibit V).

3. **Identify obstacles to CBE participation in County contracting, including entity formation issues, business credit issues, bonding and County bidding procedures and include recommended measures to resolve these obstacles.**

Based on the 1998 "Bold Steps Forward" report, and the 2007 Small Business Survey prepared by JDB & Associates, the most commonly cited impediments for small businesses to do business with the County include:

- Process/Paperwork. The County's processes and required paperwork are too cumbersome.

- Insurance/Bond/Bid requirements. The County's insurance, bond, and bid requirements are too stringent for small businesses to comply.

- Lack of flexibility on requirements/regulations. The County's standard terms and conditions are too broad, restrictive, and complicated for small businesses.

- Payment delays. Based on their nature, small businesses normally do not have an excess of cash flow to make payroll, etc., and need to be paid promptly for the services and/or commodities they provide to the County.

The County has undertaken previous efforts to streamline the County contracting terms and conditions, and reviewing the levels of bonding and insurance requirements. The following initiatives have been implemented to aid and assist small businesses to obtain necessary County insurance and bond requirements.

- Insurance: Since the 1980s, the County has required contractors to maintain liability insurance to protect themselves and the County against liability claims. As risk exposures and insurance coverage evolve, additional minimum requirements for other necessary insurance protection (such as auto liability, professional liability and workers compensation) were developed. The specific types and limits of the required insurance are reviewed and revised as needed, to ensure the County is adequately protected against risk without imposing an undue burden on contractors.

In the 1990s, some small businesses competing for County contracts reported difficulty in obtaining or affording their own liability insurance. In May 1999, the County began participation in the SPARTA (Service Providers, Artisan and Tradesman Activities) insurance program, to provide eligible contractors with an economically priced, alternative source of general and auto liability coverage to satisfy County requirements. In May of 2008, the insurance carrier discontinued its coverage under the SPARTA program. Effective September 1, 2009, the SPARTA program was reestablished when a new insurance carrier was found to fill the void, and SPARTA insurance coverage is once again available to County service providers.

- Bond: In 1991, the County implemented policy specifying bonds and other forms of performance security (letters of credit, certificates of deposit) would not be required for purchases of services, supplies, and equipment of less than $50,000. Departments also were instructed that it was not necessary to require a bond for most purchases or contracts, since the cost of bonds would be passed in turn on to the County and thus result in an unnecessary expense to the public. As a result, bonds and other performance security requirements are imposed only on those contracts which departments have determined pose a significant risk of loss to the County.

The County has also made significant progress toward resolving payment delays by implementing a 15-day prompt payment program for certified small businesses, and establishing a countywide small business payment liaison to assist small businesses with payment problems.

Additionally, ISD has implemented the following:

- A "County terms and conditions - plain language" component to its quarterly Small Business Symposia in order to educate and help small business.

- The creation of the LSBE Directory (yellow pages) to provide departments with a convenient list of certified small business vendors and encourage procurement and contract sections to solicit from this list whenever possible.

- Effective July 1, 2009, the authorization of County departments to acquire goods or services up to $5,000 without obtaining three quotes if the goods or services are purchased from a certified LSBE.

4. **Recommendation as to whether creating a position of Director, to coordinate and develop all of these programs Countywide and to assist County departments in meeting goals established by the Board, is advisable.**

We believe there is sufficient support with existing County organizations to address improvements to County contracting outreach efforts to CBEs and LSBEs. As discussed below, we will provide options to consider regarding organizational structure.

5. **A review and evaluation of the efforts of other cities throughout the country which have developed CBE participation programs, including but not limited to, Washington, D.C., Baltimore, Oakland, and Atlanta.**

OAAC conducted a survey (Exhibit VI) of the following eight government agencies in California: City of Los Angeles; City of San Jose; Los Angeles County Metropolitan Transportation Authority (MTA); California State Department of Transportation (Caltrans); City and County of San Francisco (San Francisco); City of Oakland; County of Santa Clara; and the East Bay Municipal Utilities District (EBMUD). Government agencies surveyed outside of California included: City of Atlanta; City of Baltimore; City of Chicago; and Washington, D.C.

As indicated earlier, many agencies in California have moved away from gender/race conscious programs since the passage of Proposition 209 in California, as have State and local governments nationally following federal court rulings clarifying permissible race/gender programs. Courts have generally ruled that before government agencies implement race/gender conscious remedies, the agency must first conduct a "Disparity Study" that factually identifies the discriminatory effects of the agency's contracting policies toward minority and women owned-businesses. Given the significant costs associated with conducting a disparity study (usually $1 million and higher), many agencies have adopted race/gender neutral programs.

Our evaluation of survey results from other government programs both in California and the nation revealed various program approaches targeting a mix of M/WBEs, SBEs, LSBEs, Disadvantaged Business Enterprises, Disabled Veterans Business Enterprises, and Other Business Enterprises (OBE). All entities surveyed reported that the primary focus of their community business outreach program was sub-contracting. This is in contrast with Los Angeles County's current CBE program, which focuses on prime-contractor results. Programs in Chicago, Baltimore, Atlanta, Caltrans, MTA, and County of Santa Clara have program components that include both race/gender neutral (e.g., LSBEs, Disabled Veterans Business Enterprises) and race/gender conscious elements M/WBE. The above government entities that have race/gender conscious elements developed their programs based on disparity studies determining M/WBEs were disadvantaged in their contracting practices. Regarding the California agencies (Caltrans, MTA, and County of Santa Clara), their race/gender conscious program elements are in accordance with U.S. Department of Transportation Disadvantaged Business Enterprise requirements and are based on the findings of a disparity study conducted by Caltrans in California.

Washington, D.C., City of Oakland, City of San Jose, San Francisco, EBMUD, and City of Los Angeles all have race/gender neutral programs. Of these programs San Francisco, City of Los Angeles and EBMUD reported having an M/WBE subcontracting component considered race/gender neutral. What makes these M/WBE subcontracting programs "neutral" is the inclusion of other race/gender groups identified as OBEs.

These programs offer aspirational goals and outreach efforts, and focus subcontracting by M/WBE and OBEs.

6. **Recommendations on roles of various County commissions and related agencies, including but not limited to, the Small Business Commission and the Los Angeles County Economic Development Corporation, in the CBE participation effort.**

In May 2001, the Board created the Los Angeles County Small Business Commission (SBC) to provide advice and support to the Board in the area of growing small business in the County. The Commission consists of 20 representatives from the business community of Los Angeles County, four nominated by each Supervisor. In addition, each Supervisor names an alternate. Deputies from each supervisorial district serve as ex-officio members. Additionally, the CEO, ISD, Public Works, Auditor-Controller, Health Services, OAAC, Sheriff, County Counsel, and the CDC have representatives as ex-officio, non-voting members. Finally, representatives from the U.S. Small Business Administration and the California Department of General Services provide counsel on Federal and state issues and serve as non-voting members.

7. **A recommendation as to whether the establishment of a separate commission dedicated to promoting CBEs is advisable.**

Based on the information above, we do not see a need for establishment of an additional commission to promote CBE contracting. We believe SBC and OSB are well structured to address LSBE outreach efforts, which includes CBEs. Should the Board opt to significantly expand CBE efforts as a policy matter, this would need to be reconsidered.

Next Steps

Based on our analysis, we believe the County can improve contracting opportunities for community and local small business enterprises, as well as the monitoring and tracking of countywide contracting.

As noted previously in this report, CEO will convene a team of County departments, led by ISD, to evaluate methods for gathering and tracking subcontractor data from the prime or awarded vendor. Also, ISD will seek to develop a method to capture data for those small businesses that are already doing business with the County as a subcontractor or distributor to a larger business that has purchasing and other agreements with the County.

In addition, the following are areas for possible consideration, each may require additional funding, systems improvements and County resources to implement, and may involve additional efforts from the contractors:

1. Piloting a program with the Department of Public Works (and other departments as applicable) to provide a bid preference similar to the bid preference available in the LSBE Preference Program. The program would seek to offer incentives to prime contractors who utilize a percentage of certified small businesses as subcontractors or joint venture partners on their projects. This program would require significant changes to contract monitoring systems and would also require the County to incur additional costs to support the preference and contract monitoring. Prime contractors would also incur additional costs that would likely be passed on to the County.

2. Consolidating the CBE and LSBE programs into one County program based on retaining the current LSBE certification requirements and incentives to ensure that future program enhancements, benefits, and support strategies for outreaching are directed to all segments of the business community.

EXHIBIT I

OFFICE OF AFFIRMATIVE ACTION COMPLIANCE
COMMUNITY BUSINESS ENTERPRISE (CBE) PROGRAM
DEPARTMENT PARTICIPATION
SUMMARY
BY FISCAL YEAR

CONSTRUCTION/SERVICES/COMMODITIES PAYMENTS

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
Department	Total Payments	CBE Payments	CBE %	Total Payments	CBE Payments	CBE %	Total Payments	CBE Payments	CBE %
Affirmative Action Compliance	$1,078,747.60	$226,047.97	20.95%	$818,879.91	$173,951.84	21.24%	$917,542.41	$378,004.35	41.20%
Agriculture Comm./Weights & Measures	$2,461,026.47	$124,764.37	5.07%	$3,731,520.02	$194,765.32	5.22%	$3,208,259.83	$389,110.27	12.13%
Alternate Public Defender	$747,939.80	$265,499.44	35.50%	$491,889.86	$87,152.11	17.72%	$882,804.90	$289,955.38	32.84%
Animal Care & Control	$1,492,820.41	$75,806.85	5.08%	$1,796,554.04	$68,568.97	3.82%	$2,392,038.14	$545,026.10	22.79%
Assessor	$3,540,514.22	$238,216.37	6.73%	$4,717,982.16	$572,141.94	12.13%	$6,020,385.60	$1,389,538.10	23.08%
Auditor-Controller	$32,806,356.65	$883,018.70	2.69%	$37,456,027.44	$618,156.84	1.65%	$49,775,809.43	$1,250,370.02	2.51%
Beaches & Harbors	$6,765,791.28	$290,361.63	4.29%	$9,637,731.05	$413,915.62	4.29%	$7,789,867.98	$484,140.06	6.21%
Board of Supervisors	$88,254,950.53	$4,852,815.15	5.50%	$134,061,480.57	$8,875,147.91	6.62%	$101,053,129.14	$7,672,944.04	7.59%
Chief Executive Office	$271,121,246.09	$22,405,414.98	8.26%	$276,121,827.01	$33,820,715.55	12.25%	$267,750,537.96	$31,712,053.85	11.84%
Chief Information Officer	$4,728,438.29	$35,824.59	0.76%	$6,275,679.70	$226,093.41	3.60%	$4,133,952.96	$116,301.68	2.81%
Child Support Services	$17,171,364.33	$717,215.88	4.18%	$11,080,730.15	$877,003.74	7.91%	$6,071,452.25	$647,942.22	10.67%
Children & Family Services	$41,592,203.84	$3,332,399.33	8.01%	$51,970,345.65	$3,200,676.32	6.16%	$56,617,998.49	$6,651,126.55	11.75%
Community & Senior Services	$80,989,002.36	$139,330.91	0.17%	$76,426,736.19	$1,281,671.69	1.68%	$76,893,789.62	$672,749.87	0.87%
Consumer Affairs	$1,039,360.73	$24,096.45	2.32%	$1,915,098.19	$90,490.25	4.73%	$1,943,409.58	$23,152.63	1.19%
Coroner	$2,088,587.27	$78,497.09	3.76%	$2,647,116.09	$130,937.63	4.95%	$3,066,957.31	$637,195.86	20.78%
County Counsel	$22,525,104.69	$874,567.57	3.88%	$25,055,588.99	$1,105,520.47	4.41%	$24,571,543.93	$1,684,523.69	6.86%
District Attorney	$12,737,671.14	$301,499.23	2.37%	$14,275,953.84	$406,677.48	2.85%	$15,373,369.40	$288,753.97	1.88%
Fire	$45,990,582.88	$1,899,459.96	4.13%	$77,353,746.99	$3,242,000.47	4.19%	$65,006,382.46	$3,036,944.10	4.67%
Grand Jury	$356,896.64	$240,194.74	67.30%	$341,122.94	$191,915.16	56.26%	$395,137.68	$98,000.00	24.80%
Health Services	$1,252,610,180.60	$37,740,256.17	3.01%	$1,323,632,249.80	$37,397,481.76	2.83%	$1,063,557,041.87	$30,321,554.61	2.85%
Human Resources	$7,435,496.54	$608,272.54	8.18%	$8,002,197.90	$1,054,903.06	13.18%	$8,995,362.26	$623,579.79	6.93%
Internal Services	$288,722,001.38	$25,331,703.81	8.77%	$331,176,246.75	$36,591,366.05	11.05%	$344,878,060.45	$35,269,425.41	10.23%
Mental Health	$645,468,757.48	$52,541,787.38	8.14%	$679,075,402.33	$49,640,500.77	7.31%	$794,615,231.57	$68,297,176.26	8.59%
Military & Veteran's Affairs	$309,293.78	$120,286.03	38.89%	$197,396.14	$49,600.07	25.13%	$189,495.22	$64,862.69	34.23%

OFFICE OF AFFIRMATIVE ACTION COMPLIANCE
COMMUNITY BUSINESS ENTERPRISE (CBE) PROGRAM
DEPARTMENT PARTICIPATION
SUMMARY
BY FISCAL YEAR

CONSTRUCTION/SERVICES/COMMODITIES PAYMENTS

	Fiscal Year 2005-2006			Fiscal Year 2006-2007			Fiscal Year 2007-2008		
Department	Total Payments	CBE Payments	CBE %	Total Payments	CBE Payments	CBE %	Total Payments	CBE Payments	CBE %
Museum of Art	$13,546,211.84	$0.00	0.00%	$14,083,984.61	$0.00	0.00%	$14,087,925.51	$0.00	0.00%
Museum of Natural History	$6,804,019.54	$612,019.54	8.99%	$6,964,093.54	$612,167.04	8.79%	$8,364,318.50	$0.00	0.00%
Office of Ombudsman	$98,782.82	$12,849.31	13.01%	$70,030.48	$4,108.46	5.87%	$99,929.08	$36,294.26	36.32%
Office of Public Safety	$23,375,015.18	$1,326,956.09	5.68%	$28,896,724.27	$962,512.63	3.33%	$32,594,228.74	$491,490.61	1.51%
Parks & Recreation	$33,593,288.88	$2,286,518.61	6.81%	$34,854,926.22	$1,470,324.08	4.22%	$40,154,928.08	$1,672,862.67	4.17%
Probation	$46,843,828.88	$8,832,035.79	18.85%	$50,594,895.79	$6,513,796.70	12.87%	$57,583,250.09	$6,036,781.22	10.48%
Public Defender	$2,477,199.16	$595,393.19	24.03%	$3,555,115.40	$433,893.61	12.20%	$2,317,162.39	$236,101.00	10.19%
Public Health Programs	$0.00	$0.00	0.00%	$0.00	$0.00	0.00%	$253,733,279.11	$4,091,280.81	1.61%
Public Library	$20,612,810.92	$5,110,715.03	24.79%	$23,969,456.22	$4,341,298.91	18.11%	$26,476,683.07	$5,587,081.81	21.10%
Public Social Services	$164,567,801.63	$7,521,422.92	4.57%	$182,373,055.31	$11,664,961.80	6.40%	$203,345,259.30	$15,022,532.01	7.39%
Public Works	$291,133,184.70	$20,815,380.97	7.15%	$349,104,252.81	$22,455,771.31	6.43%	$346,319,288.47	$26,545,175.36	7.66%
Regional Planning	$1,359,386.06	$95,668.47	7.04%	$2,630,256.16	$316,419.42	12.03%	$2,491,206.54	$253,343.97	10.17%
Registrar-Recorder	$20,068,699.18	$660,930.52	3.29%	$52,310,373.42	$760,019.33	1.45%	$29,459,512.23	$1,280,645.05	4.35%
Sheriff	$164,408,986.43	$10,902,904.35	6.63%	$206,465,202.72	$12,129,420.46	5.87%	$224,876,640.33	$19,094,621.02	8.49%
Superior Courts	$57,313,412.97	$3,757,155.76	6.56%	$58,361,413.29	$3,130,351.82	5.36%	$67,074,928.28	$3,820,656.03	5.70%
Treasurer & Tax Collector	$10,132,422.10	$780,875.02	7.71%	$9,493,166.03	$1,543,892.09	16.26%	$10,433,664.10	$1,309,621.10	12.55%
Grand Total	**$3,688,369,385.29**	**$216,658,162.71**	**5.87%**	**$4,101,986,449.98**	**$246,650,292.09**	**6.01%**	**$4,225,511,764.26**	**$278,022,918.42**	**6.58%**

LOCAL SMALL BUSINESS ENTERPRISE PROGRAM

Background

On March 4, 1997, the County's Office of Small Business (OSB) was created by the Board of Supervisors to serve as a central source of information for small businesses regarding countywide purchasing and contracting opportunities. Originally assigned to the Community Development Commission (CDC), OSB was responsible to:

- Provide a one-stop location for local small businesses to obtain information on all County contracting and procurement opportunities;
- Ensure that local small businesses can compete for County business on a level playing field; and
- Work with other agencies to stimulate local small business development and growth.

On motion of Supervisor Knabe on June 2, 1998, a working group was assembled consisting of OSB, local business leaders, non-profit organization representative County contracting and procurement managers and staff, and representatives from other government agencies to report back to the Board with:

- A definition of small business for County use;
- Recommendations for improving and streamlining County purchasing and contracting procedures; and
- A program for equalizing opportunities for small business.

On September 15, 1998, the Board adopted the recommendations of the working group's report, titled the "Bold Steps Forward" report. The report recommendations established Board policy that the County should assist the interests of local small business concerns to ensure they receive a fair proportion of the total purchases and contracts or subcontracts for purchase of goods or services for the County.

In May 2001, the Board created the Los Angeles County Small Business Commission (SBC) to provide advice and support to the Board in the area of growing small businesses in the County. The Commission consists of 20 representatives from the business community of Los Angeles County, four nominated by each Supervisor. In addition, each Supervisor names an alternate. Deputies from the Supervisorial Districts serve as ex-officio members. Additionally, the Chief Executive Officer (CEO) and County departments of Internal Services, Public Works, Auditor-Controller, Health Services, Affirmative Action Compliance, Sheriff, County Counsel, and Community Development Commission have representatives as ex-officio, non-voting members. Finally, representatives from the U.S. Small Business Administration and the California Department of General Services to provide counsel on Federal and State issues and serve as non-voting members.

In March 2005, the OSB function, staff, and reporting relationship moved to ISD from the CDC to better align the small business procurement and contracting outreach function with the County's purchasing agent function. Since that time, OSB has continued to support small business programs and objectives by:

- Serving as a clearinghouse of information on small business issues;
- Offering Contracting Connection Workshops that train small businesses about how to compete and obtain County contracts;
- Producing the County's Small Business Yellow Pages;
- Managing a database and Website devoted to small business issues;
- Tracking County success in contracting with small businesses;
- Working with County departments to implement the "Bold Steps Forward," acting as an advocate and policy advisor and assistant;
- Serving as the Procurement Technical Assistance Center for Los Angeles County, assisting businesses in securing contracts from Federal, State, and local governmental agencies, using a grant received from the U.S. Department of Defense;
- Responding to questions and issues from the Board of Supervisors, ranging from the impact of potential policies on small businesses to helping define small business eligibility for programs; and
- Acting as the secretariat for the SBC, preparing agendas and minutes, arranging and advertising meeting locations, and coordinating presentations.

Small Business Program and Policy Initiatives

Since 1997, the County has implemented internal and external programs to increase purchasing and contracting opportunities for small business, as discussed below.

Calendar Years 1997 and 1998

Small Business program initiatives accomplished during these calendar years included:

- The Board of Supervisors established the Office of Small Business.
- The "Bold Steps Forward" report was adopted by the Board of Supervisors with specific steps and recommendations to facilitate small business participation in county purchasing and contracting opportunities.

- The County's Small Business Commission was created and established by the Board.

Calendar Years 2000 through 2004

- Established a Small Business Liaison in each County department to provide a single point of contact for any specific departmental questions or issues involving a small business.

- The "Doing Business with Us" Website, which included a consolidated bid Webpage for all County departments to post their respective solicitations was created and implemented to provide business owners a simple easy-to-use resource that provides centralized access to various online services, such as: vendor registration, open and closed bid opportunities, a business events calendar, invoice payment status, permits, and links to other resources. ISD also has an eNotify system that notifies vendors of business workshops, trade fairs, newsletters, and events.

- The Board adopted the LSBE Preference Program into County ordinance (Chapter 2.204), which provides certified LSBE vendors with a five percent cost preference on all County solicitations over $5,000. To qualify for the preference, LSBEs must be a certified small business with the State of California, and must be headquartered in Los Angeles County for the previous twelve months.

Calendar Years 2005 through 2009

- Developed and conducted Small Business Symposia to educate small businesses on the processes for doing business with the County.

- Developed, published, and disseminated the County's "Small Business Yellow Pages" to all County departments. This is an annually updated listing of all certified small businesses, the goods and services they provide, and the contact information. The booklet is intended for department procurement users to have desktop/readily accessible access to the small business information.

- Developed and implemented the Prompt Payment Policy which established a 15-day payment turnaround for certified small businesses, adopted by the Board in Policy.

- Established a Prompt Pay Small Business Liaison (single point of contact with hotline number) for certified small businesses to contact regarding any payment issues, adopted by the Board in Policy.

- Developed and implemented an on-line reporting system to track the number of awards (both number and dollar amounts) to certified small businesses by month, quarter, and year. Includes searchable/extractable data by the size of

business (number of employees, annual sales), vendor name, and type of commodity or service, etc.

- Engaged a consultant to study small business demographics in the County and provide a report on the small businesses that would be eligible and appropriate to do business with the County (e.g., meet the County's certification requirements, sells goods and services that the County buys, etc.); and to provide the names, business, business location, contact information, and associated commodity codes in electronic format which would be used to target outreach.

- Amended the County ordinance to expand the Local SBE Preference Program to include SBA certified vendors for Federally funded programs and grants, without restriction as to geographical location, as recommended by the SBC, and adopted by the Board.

- Revised bidding thresholds for low-dollar purchases to allow for direct purchases from certified LSBE vendors up to $5,000.

Ongoing Small Business Outreach Methods and Efforts

The County has many programs and events designed to educate, assist, and support small business. Several departments have extensive outreach programs aimed at increasing the number of contracts awarded to small businesses. In addition, these departments attend or host over 30 events a year. Specific to OSB, ongoing outreach efforts include:

- OSB coordinates and conducts Quarterly Contract Connections Workshop in each Supervisory District (which are attended by the Board members).

- OSB actively participates in vendor fairs and workshops hosted by other agencies, including chairing or co-chairing the Greater LA Vendor Fair.

  The County secures booth space at these events, provides electronic vendor registration on-site, conducts workshops for County business requirements and opportunities, and provides one-on-one consultation to vendors. These events are staffed by the County's OSB staff, other County departments, members from ISD's vendor relations unit, and also buyers from ISD's Purchasing Division.

  - ◊ Calendar year 2007 Outreach Events arranged and/or attended by OSB included, 23 conferences or events, 25 Small Business Workshops, and three Contract Connections Workshops in Supervisory Districts, with over 1,900 small businesses in attendance.

  - ◊ Calendar year 2008 Outreach Events arranged and/or attended by OSB included 22 conferences or events, 32 Small Business Workshops, and

three Contract Connections Workshops in Supervisory Districts, with over 3,400 small businesses in attendance.

◊ Calendar year 2009 Outreach Events scheduled and/or attended by OSB include 9 conferences or events, 10 completed workshops with 39 scheduled/pending, and three Contract Connections Workshops schedule in Supervisory Districts. When completed, the projected attendance will be more that 5,300 small businesses.

- OSB provides one-on-one consultation and assistance to small businesses.
- OSB coordinates and hosts monthly Small Business Commission Executive meetings and quarterly meetings of the full commission.
- OSB coordinates and hosts quarterly meetings of the Departmental Small Business Liaisons.
- Via Website and E-mail blasts, OSB provides small businesses with calendar information on vendor fairs, workshops, conferences, up-coming events, etc.

Ongoing Contracting Initiatives

Master Agreements: The Master Agreement concept is a viable solution to ensure business opportunities are available to small businesses. Vendors submit their qualifications in response to a detailed solicitation document, usually a Request for Statement of Qualifications (RFSQ). Vendors deemed qualified in accordance with the RFSQ receive a Master Agreement that has been approved by the Board. Specific service contracting projects are bid to vendors in the appropriate category. Some agreements have set terms of one year or more while others allow vendors to qualify at any time during the term of the agreement. There are also opportunities available with prime contractors. Many of these vendors and subcontractors are small businesses.

Regional Contracting: Several departments including ISD, Department of Parks and Recreation, and Public Library have already incorporated the concept of soliciting for services on a regional basis for contracts, such as custodial and landscape contracts. Smaller regional contracts afford an opportunity for small businesses to compete effectively and these types of contracts can be accomplished with a single solicitation document that allows for bids or proposals on a regional basis. In addition, by eliminating multiple solicitation documents, the contracting process can be streamlined thereby, promoting increased efficiency.

Small Business Certification Reciprocity Program: The California Office of Small Business promotes small business participation by administering the "Small Business Certification Reciprocity Program." The program's intent is to build partnerships with cities, counties, and special districts throughout California in accepting the State's small business certification. The reciprocity process allows the small business to go through

only one certification procedure while having their certification valid with both the State and the participating agency. The certified small business is able to optimize the benefits that both certification programs offer. The County of Los Angeles participates in this program.

Contract Training: The 16-hour "Orientation to County Contracting Principals" and the 100-hour "Contract Training Certificate Program" are two examples of successful internal steps taken to increase awareness of the County's effort to assist small businesses. Educating County staff on these contracting approaches and publicizing the availability of such opportunities to the vendor community is essential to enhance small business opportunities.

Small Business Program Results

Based on the above referenced programs and outreach efforts, the County has made significant gains in the number of awards made to small businesses.

For example, awards to the population of vendors that have self-certified in the County's vendor registration program, which captures business demographics (e.g., business size, annual revenue, number of employees, etc.), as meeting the County's small business criteria (i.e., 100 or fewer employees, and less than $12 million in revenue per year over the past three years) were:

- In Fiscal Year 2008-2009, the number of purchase order and contract awards for self-certified vendors was 170,540, and equated to more that $1.3 billion. This represents nearly 24 percent of all dollar amounts awarded by the County in purchasing and contracting acquisitions. See Exhibit 1.

To a lesser extent, the award activities for those vendor that have qualified, have applied for, and have been certified by the County as a local Small Business Enterprise reflected an steady increase in purchase order and contract awards between Fiscal Year's 2006 and 2008, as follows:

- *24 percent increase in the number of awards made to certified, Local Small Business from 10,949 in 2006 to 13,466 in 2008.*

- *32 percent increase in the dollar amounts awarded to certified, Local Small Businesses from $58 million in 2006 to $93.7 million in 2008.*

- *LSBEs currently hold 7 percent of all Purchasing Agent commodity agreements (61 of 876).*

See Exhibit 2 to Attachment II for the report on 2008 countywide purchasing and contracting activities, depicting awards and dollar amounts to certified local small business as compared to overall awards and dollar amounts. Also included are awards made by County departments.

Obstacles to LSBE Participation in County Purchasing and Contracting

Based on the 1998 "Bold Steps Forward" report, and a subsequent 2007 Small Business Survey, Analysis and Study prepared by JDB & Associates for ISD, the following represents the most cited impediments identified as the major obstacles to small businesses in doing business with the County:

- Process/Paperwork. The County's processes and required paperwork that vendors are tasked to complete is too cumbersome.
- Insurance/Bond/Bid requirements. The County's insurance, bond, and bid requirements are too stringent for small businesses to comply and compete.
- Lack of flexibility on requirements/regulations. The County's standard terms and conditions are too vast, restrictive, and complicated for small businesses.
- Payment delays. Based on their nature, small businesses normally do not have an excess of cash flow to make payroll, etc., and need to be paid promptly for the services and/or commodities they provide to the County.

Addressing Obstacles to LSBE Participation

The County has undertaken efforts to streamline the County contracting terms and conditions, and reviewing the levels of bonding and insurance requirements. The following initiatives have been implemented to aid and assist small businesses to obtain necessary County insurance and bond requirements.

Insurance: Since the 1980s, the County has required that contractors maintain liability insurance to protect themselves and the County against liability claims. As risk exposures and insurance coverage evolve, additional minimum requirements for other necessary insurance protection (such as, auto liability, professional liability, and workers compensation) were developed. The specific types and limits of the required insurance are reviewed and revised as needed, to ensure the County is adequately protected against risk without imposing an undue burden on contractors.

In the 1990s, some small businesses competing for County contracts reported difficulty in obtaining or affording their own liability insurance. In May 1999, the County began participation in the SPARTA (Service Providers, Artisan and Tradesman Activities) insurance program, to provide eligible contractors with an economically priced, alternative source of general and auto liability coverage to satisfy County requirements. In May of 2008, the insurance carrier discontinued its coverage under the SPARTA program. Effective September 1, 2009, the SPARTA program was reestablished when a new insurance carrier was found to fill the void, and SPARTA insurance coverage is once again available to County service providers.

Bond: In 1991, the County implemented policy specifying that bonds and other forms of performance security (letters of credit, certificates of deposit) would not be required for purchases of services, supplies, and equipment of less than $50,000. Departments also were instructed that it was not necessary to require a bond for most purchases or contracts, since the cost of bonds would be passed in turn on to the County and thus, result in an unnecessary expense to the public. As a result, bonds and other performance security requirements are imposed only on those contracts which departments have determined pose a significant risk of loss to the County.

The County has made significant progress toward resolving payment delays by implementing a 15-day prompt payment program for certified small business, and establishing a countywide small business payment liaison to assist small business with payment problems.

Additionally, ISD has added a "County terms and conditions - plain language" component to its quarterly Small Business Symposiums, in order to better educate and help small business.

EXHIBIT III

Report ID: LSBE Payments Fiscal Year with Qty
Run Date: Jun 10, 2009 8:07:14 AM

Fiscal Year	Department Code	Department Name	Certified Vendors Payments Count	Certified Vendors Payments $	Non Certified Vendors Payments Count	Non Certified Vendors Payments $	Total Payments Count	Total $
2008	AA	Affirmative Action Compliance	21	$25,291.89	706	$914,262.60	727	$939,554.49
2008	AC	Auditor-Controller ND	1	$208,597.75	730	$43,373,035.76	731	$43,581,633.51
2008	AD	Alternate Public Defender	7	$3,007.86	723	$882,417.35	730	$885,425.21
2008	AN	Animal Care And Control	49	$439,763.46	3,484	$2,379,976.49	3,533	$2,819,739.95
2008	AO	Chief Admin Officer	52	$476,967.93	3,638	$40,630,423.66	3,690	$41,107,391.59
2008	AR	Museum Of Art	0	$0.00	28	$14,083,327.95	28	$14,083,327.95
2008	AS	Assessor	93	$441,769.28	2,281	$6,653,607.10	2,374	$7,095,376.38
2008	AU	Auditor-Controller	14	$62,180.07	1,538	$30,169,905.74	1,552	$30,232,085.81
2008	AW	Agric Comm/Wts & Measures	76	$343,009.19	4,532	$4,887,574.83	4,608	$5,230,584.02
2008	BH	Beaches & Harbors	98	$265,646.21	3,919	$8,764,887.72	4,017	$9,030,533.93
2008	BS	Board Of Supervisors	573	$2,116,366.38	11,637	$123,714,861.35	12,210	$125,831,227.73
2008	CA	Consumer Affairs	6	$14,627.79	321	$1,874,409.81	327	$1,889,037.60
2008	CC	County Counsel	186	$55,547.38	8,858	$23,426,644.92	9,044	$23,482,192.30
2008	CD	Child Support Services	36	$65,534.88	5,882	$5,607,887.59	5,918	$5,673,422.47
2008	CH	Children & Family Services	1,576	$2,532,357.47	19,162	$132,283,558.46	20,738	$134,815,915.93
2008	CP	Capital Projects	104	$9,746,468.95	2,606	$156,934,846.61	2,710	$166,681,315.56
2008	CS	Community & Sr Citizens Services	53	$369,391.51	12,182	$73,236,689.42	12,235	$73,606,080.93
2008	DA	District Attorney	309	$1,090,888.84	11,309	$15,576,468.69	11,618	$16,667,357.53
2008	FR	Fire Department	720	$1,516,229.97	37,771	$81,708,242.60	38,491	$83,224,472.57
2008	FS	Federal / State Disaster Aid	18	$819,534.97	187	$916,156.50	205	$1,735,691.47
2008	GJ	Grand Jury	5	$98,000.00	82	$264,551.19	87	$362,551.19
2008	HG	Northeast Cluster (LAC+USC)	398	$1,463,448.19	131,080	$434,968,691.52	131,478	$436,432,139.71
2008	HH	Coastal Cluster (Harbor/UCLA	269	$621,143.96	172,202	$142,350,663.06	172,471	$142,971,807.02

Fiscal Year	Department Code	Department Name	Certified Vendors Payments Count	Certified Vendors Payments $	Non Certified Vendors Payments Count	Non Certified Vendors Payments $	Total Payments Count	Total $
		MC)						
2008	HK	Southwest Cluster (MLK Jr MC)	405	$437,875.09	23,762	$49,450,914.32	24,167	$49,888,789.41
2008	HM	Human Resources Dept	16	$13,126.96	1,944	$67,237,040.23	1,960	$67,250,167.19
2008	HO	SFV Cluster (Olive View/UCLA MC)	231	$1,718,318.27	36,836	$83,784,056.96	37,067	$85,502,375.23
2008	HP	Office Of Managed Care	47	$130,226.89	14,380	$99,506,251.53	14,427	$99,636,478.42
2008	HR	South/West Network Hosp	259	$126,640.67	25,651	$27,502,466.68	25,910	$27,629,107.35
2008	HS	Health Services Excl Hospitals	343	$2,236,265.33	14,665	$240,447,438.05	15,008	$242,683,703.38
2008	IO	Chief Information Officer	3	$40,040.00	177	$3,356,546.30	180	$3,396,586.30
2008	IS	Internal Services Dept	1,692	$7,956,268.65	61,307	$360,132,948.63	62,999	$368,089,217.28
2008	LA	LAC+USC Replacement Project	4	$55,552.71	98	$22,892,305.54	102	$22,947,858.25
2008	ME	Department Of Coroner	40	$100,768.80	2,385	$2,899,772.41	2,425	$3,000,541.21
2008	MH	Mental Health	564	$1,359,703.63	30,430	$798,568,673.13	30,994	$799,928,376.76
2008	MV	Military & Vets Affairs	5	$6,163.47	329	$164,086.66	334	$170,250.13
2008	NH	Museum Of Natural History	0	$0.00	13	$8,364,318.50	13	$8,364,318.50
2008	OM	Ombudsman	2	$270.33	179	$78,765.16	181	$79,035.49
2008	PB	Probation Department	324	$661,412.47	24,688	$61,173,219.47	25,012	$61,834,631.94
2008	PD	Public Defender	137	$129,415.44	2,957	$2,007,124.36	3,094	$2,136,539.80
2008	PF	Project & Facility Development	0	$0.00	95	$17,919,848.47	95	$17,919,848.47
2008	PK	Parks & Recreation Department	236	$481,495.68	23,355	$62,303,799.10	23,591	$62,785,294.78
2008	PL	Public Library	497	$1,099,769.52	24,247	$25,096,921.18	24,744	$26,196,690.70
2008	PW	Public Works Department	3,380	$18,043,047.47	82,754	$364,003,309.74	86,134	$382,046,357.21
2008	RE	Rent Expense	0	$0.00	3,961	$264,214,095.55	3,961	$264,214,095.55
2008	RP	Regional Planning Department	139	$108,820.95	4,590	$2,518,173.53	4,729	$2,626,994.48

Fiscal Year	Department Code	Department Name	Certified Vendors Payments Count	Certified Vendors Payments $	Non Certified Vendors Payments Count	Non Certified Vendors Payments $	Total Payments Count	Total $
2008	RR	Registrar Recorder	435	$1,171,183.35	4,597	$30,829,798.47	5,032	$32,000,981.82
2008	SC	Superior Court & County Clerk	773	$2,681,929.38	14,536	$58,042,273.44	15,309	$60,724,202.82
2008	SH	Sheriff	986	$4,239,694.11	40,578	$246,599,068.80	41,564	$250,838,762.91
2008	SS	Public Social Services Dept	645	$2,642,213.09	12,790	$636,209,143.45	13,435	$638,851,356.54
2008	SY	Office Of Public Safety	5	$15,334.49	6,254	$36,914,593.35	6,259	$36,929,927.84
2008	TT	Treasurer & Tax Collector	461	$538,581.32	2,724	$9,740,056.89	3,185	$10,278,638.21

EXHIBIT IV

OFFICE OF AFFIRMATIVE ACTION COMPLIANCE (OAAC) OUTREACH EVENTS

Calendar Year 2006

- Los Angeles Black Business Expo and Trade Show – September 2006
- Los Angeles County Fair – September 10, 2006
- Latino Business Expo – October 2006
- Med Week Award and Business Fair-Los Angeles Minority Opportunity Center (LA MBOC) – October 2006

Calendar Year 2007

- Contracting Connections Fourth District – March 1, 2007
- LA Live Community Fair – March 29, 2007
- LA Live Construction Contracting Fair – April 4, 2007
- Greater L.A. Vendor Fair – April 11, 2007
- Annual JPL Science and Technology Forum for Small Business – May 2007
- Cinco de Mayo Community Fair – May 4, 2007
- Small Business 101 First District – May 21, 2007
- Annual Veterans Fair sponsored by the 5th District – May 26, 2007
- Annual Veterans Fair sponsored by the 5th District – May 2007
- Third District Government Day Event – July 14, 2007
- California Local Government Purchasing Green – August 23, 2007
- First District Community Job & Resource Fair – September 14, 2007
- Public Works One-Stop Small Business Certification Event – September 28, 2007
- Contracting Connections Fifth District – October 4, 2007

Calendar Year 2008

- Contracting Connections Second District – March 5, 2008
- Greater L.A. Vendor Fair – March 8, 2008
- Contracting Connections First District – September 4, 2008
- Contracting Connections Third District – November 6, 2008

Calendar Year 2009

- East Los Angeles Chamber of Commerce – June 24, 2009
- Contracting Connections Fifth District – August 12, 2009
- Contracting Connections Fourth District – August 19, 2009
- "Business Connections" Contracting Expo and Workshop – October 1, 2009

EXHIBIT V

INTERNAL SERVICES DEPARMENT OUTREACH EVENTS

Local Small Business Enterprise (LSBE) Program

The County has many programs and events designed to educate, assist and support small business. The County Office of Small Business (OSB) hosts and/or participates in extensive outreach programs aimed at increasing the number of contracts awarded to small businesses, including:

- OSB coordinates and conducts Quarterly Contract Connections Workshop in each Supervisory District (which are attended by the Board members).

- OSB actively participates in vendor fairs and workshops hosted by other agencies, including chairing or co-chairing the Greater LA Vendor Fair.

  The County secures booth space at these events, provides electronic vendor registration on-site, conducts workshops for County business requirements and opportunities, and provides one-on-one consultation to vendors. These events are staffed by the County's OSB staff, other County departments, members from ISD's vendor relations unit, and also buyers from ISD's Purchasing Division.

  1. In calendar year 2007, the outreach events arranged and/or attended by OSB included, 23 conferences or events, 25 Small Business Workshops, and three Contract Connections Workshops in various supervisory districts, with over 1,900 small businesses in attendance.

  2. In calendar year 2008, the outreach events arranged and/or attended by OSB included 22 conferences or events, 32 Small Business Workshops, and three Contract Connections Workshops in various supervisory districts, with over 3,400 small businesses in attendance.

  3. In calendar year 2009, the outreach events scheduled and/or attended by OSB include 9 conferences or events, 49 workshops, and three Contract Connections Workshops in supervisory districts. When completed, the projected attendance will be more that 5,300 small businesses.

- OSB provides one-on-one consultation and assistance to small businesses.

- OSB coordinates and hosts monthly Small Business Commission Executive meetings and quarterly meetings of the full commission.

- OSB coordinates and hosts quarterly meetings of the Departmental Small Business Liaisons.

- Via Website and E-mail blasts, OSB provides small businesses with calendar information on vendor fairs, workshops, conferences, up-coming events, etc.

OFFICE OF AFFIRMATIVE ACTION COMPLIANCE (OAAC) SURVEY OF AGENCY PROGRAMS

OVERVIEW OF CALIFORNIA AGENCY PROGRAMS

CITY OF LOS ANGELES (City)

Program Description and Purpose:

- The City has a subcontractor outreach program for Minority/Women Business Enterprises (M/WBEs) and Other Business Enterprises (OBE). The program is based on prime and subcontractor good faith outreach efforts to M/WBEs and OBEs for construction contracts in excess of $100,000 procurement and personal service contracts.

- As a condition of an award, vendors are expected to achieve participation levels of M/WBEs that are available in their serving area or take affirmative steps to ensure that maximum effort is made to recruit M/WBE and OBE subcontractors.

Target Audience:

- The program targets prime/subcontractor good faith outreach efforts to M/WBEs and OBEs.

Goals:

- The City establishes its participation rate on a contract-by-contract basis; it uses various benchmarks from the U.S. Census industry trade statistics and other availability factors, including vendor databases, directories, business assistance agencies, and certification providers in the County (i.e., City of Los Angeles, Caltrans, Metropolitan Transportation Authority).

- The City reported they generally met or exceeded their contract goals; however, the City has not responded to OAAC's requests for statistics on their success rate as of the date of this report.

Program Basis:

- The City's program was established as a result of a Mayor's directive in 1989.

- No Disparity study (to determine if M/WBEs were subject to past discrimination) was conducted.

Business Development Efforts:

- Programs: City contracts include opportunities for businesses to work as prime contractors (i.e., contracting directly with the City) or as subcontractors (i.e., contracting directly with the prime or another subcontractor to perform a distinct portion of the contract). Subcontracts enable smaller firms to participate in large City contracts, such as construction projects.

- Loans: It appears the City does not have official loan or bonding programs; however, the City operates the Minority Business Opportunity Center (MBOC) under the direction of the U.S. Department of Commerce to offer free services to foster the growth of minority-owned business in the City. MBOC is the link to Federal programs which offer financing, bonding and other business development activities. The City's Website has links to Section 1089 Loan Program and the Los Angeles Industrial Development Authority Bond Program which offers both taxable and tax-exempt financing for commercial, industrial, and non-profit development projects. Additional links include links to banking institutions who advertise their corporate supplier diversity programs for loans (Bank of America, Citigroup, Comerica Bank, Wachovia, Wells Fargo). In addition the Mayor established a "Los Angeles Business Team" for economic development goals to retain, grow, and attract quality business and jobs to the City; however, the link to this program is currently not active.

- Bonding: The City has forged an alliance with Merriwether & Williams Insurance Services to offer a Los Angeles Bond Assistance Program to provide technical and financial assistance to secure bonding. In addition, the City has links on its Industrial Development Authority Department Website where they offer Industrial Development Bonds (IDA), Empowerment Zone Bonds, and Non-profit Bonds for commercial, industrial and non-profit development projects. Furthermore, the IDA has a loan assistance program, the "Subordinate Loans Revolving Special Fund" for a bridge to financial gaps.

CITY AND COUNTY OF SAN FRANCISCO (SF)

Program Description and Purpose:

- SF's Local Business Enterprise Program (defined as small/local/other economically disadvantaged) concentrating on Local Business Enterprise (LBE) with M/WBEs tracking. SF program includes Small/Micro/Local Business Enterprises, Non-Profit Entities, San Francisco Public Utilities Commission (PUC) Local Business Enterprises, and Minority/Women/Other Business Enterprises.

- SF's program is to help certain financially disadvantaged businesses increase their ability to complete effectively for SF contacts. Once a business is certified as local, it is entitled to a bid discount or rating bonus on submitted bids.

- Contracting departments and prime contactors are required to conduct outreach to certified firms to ensure their maximum participation.

- The Human Rights Commission (HRC) is responsible for identifying firms based on ethnicity and gender so that their contacting progress can be tracked to ensure non-discrimination. SF also certifies Small/Micro/Local Business Enterprises, Non-Profit Entities, San Francisco Public Utilities Commission (PUC) Local Business Enterprises, and M/WBEs and OBEs.

- SF will certify M/WBEs only if they are certified as a Local Business Enterprise (LBE).

- OBEs also must be certified as LBEs and are defined as businesses not minority or women-owned.

Target Audience:

- Outreach subcontracting requirements are applicable to both prime and subcontractors; and allow bidders flexibility of meeting participation goals by either achieving adequate good faith efforts or by meeting established participation goals.

- Subcontracting goals are set for contracts based on subcontracting opportunities and availability of LBE contractors.

Goals:

- Goals are established on a contract-by-contract basis.

- From September 2006 to December 2008 the total percent of awards to LBEs was over 58% which included 20.2% MBEs, and 4.5% WBEs. The remaining 33.3% of LBEs were OBEs.

Program Basis:

- SF Administrative Code established the "Local Business Enterprise and Non-discrimination in Contracting Ordinance.

- SF reports that a disparity study was conducted; however, due to pending litigation on their prior M/WBE program they could not release details of the study.

Business Development Efforts:

- Programs: SF has a robust Website for promoting small businesses which includes information about starting a business, doing business with SF and/or redevelopment agency, and providing information, including incentives, training, access to capital, and connecting businesses to SF. The Office of Small Business appears to support the small business assistance center that coordinates all distribution of SF information.

- Loans: SF has a Small Business Loan Fund Program for start up businesses through TMC Working Solutions (tmcworkingsolutions.org). Amounts vary from $5,000 to $25,000 (loans $25,001 to $50,000 are available as an exception). In addition, SF is working on an agreement to borrow up to $23 million in HUD Section 108 funds ($500,000 minimum) for business loans. Under the Mayor's Office of Community Investment, it offers grants for capital projects, economic development, planning, public services, emergency shelters, violence prevention, and crime and delinquency reduction grants. SF also has partnered with other agencies, such as Mission Economic Development Association, Northeast Federal Community Credit Union, and Mission SF Federal Credit Union. There is an Opportunity Fund for small businesses and the Southeast Asian Community Center provides technical assistance and commercial loans up to $35,000. Working Solutions is a 501 (c)(3) nonprofit that provides underserved micro-entrepreneurs with access to capital and resources needed to start or grow businesses.

- Bonding: SF has a Surety Bond and Finance Program to assist Human Rights Commission Small/Micro/Local Business Enterprise and SF Redevelopment Agency M/WBE/SBE contractors in obtaining or increasing bonding and financing for City/Redevelopment Construction projects. This program is administered by Merriwether & Williams Insurance Services and provides bond guarantees to surety companies to offset the surety's risk, loan guarantees to lenders for contract specific working capital loans to offset the lender's risk, and subsidy of financial statement preparation with industry acknowledged CPAs. Services provided include individual counseling, group workshops, technical assistance in completion of paperwork, identification of possible deficiencies with bonding/lending, determination of means to overcome possible deficiencies, and prequalification of contractors/subcontractors for first bond/loan.

EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD)

Program Description and Purpose:

- EBMUD's program to enhance equal opportunities for business owners of all races, ethnicities, and both genders who are interested in doing business with the EBMUD.

- The Contract Equity Program's (CEP) key components are: 1) Ten Good Faith Outreach Efforts; 2) a Small Business Enterprise (SBE) Program; and 3) Encouragement of Local Businesses' participation on all contracts.

- CEP requires bidders/proposers to conduct outreach to all potential subcontractors to ensure opportunities are available to participate in EDMUD contracts. The expectation is that with bidders' good faith outreach efforts to subcontractors of all races and both genders, the composition of district contractors and subcontractors will reflect the broad diversity present in the marketplace.

- CEP groups all businesses into three business owner availability groups: 1) White Men; 2) White Women; and 3) Ethnic Minority.

- An Ethnic Minority firm is an independent business that is at least 51% owned, operated and controlled by one or more ethnic minority men and/or women (Black/African American, Hispanic/Latin American, Asian-Pacific Island American, Asian-Indian American, and Native American). <u>These groups are not certified</u>, but rather self-identify themselves to meet the above requirements

Target Audience:

- All bidders must document good faith outreach efforts in ten areas.

- The definition of a small business is similar to the State of California General Services Small Business Program.

- EBMUD encourages local business participation in all contracts. Local businesses are defined as businesses located in the district's marketplace (Alameda, Contra Cost, San Francisco, Santa Clara, San Joaquin, and Marin Counties).

Goals:

- EBMUD has contracting objectives based on the availability of all firms located in the district's geographic market areas that are interested in and able to do business with the district.

- The contracting objectives are further identified into contracting categories: Construction, Professional or General Services, and Materials and Supplies. Each of these categories has a contracting goal for each availability group. For example: White Men and Ethnic Minorities have a contracting goal of 25% for Construction, Professional, and Materials and Supplies. White Women goals are 9%, 6%, and 2%, respectively.

- The SBE component for all contracts of $60,000 or less includes: 1) a goal of awarding 50% of eligible contract awards to SBEs; 2) 25% of eligible contract awards to be set-aside for SBEs; and 3) provide responsive SBEs with a 5% bid discount.

- EBMUD has not achieved its 25% goal for ethnic minority, reporting an annual average of 15% ethnic minority participation, 6% white women, and 79% white men participation.

Program Basis:

- Board of Supervisors Policy 1.03 – Contract Equity Program and Policy 1.04 – Contractor's Compliance with Equal Employment Opportunity.

- Data from EBMUD indicates that a disparity study was conducted to justify the contracting goals for women and ethnic minorities.

Business Development Efforts:

- Staff was unable to locate any information regarding programs or partnerships to assist contractors with bonding and/or financing.

METROPOLITAN TRANSPORTATION AUTHORITY (MTA)

Program Description and Purpose:

- MTA has two subcontractor outreach programs.

- The Disadvantaged Business Enterprise (DBE) Program for Federally funded projects is race/gender conscious (identified Underutilized Disadvantaged Business Enterprise (UDBE). MTA established the DBE Program subcontracting goals in accordance with U.S. Department of Transportation (DOT) regulations.

- They also have an SBE program for state and/or locally funded contracts/ subcontracts and an M/WBE Voluntary Anticipated Levels of Participation program for state and/or locally funded non-negotiable contracts.

Target Audience:

- Outreach subcontracting requirements are applicable to both prime and subcontractors.

Goals:

- In accordance with DOT instructions, MTA has a DBE Program with DBE-race/gender neutral and UDBE race/gender conscious component which requires outreach to subcontractors.

- For the period October 1, 2006 to September 30, 2007, a total of 6.6% of the total dollars were awarded to DBEs (without identifying by race/gender). Additionally, there is a 25% participation goal of certified SBEs and 3% for DVBEs for all state funded purchases.

Program Basis:

- This program is in accordance with DOT regulations which require local agencies who receive federal funding to establish a DBE program.

- In 2006 MTA, suspended the use of DBE contract race/gender conscious goals and now only utilizes race/gender-neutral measures to meet its annual goal. MTA has also begun the process to hire a consultant to conduct an independent disparity study to determine if discrimination is present in MTA's transportation construction contracting market. MTA is one of four members of a consortium which was formed to conduct a regional study, as recommended by FTA, to reduce costs

Business Development Efforts:

- Program: MTA's Diversity and Economic Opportunity Department (DEOD) is responsible for the DBE, SBE, and M/WBE programs which are supported by the Small Business Outreach Unit. It is MTA's policy to encourage prime contractors to team up with certified small businesses. DEOD has a small business Transportation Business Advisory Council which holds monthly meetings where current information is disseminated and features topics on small business economic development. MTA's 10 Steps to doing business with MTA includes attending monthly two-hour orientation/workshop where firms are provided one-to-one interviews with a procurement officer.

- Bonding: In an effort to assist vendors/contractors who want to secure contracts with MTA, a panel of commercial insurance brokers was established to help those that lack the insurance coverage required in contracts. Sample members include State Farm Insurance, PTL Insurance Brokers, IQ Risk Insurance Services, etc. Members, although reviewed by MTA, are separate entities and any transactions of insurance are solely between the broker and the contractor.

- Loans: Although no information on financing was available on MTA's Website, discussions with Caltrans indicate MTA refers all loan questions to the programs established by Caltrans and the SBA.

CITY OF SAN JOSE (SJ)

Program Description and Purpose:

- SJ has a Local Preference Program which includes subcontractors. Local is defined as businesses located in Santa Clara County.

- These efforts are part of a larger Small Business Opportunity Program (SBOP). The combined Small Business Opportunity Program and the Local Preference Program are designed to help grow new jobs for residents by keeping spending within the regional economy.

Target Audience:

- The SBOP targets both small prime and subcontractor businesses located in Santa Clara County.

Goals:

- Small businesses have a 2.5% cost advantage and small, local companies a 5% cost advantage for purchases.

Service contracts have a 5% point advantage and small, local companies have a 10% point advantage.

Program Basis:

- In 2002 the City's DBE Commission recommended creation of a small business program to encourage companies with 35 or fewer employees to compete for contracting and purchasing opportunities. The Mayor and City Council approved the recommendation and implemented the Small Business Contracting Program. In 2004, the Council adopted the Local and Small Business Preference Ordinance to augment the SBOP.

Business Development Efforts:

- Programs: SJ has a business assistance program for financial assistance, tax incentives, entrepreneur assistance (with SBA development), workforce and training, energy/environment, site identification and development programs, business organizations and a small business ambassador program (related to navigating building planning and permits). In addition, SJ has partnered with SBA to develop a one-stop resource for entrepreneurs called "businessownerspace.com" to help determine which resources are most helpful to businesses by linking to topics of interest. This program assesses if someone is ready to start a business, identifies the steps to launching and growing a

business and connecting with local business services that offer support. This program also has access to the SBA's America's Recovery Capital (ARC) loans.

CITY OF OAKLAND (Oakland)

Program Description and Purpose:

- Oakland has Local and Small Business Local Business Enterprise Program (L/SLBE) which includes outreach to subcontractors.

- An LBE is an Oakland business: a) with a substantial presence in the City of Oakland's geographic boundaries; b) fully operational for 12 consecutive months; and c) a valid business tax certificate. SLBE is a business with: a) a substantial presence in the Oakland's geographical boundaries; b) a full operation conducting business for 12 consecutive months; and c) a valid business tax certificate, and d) is an independent business headquartered in Oakland.[1]

Target Audience:

- The new policies provide economic opportunity to local residents and businesses by supporting local economic development while paying competitive prices for goods and services.

Goals:

- There is a 20% minimum participation requirement for all construction contracts over $100,000 and all professional services contracts over $50,000. All construction contracts below $100,000 and all professional services contracts below $50,000 must include outreach to certified local firms so that three local firms are included in the solicitation. The 20% local business participation requirement must be met with a minimum participation of 10% for LBE and 10% for SBEs.

- Program incentives are also applied at the rate of 1% or one preference point for every 10% of contract dollars attributable to certified firms. No more than 5% in bid discounts or five preference points may be earned.

- In addition, Oakland has a "Mentor-Protégé" Program to encourage relationships to help build capacity in underutilized service areas. On a case-by-case basis,

[1] The L/SLBE program establishes a twenty percent (20%) participation requirement and a minimum bid discount of two percent (2%) for meeting that requirement. Program incentives are also applied at the rate of one percent (1%) or one (1) preference point for every 10% of contract dollars attributable to certified firms. A disparity study was conducted in May 2007 and found that there was statistically significant underutilization of M/WBEs in formal and informal prime contracts. As of this report, Oakland has not indicated if their program would be modified to address the study's findings.

Oakland will allow a 5% preference for Mentor-Protégé teams on construction and professional services contracts.

- Oakland's L/SLBE Program 2007 statistics indicate they achieved 17% LBE, 48% SLBE, and 10.5% in their apprentice program.

Program Basis:

- As a result of the Croson Decision, the Mayor's "Oakland Moving Forward" report and a community-based task force report an ordinance was passed in December 2001.

- In 2005, Oakland and its Redevelopment Agency commissioned Fairness in Purchasing and Contracting Disparity Study to determine if Oakland was actively or passively discriminating. Disparity findings included underutilization of M/WBEs construction, professional services, and prime contractors; however the Oakland has no race/gender conscious program elements.

Business Development Efforts:

- Program: Oakland has a Community and Economic Development Agency (Agency) to assist in establishing, locating, expanding, or growing businesses. The Agency's Business Development Office offers One Stop Capital Shop, SBA Business Information Center, East Bay Small Business Development Center, Service Corps of Retired Executives (SCORE), Women's Initiative, a Zoning Section, information about required permits, licenses, fictitious names, and other generic information on what is needed to start a business.

- Bonding: The Business Development Assistance Services provides referrals to public/private bonding providers.

- Loans: Oakland offers help in financing new or on-going business ventures, inventory purchasing, and commercial real estate acquisition or rehabilitation projects. They have links to agencies within Alameda County, associations, and state agencies where loans may be obtained. The Agency also has a Commercial Lending program funded by Oakland, Redevelopment Agency, or grant monies. Services provided to the small business community include loan underwriting, loan servicing, business plan technical assistance, employment monitoring, and collection of delinquent loans. It appears that the Agency negotiates Professional Services agreements with commercial lending contracted service providers.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORATION (Caltrans)

Program Description and Purpose:

- Caltrans has a DBE Program with DBE-race/gender neutral and UDBE race/gender conscious component which requires outreach to M/WBE subcontractors. This program requires local agencies who receive DOT funding to establish a DBE program.[2]

Target Audience:

- Outreach subcontracting requirements are applicable to both prime and subcontractors.

Goals:

- The Disadvantaged Business Program for Federally funded projects is race/gender conscious UDBE and race/gender neutral. Caltrans DBE subcontracting goals are in accordance with DOT regulations.

- For the period October 1, 2006 to September 30, 2007 a total of 6.6% of the total dollars were awarded to DBEs (without identifying by race/gender). Additionally, there is a 25% participation goal of certified SBEs and 3% for DVBEs for all state funded purchases.

Program Basis:

- Federal regulations require that recipients of Federal highway and transit funds implement an approved DBE program that consists of establishing a statewide DBE utilization goal and use race-neutral means to the maximum feasible extent to achieve the goal.

- Where race-neutral measures prove inadequate to achieve the goal, states are required to use race-conscious measures.

- In 2007, an Availability and Disparity Study was performed which identified that Caltrans' DBE program did not bring utilization of minority- and women-owned firms to the level expected based on relative availability of M/WBEs and was not effective in removing barriers to prime contract opportunities.

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[2] These federal regulations require that annual goals be established. Since DBE is a federally mandated program, it is not in violation of Prop 209, which eliminated affirmative action programs. In 2007, an Availability and Disparity Study was performed which identified that Caltrans' DBE program did not bring utilization of minority and women owned firms to the level expected based on relative availability of MBE/WBEs and was not effective in removing barriers to prime contract opportunities. Annual DBE overall goals consist of two components (race/gender neutral + race/gender conscious goals). For 2007 the overall goal was 13.5% with 6.75% to be achieved through race/gender neutral measures and 6.75% to be achieved through race/gender conscious measures.

Business Development Efforts:

- Program: Caltrans Office of Business and Economic Opportunity (COEBO) provides additional resources on how to obtain surety bonds, mentor protégés in the construction industry,y and a Cal mentor of the architect and engineering industry. The program of supportive services includes accessing their website for training given at the Small Business Development Centers (SBDC).

- Bonding: Caltrans has entered into a MOU with the U.S. Small Business Administration to offer a technical assistance surety bond guarantee program to promote increased small business participation in Caltrans. The Surety Bond Guarantee Program contains two components: prior approval program and preferred program. This program helps small businesses obtain bid, performance and payment bonds by guaranteeing surety companies with 70% and 90% bond amounts. It also promotes increased small business participation in Caltrans, State highway and transit projects (including local agencies).

- Loans: Caltrans' SBDC Initiative partners with the SBA to provide one-on-one counseling, workshops, advice, and referrals to prospective and existing businesses. The centers assist with business plans, marketing, finance questions, and other business issues. There are twenty-six SBDC centers hosted by community colleges in a network of 34 centers. Services are provided in every County. In Los Angeles County, the SBDCs are CHARO, Mt. SAC, Santa Monica College, Loyola Marymount University, El Camino College, and Long Beach City College.

COUNTY OF SANTA CLARA (CSC)

Program Description and Purpose:

- CSC has a DBE program with DBE race/gender neutral and UDBE race/gender conscious component which requires outreach to subcontractors. The DBE program is in alignment with Caltrans' directive and Federal regulations. As a result of the issues facing Caltrans, CSC's current policy is being revised and is not yet available.

Target Audience:

- Outreach subcontracting requirements are applicable to both prime and subcontractors.

Goals:

- In accordance with DOT instructions, CSC develops annual participation goals which are both race/gender neutral and race/gender conscious; similar to Caltrans.

- CSC's overall DBE goal for 2008 was 15.6%; however, they were unsuccessful in meeting this goal.

Program Basis:

- Federal regulations require that recipients of Federal highway and transit funds implement an approved DBE program that consists of establishing a statewide DBE utilization goal and using race-neutral means to the maximum feasible extent to achieve the goal.

- Where race-neutral measures prove inadequate to achieve the goal, states are required to use race-conscious measures.

- As a result of the issues facing Caltrans, CSC's current policy is being revised and is not yet available. CSC has not indicated whether a disparity study will be commissioned to determine if race/gender conscious program elements are necessary.

Business Development Efforts:

- Information was not available.

OVERVIEW OF NON-CALIFORNIA PROGRAMS

WASHINGTON, D.C. (District)

Program Description and Purpose:

- The District has a Certified Business Enterprise Program (CBE) for Local, Small, Disadvantaged and Local Business Enterprise Development and Assistance (LSDBE).
- The Local Business Enterprise (LBE) designations are businesses with principal offices located in an Enterprise Zone and includes a designation of a Resident Owned Business (RBO).
- The program was set up to develop contract and procurement preference opportunities for District-based businesses.

Target Audience:

- The previous M/WBE program was declared unconstitutional by the U.S. Court of Appeal and, as a result, the District enacted a new Small and Local Business Development program which now has six categories of certification: "Local, Small, Disadvantaged, Resident, Longtime, and Enterprise Zone."
- Unique to the District is that discretionary spending can be directed to District businesses that support and contribute directly to job creation in the tax base.
- Each District agency must set aside every contract or procurement of $100,000 or less for Small Business Enterprises unless the agency determines that there are not at least 2 responsible certified SBEs.

Goals:

- Agencies award preferences as follows: SBE = 3%; RBO = 5%; LRB = 10%; LBE = 2%; Enterprise Zone = 2%; and DBE = 2%.
- The District has a 50% overall small business goal for construction, goods, and services. To achieve this goal, the District has a bid preference for certified businesses, a set-aside for small businesses and a set-aside for certified local businesses.
- Preferences are established from two points to 10 points or 2% to 10% price reduction. In addition, at least 35% of construction dollars shall be subcontracted to small businesses. If there are insufficient qualified small businesses to fulfill the requirement; then it may be satisfied by certified businesses.

- The District did not respond to our requests for success rate on meeting their goals as of the date of this report.

Program Basis:

- As a result of the M/WBE program being declared unconstitutional, the District City Council enacted a new program entitled the Equal Opportunity for Local, Small and Disadvantaged Business Enterprise Act of 1992 (Act).

- In accordance with the Act, the LSDBE program must be independently evaluated every three years to: 1) assess the differential costs of awards to LSDBEs; 2) assess the economic outcomes of the program; and 3) to determine the LSDBEs program's strengths and weaknesses and recommend improvements.

- In 2002, the report indicated that 45% of the agencies have achieved their goal of awarding 50% of the expendable budget to LSDBEs and most have exceeded the 50% goal.

Business Development Efforts:

- Programs: The District provides economic development programs, including tax incentives, market and business information, large development projects, and other support for local businesses. In addition, the Website offers links to business resources, such as city services, counseling, training and mentoring, Certified Business Enterprise Business Center, market facts and statistics, resources for minority- and women-owned businesses and related agency directory of District agencies offering programs and information useful to small businesses and non-profits.

- Loans: Through the District's Certified Capital Company (CAPCO) program, insurance companies received a DC tax credit against their premium taxes in exchange for making $50 million available in long-term equity for new or expanding businesses in the District. These funds are managed by a professional venture capitalist.

- Bonding: No information was available or provided on bonding.

CITY OF ATLANTA (Atlanta)

Program Description and Purpose:

- Atlanta has an Equal Business Opportunity (EBO) subcontracting, race-gender conscious program. The program is designed to promote opportunities for diverse businesses, including minority and females, to compete for contracts as subcontractors or suppliers.

- Small Business Enterprise Opportunity (SBEO) race/Gender Neutral. Program is designed to raise the consciousness of SBEOs about Atlanta's business opportunities; provide information regarding taking advantage of the program benefits.

Target Audience:

- Both the EBO Subcontracting Program and the SBEO are focused on "local" business enterprises.

- Targets all contractors located in the Atlanta Region, which is defined as the geographical areas of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Pickens, Rockdale, Spaulding, and Walton counties.

Goals:

- EBO: on a contract-by-contract basis, M/WBE participation levels are based on the percentage of M/WBEs availability in the relevant industries.

- SBEO: A goal of 25% is set for each specific prime contract with subcontracting and supplier possibilities.

Program Basis:

- Atlanta via the Mayor's office of Contract Compliance, contracted for an updated disparity study. Findings of this study were used as the basis to craft new ordinances in support of Atlanta's revised Equal Business Opportunity Program (EBO).

Surveys Conducted:

- Disparity study conducted October 2006 by Griffin & Strong, P. C., Attorneys at Law

Business Development Efforts:

- Programs: Unable to find information regarding programs or partnerships to assist contractors with bonding and/or capital. As a part of their bidding process, however, Atlanta does require post-bid submission of certain information about utilized minority and women business enterprises, as well as other subcontractors. Atlanta has a link within their bidding process, a "post bidding submission requirement" which tracks whether a prime contractor has exhibited good faith efforts to utilize subcontractors and to what extent. The extent of utilization is demonstrated by the dollar amount paid to the subcontractor.

- Bonding: No information about bonding was available for Atlanta's website.

- Loans: No information about loans was available for Atlanta's website.

CITY OF BALTIMORE (Baltimore)

Program Description and Purpose:

- Minority/Women Business Opportunities (M/WBO) – Local (Race/Gender Conscious)

- Baltimore's program is a subcontracting program designed to increase the number, magnitude, and the success rate of local M/WBEs in Baltimore's contracting.

Target Audience:

- Targeted audiences are businesses located within Baltimore's market area: Baltimore City, Baltimore County, Anne Arundel County, Queen Anne's County Hartford County, Howard County, and Carroll County.

Goals:

- Minority Goal - 27% of contract dollars.

- Female Goal - 10% of contract dollars.

Program Basis:

- Program is based on City Ordinance 07-474 modified as a result of a 2007 Disparity Study.

Business Development Efforts:

- Programs: There is no information that suggests Baltimore has a program(s) other than its local contracting program which addresses all certified contractors. Baltimore engages programs that build partnerships (note agencies below). Baltimore has a Local Contractor Development program, which is designed to provide local companies with technical assistance and bonding as it relates to construction projects with the Department of Public Works and the Department of Transportation.

  - ◊ **Women's Business Forum:** provides opportunity for business women to meet other business women in and around Baltimore.

  - ◊ **Small Business Resource Center:** provides training and education in a variety of business development areas.

  - ◊ **Baltimore Development Corporation, Inc. (EBD):** Links businesses for inclusion in all aspects of the development of the East Baltimore Biotechnology Park.

  - ◊ **Baltimore City Department of Housing and Community Development:** facilitates for those looking to build relationships for business opportunities in Baltimore's housing industry.

  - ◊ **Greater Baltimore Committee:** partners to bridge the gap between small and large business entities.

- Loans: Baltimore does not appear to have a loan program for M/WBE or SBEs; however, the Baltimore Development Corporation does indicate that there is a City Local Contractor Development Program administered under the Baltimore Development Corporation. The Development Corporation website references only redevelopment projects.

- Bonding: References to bonding are directed to the Baltimore Development Corporation.

CITY OF CHICAGO (Chicago)

Program Description and Purpose:

- Chicago has a M/WBE local, race/gender conscious program.

- The M/WBE program certifies minority and women business enterprises and employs all lawful means to increase the participation of MBEs and WBEs in City contracting.

- Chicago also has a Business Enterprises owned by people with Disabilities (BEPD), race/gender neutral program. The BEPD Program is similar to Disabled Veteran Business Enterprise Program implemented by other agencies, which focuses on certifying and utilization of disabled business owners in the contracting process.

- Chicago, in it efforts to create a pool of certified firms, uses all means to encourage the participation of certified BEPDs in the its contracting process.

- Disadvantaged Business Enterprise (DBE) DOT Projects only – Race/Gender Neutral: Focuses on contractors who can legitimately qualify as socially and economically disadvantaged business owners.

Target Audience:

- All firms requesting MBE and/or WBE status on a contract whether as a p, or otherwise.

Goals:

- Minority Goal: 25% of contract dollar value .

- Female Goal: 5% of contract dollar value.

Program Basis:

- Chapter 2-92-420 et. seq. of the amended Municipal Code authorizing a Minority and Women-Owned Business Enterprise procurement program.

Surveys Conducted:

- A disparity study was conducted and determined that M/WBEs were subject to past discrimination.

Business Development Efforts:

- Programs: Chicago provides an annual "Turner Construction Management Program," which consists of a seven weeks of training designed to enhance the technical, administrative, and management skills of minorities and women-owned businesses. Monthly workshops are provided also, which inform attendees how to become City-certified and addresses many other programs (i.e. bonding and capital) to increase knowledge and enhance the professional growth of M/WBEs. In addition to the above program, the Department of Business Affairs and Consumer Protection (BACP) offers business resources, workshops, "certification" (educate business the essential elements of starting a business), and business solutions.

- Loans: The BACP offers business solutions assistance for free business finance and business planning advice. In addition as mentioned above, BACP offers free workshops about "learning about financing" a business.

- Bonding: Information about bonding was not available on the City's website.