

Community Development Commission

April 15, 2015

TO: Each Supervisor

FROM: Sean Rogan, Executive Director



SUBJECT: REPORT BACK ON COMMISSION OUTREACH TO MINORITY, WOMEN, AND DISABLED VETERAN CONTRACTORS

The following report responds to Supervisor Solis' instruction to report back to the Board on contractor opportunities available to minority, women-owned, and disabled veteran contractors given at the Board of Supervisors' regular meeting on April 7, 2015 during discussion on Item 2-H, Recommendation to Award Job Order Contracts (JOC) 26 and 27.

JOC Contract Statistics

Since the 2011 inception of CDC's JOC program, the Board has awarded 23 JOC's overseen by the Community Development Commission (Commission) to a total of nine (9) contractors, 100% of which are Minority Business Enterprises, 56% are Small Business Enterprises, and 11% are Woman Business Enterprises.

Other Recent Data on Minority and Women-Owned Business Enterprises and Section 3 Businesses

Implementing the outreach and regulations described below has yielded the following results:

- For Housing Authority projects completed during the period October 1, 2013 to September 30, 2014, 67% of all contractors, including subcontractors, were minority business enterprises and 9% were women-owned businesses. MBE's received 72% of all contract dollars and WBE's received 4%;
- For the same period, 25% of contractors performing Commission construction projects were MBE's and 12% were WBE's. MBE's received 22% of all contract dollars and WBE's received 13%;
- For the period July 1, 2012 to June 30, 2013, 53% of all Housing Authority construction dollars funded from operating revenues were awarded to Section 3 businesses. Sixty-one percent (61%) of all new hires were Section 3 residents;

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- For the same period, 28% of CDBG-funded construction projects were awarded to Section 3 businesses. Forty-nine percent (49%) of new hires were Section 3 residents; and
- For the same period, 100% of Capital Funds for public housing modernization were awarded to Section 3 businesses. Thirty-five percent (35%) of all new hires were Section 3 residents.

As reported to the Board on April 7, 2015 concerning the award of two (2) JOC's, the Commission sent the solicitation notice to over 400 contractors on the Commission's vendor list, advertised the solicitation on the Commission's website, and also posted it on the Los Angeles County website. These outreach activities and others described below are typical for every construction contract solicitation.

Outreach to Contractors

The Commission takes affirmative steps to assure that minority business and women's business enterprises are given contracting opportunities, when possible, in accordance with the U.S. Department of Housing and Urban Development's (HUD) administrative requirements. All construction contractors interested in doing business with the Commission, including minority, women, and disabled veteran business enterprises, are invited to register with the Commission so that they may receive notices on contracting opportunities. Once registered, any contractor, whether a general or sub-contractor, receives all construction project solicitation notices. As part of the registration, vendors are required to indicate whether they are a minority or women- owned business and the ownership's ethnicity/gender status. The Commission does not ask whether the business is a disabled veteran business enterprise. Currently, this list is not used to specifically target these groups except when solicitations are under \$10,000, in which case the Commission solicits five (5) bids, two (2) of which must be either a minority and/or women- owned business.

In addition, the Commission posts all of its construction solicitations on its website and on the Los Angeles County website as another step to affirmatively assure that minority, women, and disabled veteran business enterprises have an opportunity to view and bid on construction contracts.

Federally Funded Contracts

Federal procurement standards generally govern the Commission's procurement and outreach efforts because the majority of its construction projects are funded in whole or in part by Federal grants the County receives from HUD. These grants include the Community Development Block Grant (CDBG), Capital Fund, and HOME grants.

Section 3 of the Housing and Urban Development Act of 1968 is used, in part, as a business preference program. It is both race and gender neutral. It does not specifically target minority, women, and disabled veteran business enterprises. HUD believes, however, that Section 3 serves to support contract opportunities for these business enterprise groups.

Contractors who bid on Commission projects can qualify as a Section 3 Business if 51% of the business is owned by Section 3 residents, 30% of full-time employees are Section 3 residents, or the contractor commits to subcontract in excess of 25% of all subcontracting dollars to Section 3 subcontractors. A Section 3 resident is a resident that is a public housing resident or a low- or very low-income person residing in the area where the Section 3 covered assistance is expended.

A minority, women-owned or disabled veteran business enterprise must provide evidence that it qualifies under one of the above criteria. If it cannot, the business enterprise must submit a Declaration of Intent to Comply with Section 3 requirements throughout the course of the project.

Contractors who qualify as Section 3 business concerns receive preference at the time of bid provided that their bid is reasonable. To be reasonable the bid must be within a certain percentage of the lowest bid. The percentage varies from 1.5% to 10% depending on the dollar amount of the lowest bid.

County's Local Small Business Enterprise (LSBE) Preference Program

For construction projects that are funded entirely out of County funds, the Commission gives preference to contractors that are certified by the County as a Local Small Business Enterprise (LSBE), as defined by the Los Angeles County Code. A contractor is an LSBE contractor if it has fewer than 100 employees and an average annual business of less than \$14,000,000 over the last three (3) years. If an LSBE contractor

is within five percent (5%) of the lowest bid, it will be awarded the contract. The preference amount, however, is capped at \$50,000.

The LSBE program cannot be applied to contracts which are funded in whole or in part with Federal grants because its requirements conflict with Federal procurement requirements which preclude geographic preferences in the procurement of goods and services. Many of the Commission's construction projects are funded in whole or in part with Federal funds and, in those cases, this preference program is not applicable.

County's Disabled Veteran Business Enterprise (DVBE) Preference Program

This program is eligible to businesses whose ownership comprises more than 51% by veterans that are certified as disabled by the U.S. Department of Veterans Affairs or the U.S. Department of Defense. Its requirements parallel the requirements of the LSBE program although the preference is 8%, not 5%. It is capped at the same dollar amount of \$50,000. For the same reasons as for LSBE, DVBE cannot be applied to contracts funded in whole or in part with Federal funds.

Other Federal Requirements – Residential Sound Insulation Program at LAX

The Federal Aviation Administration (FAA) requires that any contractor that wins a bid must adhere to the policies of the U.S. Department of Transportation including those that apply to disadvantaged business enterprises (DBE). DBE's should "have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds..." A DBE is defined as a for-profit small business concern that is (1) at least 51% owned by one or more individuals who are both socially and economically disadvantaged which includes women and minorities, or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Contractors must not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S. Department of Transportation assisted contracts. At the time of bid, the contractor must provide information as to its status as a DBE or, if it fails to reach its goal, provide its good faith efforts to do so. The contractor can demonstrate good faith efforts in a number of prescribed ways. As part of its bid submission, the contractor must also sign an "Assurance of Disadvantaged Business Enterprises Participation." It must also submit a list of all subcontractors and material

suppliers, including any that are DBE's. It must also submit DBE Certifications and a signed Letter of Intent for each DBE subcontractor and supplier.

Adherence to U.S. Small Business Act

In accordance with the U.S. Small Business Act (SBA) the Commission ensures that, at the time of bid, each contractor certify that it will not discriminate against small, minority or women's business enterprises in the solicitation and award of subcontracts. The SBA makes no reference to disabled veteran business enterprises. However, each contractor must comply with all applicable Federal, State, and local laws governing non-discrimination and must exercise reasonable, good faith efforts to widely disseminate solicitation material to all potential bidders.

When it submits its bid, each contractor must certify whether it has taken the following affirmative steps to:

- A. Place qualified small, minority, and women's business enterprises on its firm's solicitation list;
- B. Assure that small, minority, and women's business enterprises are solicited whenever they are potential sources;
- C. Divide the total project requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small, minority, and women's business enterprises;
- D. Establish delivery schedules, where the requirements of the contract permit, which encourage participation by small, minority, and women's business enterprises; and
- E. Use the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local government small business agencies.

If it cannot affirm any of the above, it must explain why and indicate additional steps it has taken to demonstrate its good faith efforts.

The general contractor (GC) is also required to submit an Organizational Information Form (OIF) representing that it is a minority business enterprise, a woman business enterprise, or neither. If the GC submits one (1) of the three (3) lowest bids, it must provide the same form for each of its subcontractors within 72 hours. The GC is

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considered non-responsive and is eliminated from the bid pool if it does not submit an executed Certification and OIF(s).

Future Outreach Efforts

The Commission has recently joined the California Association of Public Procurement Officials (CAPPO) and the National Institute of Government Purchasing (NIGP) to increase its outreach to contractors and other vendors. Commission procurement staff attended its first event with NIGP in February 2015.

Should you have any questions, you may contact me or Scott Stevenson, Director, Community Development Division, at (626) 586-1790.

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