

RESOLUTION NO. 99-64

**A RESOLUTION OF THE RIDGECREST CITY COUNCIL
ADOPTING A DISADVANTAGED BUSINESS ENTERPRISE
(DBE) PROGRAM AND PROVIDING THE CERTIFICATION FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE
AGREEMENTS FOR THE 1999/00 FEDERAL FISCAL YEAR**

WHEREAS, The City Of Ridgecrest Is Required To Adopt A Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, the City Council has read said Program and said Certification in full and is familiar with the contents thereof.

NOW, THEREFORE, The Ridgecrest City Council Resolves as follows:

1. That said Disadvantaged Business Enterprise (DBE) Program, which is described in Exhibit "A", attached hereto and incorporated herein by reference, is hereby approved.
2. That the Mayor is hereby authorized to sign the Policy Statement.
3. That said Certification for Contracts, Grants, Loans, and Cooperative Agreements, which is described in Exhibit "B", attached hereto, and incorporated herein by reference is hereby approved.
4. That the City Administrator is hereby authorized to sign the Certification.

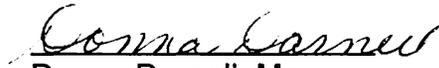
APPROVED AND ADOPTED this 4th day of August, 1999, by the following vote:

AYES: MAYOR DARNELL, COUNCIL MEMBERS CARTER, HOLLOWAY, AND MORGAN

NOES: NONE

ABSTAIN: NONE

ABSENT: COUNCIL MEMBER ROLLINS


Donna Darnell, Mayor

ATTEST:


Harry Jensen
City Clerk

ATTACHMENT "A"

REPORTING STRUCTURES

A. *City Council*

Establish and direct policy.

B. *City Administrator*

Implements policy of City Council.

Reports to City Council.

C. *Director of Public Works*

Responsible for Project Contract Management.

Reports to City Administrator.

**Program Description
For
City of Ridgecrest**

DISADVANTAGED BUSINESS ENTERPRISES (DBE) PROGRAM

(FHWA) encourages the use of this standard program description in accordance with Code of Federal Regulation 49, Part 23, Section 23.45 and other related sections)

Caltrans, Office of Local Streets and Roads, Rev. October, 1989

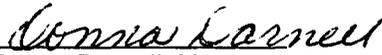
**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PROGRAM
CITY OF RIDGECREST**

I. Policy Statement

It is the policy of the City of Ridgecrest to utilize Disadvantaged Business Enterprises (DBE) and firms as defined in 49 CFR Part 23 in all aspects of contracting to the maximum extent feasible. This policy which is fully described herein constitutes policy and commitment to substantially increase DBE Utilization in all program activities funded wholly or in part by any U.S. Department of Transportation (DOT) modal element.

This Agency, its contractors and subcontractors, which are the recipients of Federal-aid funds, agree to ensure DBE firms have the maximum opportunity to participate in the performance of contracts and subcontracts. In this regard, this Agency and all of its contractors and subcontractors will take all reasonable steps in accordance with 49 CFR Part 23 to ensure that DBE firms have the maximum opportunity to compete for and perform contracts.

CITY OF RIDGECREST


Donna Darnell, Mayor

ATTEST:


Harry Jensen
City Clerk

II. *Disadvantaged Business Enterprise (DBE) Liaison Officer*

Harry Jensen, City Administrator, is the DBE Liaison Officer for this Agency and shall report to the City Council. He will be assigned such staff as is necessary to fully implement the provision of 49 CFR Par 23 and such other DBE programs as may be required. The reporting structure and duties of support staff are shown on Attachment "A".

III. *Duties of the DBE Liaison Officer*

The DBE Liaison Officer shall develop, manage, and implement the DBE Program on a day-to-day basis. Typical duties include, but are not limited to, the following activities:

- Develop and carry out technical assistance programs for DBEs.
- Arrange solicitations, time for the presentation of bid, quantities, specifications, and delivery schedules so as to facilitate the participation of DBEs. Where such changes are found necessary to increase DBE utilization, they will be made in consultation and cooperation with the functional unit involved.
- Provide guidance to DBEs in overcoming barriers, such as inability to obtain bonding or financing.
- Carry out information and communication programs on contracting opportunities in a timely manner. Programs shall be bilingual where appropriate.
- Investigate the services offered by banks owned and controlled by DBEs.
- Unless noted elsewhere herein, the listing of DBEs certified by Caltrans will be utilized. Said listing is to be made available to all project bidders. Such listing will include the following information: Name, address, telephone number, ethnic and/or sexual ownership, and type of work performed by firm.
- Prior to approval of the substitution of any DBE subcontractor, the prime contractors will be required to prove performance of good faith efforts to replace the DBE with another eligible DBE.
- Establish a DBE overall annual goal. The goal shall be evaluated annually and adjusted as necessary.

- Establish an appropriate individual project DBE goal for each Federal Aid Project advertised.
- Perform good faith analysis when the project goal is not achieved.
- Maintain such documentation as is necessary to verify performance of all activities included in this program.

IV. Public Notification

1. At the time of submittal of this program to the State DOT, a notice in both minority and majority local media will be published. Said publication shall include:
 - The annual overall DBE goal.
 - Notification that a description of how the goal was set is available for public inspection for a period of 30 days.
 - Notification that both U.S. DOT and this Agency will accept comments of the goal for 45 days from the date of the notice. The notice shall advise interested parties that comments are for information purposes only.
2. This program will be reaffirmed by public notice annually at the time of publication of overall goal. If substantial changes are made to this document, the entire document shall be subject to notification noted in (1) above.
3. In addition to the foregoing, interested disadvantaged and majority contractor organizations will receive direct mailings of this complete program.

V. Establishment of Goal

1. The DBE goal will be established both annually (overall) and on a per contract basis. The overall goal will be based on planned contract activity for the coming year. The overall goal established will be subject to methodology and procedures established in 49 CFR Part 23, Subparts (C) and (D) and take effect on October 1st of each year.
2. The overall DBE goal established with this initial program is 10% and covers the period October 1, 1999 to September 30, 2000.

3. Individual project goals will be established based on the following criteria:

- Attainment of established overall goals.
- Size of project.
- Opportunities for DBEs as subcontractors, vendors, and suppliers.
- Minority population of geographic area in which work is to be performed.
- DBE goals being utilized in the geographic area by other State, Federal, or local jurisdictions.
- Availability of certified DBEs.
- Past experience on projects similar to the project being evaluated.
- Such other factors as may effect the utilization of DBEs.

Complete evaluation documentation will be retained for each project.

4. Projects which do not contain a specific goal will contain the following provisions:

- A. **Policy.** It is the policy of the DOT that DBEs as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this agreement.
- B. **DBE Obligation.** (I) The recipient or its contractor agrees to ensure that DBEs as defined in 49 CFR part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

VI. Contract Procedure

This program shall be implemented through the utilization of a contract special provision which will be provided/updated as necessary by Caltrans' Division of Local Streets and Roads. These procedures require bidders to submit the names of DBE subcontractors and suppliers, a description of the work each is to perform or material to be furnished, and the dollar value of each DBE subactivity.

VII. DBE Notification

Projects will be advertised in local newspapers and minority focus newspapers when possible. These ads will include reference to DBE requirements and will indicate the DBE project goal.

DBE supportive service assistance centers will receive notification of projects scheduled to be advertised. Such Centers will be afforded the opportunity to receive complimentary plans and specifications for projects within their geographical area of responsibility.

VIII. Selection Criteria for Projects with DBE Goal

Every project containing a DBE goal shall be evaluated by the DBE Liaison Officer or his/her designee to ascertain bidding contractors' efforts to attain the DBE goal. The award of any project must be concurred with by the DBE Liaison Officer or his/her designee before said contract may be awarded. Should there be disagreement between functional units concerning contractors' efforts to attain contract goals for DBE participation, the matter shall be referred to the City Administrator or his/her designee, for final determination.

Competitors that fail to meet the DBE goal and fail to demonstrate sufficient reasonable good faith efforts shall be declared non-responsive and ineligible for award of the contract.

All contracts that contain a DBE goal, pursuant to this policy, will be monitored on an ongoing basis by project personnel during the course of construction. The DBE Liaison Officer is to be immediately advised of any circumstances wherein contractor compliance with the DBE provision is questionable. The contractor

shall submit a final report for each project which includes total payments to the prime contractor as well as any payments the prime contractor has made to DBE subcontractors, vendors, and suppliers. If the report indicates the prime contractor has not achieved the project goal, project

personnel shall attach an evaluation, in narrative form, of the reasons for failure to attain the goal and any corrective action that was taken.

Prime contractors will be required to notify the Agency of any situation in which regularly scheduled progress payments are not made to DBE subcontractors, vendors, or suppliers.

IX. *Counting DBE Participants*

This Agency, its contractors and subcontractors shall count DBE participation in accordance with the provisions of Section 23.47, Title 49, of the Code of Federal Regulations.

X. *Records and Reports*

1. The DBE Liaison Officer shall maintain such records, and provide such reports, as are necessary to ensure full compliance with this policy. Such records and reports shall include, as a minimum, the following information:
 - Awards to DBEs
 - Awards to majority contractors.
 - Final project reports concerning DBE utilization.
 - Such other data as is needed to fully evaluate compliance with this program.
2. The DBE Liaison Officer shall submit reports to Caltrans and/or to the appropriate U.S. DOT element as required. These reports will include:
 - Number and dollar value of contracts awarded.
 - Number and dollar value of contracts and subcontracts awarded to DBEs.
 - Description of general categories of contracts awarded to DBEs.
 - The percentage of the dollar value of all contracts awarded during the year which were awarded to DBEs.

- Indication as to the extent of which the percentage met or exceeded the overall goal.
- Reports shall be broken down separately by ethnic grouping.

XI. Complaints

Any complaints received by the Agency concerning this program will be investigated by the City Administrator. He/she will endeavor to resolve said complaints within 90 days of receipt by the DBE Liaison Officer. The appropriate DOT element and Caltrans will be furnished a copy of the complaint and may be invited to participate in the investigation/resolution. The DOT element and Caltrans will receive a complete investigative report on the complaint and may be requested to concur in the proposed disposition of said complaint.

Contractors will be directed to notify the Agency of any complaints they may receive concerning this program.

Certification for Contracts, Grants, Loans, and Cooperative Agreements
(Federal Fiscal Year October 1, 1999 to September 30, 2000)

I, Harry Jensen, City Administrator, hereby certify on behalf of the City of Ridgecrest, that

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this 4th day of August, 1999.

By: 

Harry Jensen
City Administrator