

**WTC CONTRACTING WORKSHOP #2
AGENCY PARTNERSHIPS IN CREATING SOLUTIONS
February 1, 2005**

OPENING AND KEYNOTE SPEAKER

WTC President Linda Bohlinger opened the meeting and introduced the Keynote Speaker, Los Angeles City Controller Laura Chick, who discussed her programs and initiatives to provide for a more open and accountable city contracting process, including leveling the playing field for small, woman-owned and minority businesses.

WORKSHOP OPENING

After a question and answer period, Linda described the results of the October, 2004 contracting workshop. Three priority issues were identified, along with a set of action steps to address those issues. Linda indicated that this follow-on workshop was intended to be a “first step” toward addressing these issues. In preparation for this workshop, the WTC Board had reviewed the recommended actions and selected an initial set for the agency representatives to address.

Linda asked the panelists, representing the Procurement and Contract Compliance functions of Caltrans, OCTA, Metro and Metrolink to introduce themselves. Linda then introduced the WTC facilitators, Pat McLaughlin, who served as lead facilitator and topic facilitators Annette Colfax, Susan Brown and Patti Post, who presented individual issue and recommendation areas. They also facilitated panel discussion and participant interaction under each area. The areas included:

1. The certification process
2. Opportunities for and utilization of WBEs
3. Cash flow and payment

Each of the facilitators described the issues and recommended action areas. The agency panelists then discussed: 1) existing processes to address the issue and 2) potential additional actions. The following is a synopsis of the workshop discussion.

CERTIFICATION PROCESS

Outline of Issues

The WBE and SBE certification processes for Women-owned businesses are complex and burdensome, especially for the small businesses they are aimed at assisting. Agency staff are inconsistent in interpreting and communicating their own processes. WBEs face long delays in certification due to backlogs. The

Uniform Certification Process is in place but it is often neither uniformly used nor communicated.

Action Area: Clear, uniform and simplified certification processes

Actions

1. Clear, straightforward and uniform communication of process, requirements and contacts.
2. Agency help and guidance on where to find and how to report information and data required.
3. Elimination of backlogs in agencies or certification workload sharing among reciprocal organizations.

Agency Response

Caltrans

- If forms are complete, Caltrans assures a 90-day turnaround (others mentioned that they have this standard as well).
- Caltrans has a firm on-board to help small contractors.
- A cover letter should indicate which certification(s) are being sought – SBE, WBE, DBE; an agency can do all three at once.

Metrolink

- Metrolink accepts others' certifications – OCTA, Metro, the City of Los Angeles and San Diego Airport.
- Firms must get certification before an offer is submitted – this is uniform across agencies.

OCTA

- OCTA does not have any certification backlogs.
- But firms must realize that each certification is different, depending on the pool of money.

Metro

- Metro can only accept its own SBE certification; if a contractor has a DBE another agency can forward it to Metro with the SBE certification request.
- Metro holds a certification workshop the 2nd Tuesday of each month.
- It is suggested that a firm do a template for the most complicated certification and use it to fill out all of the others.

Additional Discussion

- The City of Los Angeles is a major chokepoint because of backlogs and delays.
- “You can't have too many certifications” – but can do all three at once.
- A policy/advocacy opportunity is to advocate for more uniform requirements across funding sources (Federal, State, local).

OPPORTUNITIES AND UTILIZATION

Outline of Issues

Even if targets are established, there are problems with utilizing the skills of WBEs appropriately. This is caused by a number of “root causes” ranging from unclear scopes that don’t outline meaningful and identifiable work appropriate to the skills of WBEs to lack of follow-up on scope fulfillment.

Action Area: Clarity on scope and WBE skills needed to meet requirements

Actions

1. Contracts/compliance staff work with Project Managers to clearly identify portions of scope matched to skills/categories in WBE database.
2. Communicate this to potential bidders.
3. Audit/correct uniform code assignments of WBEs.
4. Develop and publish WBE skill profiles matched to uniform codes outlined in scope.

In addition, identify tasks or entire contracts for direct contracting to WBEs

Agency Response

Caltrans

- Caltrans has 608 contracts that have been awarded directly to small contractors – if appropriate, Caltrans will divide up into smaller pieces to award appropriate pieces to small contractors.
- Caltrans is also working on a “systems engineering” approach for early involvement with the Project Manager to decide what work is most appropriate for DBE/WBE participation.

OCTA

- When the DBE goal is established, OCTA identifies the work that is appropriate for DBE participation.
- OCTA required the prime to give the names and discuss the use of the sub.
- Agencies agree that there can be coding problems and problem-solving is needed in this area.
- Potential bidders can call OCTA and ask which subcontractor opportunities led to identification of the goal.

Metro

- Metro has the similar processes to ensure that prime contractors don’t do a “bait and switch”, promising work but not utilizing the sub.
- Metro matches codes with the database.

- Metro is having a March 30 workshop on “key elements of the successful proposal”.
- Metro also establishes a “bench” of qualified firms, contracting on a task order basis; in this way, a bond isn’t required for the whole thing.

CASH FLOW AND PAYMENT

Outline of Issues

Lack of timely payment is a hardship for small businesses. Agencies and primes are often slow to pay and it is difficult for the WBE to determine the source of the problem – or what it will take to resolve it. On large contracts, the agency usually has a 10% “holdback” on payment to the prime contractor. Even though the WBE has successfully completed her work long before, final payment to the WBE is withheld pending satisfaction of agency requirements by the prime.

Action Area: Processes for timely payment of work completed by the WBE

Actions

1. Send notification to the subcontractor when the Prime has been paid so that she can follow up if her payment is not received.
2. Require that primes not withhold a percentage of payment if the WBE has completed her portion of the work.

Agency Response

Caltrans

- Subcontractors can always approach the Resident Engineer in the field office regarding when and if payment was made to the prime.

OCTA

- The sub can negotiate to be paid the retainage when they have completed their part of the work.
- The California small business rubberstamp expedites payment of claims
- In the long term, a trust relationship may be the best way, but this takes time.

Metro

- Find out who the contract administrator is – they will share the information. Requests for this type of information (payment of the Prime) are not shared with the department or field office.

Metrolink

- Metrolink requires the prime to pay the sub when the work is completed, within 15 days of their own payment.

- Metrolink does not have a process for inquiries by subs.

CONCLUDING GUIDANCE

Agency representatives concluded by summarizing key guidance for WBEs:

1. Contracts and Contract Compliance departments are there to support small businesses.
2. The FTA website has requirements and models.
3. Contractors should know the agencies they want to focus on and understand them and educate themselves about the nature of their organizations and business.
4. WBEs should take advantage of debriefings.
5. There is a trend toward design-build. WBEs should join these teams and form ongoing relationships,
6. On certification, the WBE should determine who the “home agency” will be.
7. If a WBE is certified, especially as a SBE, she becomes part of a statewide database.

Agency representatives distributed resource information describing programs and workshops. At the conclusion of the meeting, Linda Bohlinger thanked the agencies for their participation. She asked for expressions of interest by participants in working with the Board on specific issues and indicated that additional contracting workshops would be organized in the future and that the results of this workshop would be used in furthering WTC’s advocacy efforts.

WTC Member Follow-up Volunteers:

Certification: Rose, Sandy

Utilization: Julie

Cash Flow and Payment: Marsha, Ella