



# Memorandum

To: Consulting Firms

From: Tanisha Taylor, Associate Regional Planner

Date: June 22, 2009

Re: **Request for Qualifications (RFQ):** 2011 Regional Transportation Plan  
Environmental Impact Report.

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SJCOG is issuing a request for qualification for the development of the 2011 SJCOG Regional Transportation Plan Environmental Impact Report (RTP EIR). The SJCOG 2011 RTP will cover a period of 25 years (2010 to 2035). Approval of the SJCOG 2011 RTP is a discretionary action and therefore is subject to the requirements of CEQA. SJCOG is seeking request for qualifications for the development of a programmatic EIR for the 2011 RTP.

SJCOG is requesting that responses to this RFQ be submitted and received by SJCOG no later than **5:00 p.m. on Monday July 13, 2009.**

If you have any questions, please contact Tanisha Taylor or Dana Cowell at (209) 468-3913 or E-mail at [taylor@sjcog.org](mailto:taylor@sjcog.org) or [dcowell@sjcog.org](mailto:dcowell@sjcog.org).

Thank you for your interest.

## **I. INTRODUCTION**

The San Joaquin Council of Governments (SJCOG) is seeking statements of qualifications from qualified firms for professional services to prepare an Environmental Impact Report (EIR) for the Regional Transportation Plan (RTP) for San Joaquin County in accordance with the California Environmental Quality Act (CEQA). The EIR will evaluate potential impacts of the proposed Regional Transportation Plan (RTP) 2011 Update.

The RTP is used to guide the development of the Regional and Federal Transportation Improvement Programs (RTIP and FTIP) as well as other transportation programming documents and plans. The RTP outlines the region's goals and policies for meeting current and future mobility needs, providing a foundation for transportation decisions by local, regional and state officials that are ultimately aimed at achieving a coordinated and balanced transportation system. The RTP identifies the region's transportation needs and issues, sets forth actions, programs, and a plan of projects to address the needs consistent with adopted policies and goals, and documents the financial resources needed to implement the plan. As required, the RTP consists of a policy, action, financial and environmental element. The EIR will serve as the RTP's environmental element. This Request for Qualifications (RFQ) describes the project, the required scope of services, the consultant selection process and the minimum information that must be included in the submitted statement of qualifications.

## **II. BACKGROUND**

The mission of SJCOG is: To partner with local governments, the private sector, and community groups as a forum, facilitator and administrator of regional programs, and to advocate for regional and interregional issues in the development of a comprehensive strategy to achieve resolution.

SJCOG is the designated federal Metropolitan Planning Organization and State Regional Transportation Planning Agency for San Joaquin County. The agency operates under a joint powers agreement among its seven member municipalities as well as the County of San Joaquin. SJCOG's Board consists of one council member (or Mayor) from each of six cities, three members of the Stockton City Council, and three members from the San Joaquin County Board of Supervisors. Ex-officio members include Caltrans, the San Joaquin Regional Transit District, and the Port of Stockton.

Located in California's fertile and burgeoning northern San Joaquin Valley, San Joaquin County is a prosperous setting for business and industry. Centrally located between the San Francisco Bay Area, Sacramento and the Sierra Mountains, the county provides quick access to national markets via an extensive freeway network, major freight rail lines, the biggest inland deep-water channel in California and a regional airport. The Bay Area remains the major urban center of Northern California and it also continues to be a key center of employment for San Joaquin County residents. In 2000, approximately 35,000 commuters from San Joaquin County crossed the Altamont Pass on Interstate 205 for employment destinations in the Bay Area. As a result of

the numerous major employment centers located outside of the County, the average one-way commute for San Joaquin County residents in 60 miles.

Currently home to just over 660,000 residents, San Joaquin County is one of the fastest growing regions in California. While much of this growth is “spillover” from the Bay Area, other geographical and quality of life attributes throughout the County contributed to increased urbanization. San Joaquin County was the third fastest growing county in California between 2000 and 2005 with 15.9 percent growth during that time.

The growth trends are having profound effects on the ability of local agencies to finance, deliver and maintain the infrastructure needed to support the population. Although SJCOG deals primarily with transportation-related issues, many of the same concerns regarding the impact of growth apply to other issues such as sewer and storm water runoff, and education.

The transportation system in San Joaquin County provides mobility throughout the region. It consists of the roadway network, including U.S. and state highways, local arterials and roadways, public transit systems, bicycle and pedestrian facilities, and airport and rail (passenger and freight) designed to move residents and visitors across and through the county. As the MPO and the RTPA, the San Joaquin Council of Governments coordinates the region's transportation projects and programs and promotes regionalism in transportation investment decisions.

Working within the existing transportation system and continuing with the development of an integrated, multi-modal regional system, SJCOG faces several challenges. These include:

- Population Growth
- Jobs/Housing Imbalance
- Reliance on Single Occupancy Vehicles
- Demographic Changes
- Economic Growth and Business Trends
- Quality of Life

SJCOG, as both the MPO and the RTPA for San Joaquin County, has the statutory responsibility to develop a comprehensive minimum 20-year vision of the region's transportation system: the Regional Transportation Plan (RTP). The 2011 RTP will cover a 25 year period from 2010 to 2035. The RTP is an action-oriented document used to achieve a coordinated and balanced regional transportation system. In accordance with federal and state mandates and guidelines, SJCOG must also prepare an Environmental Impact Report as an element of the RTP. SJCOG seeks a qualified consultant to prepare the EIR for the Regional Transportation Plan in accordance with CEQA

### III. PROJECT DESCRIPTION

SJCOG is currently preparing the RTP for the area of San Joaquin County and plans to contract with a consultant to prepare an EIR pursuant to the California Environmental Quality Act

(CEQA). The RTP addresses all modes of transportation including motor vehicles, transit (commuter and local), rail (commuter and inter-regional), goods movement (rail freight and trucking), bicycle and pedestrian facilities, aviation and systems management. In accordance with state and federal guidelines, the RTP is updated every four years. With the last RTP update (2007), a programmatic EIR was prepared. A new programmatic EIR for the RTP is necessary to evaluate potentially significant environmental effects of the plan and to identify strategies to avoid or mitigate significant environmental effects.

The RTP will identify the regional transportation network and significant corridors, and the integration of transportation modes with a focus on mobility opportunities. The EIR will analyze project impacts on the physical environment to include:

- Land Use
- Visual Resources
- Transportation
- Air Quality
- Noise
- Energy
- Geology
- Hydrology & Water Resources
- Biological Resources
- Cultural Resources
- Cumulative Impacts

#### IV. SCOPE OF SERVICES

The consultant will be responsible for the following tasks:

Prepare and Issue the Notice of Preparation (NOP) and Initial Study– The consultant will be responsible for preparing the Notice of Preparation and Initial Study and facilitating at least one public scoping meeting. The consultant will review and assess NOP comments and provide recommendations on how to respond to these comments and address them during the preparation of the EIR.

Prepare draft Environmental Impact Report (EIR) – The consultant will prepare an internal review draft of the document for SJCOG staff review and comment. Comments will then be incorporated into the draft EIR. The draft EIR will include all required sections which are described in Article 9, Sections 15120-15131 of the CEQA Guidelines. The consultant will provide an electronic file (CD) and a PDF file compatible for placement on SJCOG's web site.

Attend public meetings – The consultant will be responsible for attending no more than two SJCOG Board of Directors meetings (one of which is a public hearing), two Technical Advisory Committee (TAC) and two public workshops. The consultant will work with SJCOG staff in the development of their presentation materials for the public meetings. The consultant will be responsible for recording all public and Board comments and including a summarization of

comments in the EIR. The consultant will be responsible for preparing written responses to comments received during the EIR public review period. Comments and responses to comments are to be included in the EIR.

Prepare a Mitigation Monitoring and Reporting Program (MMRP) - The consultant will prepare a MMRP to ensure the implementation of mitigation measures identified to mitigate any adverse environmental affects of the project. The MMRP shall be included in the EIR as an appendix.

Prepare Findings and Statement of Overriding Considerations (if applicable) for approval by the SJCOG Board.

Prepare the Final EIR consistent with the requirements of CEQA Guidelines Section 15132. The consultant will prepare the final EIR, which will include a summary of any changes made to the draft EIR that were incorporated into the final EIR, as an appendix. The consultant will provide an electronic file (CD) and a PDF file compatible for placement on SJCOG's web site.

## V. SCOPE OF WORK

### A. Environmental Setting

1. Description of the existing 2009 baseline natural, economic and social environmental setting (to include population, employment, transportation services and travel demand).
2. Description of the horizon year natural, economic and social environmental setting projections (to include population, employment, transportation services and travel demand).

### B. Plan Consistency

Identify any, or substantiate previously identified, potential conflicts or inconsistencies which may result from implementation of the RTP and any mitigated alternatives with the adopted goals, objectives or policies contained within:

- Comprehensive, general, regional or local transportation plans
- Comprehensive, general, regional or local land-use plans
- Local or regional Short Range Transit Plans
- Local or Regional Climate Action Plans/GHG reduction plans

### C. CEQA Analysis

Prepare a CEQA analysis of the San Joaquin County RTP, assessing environmental impacts and associated mitigation measures, alternatives to the project, unavoidable adverse impacts, cumulative impacts, and growth-inducing impacts.

Optional reports as needed:

- Finding of Fact
- Statement of Overriding Consideration

The analysis will contain, but is not limited to:

- A summary of the proposed RTP and the alternatives
- Discussion of the RTP and consistency with other plans
- Identification of any major implementation issues of the RTP, including any issues to be resolved and possible mitigation measures
- Identification of known areas of concern or controversy regarding the type or nature of potential environmental impacts, measurement of those impacts, or the significance of those impacts
- Identification of potential significant environmental impacts including, but not limited to: cumulative, growth-inducing, environmental justice, induced travel demand and socioeconomic
- Recommend feasible mitigation measures and mitigation monitoring efforts that would reduce significant impacts to a less than significant level, or if this is not possible, produce a substantial lessening of such impacts
- List unavoidable significant impacts, if any, of the implementation of the plan, with all implemented mitigation measures and a mitigation monitoring program

D. Public Outreach

Prepare and conduct public workshops, and hearings. Prepare notices and displays. Respond to comments.

E. Agency Coordination

Meet and confer with agencies as necessary to identify and address concerns and comments.

VI. AVAILABLE RESOURCES

The following background material is available for use at the SJCOG office by consultants who have determined that they will submit a proposal in response to this RFP:

- 2004 RTP and 2007 RTP
- 2004 RTP EIR Supplement and 2007 RTP Programmatic EIR
- 2007 Congestion Management Plan
- 2000 Altamont Pass Commuter Survey

- 1995 Altamont Pass Passenger Rail Corridor Study
- 2007 and 2009 Federal Transportation Improvement Program
- 2006 and 2008 Regional Transportation Improvement Program (RTIP)
- 2001 Multi-Species Habitat Conservation & Open Space Plan
- 2005 Mapping San Joaquin
- 2003 Port Access Study
- 2008 Regional Transit Systems Plan
- 2003 Regional Profile Vol. 1 & 2
- 2001-2008 Regional Housing Needs Allocation Plan
- 1997 San Joaquin County Regional Aviation System
- 2008 Airport Land Use Compatibility Plan
- 1994 San Joaquin County Regional Bicycle Master Plan Vol. 1
- 1994 and 2008 Regional High Occupancy Vehicle Lane System Plan
- 1997 Corridor Study for Route 12 in San Joaquin County
- 1999 Major Investment Study for Route 99
- Manteca/Lathrop Transit Study
- Measure K Strategic Plan
- Measure K Renewal Expenditure Plan
- City General Plans and Circulation Elements (contact individual local agency)

#### VII. TIMELINE

| Action                                                                                          | Date                     |
|-------------------------------------------------------------------------------------------------|--------------------------|
| SJCOG Board Approval of Contract,<br>Consultant Notice to Proceed                               | July 23, 2009            |
| Consultant / SJCOG staff meeting<br>(Orientation)                                               | July 27, 2009            |
| Notice of Preparation                                                                           | August, 17 2009          |
| Public Scoping Meeting                                                                          | Week of September 7 2009 |
| NOP Comments Due<br>(30 day comment period)                                                     | September 16, 2009       |
| Administrative Draft<br>(Released)                                                              | April 5, 2010            |
| Public Notice of Availability<br>(DEIR released to public)                                      | May 7, 2010              |
| DEIR Announcement to Technical Advisory Committee<br>(Draft RTP will be presented concurrently) | May 13, 2010             |

|                                       |               |
|---------------------------------------|---------------|
| Public Workshops/Public Hearing       | TBD           |
| Final EIR Presentation to SJCOG Board | July 22, 2010 |
| Notice of Determination               | July 23, 2010 |

#### VIII. PAYMENT

The selected consultant will be paid by the following method: monthly invoices based upon the percent of work completed. Invoices will describe the work completed and benchmark obtained. However, ten (10) percent of the payment will be withheld until the successful completion of the project.

#### IX. STATEMENT OF QUALIFICATION CONTENT AND FORM

The submittal should be concise, well organized, and demonstrate the consultant's qualifications and experience applicable to the project. The submittal shall be limited to 20 one-sided pages (8.5 inches x 11 inches), inclusive of resumes, graphics, forms, pictures, photographs, dividers, front and back covers, cover letter, etc., but not letters of commitment from subcontractors or DBE documentation. Type and size for margins for text pages should be in keeping with accepted standard formats for desktop publishing and processing and should result in no more than five hundred (500) words per page.

Consultants shall submit a statement of qualification containing sections as described in the following outline and include the information described.

##### A. Cover Letter

Include a letter describing the firm's interest in providing the scope of services for the project. The person authorized by the firm to negotiate a contract with SJCOG shall sign the cover letter. Include the name, phone number, fax number and E-mail address of a contact person for the qualifications process.

##### B. Consultant Background

Provide the legal name and address of the consultant's company as well as the address of the office where the project manager will reside and where a majority of the work will be performed. Include the number of years consultant's company has been in business, the legal form of the company and any other relevant information concerning whether the consultant may or may not be financially capable of completing this project.

C. Experience and Technical Competence

Describe the consultant's experience in completing similar consulting efforts. List three (3) successfully completed projects of a similar nature. For each completed project provide the name of the company and project manager the consultant performed work for, including telephone numbers, type of work performed, and dollar value of the contracts.

D. Knowledge and Understanding of Local Environment and Relevant Laws

Describe the consultant's experience working in the local environment and proposed local presence for interfacing with SJCOG staff. The environment includes, but is not limited to: cities, county, transit operators, Caltrans, and other local agencies' regulations and policies. Describe the consultant's experience with and knowledge of relevant State and Federal laws.

E. Project Organization and Key Personnel

Describe project organization including identification and responsibilities of key personnel. Provide an organizational chart showing the relationship among firm members and the agencies involved in the project. Provide resumes of key personnel and sub-consultants proposed for the project. Describe similar studies the team has completed. Describe the role of the project manager and key staff in those studies. Provide three (3) references for the project manager and key team members from their work on similar projects including client's name and telephone numbers. Indicate the work load of the project manager and key team members and their capacity to complete the scope of services.

F. Statement of Impartiality

The nature of this project requires an impartial unbiased approach on the part of the consultant team. This submittal shall include a statement declaring that the consultants and sub-consultants are not currently, and will not, during the performance of these services, participate in any other similar work involving a third party with interests currently in conflict or likely to be in conflict with SJCOG's interests.

G. Cost Estimate

The budget for this project is \$125,000. Provide an estimate of the total direct and indirect costs to complete all tasks identified in the scope of work. A detailed cost breakdown shall be provided identifying: 1) the number of staff hours and hourly rates for each professional and administrative staff person who will be committed to this project, including fringe and overhead costs; 2) an estimate of all other direct costs, such as materials and reproduction costs; and 3) an estimate of sub-consultant services if needed. No subconsultant or other direct cost markup will be allowed.

Direct costs will be reimbursed in accordance with the State of California rules, regulations, and limitations.

## X. CONSULTANT SELECTION PROCESS

SJCOG will conduct the selection process based on the following outline:

Consultant qualifications will be evaluated by a selection committee consisting of staff from SJCOG and various representatives of its member jurisdictions and agencies as determined necessary. The Selection Committee will evaluate the proposals based on the outlined content requirements described in Section IX. Each member of the Selection Panel will use the same evaluation criteria and categories to score the proposals. The proposals will be evaluated based on the following scoring criteria:

### The Proposal

|                              |    |
|------------------------------|----|
| Comprehension of the Project | 15 |
| Thoroughness of Proposal     | 15 |
| Meeting the RFP Objectives   | 15 |
| Project Delivery Time        | 10 |

### Consultant Qualifications

|                                     |    |
|-------------------------------------|----|
| Qualifications & Experience of Team | 30 |
| References                          | 5  |
| DBE Participation                   | 5  |

### Cost Efficiency

5

Total: 100

The most promising firms may be invited to interview with the Selection Committee to explain their relevant experience, project understanding, and their approach to completing the project. The panel will rank the interviewed firms and recommend to the SJCOG Board of Directors that contract negotiations be initiated with the highest ranking firm. If negotiations with the highest ranking firm are unsuccessful, negotiations will be conducted with the next highest ranking firm. This process will be repeated until an acceptable contract is negotiated.

## XI. GENERAL INFORMATION

### 1. Independent Capacity

- a. Consultant and the agents and employees of Consultant, shall act in an independent capacity in the performance of this Agreement, and not as

officers, employees or agents of SJCOG. No officer, member, or employee of SJCOG or other public official of the governing body of the locality or localities in which the work pursuant to this Agreement is being carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the aforesaid work shall:

1. Participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or
2. Have any interest, direct or indirect, in this Agreement or the proceeds thereof during his or her tenure or for one year thereafter.

B. Covenant of No Interest

*Consultant agrees to comply with SJCOG's "Conflict of Interest Code." Said Code has been adopted in accordance with the requirements of the Political Reform Act of 1974.*

Consultant hereby covenants that it has, at the time of the execution of this Agreement, no interest, and that it shall not knowingly acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. Consultant further covenants that in the performance of this work, no person having any such interest shall be employed. *The term "conflict" shall include, at a minimum, the definition of a "conflict of interest" under the California Fair Political Practices Act and SJCOG's Conflict of Interest Code, as that term is applied to consultants.*

*In accomplishing the scope of services of this Agreement, Consultant may be performing a specialized or general service for the SJCOG, and there is a substantial likelihood that the Consultant's work product will be presented, either written or orally, for the purpose of influencing a governmental decision. As a result, employees of the Consultant or the Consultant itself may be subject to disclosure pursuant to SJCOG's Conflict of Interest Code. If in fact this applies to the Consultant a Statement of Economic Interest, also known as a Form 700, must be filed.*

B. Contract

SJCOG and CONSULTANT will negotiate a final scope of services that will be part of the executed agreement.

C. Statements of Qualifications Submittal

1. Statement of Qualifications. Each CONSULTANT shall submit **six (6)** hard copies and one electronic copy of their statement of qualifications to SJCOG. Statements of qualifications must be submitted in a sealed envelope in response to this RFQ. Proposals must be received no later **than 5:00 PM**, on **Monday, July 13, 2009** at the following address:

San Joaquin Council of Governments  
555 East Weber Avenue  
Stockton, CA 95202  
Attn: Rebecca Montes / DC / TT

2. Late Submittal. SJCOG shall deem a proposal is late if received at **any time after 5:00 PM** on **Monday, July 13, 2009**. This is a firm deadline and no submittals will be accepted after this time. Postmarks, email submittals and faxes will not be accepted.
3. Disqualification. Failure to comply with the requirements of the RFQ may result in disqualification. SJCOG is not responsible for finding, correcting, or seeking clarification regarding ambiguities or errors in submittals. If a submittal is found to contain ambiguities or errors, it may receive a lower score during the evaluation process. Errors and ambiguities in submittals, including project cost estimate, will be interpreted in the favor of SJCOG.
4. Amendments to RFP. SJCOG reserves the right to amend the RFP by addendum or to waive minor irregularities. If necessary, the submittal deadline will be extended to allow proposers additional time to respond to the RFP addendum.
5. Schedule:

| Activity                                | Date          |
|-----------------------------------------|---------------|
| RFP Distributed                         | June 22, 2009 |
| Proposal Submittal Deadline             | July 13, 2009 |
| Review completed by Selection Committee | July 14, 2009 |
| Oral Interviews, if deemed necessary    | July 16, 2009 |
| Top-ranked CONSULTANT selected          | July 17, 2009 |
| SJCOG Board Approves Contract           | July 23, 2009 |
| Notice to Proceed                       | July 24, 2009 |

6. Inquiries. All questions regarding the RFQ must be received in writing via mail, E-mail or hand delivery no later than July 10, 2009 addressed to:

Tanisha Taylor or Dana Cowell  
San Joaquin Council of Governments  
555 East Weber Avenue  
Stockton , CA 95202  
Email: [taylor@sjcog.org](mailto:taylor@sjcog.org) / [cowell@sjcog.org](mailto:cowell@sjcog.org)

D. Solicitation Disclaimer

All documents become the property of SJCOG upon submission. Cost of preparing, submitting, and presenting qualifications and participating in an interview is at the sole expense of the consultant. SJCOG has the right to reject any or all of the submittals received as a result of this solicitation. Solicitation of submittals in no way obligates SJCOG to contract with any firm or individual. The decision to award a contract is at the discretion of the SJCOG Board of Directors.

E. Disadvantaged Business Enterprise (DBE)

As SJCOG will utilize federal financial assistance to fund this procurement from the U.S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans) this procurement is subject to Caltrans regulations in accordance with Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance programs". Caltrans has begun implementation of a race conscious DBE Program and is directing that local agencies implement their race conscious DBE Programs by June 2, 2009. SJCOG has agreed to implement the Caltrans DBE program Plan as it pertains to local agencies.

As a result, this contract entails a percentage participation goal for Underutilized DBEs (UDBEs) as defined and certified by Caltrans, as well as an overall DBE percentage participation goal. Caltrans has defined UDBE firms as those owned by African American, Asian Pacific American, Native Americans and Women.

DBEs and other small businesses are strongly encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The consultant should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this

solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

**Nondiscrimination:** The Authority will never exclude any person from participation in, deny any person the benefit of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin. The Authority will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of the Caltrans DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

**Contract Goal:** For this contract, the Authority has established a UDBE goal of 2.8%. This UDBE goal is a requirement; if the UDBE goal is not met, the proposer must document adequate good faith efforts to involve UDBEs. SJCOG has established an overall DBE goal of 3.6%. The DBE goal is aspirational. The proposer's UDBE participation rate can be counted toward the contract's overall DBE participation. Only UDBE participation will be counted towards the UDBE contract goal; however, all DBE participation shall be collected and reported. For additional information, please see the notice to Bidders/Proposers and Caltrans Exhibit 15-H UDBE Information-Good Faith Efforts., provided as separate. Documentation for the good faith efforts do not count towards the (20) page limit.

DBE Regulations: Bidders shall be fully informed with respect to the requirements of the DBE regulations. The DBE regulations in their entirety are incorporated herein by reference. Please note:

A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP) by the proposal due date;

A certified DBE may participate as a prime consultant, sub consultant, joint venture partner with a prime or sub consultant, vendor of materials or supplies, or as a trucking company;

The following attachments are incorporate by reference:

- Notice to Proposers "Disadvantaged Business Enterprise Information"
- Exhibit 10-O1 "Local Agency Proposer UDBE Commitment (Consultant Contracts)"
- Exhibit 10-O2 "Local Agency Proposer DBE Information (Consultant Contracts)"
- Guidance for Bidders Completing The Good Faith Effort Submittal
- Exhibit 15-H "UDBE Information – Good Faith Efforts"

Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

More information on the DBE application process and recent policy changes is available on the California Department of Transportation (Caltrans) Web site.

### **Good Faith Efforts**

The DBE policy requires contractors to follow Good Faith Effort Guidelines; however, they are limited to UDBEs. (See attached Good Faith Effort Guidelines)

1. **Contract Assurance**

DBE regulations require the following contract assurance statement in every DOT assisted contract and subcontract:

“The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract, or such other remedy as recipient deems appropriate.”

2. **Prompt Payment**

Attention is directed to Section 7108.5 of the California Business and Professions Code, which requires a prime contractor or subcontractor to pay any subcontractor not later than 10 days of receipt of each progress payment, unless otherwise agreed to in writing. In addition, Federal Regulation (49 CFR 26.29) requires a prime contractor or subcontractor to pay a subcontractor no later than 30 days of receipt of each payment, unless any delay or postponement of payment among the parties takes place only for good cause and with the prior written approval of the agency. Section 7108.5 of the California Business and Professions Code also contains enforcement actions and penalties. These requirements apply to both DBE and non-DBE subcontractors.

## **NOTICE TO PROPOSERS DISADVANTAGED BUSINESS ENTERPRISE INFORMATION**

The Agency has established an Underutilized DBE goal for this Agreement of **2.8%**.

### **1. TERMS AS USED IN THIS DOCUMENT**

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term “Underutilized Disadvantaged Business Enterprise” or “UDBE” is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups:
  - Black American
  - Asian-Pacific American
  - Native American
  - Women
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

### **2. AUTHORITY AND RESPONSIBILITY**

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The bidder/proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

### **3. SUBMISSION OF UDBE AND DBE INFORMATION**

If there is a UDBE goal on the contract, a “Local Agency Bidder/Proposer-UDBE Commitment (Consultant Contract)” (Exhibit 10-O1) form shall be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

A “Local Agency Proposer -DBE –Information (Consultant Contract)” (Exhibit 10-O2) form shall be completed and submitted with the executed contract. The purpose of the form is to collect all UDBE and DBE commitment data required under 49 CFR 26. For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the successful bidder must execute and return the form.

#### **4. DBE PARTICIPATION GENERAL INFORMATION**

It is the proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department's DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE bidder, not bidding as a joint venture with a non-DBE, will be required to document one or a combination of the following:
  - 1. The proposer is a UDBE and will meet the goal by performing work with its own forces.
  - 2. The proposer will meet the goal through work performed by UDBE subconsultants, subconsultants, suppliers or trucking companies.
  - 3. The proposer made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55; that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The (prime consultant) shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

#### **5. RESOURCES**

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program website at: <http://www.dot.ca.gov/hq/bep/>.
  - Click on the link in the left menu titled Find a Certified Firm
  - Click on Query Form link, located in the first sentence
  - Click on Certified DBE's (UCP) located on the first line in the center of the page

- Click on [Click To Access DBE Query Form](#)
- Searches can be performed by one or more criteria
- Follow instructions on the screen
- “Start Search,” “Requery,” “Civil Rights Home,” and “Caltrans Home” links are located at the bottom of the query form

**6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBE, PURCHASES WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:**

- A. If the materials or supplies are obtained from a DBE manufacturer, count one hundred percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises, the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count sixty percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers’ own distribution equipment shall be by a long-term lease agreement and not an ad hoc or Agreement-by -Agreement basis. Packagers, brokers, manufacturers’ representatives, or other persons who arrange or expedite transactions are not UDBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

**7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL, UNDER THE FOLLOWING CONDITIONS:**

- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
- B. The DBE must itself own and operate at least one fully licensed, insured and operational truck used on the Agreement.

- C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
- D. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
- E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
- F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

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**INSTRUCTIONS - LOCAL AGENCY BIDDER- UDBE COMMITMENT  
(CONSULTANT CONTRACTS) (Revised 03/09)**

**ALL PROPOSERS:**

**PLEASE NOTE: It is the proposer's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) Black American; 2) Asian-Pacific American; 3) Native American; 4) Women. This information shall be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive**

UDBE is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups:

1. Black American
2. Asian-Pacific American
3. Native American
4. Women

The form requires specific information regarding the consultant contract: Agency, Location, Project Descriptions, Federal Aid Project Number (assigned by Caltrans-Local Assistance), Proposal Date, Proposer's Name, and Contract Goal.

The form has a column for the Work Item Number (or Item No's) and Description or Services to be Subcontracted to UDBEs. The UDBE should provide a certification number to the Consultant. Notify the Consultant in writing with the date of the decertification if their status should change during the course of the contract. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are received and include UDBE address and phone number). Enter the UDBE prime consultant and subconsultant certification numbers. Prime consultants shall indicate all work to be performed by UDBEs including, if the prime consultant is a UDBE, work performed by its own forces.

There is a column for the total UDBE percentage. Enter the Total Claimed UDBE Participation percentage of items of work submitted with the proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See Notice to Bidders/Proposers Disadvantaged Business Enterprise Information to determine how to count the participation of UDBE firms. Note: If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit 10-O (1) must be signed and dated by the consultant proposing. Also list a phone number in the space provided and print the name of the person to contact.

**For the Success Proposer only, local agencies** should complete the Contract Award Date and Federal Share fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of award. Failure to submit a completed and accurate form within the 15-day time period may result in the de-obligation of funds on this project.

**District DBE Coordinator** should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

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March 27, 2009

**INSTRUCTIONS - LOCAL AGENCY BIDDER DBE INFORMATION  
(CONSULTANT CONTRACTS) (Revised 03/09)**

**SUCCESSFUL PROPOSER:**

The form requires specific information regarding the consultant contract: Agency, Location, Project Description, Federal Aid Project Number (assigned by Caltrans-Local Assistance), Proposal Date, and Successful Proposer's Name.

The form has a column for the Description or Services to be Subcontracted by DBEs. The DBE should provide a certification number to the prime consultant. The form has a column for the Names of DBE certified consultants to perform the work (must be certified on the date the proposal is received and include DBE address and phone number). Enter DBE prime consultant's and subconsultants' certification numbers. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces.

Enter the Total Claimed DBE Participation percentage of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe the exact portion of time to be performed by the DBE.) See Notice to Proposers/Bidders Disadvantaged Business Enterprise Information to determine how to count the participation of DBE firms.

Exhibit 10-O (2) must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

**For the successful proposer, Local agencies** should complete the Contract Award Date and Federal Share fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the de-obligation of funds on this project.

**District DBE Coordinator** should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

## **GUIDANCE FOR BIDDERS COMPLETING THE GOOD FAITH EFFORT SUBMITTAL**

The specifications in Section 2 of the project Special provisions for each federally-funded project state the following about documentation of adequate good faith efforts:

“The information necessary to establish the bidder’s adequate good faith efforts to meet the contract goal should include:

- A. The names and dates of each publication in which a request for UDBE participation for this project was placed by the bidder.
- B. The names and dates of written notices sent to certified UDBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested.
- C. The items of work which the bidder made available to UDBE firms, including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate UDBE participation. It is the bidder’s responsibility to demonstrate that sufficient work to meet the UDBE goal was made available to UDBE firms.
- D. The names, address and phone numbers of rejected UDBE firms, the firms selected for that work, and the reasons for the bidder’s choice.
- E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any work which was provided to the UDBEs.
- F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the UDBE subcontractor purchases or leases from the prime contractor or its affiliate.
- G. The names of agencies contacted to provide assistance in contracting, recruiting and using UDBE firms.
- H. Any additional data to support a demonstration of good faith efforts.”

It is recommended that bidders consider the following in making efforts to obtain participation of UDBEs, and when preparing the documentation to be submitted, demonstrating their good faith efforts:

- Advertising for UDBE participation may be placed in newspapers, trade papers, minority focus papers and on the Internet.
- The more advertising the better. The wider the audience—especially in trade and focus publications—the better a prime contractor can “get the word out” they plan to bid a project, the better potential for UDBEs to know about the project and to whom they should bid.



- Solicitations and follow-up telephone contacts should occur within reasonable time before the opening bid date to allow the subcontractor time to prepare a quote to submit to the bidder. Telephone or e-mail logs, and fax receipts may be used to corroborate follow-up contacts.
- Advertisements and solicitations should state which items or portions of work are being made available. The bidder should consider making as many items of work available as possible to meet the goal, including those items normally performed by the bidder with its own forces.
- Bidders are encouraged to assist UDBE subcontractors in the areas of bonding (if required), lines of credit, and obtaining necessary equipment, supplies and materials, and inform UDBEs of this assistance in their solicitations.
- The documentation to be submitted to the local agency should clearly demonstrate all efforts made by the bidder to meet the UDBE goal. To assist in providing clear documentation, bidders should consider the following:
  - Be careful when referring to “See Attachments” without providing explicit information where to find the material. Clearly identifying these items as Attachment A, Attachment B, etc. is suggested.
  - Attachments may include copies of advertisements, solicitations and logs of telephone follow-ups, e-mail or fax receipts.
  - In documenting the work made available to UDBEs, list the bid item number, description of the work and what portion of the item was offered, if applicable.
  - Include quotes from rejected UDBEs and the quotes from the firms selected. If the bidder is doing the work at less cost, include the items to be performed and the costs.
  - Identify any contacts with agencies, organizations or groups used or contacted to provide assistance in contacting, recruiting and using UDBE firms, and any responses or assistance received from them.
  - Describe any additional information which would demonstrate that adequate good faith efforts were made to meet the goal.

**EXHIBIT 15-H UDBE INFORMATION—GOOD FAITH EFFORTS**

Federal-aid Project No. \_\_\_\_\_ Bid Opening Date \_\_\_\_\_

The San Joaquin Council of Governments established an Under-utilized Disadvantaged Business Enterprise (UDBE) goal of 2.8% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the “Local Agency Bidder – UDBE Commitment” form indicates that the bidder has met the UDBE goal. This will protect the bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a UDBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the “Local Agency Bidder – UDBE Commitment” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled “Submission of UDBE Commitment” of the Special Provisions:

- A. The names and dates of each publication in which a request for UDBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

| Publications | Dates of Advertisement |
|--------------|------------------------|
|              |                        |
|              |                        |
|              |                        |

- B. The names and dates of written notices sent to certified UDBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

| Names of<br>UDBEs<br>Solicited | Date of<br>Initial<br>Solicitation | Follow Up<br>Methods and<br>Dates |
|--------------------------------|------------------------------------|-----------------------------------|
|                                |                                    |                                   |
|                                |                                    |                                   |
|                                |                                    |                                   |
|                                |                                    |                                   |
|                                |                                    |                                   |
|                                |                                    |                                   |
|                                |                                    |                                   |

- C. The items of work which the bidder made available to UDBE firms, including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate UDBE

participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate UDBE participation was made available to UDBE firms.

| Items of Work | Bidder Normally<br>Performs Item<br>(Y/N) | Breakdown of Items | Amount<br>(\$) | Percentage<br>Of<br>Contract |
|---------------|-------------------------------------------|--------------------|----------------|------------------------------|
|               |                                           |                    |                |                              |
|               |                                           |                    |                |                              |
|               |                                           |                    |                |                              |

- D. The names, addresses and phone numbers of rejected UDBE firms, the reasons for the bidder's rejection of the UDBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each UDBE if the selected firm is not a UDBE:

Names, addresses and phone numbers of rejected UDBEs and the reasons for the bidder's rejection of the UDBEs:

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Names, addresses and phone numbers of firms selected for the work above:

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- E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to UDBEs:

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- F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the UDBE subcontractor purchases or leases from the prime contractor or its affiliate:

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- G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using UDBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

| Name of<br>Agency/Organization | Method/Date<br>of Contact | Results |
|--------------------------------|---------------------------|---------|
|                                |                           |         |
|                                |                           |         |

H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

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**NOTE:** USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.