

3.11

DEPARTMENT OF
GENERAL SERVICES

OFFICE OF MINORITY, WOMEN
AND SMALL BUSINESS

December 4, 1990

City Council
Sacramento, California

Honorable Members in Session:

**SUBJECT: REQUEST FOR AUTHORIZATION TO ISSUE REQUEST FOR PROPOSALS
 TO SELECT A CONSULTANT TO PERFORM A MINORITY/WOMEN
 BUSINESS ENTERPRISE (M/WBE) UTILIZATION STUDY.**

SUMMARY

The attached report requests authorization to issue a request for proposals (RFP) for the purpose of selecting a consultant to perform a study of business demographics and minority/women business enterprise (M/WBE) utilization in the Sacramento market area. The RFP will be issued on behalf of the City, the County of Sacramento, the Sacramento Housing and Redevelopment Agency (SHRA), and the Sacramento Regional Transit District (RT). This report was presented to the Joint Committee (Budget & Finance and Transportation & Community Development) at their meeting of November 20, 1990. The report is being forwarded to the full Council with a recommendation to adopt the attached Resolution authorizing issuance of the RFP.

BACKGROUND INFORMATION

Since the original report was prepared for presentation to the Joint Committee, the Sacramento Regional Transit District has expressed desire to join the project. The Joint Committee was made aware of this development by Robbin Randolph during the oral presentation to the Committee. Accordingly, participation by RT has been added to the Resolution attached to this report, and all needed changes reflecting their participation will be incorporated in the RFP document prior to its issuance. For other detail, please refer to the attached Budget and Finance/Transportation and Community Development Committee Report.

CITY OF SACRAMENTO
CALIFORNIA
MWBE91:024:RDR:rh

5730 - 24TH STREET
BUILDING FOUR
SACRAMENTO, CA
95822-3699

916-449-8505

APPROVED
BY THE CITY COUNCIL

DEC 5 1990

OFFICE OF THE
CITY CLERK

City Council
M/WBE Utilization Study RFP
December 4, 1990
Page 2

FINANCIAL DATA

The inclusion of RT in the project may result in some cost savings to each of the other three agencies (including the City), to the extent that "shared" elements of the study will be cost-shared. As a part of the proposal process, consultants are being asked to provide agency-specific cost breakdowns, so that costs for each of the four agencies will be borne in appropriate proportion to the work required to develop the needed information. As noted in the attached report, the total cost of the project cannot accurately be estimated before proposals are received.

POLICY CONSIDERATIONS

See the attached Budget and Finance/Transportation and Community Development Committee Report.

RECOMMENDATION

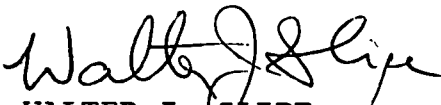
It is recommended that the Council adopt the attached Resolution, which authorizes issuance of a RFP on behalf of the City, the County, SHRA, and RT for the purpose of selecting a consultant to perform a study of the utilization of minority-owned and women-owned businesses in the Sacramento market area, and provides that staff will report back with request for funding approval and recommendation for contract award when the necessary information is available.

Respectfully submitted,



ROBBIN DESHIELDS RANDOLPH
Assistant Director of
General Services

RECOMMENDATION APPROVED:



WALTER J. SLIPE
City Manager

Contact Person:
Robbin Randolph
Asst. Director of General Services
449-2020

December 4, 1990
All Districts

RESOLUTION NO.

90-974

APPROVED
BY THE CITY COUNCIL

DEC 5 1990

OFFICE OF THE
CITY CLERK

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR SELECTION OF A CONSULTANT TO PERFORM A MINORITY/WOMEN BUSINESS ENTERPRISE (M/WBE) UTILIZATION STUDY.

WHEREAS the City of Sacramento is committed to equality of opportunity for all segments of the business community to participate in the business transactions undertaken by and on behalf of the City; and

WHEREAS the City Council has established goals calling for the City to achieve levels of 20% minority and 5% women business enterprise utilization;

IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

1. Staff is authorized to issue a request for proposals (RFP) and to negotiate on behalf of the City, the County of Sacramento, the Sacramento Housing and Redevelopment Agency (SHRA), and the Sacramento Regional Transit District (RT) for the purpose of selecting a consultant to perform a study of the utilization of minority-owned and women-owned businesses in the Sacramento market area.
2. Request for funding approval and recommendation for contract award will be submitted to the City Council when the information is available.

ATTEST:

MAYOR

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____



2

DEPARTMENT OF
GENERAL SERVICES

OFFICE OF MINORITY, WOMEN
AND SMALL BUSINESS

CITY OF SACRAMENTO
CALIFORNIA

MWBE91:021:RDR:RH:rh

5730 - 24TH STREET
BUILDING FOUR
SACRAMENTO, CA
95822-3699

916-449-8505

November 20, 1990

Budget and Finance Committee
Transportation and Community Development Committee
Sacramento, California

Honorable Members in Session:

**SUBJECT: REQUEST FOR AUTHORIZATION TO ISSUE REQUEST FOR PROPOSALS
 TO SELECT A CONSULTANT TO PERFORM A MINORITY/WOMEN
 BUSINESS ENTERPRISE (M/WBE) UTILIZATION STUDY.**

SUMMARY

Staff of the Office of Minority, Women and Small Business, working with representatives from the County of Sacramento and the Sacramento Housing and Redevelopment Agency (SHRA) has developed a Request for Proposals (RFP) for use in selecting a consultant to perform a study of business demographics and minority/women business enterprise (M/WBE) utilization in the Sacramento market area. This report requests that the Joint Committees recommend to the full Council approval of the attached Resolution which authorizes issuance of the Request for Proposals.

BACKGROUND

In August, 1988, the City Council adopted goals for the City to increase the level of minority and women business enterprise utilization. Those goals call for the City to achieve 20% minority and 5% women business utilization in discretionary business transactions.

In January, 1989, the U.S. Supreme Court issued a decision in the case of the City of Richmond v. J.A. Croson Co., which requires that

state and local governments base any preferential minority business programs on a "factual predicate" that demonstrates past discrimination against the group(s) to be offered preference. In addition, any mandatory utilization goals which are established must be based on M/WBE availability in the subject contracting category.

In September, 1989, the Council authorized staff to negotiate with the County of Sacramento and the SHRA to develop an (RFP) to select a consultant to perform a utilization study of the Sacramento market area. The results of the study could serve as the basis on which the agencies might establish remedial measures (e.g., bid preferences) in the event that utilization disparities resulting from discrimination are revealed. Whether any such remedial actions are taken on behalf of the City following completion of the study would be a decision to be made by the City Council.

FINANCIAL DATA

The area of minority/women business enterprise utilization studies is a relatively new field, having emerged as a result of the Supreme Court's Croson decision. Because of this fact, it is not possible to accurately estimate the cost of the study that is being proposed for the Sacramento market area. Only after the proposals have been received and their cost elements reviewed can an accurate cost projection be made. Since the study will be made on behalf of the County of Sacramento and the SHRA, those agencies have agreed to bear their shares of the costs. Request for funding approval will be submitted to the City Council once a fee has been negotiated with the consultant.

POLICY CONSIDERATIONS

The City's established M/WBE utilization goals are to achieve 20% minority and 5% women business enterprise utilization. For each of the last two years the combined M/WBE total utilization rate (Operating Budget) has been 7.4%. The Council may, at some point, wish to embrace measures such as bid preferences or other preferential mechanisms which could assist in increasing the share of the City's business flowing to the M/WBE business community. Until a "factual predicate" is established indicating the need for such measures, no such actions could legally be taken. Additionally, a component of the study will analyze the business demographics of our market area. This analysis will provide a basis on which establish appropriate goals for each contracting category.

M/WBE Utilization Study - RFP Authorization
Budget and Finance Committee
Transportation and Community Development Committee
November 20, 1990
Page 3

RECOMMENDATION

It is recommended that the Joint Committees recommend adoption by the full Council of the attached Resolution, which authorizes issuance of an RFP to select a consultant to perform an M/WBE utilization study. When the information becomes available, a request for funding approval and recommendation of a contract award will be submitted to the City Council.

Respectfully submitted,



Robbin DeShields Randolph
Procurement Services Manager

RECOMMENDATION APPROVED:



JACK R. CRIST
Deputy City Manager

Contact Person:
Robbin DeShields Randolph
Procurement Services Manager
449-5553

November 20, 1990
All Districts



DEPARTMENT OF
GENERAL SERVICES

OFFICE OF MINORITY, WOMEN
AND SMALL BUSINESS

CITY OF SACRAMENTO
CALIFORNIA

December 10, 1990
MWBE90:028:RDR:RH:rh

5730 - 24TH STREET
BUILDING FOUR
SACRAMENTO, CA
95822-3699

916-449-8505

Dear Consultant/Vendor:

Enclosed is a copy of a Request for Proposals issued by the City of Sacramento on behalf of the City, the County of Sacramento, the Sacramento Housing and Redevelopment Agency (SHRA), and the Sacramento Regional Transit District (RT). The purpose of the RFP is to select a consultant to perform a Study of the Utilization of Minority/Women Business Enterprise in the Sacramento market area.

Key dates related to the proposal process are:

January 11, 1991 - Pre-proposal conference

February 1, 1991 - Final date for submitting proposals

The City of Sacramento is the issuing agency for the RFP, and any questions that you have may be addressed to:

City of Sacramento
Office of Minority, Women & Small Business
Attn: M/WBE Utilization
5730 - 24th Street, Buil
Sacramento, CA 95822

If you have questions about the RFP
(916) 449-5551 or me at (916) 449-55
participating in the proposal proces

Sincerely,

Robbin DeShields Randolph
Assistant Director of General Service

Encl.

3.11, 12/4/90
Meeting
Folder
check date.

Request for Proposals

for

Consultant Services

for

**A STUDY OF THE UTILIZATION OF
MINORITY/WOMEN BUSINESS ENTERPRISES (M/WBE)**

City of Sacramento
County of Sacramento
Sacramento Housing and Redevelopment Agency
Sacramento Regional Transit District

Proposal Due Date: February 1, 1991

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SECTION 1.0 - ADMINISTRATIVE INFORMATION AND REQUIREMENTS

1.1 ADMINISTRATIVE INFORMATION

1.1.1 REQUEST FOR PROPOSAL (RFP)

The City of Sacramento invites proposals from experienced, qualified Proposers to provide for the City of Sacramento (City), County of Sacramento (County), the Sacramento Housing and Redevelopment Agency (SHRA), and the Sacramento Regional Transit District (RT), a Study of the Utilization of Minority/Women Business Enterprises (M/WBE).

1.1.2 RFP ISSUE DATE

The issue date for this Request for Proposals is December 7, 1990.

1.1.3 ISSUING AGENCY AND CONTRACTING AGENCY

The RFP is being issued by the following City organization on behalf of the City of Sacramento, County of Sacramento, the Sacramento Housing & Redevelopment Agency, and the Sacramento Regional Transit District:

City of Sacramento
Office of Minority, Women & Small Business
5730 - 24th Street, Building 4
Sacramento, CA 95822

The City will also function as the contracting agency on behalf of the City of Sacramento, County of Sacramento, the Sacramento Housing & Redevelopment Agency, and the Sacramento Regional Transit District at such time as a contract is issued for performance of the work called for in this RFP.

1.1.4 KEY ACTION EVENTS AND PROJECTED DATES

Release of RFP	12/07/90
Pre-Proposal Conference	1/11/91
Proposals Due to City from Proposers	2/1/91
Interviews (Approximate)	2/25/91
Contract Negotiations Completed by	3/29/91
Award Recommendation w/Contract Execution by	4/15/91

NOTE: The City of Sacramento reserves the right to modify the above dates. Changes will be forwarded to prospective Proposers in writing.

1.1.5 **DELIVERY**

Following notification of selection and award of contract, the Consultant will provide the City of Sacramento, County of Sacramento, SHRA and RT with consulting services described in the proposal for the time period agreed upon for completion of the M/WBE Utilization Study.

1.1.6 **DEFINITION OF TERMS**

1.1.6.1 City, Contracting Agency, Issuing Agency
City of Sacramento

1.1.6.2 Consultant
The Proposer selected to provide the consulting services requested by the RFP.

1.1.6.3 County
County of Sacramento

1.1.6.4 MBE
Minority Business Enterprise. To be considered a MBE, a business must have a minimum of 51% ownership and day-to-day control vested in an ethnic minority individual or individuals.

1.1.6.5 Minority
An individual whose ethnic identity falls into one or more of the following classifications: **Black American** (U.S. citizens/lawfully admitted permanent residents having origins in any of the black racial groups of Africa); **Hispanic American** (U.S. citizens/lawfully admitted permanent residents of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race); **Asian/Pacific Islander** (U.S.

citizens/lawfully admitted permanent residents whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, the Northern Marianas, India, Pakistan, Bangladesh, Sri Lanka, Sikkim, Burma, and Bhutan); **American Indian/Alaskan Native** (U.S. citizens/lawfully admitted permanent residents who are American Indians, Eskimos, Aleuts, or those who maintain cultural identification through tribal affiliation or community recognition; or those who demonstrate at least one-quarter descent from such groups).

- 1.1.6.6 Project
The Study of the Utilization of Minority/Women Business Enterprises (M/WBE).
- 1.1.6.7 Proposer
A firm which proposes to provide the consulting services requested by the RFP.
- 1.1.6.8 RT
Sacramento Regional Transit District.
- 1.1.6.9 SHRA
The Sacramento Housing and Redevelopment Agency (SHRA) is an agency comprised of the following entities: Housing Authority of the City of Sacramento, Housing Authority of the County of Sacramento, Redevelopment Agency of the City of Sacramento, Redevelopment Agency of the County of Sacramento and Sacramento Housing and Redevelopment Agency-Joint Powers Authority.
- 1.1.6.10 WBE
Woman Business Enterprise. To be considered a WBE, a business must have a minimum of 51% ownership and day-to-day control vested in a woman or women.

1.2 RULES GOVERNING COMPETITION

1.2.1 INSTRUCTIONS FOR PREPARING AND SUBMITTING PROPOSALS

1.2.1.1 Submittal Address

Mail or Deliver Proposals to:

City of Sacramento
City Clerk's Office
ATTN: M/WBE UTILIZATION STUDY RFP
915 "I" Street, Ste. 304
Sacramento, CA 95814

1.2.1.2 Final Submission Date and Required Copies

Proposals must be submitted in 15 copies to be received by the City Clerk's Office as listed above not later than 5:00 p.m. on February 1, 1991.

1.2.1.3 Economy of Preparation

Proposals should be prepared as simply and economically as possible while providing straight-forward, concise delineation of the firm's capabilities to satisfy the requirements of the RFP. Fancy bindings, colored displays and promotional material, etc. are neither necessary nor desired. Technical literature about the firm's experience and qualifications may be included. The emphasis should be on completeness and clarity of content. In order to expedite the evaluations, it is essential that specifications and instructions contained in the Proposal Instructions be followed as closely as possible.

1.2.1.4 Proposal Signature

Each proposal shall be signed by a principal of the firm or other person fully authorized to act on behalf of the firm.

1.2.1.5 Cost

All Proposers must include a pricing section

which contains all of the price elements described in Section 3.4.

1.2.1.6 Project Schedule

A detailed project schedule must be included as an element of each proposal.

1.2.1.7 Agency Right to Waive Irregularities

The issuing agency reserves the right to waive irregularities in the proposal process or to modify the selection process and timeline as it deems necessary.

1.2.2 CONTACT BETWEEN PROPOSER AND ISSUING AGENCY

1.2.2.1 Questions

Inquiries concerning any aspect of this RFP and contract award should be submitted, in writing, to:

City of Sacramento
Office of Minority, Women & Small Business
Attn: M/WBE Utilization Study RFP Committee
5730 - 24th Street, Building 4
Sacramento, CA 95822

The closing date for receipt of written questions will be January 3, 1991.

1.2.2.2 Interpretation of Documents

If any Proposer contemplating submission of a proposal is in doubt as to the true meaning of any part of the RFP or other proposed Contract Documents, the Proposer may submit to the City Office of Minority, Women & Small Business a written request for an interpretation thereof. Replies to inquiries will be published in the form of Addenda to the RFP. The City, County, SHRA and RT will not be responsible for oral or other explanations or interpretations of the documents.

Should the Proposer feel that an error appears in the RFP documents, Proposer shall

notify the City of Sacramento, Office of Minority, Women & Small Business not later than January 3, 1991.

1.2.2.3 Pre-Proposal Conference

All prospective Proposers interested in submitting proposals for this project are invited to attend a pre-proposal conference. The pre-proposal conference is scheduled to be held on January 11, 1991, between 8:30 a.m. and 11:30 a.m. in the Planning Commission Hearing Room, 1231 "I" Street, Sacramento.

1.2.2.4 Addenda and Supplements to RFP

If it becomes necessary to revise any part of this RFP, addenda to the RFP will be provided to all known prospective Proposers.

1.2.2.5 Modification or Withdrawal of Proposals

Unauthorized conditions, limitations, or provisions attached to a proposal may cause its rejection. No oral, telegraphic, telephonic, or facsimile (FAX) proposals or modifications will be considered. A proposal may be withdrawn upon request by the Proposer without prejudice to the Proposer prior to, but not after the deadline fixed for submittal of proposals, provided that the request is in writing, has been executed by the Proposer or the Proposer's duly authorized representative, and has been filed with the City.

1.2.2.6 Extension of Time

The issuing agency reserves the right to extend the proposal due-date.

If a Proposer needs an extension of time to prepare the proposal, a request should be forwarded in writing not later than ten (10) days prior to the due date of this RFP. The request should be directed to the Office of Minority, Women & Small Business (see Item 1.2.2.1).

Granting of an extension will be based on the number of such requests, and the reason(s) for each request. In the event of an extension, prospective Proposers will be notified immediately and appropriate addenda will be issued.

1.2.3 **REQUIREMENTS ESTABLISHED BY THE CITY, COUNTY, SHRA AND REGIONAL TRANSIT**

1.2.3.1 Disclosure of Proposal Information

Proposals submitted become a matter of public record. Where, in the course of making a proposal, a Proposer submits technical or business information which is claimed to be confidential, the Proposer shall so indicate. The contracting agency shall give consideration to the claim of confidentiality. However, proposers should understand that the contracting agency has reservations as to whether any such information may be exempt from disclosure under the California Public Records Act (Government Code Section 6250, et seq.).

1.2.3.2 Rejection of Proposal

It is recognized that each Proposer may have unique typical methods of service delivery. It is not the intention of the RFP to disqualify a Proposer due to variations in service delivery that do not affect quality and performance. Any proposal offering professional services of quality and performance equivalent to or better than that requested, which provides the necessary service, will receive full consideration for award.

The issuing agency reserves the right to reject any and all proposals received by reason of this request, or to negotiate separately with any source whatsoever in any manner necessary to serve the best interests of the City, County, SHRA and RT.

The issuing agency may elect not to award a contract solely on the basis of this request

for proposals, and will not pay for the information solicited or obtained. The information obtained will be used in determining the alternative that best meets the needs of the City, County, SHRA and RT.

Non-acceptance of any proposal will be devoid of any criticism of the proposal and of any implication that the proposal is deficient. Non-acceptance of any proposal will mean that another proposal or alternative was deemed to be more advantageous to the City, County, SHRA and RT.

All material submitted becomes the property of the contracting agency, and may be returned only at the contracting agency's option.

1.2.3.3 Proposer's Cost

Costs for developing proposals are entirely the responsibility of the Proposer, and shall not be chargeable in any manner to the City, County, SHRA or RT.

1.2.3.4 Use of RFP Ideas

The City, County, SHRA and RT reserve the right to use any or all Proposer service ideas presented. Selection or rejection of the proposal does not affect this right.

1.2.3.5 Acceptance of Proposal Content

The contents of the proposal of the successful Proposer will become contractual obligations if a contract award is made. Failure of successful Proposer to accept these obligations in a contractual agreement may result in cancellation of the award.

1.2.3.6 Contract

The City's **General Provisions**, which include the General Insurance Provisions, for Consultant Contracts are included as **Exhibit "A"** and are herein incorporated by

reference. The issuing agency reserves the right to negotiate final terms, conditions and requirements with the successful Proposer.

If the proposal represents offerings to be provided by different firms or other organizations, the contract will be solely with the Proposer (Consultant), who will be required to assume responsibility for the total project. Any proposed sub-contractors will be subject to approval by the City, County, SHRA and RT.

1.2.3.7 Changes

The City, County, SHRA and RT shall have the right at all times to require changes in, additions to, or deletions from the work contemplated by the contract documents, and the same shall in no way make void the contract. Changes and additions resulting in increased costs shall be made only pursuant to a written change order or contract amendment issued by the contracting agency and bearing the acceptance endorsement of the Consultant. Deletions from the scope of work required may be made at the sole discretion of contracting agency. Payment for any partially-completed work elements, which are halted at the request of the contracting agency, will be made in proportion to the percentage of completion of the work element and in accordance with the cost schedules as agreed to within the scope of RFP Section 3.4 (Part 4 - Proposal Cost and Work Schedule).

1.2.3.8 Consultant Responsibilities

The Consultant must commit a professional staff and an experienced project manager who will be responsible for coordination of the services with the City, County, SHRA and RT project coordinators.

Service shall be the best of its respective kind. All professionals shall be especially skilled, thorough, and first-class in all

respects.

1.2.3.9 Internal Project Administration

The project will be internally coordinated centrally by the City of Sacramento Office of Minority, Women & Small Business. In addition, each agency will have a project coordinator who will serve as primary contact for the agency.

1.2.3.10 External Project Administration

The Consultant will be expected to oversee and coordinate all aspects of this project. The Consultant will also be expected to provide technical and clerical expertise in order to monitor and report on the progress of all project elements, maintain all work schedules, identify system procedures, etc., in accordance with the requirements of this RFP and the subsequent contract. The Consultant must work closely with the City, County, SHRA and RT project coordinators to ensure that responsibilities are understood and are being carried out.

1.2.3.11 Facilities and Resources

The Consultant shall furnish all equipment, facilities, labor, supervision, and any and all other required materials and services except as otherwise specified in its proposal.

The Proposer shall specify any equipment or facilities that the agencies will be asked to provide to facilitate completion of the project.

No City, County, SHRA or RT resources in terms of personnel, facilities or equipment will be provided unless agreed upon in writing.

1.2.3.12 Licenses and Permits

The Consultant shall be required to obtain any necessary licenses and permits and shall

comply with all Federal, State, and local laws, codes and ordinances without cost to the City, County, SHRA or RT.

1.2.3.13 Non-Waiver of Defaults

Any failure by the City, County, SHRA or RT to enforce or require the strict keeping and performance of any of the terms and conditions of the contract shall not constitute a waiver of such terms and conditions, nor shall it affect or impair the right of the City, County, SHRA or RT to avail themselves of such remedies as may be available for any breach of the terms and conditions.

1.2.3.14 Non-Appropriation of Funds

Any contract resulting from this RFP is subject to appropriation of funds by the legislative bodies of each agency for each fiscal year for services listed herein.

1.2.3.15 M/WBE Policy

The City, County, SHRA and RT actively encourage the participation of M/WBE (Minority/Women Business Enterprise) Proposers in the RFP process. Proposers who respond to this RFP are encouraged to incorporate M/WBE participation in their proposals.

1.2.3.16 Confidentiality of Project Information

The Proposer shall agree that all data and information obtained from the City, County, SHRA and RT and all writings prepared in the course of completing the project shall remain confidential. No such material or information relating to the project shall be released without the written consent of the contracting agency.

1.2.3.17 Ownership of Reports, Data and Information

The reports, data, analyses and other information and reports provided as a result

of any studies performed under contract resulting from this RFP shall be the property of the City, County, SHRA, and/or RT.

1.2.4 EVALUATION PROCESS

1.2.4.1 General

An evaluation team comprised of representatives from the City, County, SHRA and RT will validate and evaluate all proposals received. All requirements identified in this RFP must be satisfied in order to ensure that a proposal will qualify for consideration.

An evaluation system will be used to rank the proposals. Evaluation categories include, but are not necessarily limited to the cost of services, proposed work plan, demonstrated competence, personnel experience, and adherence to the proposal format instructions specified in the RFP. The recommendation for contract award will not necessarily be based on the lowest price proposed.

1.2.4.2 Proposer Appraisal

Previous clients of each Proposer that submits a proposal may be approached with specific questions regarding the Proposer's past performance. Responses to these questions may be used as a part of the proposal evaluation process. Selection of such clients will be based on previous work performed by the Proposer of a type comparable to that described in this RFP.

1.2.4.3 Evaluation Questions/Presentations

During the validation, evaluation, and selection process, the City, County, SHRA or RT may require the presence of Proposer's representatives to make presentations and answer specific questions. Notification of any such requirement will be given as necessary.

SECTION 2.0 - SCOPE OF WORK

2.1 BACKGROUND

In January, 1989, the U.S. Supreme Court issued a decision in the case of the City of Richmond v. J.A. Croson Co. that affects state and local minority preference programs. The City, County, SHRA and RT have in the past utilized various methods to attempt to increase participation of M/WBE firms in the transactions conducted by the agencies. In light of the Supreme Court decision, the City, County, SHRA and RT have deemed it appropriate to undertake a study of M/WBE utilization in order to provide up-to-date factual substantiation for existing and future efforts.

2.2 AGENCY PROGRAMS

2.2.1 CITY of SACRAMENTO

Overview

The City first established M/WBE participation goals in 1985 (Resolution No. 85-318), with M/WBE use monitored by the City's Office of Economic Development. In August of 1988 a Minority/Women Business Enterprise Program was established (Resolution No. 88-738), with a City certification process and participation goals set at 20% (MBE) and 5% (WBE) for expenditures from the Operating Budget. In January, 1989, the same goals were applied to the Capital Improvement Projects (CIP) budget. No monetary or percentage preferences have been used to reach the goals, nor has any contract set-aside system been employed. The City Public Works Department also maintains goals for the participation of Disadvantaged Business Enterprise (DBE) firms on projects funded wholly or in part by Federal Aid Urban (FAU) monies. Current goals under this program are for a minimum of 11% DBE utilization.

The City maintains a "self-certification" (i.e., applicants attest to truth of information under penalty of perjury) process for certification of M/WBE firms. Once certified, the M/WBE vendors are entered in the City's central computerized Bid List, with vendor code numbers that identify the ethnicity (5 categories - American Indian/Alaskan Native,

Asian/Pacific Islander, Black, Caucasian, and Hispanic) and gender of the firm's ownership. Certifications are valid for a two year period. The City's list currently contains approximately 950 certified M/WBE vendors.

The Office of Minority, Women and Small Business provides reports to the City Council on a quarterly basis, providing City-wide M/WBE utilization rates. These reports were first provided in October 1988, and covered discretionary expenditures from the Operating Budget. In January 1989 the reporting was expanded to include discretionary expenditures from the Capital Improvement Projects (CIP) Budget. The reports provide statistical information on total discretionary expenditures from each budget with breakouts showing amounts (and percentages) spent with City-certified M/WBE firms. Copies of these reports will be available to the consultant performing the M/WBE utilization study.

Construction Contracting

City construction contracts are administered by the Public Works Department, the Department of General Services, or the Department of Parks and Community Services, depending on the type of work required and the estimated project costs. Contracts with an estimated cost of \$25,000 or more are formally bid. Those with an estimated cost of less than \$25,000 are generally bid informally. The formally bid construction contracts are administered either by Public Works or General Services. Informal bids may be administered at the individual departmental level. In most cases, only the formally bid contract records will contain comprehensive information about the bid solicitation and contract award process.

General Services (Facility Management Division) processes approximately 100 formally bid construction contracts per year. Construction contract records are maintained indefinitely by Facility Management. The records contain the bid list, the name of the successful bidder (prime contractor), contract dollar amount, contract award letters, and a list of first-tier subcontractors (usually, the ethnicity and gender of the subcontractors is included). Summary contract information is maintained in computerized files on a MacIntosh system. Hard copy records of all Facility

Management contracts are kept at the City Corporation Center South, with duplicate records of formal contracts maintained by the City Clerk's Office. For the purpose of conducting the utilization study, the consultant will be given direct access to the contract files maintained by Facility Management.

Informally bid construction contracts (those of \$25,000 or less) handled by General Services (Facility Management) number about 200 annually and contain substantially the same kinds of information as described above for formal contracts, but generally in less detail. Also, these records contain no information on subcontractor utilization (few of the contracts involve subcontracting).

The Public Works Department processes approximately 50 formally bid construction contracts per year. Construction contract records at Public Works are maintained for ten years. Summary contract information is available through a computerized system using dBase III+ software. Hard copy contract records contain bid lists, project specifications, contract dollar amounts, prime contractor, listing of subcontractors, and other miscellaneous contract-related information. Only the more recent (past 1-2 years) records contain M/WBE information about the subcontractors, and this usually does not include ethnicity (i.e., just MBE or WBE). The hard copy records of Public Works construction projects are kept at the Engineering Division - Construction Section. For the purpose of conducting the utilization study, the consultant will be given direct access to the contract records.

Informally bid construction contracts (those of \$25,000 or less) handled by Public Works number less than ten per year. The contract records contain substantially the same kinds of information as described above for formal contracts, but generally in less detail. Also, these records contain no information on subcontractor utilization (few of the contracts involve subcontracting).

The Department of Parks and Community Services (P&CS) does not administer construction contracts of \$25,000 or more. Any P&CS construction projects valued at \$25,000 or more are administered by the Public Works Department, and have been included in the numbers

shown for Public Works. Informally bid construction contracts (those of \$25,000 or less) handled by P&CS number about 75 to 100 per year.

Commodities Purchasing and Non-Professional Services

The City enters into contracts for many types of products, and maintains a centralized purchasing operation as a part of the Procurement Services Division of the Department of General Services.

The Purchasing Office receives requisitions from all 17 City departments and carries out the procurement function on their behalf. Buyers have discretionary purchasing authority for acquisitions of less than \$2,000. For purchases greater than \$2,000 and less than \$25,000 an informal bidding process is used, requiring solicitation of competitive quotations (either written or verbal) from at least three vendors. Purchases of \$25,000 or more require a formal bidding process, with bids received and publicly opened by the City Clerk.

The Purchasing Office processes approximately 6,000 purchase orders annually. Records are maintained by the Purchasing Office for five years. The records of both formal and (written) informal bids contain the names and addresses of firms to whom invitations to bid were sent, bid sheets, and award information, as well as award protest documentation, if any. Information documenting verbal quotations is attached to the file copies of purchase orders. For purposes of the M/WBE utilization study the consultant will be given direct access to the purchase order and bid files.

Contracts for Consultants and Professional Services

All 17 City departments are authorized to issue contracts for professional services. With some exceptions, contracts with a total dollar value of less than \$25,000 are handled administratively, while those of \$25,000 or more require formal approval by the City Council (Note: this threshold was \$10,000 prior to March 1989). Records of all contracts of \$25,000 and greater will be available through the City Clerk's Office. Records for the contracts of less than \$25,000 will be maintained by the individual departments administering the contracts. There may be

wide variance in the kinds of information retained and the length of time such records are kept, depending on the internal departmental policies.

2.2.2 COUNTY of SACRAMENTO

Overview

The Public Works Department administers public works construction contracts, while General Services is responsible for commodities and services contracts for the County. Each department has its own method of assisting and monitoring M/WBE participation.

It should also be noted that while these two departments have primary responsibilities as noted, all County departments have the authority to independently issue contracts for some professional and other services.

Construction Contracting

The County Public Works Department issues contracts for construction projects and for professional and technical services. Construction contracts range in cost from \$25,000 to over \$100,000,000 and include new construction, modifications, and remodeling for a wide variety of needs - from bridges, highways, and other infrastructure, to airport facilities, jails and office buildings. Professional and technical service contracts are issued for a broad range of services.

The County Public Works Department does not have formal goals for M/WBE participation, except on projects which receive federal funding. The department does operate under the general policy adopted by the County of encouraging participation of M/WBE firms in its contracts.

Federal agencies from which the County Public Works Department has received funding, and thus established M/W/DBE project goals, include the U.S. Department of Transportation (aid for County roads), Federal Aviation Administration (aid for airport facilities), and the U.S. Environmental Protection Agency (aid for waste-water treatment facilities). "Set-asides" are not used on these or other County projects. Most County projects are advertised in the Sacramento Observer (a Sacramento black-owned newspaper), and are

also provided to the plan room at NEDA, San Joaquin Valley's Sacramento office (NEDA is a Minority Business Development Center).

County policy for increasing the utilization of M/WBE firms has been evolving over the past 10 to 15 years, and formal policy has been incorporated in procurement procedures for professional engineering services for projects financed by Measure "A" funds for local transportation projects.

With the exception of some "emergency" contracts for amounts of \$25,000 or less, the County Public Works Department administers the County's construction contracts. Approximately 125 contracts are issued annually. Construction contract records are retained for seven years. The records include project plans and specifications, insurance and bonding information, total dollar amount of the contract, prime contractor, list of subcontractors (without dollar amounts of subcontracts), and the list of bidders and amounts bid on the project. (For some Federal projects the list of subcontractors may also include the dollar amount of the subcontract). Most of the hard copy contract files are located at the Public Works Administration offices, though some older records have been transferred to other County storage facilities. Summary contract information, such as total dollar value of contract, name of prime contractor, etc. is maintained in a computerized database using dBase III+. For the purpose of conducting the M/WBE utilization study, the consultant will be given direct access to all contract files except those currently active. Active files will require staff assistance for access. County construction contract records will not contain ethnicity and gender identification information for prime or subcontractors except for federally funded projects, and in most cases that identification will be limited to minority (MBE) or women (WBE) without specific ethnic categories. A separate Labor Compliance Office may be able to provide supplemental information on ethnicity and gender of prime and subcontractors utilized on federally funded projects. Since the County does not have its own M/WBE certification program, it accepts certifications of CalTrans, the Environmental Protection Agency (EPA), and Sacramento Housing & Redevelopment Agency (SHRA) for purposes of determining M/WBE participation in County projects.

Commodities Purchasing and Non-Professional Services

The Purchasing Division of General Services handles the contracts for commodities and services. The M/WBE utilization efforts are made under a program called "Minority, Small, and Woman-Owned Business Enterprise" (MSWBE). The program identifies M/WBE businesses for the purpose of enhanced outreach, with emphasis on expanding bidding opportunities for M/WBE businesses located within Sacramento County. SHRA handles certification of businesses for the County. No goals, monetary or percentage preferences, or contract set-asides are utilized. The program has been in existence since the early 1970's, and was enhanced in 1988 to provide for formal certification through SHRA. The program is administrative in nature and requires no legal authority beyond Sacramento County Code, Chapter 2.56, the County's "Purchasing Ordinance".

Records of transactions handled through the Purchasing Division are maintained for five years, in hard copy. M/WBE information is included in the records, but may be inconsistent and somewhat cumbersome to retrieve, due to the manual record-keeping system. The County has used a three-element identification system for M/WBE vendors, categorizing minority-owned (M), woman-owned (W), and small (S).

2.2.3

SACRAMENTO HOUSING and REDEVELOPMENT AGENCY (SHRA)

Overview

The Sacramento Housing and Redevelopment Agency is an agency comprised of the following entities: Housing Authority of the City of Sacramento, Housing Authority of the County of Sacramento, Redevelopment Agency of the City of Sacramento, Redevelopment Agency of the County of Sacramento and Sacramento Housing and Redevelopment Agency-Joint Powers Authority. At SHRA, a program aimed at increasing M/WBE participation has been in place since April, 1985. The original goals were for 10% (MBE) and 1% (WBE) utilization on Community Development Block Grant (CDBG) projects. In January 1987, the SHRA program was expanded to include all purchases, professional services, all publicly-bid and many privately-bid construction projects. At the same time, the goals were increased to 20% (MBE) and 5% (WBE). The SHRA programs have been authorized by the SHRA Commission, the Sacramento City Council and

the Sacramento County Board of Supervisors. The federal Public Works Employment Act of 1977 (PWEA) and federal Executive Orders 11625, 12138, and 12432 provide the basis on which the SHRA program was established.

The SHRA Program is a "goals" program in which failure on the part of a bidder to meet prescribed project goals, or to show a good faith effort to meet them, can result in that bidder being found non-responsive and thus not eligible for the contract award. On applicable projects, the three low bids are referred to the MBE/WBE department for analysis of the responsiveness of the bids.

SHRA maintains a "self-certification" program. Applications must be notarized, and information is accepted as accurate unless there is specific information indicating otherwise. The certification process identifies vendors by both ethnicity and gender. SHRA also accepts CalTrans certification for purposes of MBE/WBE compliance with project goals requirements. SHRA also performs the certification function for the County's Purchasing Division.

Construction Contracting

Construction contracts administered by SHRA and subject to the Agency's MBE/WBE program requirements number about 25 per year. These contracts initiate in the following departments: Rental Rehab, Construction Monitoring, Community Development Block Grant, and Comprehensive Improvement Assistance Program. Records for SHRA construction contracts are maintained in computer files, and are available for 1989, 1988, and most of 1987. Contract file information includes awardee, sub-contractors, amounts of prime and sub contracts, and M/WBE participation. Hard copy files are also maintained which include good faith documentation and other forms submitted by bidders, as well as copies of memos to project managers (from the MBE/WBE department) recommending the award.

Several privately-bid Housing Development projects are bid annually and also have M/WBE goals. They number about two or three per year, and hard-copy records on such projects are available for only the more recent projects.

In addition, approximately 200 small maintenance and repair contracts on public housing are issued annually for \$25,000 or less each; these contracts are processed through the General Services Purchasing Department, as detailed below.

Commodities Purchasing and Non-Professional Services

Records for SHRA commodities and maintenance/repair service contracts are maintained manually by the Purchasing Department in hard copy form. Record of M/WBE participation in this area is also handled manually. Good quality records are available for at least the past two years.

Further information relating to SHRA contracts and M/WBE utilization may be obtained from annual reports to the governing agencies (City and County) and semi-annual reports to the federal Housing and Urban Development (HUD) agency. These reports are available for 1987-89.

2.2.4

SACRAMENTO REGIONAL TRANSIT DISTRICT (RT)

Overview

RT has had a Disadvantaged Business Enterprise (DBE) Program since the early 1970's. At that time it was called the Minority Business Enterprise (MBE) Program and was required by the U.S. Department of Transportation (DOT) for agencies who received DOT funds. Its purpose was to stimulate the utilization of firms owned and controlled by minorities. Since 1980, DOT has promoted a similar program for female entrepreneurs through a Women's Business Enterprise (WBE) Program.

When Congress enacted the Surface Transportation Assistance Act of 1982, it also directed that, to the extent possible, at least 10 percent of Federal-aid highway and transit funds be expended with small disadvantaged business firms.

Accordingly, the U.S. Department of Transportation issued new regulations for recipients of Federal transportation funds. These regulations expand upon the Minority Business Enterprise (MBE) program which has been in effect since 1972.

Because Congress specifically directed that the DOT use the Small Business Administration's definition of ". . . small business concerns owned and controlled by socially and economically disadvantaged individuals. . . ." the term MBE was dropped and replaced by the term DBE. The essence of the program was not changed by the definition, although it now means that specific individuals other than traditional minorities may, under certain circumstances, be designated as DBE's.

The new DBE regulations require State and local transportation agencies (called "Recipients") which receive Federal funds to adopt specific annual goals for participation by certified DBE firms in highway and transit contracts. The goal is expressed as a percentage and reflects the expected dollar value of DBE participation relative to the expected total Federal-aid dollars expended in contracts by the Recipients. Recipients are required to establish the goals prior to the start of each federal fiscal year (October 1).

The DBE regulation establishes a uniform procedure whereby each Recipient must establish its annual goal and submit that goal to the respective Federal transportation agency for approval. The regulation also specifies remedial actions which might be taken by the Federal transportation agency if a Recipient fails to achieve the specified goal at the end of the year.

On April 2, 1987, Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) into law. Section 106(c) of the STURAA directed several changes to the DOT DBE Program resulting in amendments to the DOT regulations concerning DBE Programs.

The regulations were amended to include the following major changes:

- (1) Women are included in the definition of disadvantaged individuals. Thus, a single DBE goal is required instead of separate DBE and women business enterprise (WBE) goals;
- (2) Recipients and contractors are permitted to count 60 percent of the value of materials and supplies purchased from DBE's that are regular dealers

toward the recipient's and contractor's DBE goals. Former regulations permitted only 20 percent of the value of materials and supplies purchased from DBE's toward the recipient's and contractor's goals. 100 percent is still counted towards DBE's that are manufacturers; and

- (3) DBE firms will be graduated from the DBE program if their average annual gross receipts over three (3) years exceed \$14 million.

Regional Transit receives financial assistance in the form of grants from agencies of the United States Department of Transportation (hereinafter DOT agencies). A portion of the funds received by Regional Transit under DOT agency grants are expended under contracts awarded for supplies, services, and public works projects.

DOT agencies have established regulations pertaining to the award of contracts funded in part or whole with DOT financial assistance. These regulations are designed to ensure that agencies awarding contracts funded by specified DOT agencies will affirmatively encourage competition by and will afford an equal opportunity to small business concerns owned and controlled by those individuals who are socially and economically disadvantaged (DBE's).

Regional Transit's Disadvantaged Business Enterprise (DBE) Program implements the foregoing regulations, which are contained in Part 23 of Title 49 of the Code of Federal Regulations (49 C.F.R. Part 23). Pursuant to those regulations, Regional Transit's DBE Program establishes a DBE participation goal for all projects receiving DOT agency funding as specified in the regulations. The DBE goal represents the portion of the DOT funds to be expended under contracts for supplies, services, and public works projects that are anticipated to be awarded to eligible DBE's. Also, Regional Transit's DBE Program establishes affirmative steps that will be taken to meet the participation goal. Both pre-award activities as well as specific award criteria are encompassed within Regional Transit's DBE Program to maximize participation by DBE's.

Even though Regional Transit's adopted Program pertains to DOT funded contracts, it is the policy of

Regional Transit that disadvantaged business enterprises shall be affirmatively encouraged and afforded an equal opportunity to compete in all District contracting activities. Whenever possible, the methods described in the adopted DBE Program to facilitate competition by disadvantaged business enterprises shall be followed for all Regional Transit contract opportunities.

Most of RT's contracts are Federally funded. But with the recent influx of non-federal funding sources (Proposition 108 and 116, Measure A), there is a possibility that there will be a number of non-federally funded contracts, especially for the construction of Light Rail extensions.

An overall annual goal is established for the DBE Program and is submitted along with the methodology in determining the overall goal to DOT for review and approval. Before submitting to DOT, RT's Board of Directors reviews the goal and methodology for review and adoption for the DBE Program year starting October 1st. After submittal to the appropriate DOT Agency, a notice is published in the general circulation media, minority and women focused media, and available trade publications.

The goals for specific contracts are established after discussion with the DBE Officer and project managers. The reasonable goal established for specific contracts takes into consideration type of contract and subcontracting possibilities, the availability of DBE's, the geographic area utilized in seeking DBE's, and past experience in contracting with DBE's for similar contracting opportunities. When a goal is not established for a particular contract where subcontracting possibilities do not reasonably exist, Affirmative Action submittals are required of the bidder.

RT does not establish "set-asides," since it would constitute exclusionary bidding under California law in violation of California Public Contract Code Section 20321 and California Public Utilities Code Section 102222.

If a bidder does not meet the DBE participation goal established for the contract to be awarded, the bidder must describe in writing at the time DBE information

is provided those good faith efforts undertaken by the bidder to meet the DBE participation goal.

RT certifies DBE's by taking in consideration the eligibility standards and at least taking the steps stated in Section 23.45(f)(3) of Title 49 of the Code of Federal Regulations. RT utilizes the certification form indicated in the same Regulations as part of the certification process. RT requires that the DBE's listed by bidders for participation in the contract work be certified eligible DBE's. RT usually accepts certifications of CalTrans, the U.S. Small Business Administration, and other transit agencies. RT maintains and updates a file of eligible DBE's. Each DBE that is certified goes through an annual re-certification process as required by the Regulations in order to continue to insure that the full intent of the DB Program is being met.

As required, records are maintained and quarterly and annual reports (included in the overall goal methodology) are submitted to DOT. RT has copies of these reports (in hard copy) since 1982 when goals and reporting became mandatory. They contain the following information:

- (1) The number of contracts/subcontracts awarded to DBE's
- (2) Type of contract (construction, procurement, service)
- (3) Total value of contracts or subcontracts awarded
- (4) The amount of DBE awards as a percentage of all contracts and subcontracts awarded for the quarter and cumulative for the year
- (5) Ethnicity (only on reports since 1985)

These reports are centralized with the EEO/DBE Office.

Since the early 1970's, RT has affirmatively utilized minority and women owned businesses in its contracting activities initially through DOT's MBE Program and later through the revised DBE Program. In 1982 when Congress enacted the Surface Transportation Assistance Act, goals became mandatory. At that time RT's overall annual DBE Program goals were 12% DBE and 3%

WBE. In 1984, the goals increased to 15% DBE and 3% WBE and remained that way until 1987 when STURAA required a single DBE goal instead of a separate DBE and WBE goal. The goals were combined to 18% DBE and increased to 20%. It remained 20% DBE until October 1, 1990 when the goal was increased to 23% DBE. Each year since 1982, RT has met the DBE participation goal(s).

Construction Contracts

Regional Transit's construction contracts are designed, bid and administered by the Engineering and Construction Division (ECD). The projects include major and minor capital improvements for the Light Rail System and for bus facilities, and also include some procurement contracts required to support the construction projects. The number of contracts issued during the year varies greatly with the status of RT's capital improvement program and the development of the Light Rail System.

Contracts with a value of \$25,000 or less are awarded under the General Manager's authority; contracts exceeding \$25,000 require RT Board of Directors' approval to advertise and award. The larger contracts are usually Federally funded and the smaller contracts locally funded. Evaluation is normally performed on smaller construction contracts and on procurement contracts to determine if the scope of the projects are conducive to subcontracting opportunities, (hence DBE participation). In some cases, lower goal(s) or no goal(s) are established for the bids.

RT's construction contract records are maintained in hard copy for a minimum of three years to ensure compliance with UMTA regulations. Upon completion of a project, the hard copy records are transferred from the project office to remote archive storage.

Professional Services Contracts

The Engineering and Construction Division staffing is kept at a minimum level, with professional services contracts issued to cover the fluctuations in work load and to handle major design, environmental and construction management functions. The professional services are competitively solicited through a standardized Request for Proposal (RFP) process.

Evaluation criteria are established for each RFP and may or may not include cost as a criterion, depending on Federal requirements. DBE participation generally is not given a weighted scoring in the evaluation; rather, it is evaluated to be responsive or non-responsive to the bidding requirements.

Award of a professional services contract is subject to the same controls as construction contracts with respect to RT Board approval. Contracts \$25,000 or less are awarded by General Manager and contracts exceeding \$25,000 require Board approval.

Contract records for professional services contracts are also handled in the same manner as construction contracts, with hard copy kept in the project office until completion and then removed to remote archive.

Basically, professional services contracts at RT are issued by departments by a standardized RFP process as described in RT's Purchasing Ordinance. The following is a summary of the solicitation procedures: Contracts under \$5,000 require at least two oral or written quotes, advertising optional; contracts \$5,000 - 10,000 require at least three written quotes, and advertising optional; contracts \$10,000 - 25,000 require RFP/formal proposals and advertising is mandatory once 10 days before proposal submittal. Advertising in minority newspapers and trade journals mandatory; and contracts over \$25,000 require RT Board approval of RFP and advertising required is the same as contracts \$10,000 - 25,000.

Commodities Purchasing and Non-Professional Services

Regional Transit procures many types of commodities, services and maintenance repairs. The procurements are handled through a centralized purchasing operation located at 2816 "N" Street, Sacramento.

The Purchasing and Materials Department receives and processes requisitions from all 27 Regional Transit Departments. Buyers have discretionary purchasing authority for procurements of less than \$1,000. For purchases greater than \$1,000 and less than \$5,000 an informal bidding process requiring solicitation of competitive bids from three sources is used. Bids falling within this category may be verbal or written. Procurements of greater than \$5,000 but less than

\$10,000 are subject to an informal written bid process. Purchases in excess of \$10,000 require a formal bidding process, with bids received and publicly opened by the Purchasing and Materials Manager.

The Purchasing and Materials office processes approximately 6,500 purchase orders annually. Records are maintained by the Purchasing and Materials office for five years. The records contain the names of the bidders, a tabulation of the bids received and award information. Documentation of verbal quotations are filed with copies of the purchase order. Formal written bids are filed separately from the purchase orders.

For purposes of the M/WBE utilization study the consultant may obtain some information through the District's accounts payable system and from directly researching purchase order and bid files.

2.3 WORK REQUIREMENTS

2.3.1 GENERAL

The purpose of this RFP is to select a consultant to conduct a study of the utilization of minority and women business enterprises on behalf of the City, County, SHRA and RT. In conducting the study, the consultant is to work within the parameters set forth by the U.S. Supreme Court decision in the case of City of Richmond v. J.A. Croson Co. and any other decisions that bear on the rights and abilities of local governments to implement racially-based or gender-based business preference programs. Whenever any court decision other than the Croson decision is used as a basis for methodology, assumptions, or other study techniques, such decision shall be named and the basis for its use relative to the study shall be clearly explained.

The purpose of the study is to provide the parties to this RFP with evidence, in accordance with Croson, to allow each agency to determine whether or not and to what extent remedial programs are appropriate. The overall objectives of the study are as follows:

- To examine and analyze contracting activities in

the market areas of the parties to this RFP to determine whether or not there is a disparity between M/WBE availability and utilization.

- To gather evidence of past discrimination and to determine the extent to which identified disparities are the result of that discrimination.
- To examine whether or not and the extent to which evidence found supports the establishment or continuance of remedial programs, or whether program or policy changes are appropriate.

Note: The methodology suggested in the Work Requirements (Section 2.3) represents one approach that may be taken. Proposers who can justify alternative approaches are encouraged to submit them.

2.3.2

CONTRACT CLASSIFICATION AND MARKET AREA

2.3.2.1 Contract Classification

The consultant shall identify and classify the types of contracts that are awarded by the City, the County, SHRA and RT. The classification shall include the following major categories. Where appropriate, sub-groups within each major category shall also be analyzed.

- A. Construction Contracts. Possible sub-groups include all trades and specialties for which the State of California issues Contractor licenses.
- B. Professional and Technical Services. Possible sub-groups include architectural and engineering services, environmental studies, financial services, legal services, miscellaneous consulting services, etc.
- C. Contracts for Services Other than Professional and Technical. Possible sub-groups include janitorial services, landscaping and tree-trimming services, etc.

The contracting activities (including sub-contracting) of each party to this RFP shall be addressed for all major categories listed above. Sub-groups within categories shall be addressed whenever the levels of contracting activity suggest that examination is appropriate.

For each type of contract, including both major categories and identified sub-groups, the analysis shall include the total number of contracts issued and total dollar value of the contracts. Consultant shall identify the appropriate time period to be covered by the study and the rationale for selecting that time period.

2.3.2.2 Market Area Identification by Category

For each contract category, and for all applicable sub-groups, the consultant shall provide a definition and an analysis of the market area on which the City, County, SHRA and RT draw. The market area analysis will include consideration of the geographic locations from which bids are requested or received for contracts covering the categories identified in 2.3.2.1.

2.3.3 AVAILABILITY AND UTILIZATION OF FIRMS BY CATEGORY

2.3.3.1 Total Number of Qualified Firms

For each contract category and identified sub-groups, the total number of qualified firms available for work in the market area shall be determined. Within each category and sub-group, the criteria used to define qualified firms shall be provided.

2.3.3.2 Business Demographics Analysis

Within the relevant market area, the pool of qualified available firms shall be analyzed to provide a business demographics breakdown showing the total numbers of firms that are majority-owned, minority-owned, and woman-owned, with the percentage of the total that each group represents. The analysis shall

not "double count" firms owned by female minorities, but rather shall detail the ethnicity and gender of MBE firm ownership and the ethnicity of WBE firm ownership.

The consultant shall specify the ethnic groups to be included in the study and the reasons for their selection. The minority definitions in Section 1.1.6.5 may serve as a guide, but those definitions shall not be construed as either all inclusive or exclusive.

For each contract category and sub-group, the availability data shall include information on business size, including breakdowns by ethnicity and gender of ownership. Such data may be in the form of total annual receipts, total employees, and/or other such uniform measures.

2.3.3.3 Determination of Agency M/WBE Utilization Rates

The consultant shall provide an analysis of the utilization of M/WBE firms, by the parties to this RFP, within each contract category and identified sub-group. The utilization analysis shall include the total number (or dollar amount, or other appropriate measure) of contracts issued in each category and sub-group. Within the total, the percentages issued to M/WBE firms shall be enumerated, with breakdowns by ethnicity and gender wherever possible.

2.3.3.4 Determination of Private Sector or Other Public Agency M/WBE Utilization Rates

The consultant shall provide an analysis of the utilization of M/WBE firms, in the private sector and by other public agencies, within each contract category and identified sub-group. The utilization analysis shall, to the extent possible, include the total number (or dollar amount, or other appropriate measure) of contracts issued in each category and sub-group. Within the total, the percentages issued to M/WBE firms

shall be enumerated, with breakdowns by ethnicity and gender wherever possible.

2.3.3.5 Utilization Analysis

The consultant shall perform a statistical analysis of the utilization rates determined in Sections 2.3.3.3 and 2.3.3.4 to determine whether or not there is a statistically significant disparity between the availability of firms (as described in Sections 2.3.3.1 and 2.3.3.2) and their utilization. The consultant shall fully define "significant statistical disparity" as used in the analysis.

2.3.4 EVIDENCE OF DISCRIMINATION

2.3.4.1 Instances and Patterns of Discrimination

The Consultant shall identify and provide a record and an analysis of any specific instances of discrimination and/or patterns and practices in the construction, professional and technical services industries which have had a discriminatory impact upon minority and women owned businesses and the development of minority and women owned businesses. Such examination could include: statistical disparities between availability and utilization; past union practices; availability of bonding and financing; studies and findings of governmental agencies and commissions; lawsuits and other legal actions; and other statistical evidence which may be appropriate, including models of how a given industry or category might have developed in the absence of discrimination. Interviews should be conducted with a cross-section of the minority/women business community, agencies and participants in construction, professional and technical services, and supporting industries.

2.3.4.2 Public Testimony About Discrimination

The consultant shall assist in and

coordinate public hearings to obtain testimony about past instances of discrimination. Each proposal shall detail the proposed use of public hearings or other methods for solicitation of testimony related to past discrimination.

2.3.5 ANALYSIS OF AGENCIES' PROGRAMS AND POLICIES

Consultant shall identify and provide an analysis of programs and policies of each agency that have a tendency to enhance or diminish the abilities of M/WBE firms to compete effectively for the agency's contracts. This analysis shall identify the program or policy and the reasons, positive or negative, for its effect on M/WBE participation. This analysis should include, but not necessarily be limited to, M/WBE outreach programs and efforts, bonding and insurance policies, and advertising and outreach methods.

2.3.6 RACE AND GENDER NEUTRAL TECHNIQUES

2.3.6.1 Existing Programs

The Consultant shall identify and provide an analysis of the effectiveness of any race or gender neutral programs and/or techniques that have been used by the City, County, SHRA or RT to increase minority and women business participation in construction and professional and technical services for the agencies.

2.3.6.2 Other Methods

The Consultant shall identify and discuss whether or not and the extent to which there are race or gender neutral methods available to the City, County, SHRA and RT which will continue to assure or better assure that these agencies do not become passive participants in racial discrimination against minority and women owned businesses. For any such identified methods, the Consultant shall provide an estimate of the cost of implementation and a description of any perceived impediments.

2.3.7 RECOMMENDATIONS FOR PROGRAM REVISIONS OR DEVELOPMENT

The Consultant shall provide assistance and input to permit the City, County, SHRA and RT to improve or revise their programs, if necessary, to comply with Croson decision requirements. Consultant shall also provide a compilation of any Federal and State statutes, laws, and codes that affect local agencies' abilities, either positively or negatively, to enact racially preferential programs.

2.3.8 REPORTING REQUIREMENTS

The Consultant shall submit draft reports on a designated schedule and a final written report, incorporating all findings, data, and recommendations regarding all elements outlined in the scope of work.

2.3.9 CONSULTANT TESTIMONY

Consultant shall be available to testify before the legislative bodies of the City, County, SHRA, RT, and committees thereof, to explain study methods, results, and reports.

2.3.10 CONSULTANT AVAILABILITY FOR LITIGATION

Consultant shall be available to testify or otherwise assist the City, County, SHRA and RT in any litigation ensuing from or relating to the work resulting from this RFP and subsequent contract.

2.3.11 COMPUTER-BASED DATA

Consultant shall provide to the City, County, SHRA and RT a computer-based data-base of all records developed in the course of the study upon which further analysis and updating may be performed. Consultant shall work with the project coordinator from each agency to ensure that the data is provided in a format compatible with the agency's computer capabilities.

SECTION 3.0 - PROPOSAL INSTRUCTIONS

The following pages detail the instructions and order to be followed in preparing a response to this Request for Proposals (RFP).

3.1 PART 1 - GENERAL INFORMATION

3.1.1 COVER LETTER

A cover letter transmitting the proposal must be submitted. The letter must indicate that the Proposer agrees to be bound by the proposal as initially submitted, without modifications unless mutually agreed to by the contracting agency and the consultant.

3.1.2 EXECUTIVE SUMMARY

The executive summary should consist of a brief statement of the salient features of the proposal, including conclusions and general recommendations.

3.1.3 TABLE OF CONTENTS

The Table of Contents should identify locations of all sections in the proposal.

3.2 PART 2 - PROPOSAL DESCRIPTION

3.2.1 DESCRIPTION OF THE PROPOSED STUDY

This section should include responses to all items outlined in Section 2.3 - Work Requirements.

3.3 PART 3 - PROPOSER INFORMATION

3.3.1 GENERAL PROPOSER INFORMATION AND REQUIREMENTS

3.3.1.1 History

The Proposer shall provide general information about the firm, including a brief history, incorporation information, services provided, general description of past experience and qualifications.

3.3.1.2 Proposer M/WBE Information

The Proposer shall indicate whether or not the proposing firm is certified as an M/WBE firm by the City, County, SHRA, RT, or other agency. If the firm is so certified, the agency name(s) and certification number(s) shall be provided.

The Proposer shall describe the proposing firm's affirmative action hiring policies and or policies related to joint-venturing with M/WBE firms.

3.3.2 PROPOSER'S PERSONNEL ASSIGNMENTS

3.3.2.1 Project Team

Personnel to be assigned to provide services shall be listed in the proposal. This list should include a description of each team member's experience, licenses, credentials, and training applicable to this project. Resumés may be included, but shall not be substituted for descriptions.

3.3.2.2 Project Manager

A project manager must be specified. The primary work location of the project manager shall also be included. The project manager shall coordinate necessary consultation, data collection, hearings, meetings and product preparation with City, County, SHRA and RT staff. If advisors are to be used, describe the arrangements and background of key personnel.

3.3.2.3 Proposer Office and On-Site Staffing

The Proposer shall specify the location of the firm's home office, and whether or not the firm has professional staff in the greater Sacramento area. If the firm maintains a staff in the Sacramento area, describe that staff's size, experience, and qualifications.

The Proposer shall indicate the proposed

level of on-site staff to be committed to the project, and address any office facilities or other on-site requirements associated with these assignments.

3.3.2.4 Personnel Changes

Proposers shall agree that no changes in key project personnel from those listed in the proposal are to be made without written consent of the contracting agency.

3.3.3 **PROPOSER EXPERIENCE**

3.3.3.1 Previous Proposals and Projects

The Proposer should have demonstrated experience in completion of a project of this type and should have a staff large enough to assure the City, County, SHRA and RT that all project requirements can be addressed properly.

The Proposer should detail all previous experience in the development of similar studies or projects of comparable complexity. In addition to descriptions of the work, this detail should include the names of agencies or firms for which the work was performed, dates, and names and phone numbers of contact persons. Previous clients may be contacted for information as part of the evaluation process. Copies of reports prepared in conjunction with previous studies performed by the Proposer, or other relevant samples of the Proposer's work, should be provided.

3.3.3.2 Technical Experience

The Proposer's project team should have previous experience in all of the technical areas included in this project. The proposal should detail the Proposer's experience in statistical research and reporting, business demographics, public hearings coordination, and other experience relevant to this project. Recent experience, especially in dealing with

Croson-related projects, should be included.

3.4 **PART 4 - PROPOSAL COST and WORK SCHEDULE**

3.4.1 **PRICING**

All proposals must contain a separate pricing section which must include the following price elements:

- A. Separate cost totals must be provided for each element of the **Work Requirements** outlined in Section 2.3. Within each work element, costs should be identified by agency where applicable.

Separate cost totals shall also be provided for each of the three contracting areas outlined in Section 2.3.2.1.

- B. A total per-agency cost for all work to be provided for each agency shall be included, in addition to a grand total for the overall four-agency project.
- C. Price for all service milestones, products, hearings, reports, and post-study work including consulting/testimony/litigation, including any per diem or other fees, together with a total price.
- D. Charges for any optional services not included in the proposed package, but available to the City, County, SHRA, or RT should be listed as an addendum to the Cost Proposal Section of the RFP.

3.4.2 **FACILITY AND OTHER REQUIREMENTS**

The Proposer must clearly describe any facility, personnel, and other requirements needed for accomplishment of the study that the City, County, SHRA or RT will be expected to provide.

3.4.3 **OVERALL WORK SCHEDULE AND COST CHART**

- A. Each proposal must contain an overall work schedule and costing chart which identifies the expected duration of each task and reflects the associated personnel loading and costs for all tasks to be performed during the course of the

project. The estimated amount of the firm's personnel time allocated to each task should be stated in person-days. On-site and off-site time should be separately identified.

The overall work schedule should illustrate and/or describe the following items:

1. Beginning and ending dates for completion of each major task.
 2. Dates for project coordination and review.
 3. Any other key dates that the Proposer feels are relevant to the project.
- B. The Proposer should indicate a preferred payment schedule for the proposed services and relate it to the overall project schedule and costing chart. Other available payment schedule options (including any available discounts) should also be identified.

3.4.4 OTHER COSTS

Any supplies, equipment, transportation, or other elements necessary to complete the proposed study and not addressed elsewhere in the proposal, but which are not being provided by the Proposer, must be explicitly specified. If cost estimates are available for these items, they should be included. The sources and dates of estimates should be provided.

3.5 PART 5 - REQUIRED SUBMITTALS

3.5.1 SOUTH AFRICA AFFIDAVIT

The City of Sacramento South Africa Divestment Affidavit (Exhibit "C") must be executed prior to contract award.

3.5.2 CITY OF SACRAMENTO CHAPTER 58 REQUIREMENTS

The City of Sacramento Chapter 58 Requirements (Exhibit "B") statement must be signed and included with each proposal submitted.

3.5.3 RT DBE/AFFIRMATIVE ACTION SUBMITTAL

The RT DBE/Affirmative Action Requirements (Exhibit "E") must be completed and signed and included with each proposal submitted.

3.5.4. RT CERTIFICATION ON RESTRICTIONS ON LOBBYING

The RT Certification on Restrictions on Lobbying (Exhibit "F") must be signed and included with each proposal submitted if the RT work exceeds \$100,000.

3.5.5 RT Certification for Participants Regarding Debarment

The RT Certification for Participants Regarding Debarment (Exhibit "G") must be signed and included with each proposal submitted.

3.6 PART 6 - PROPOSER'S ADDENDUM (Optional)

3.6.1 ADDITIONAL INFORMATION

This section is provided for the submission of any additional information considered to be pertinent to the proposal and not included elsewhere.

EXHIBIT "A"

GENERAL PROVISIONS

1. **Independent Contractor.** At all times during the term of this Contract, Consultant (NOTE: In relation to the attached RFP, "consultant" as used in Exhibit "A" denotes "contractor", i.e., the successful Bidder.) shall be an independent Contractor and shall not be an employee of the City/County/SHRA/RT. City/County/SHRA/RT shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Contract; however, City/County/SHRA/RT shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement.
2. **Licenses; Permits; Taxes, Etc.** Consultant represents and warrants to City/County/SHRA/RT that he/she has all licenses, permits, City Business Operations Tax Certificate, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City/County/SHRA/RT that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession.
3. **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Consultant's obligations under this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.
4. **Consultant Not Agent.** Except as City/County/SHRA/RT may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City/County/SHRA/RT in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City/County/SHRA/RT to any obligation whatsoever.
5. **Assignment Prohibited.** No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.
6. **Personnel.** Consultant shall assign only competent personnel to

perform services pursuant to this Agreement. In the event that City/County/SHRA/RT, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Consultant to perform services pursuant to this Agreement, Consultant shall remove any such person immediately upon receiving notice from City/County/SHRA/RT of the desire of City/County/SHRA/RT for the removal of such person or persons.

7. **Standard Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in California. All products of whatsoever nature which Consultant delivers to City/County/SHRA/RT pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person practicing in Consultant's profession.
8. **Termination.** City/County/SHRA/RT shall have the right to terminate this Agreement at any time by giving notice of such termination to Consultant. In the event City/County/SHRA/RT shall give such notice of termination, Consultant shall immediately cease rendering services pursuant to this Agreement.

In the event City/County/SHRA/RT shall terminate this Agreement:

- A. Consultant shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include:
 - handwriting, typewriting, printing, photocopying, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letter, works, pictures, drawings, sounds, or symbols, or combinations thereof.
- B. City/County/SHRA/RT shall have full ownership and control of all such writings delivered by Consultant pursuant to this Agreement.
- C. City/County/SHRA/RT shall pay Consultant the reasonable value of services rendered by Consultant pursuant to this Agreement; provided, however, City/County/SHRA/RT shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Agreement. In this regard, Consultant shall furnish to City/County/SHRA/RT such financial information as in the judgment of the City/County/SHRA/RT Representative is necessary to determine the reasonable value of the services rendered by

Consultant. In the event of a dispute as to the reasonable value of the services rendered by Consultant, the decisions of the Director of the City/County/SHRA/RT Department administering this Agreement shall be final. The foregoing is cumulative and does not affect any right or remedy which City/County/SHRA/RT may have in law or equity.

9. **Indemnity and Hold Harmless.** The Consultant shall indemnify and save harmless, the City/County/SHRA/RT, its officers, employees, and agents, and each and every one of them, from and against all actions, damages, costs, liability, claims, losses, and expenses of every type and description to which any or all of them may be subjected, by reason of, or resulting from, directly or indirectly, the performance of this contract by Consultant whether or not caused in part by passive negligence of a party indemnified hereunder. The foregoing shall include, but not be limited to, any attorney fees reasonably incurred by City/County/SHRA/RT.

10. **Equal Employment Opportunity.** During the performance of this agreement, Consultant, for itself, its assignees and successors in interest, agrees as follows:
 - A. **Compliance With Regulations:** Consultant shall comply with the Executive Order 11246 entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60), hereinafter referred to as the "Regulations".

 - B. **Nondiscrimination:** Consultant, with regard to the work performed by it after award and prior to completion of the work pursuant to this agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Consultant shall not participate either directly or indirectly in discrimination prohibited by the Regulations.

 - C. **Solicitations for Subcontractors, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by Consultant for work to be performed under any subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligation under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation.

- D. **Information and Reports:** Consultant shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the City/County/SHRA/RT of Sacramento to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to the City/County/SHRA/RT, and shall set forth what efforts have been made to obtain the information.

- E. **Sanctions for Noncompliance:** In the event of noncompliance by Consultant with the nondiscrimination provisions of this agreement, the City/County/SHRA/RT shall impose such contract sanctions as it may determine to be appropriate including, but not limited to:
 - (1) Withholding of payments to Consultant under the contract until consultant complies;
 - (2) Cancellation, termination, or suspension of the agreement, in whole or in part.

- F. **Incorporation of Provisions:** Consultant shall include the provisions of Paragraphs A through E in every subcontract, including procurement of materials and leases of equipment, unless exempt by Regulations, order, or instructions issued pursuant thereto. Consultant shall take such action with respect to any Regulations, order or instructions issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as the City/County/SHRA/RT may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event Consultant becomes involved in, or is threatened with, litigation, Consultant may request City/County/SHRA/RT to enter such litigation to protect the interests of City/County/SHRA/RT.

11. **Insurance Requirements.** During the duration of this Agreement Consultant shall maintain the following noted insurance:

<u>Coverage</u>	<u>Required</u>	<u>Not Req'd.</u>
Broad Form Comprehensive Liability	<u>X</u>	
Business Auto Liability	<u>X</u>	
Worker's Comp. & Employers' Liability	<u>X</u>	
Professional Liability (Errors & Omissions)		<u>X</u>

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- (1) Insurance Services Office form number GL 0404 (Broad Form Comprehensive General Liability);
- (2) Insurance Services Office form number CA 0001 (Ed. 1/78) (Automobile Liability, code 1 "any auto");
- (3) Workers' Compensation as required by the Labor Code of the State of California, and Employers' Liability insurance.
- (4) Professional Liability (Errors and Omissions) insurance against loss due to error, omission or malpractice.

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

- (1) Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
- (2) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (3) Workers' Compensation and Employers' Liability: Workers' compensation limits as required by the Labor Code of the State of California and Employers' Liability limits of \$1,000,000 per accident.
- (4) Professional Liability (Errors and Omission): \$0.00 combined single limit per occurrence.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City/County/SHRA/RT.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

- (1) General Liability and Automobile Liability Coverages
 - a. The City/County/SHRA/RT, its officials, employees and volunteers are to be covered as insured as respects:

liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, leased or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City/County/SHRA/RT, its officials, employees or volunteers.

- b. The Consultant's insurance coverage shall be primary insurance as respects the City/County/SHRA/RT, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City/County/SHRA/RT, its officials, employees or volunteers shall be excess of Consultant's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City/County/SHRA/RT, its officials, employees or volunteers.
- d. Coverage shall state that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(2) Worker's Compensation and Employers' Liability Coverages

The insurer shall agree to waive all rights of subrogation against the City/County/SHRA/RT, its officials, employees and volunteers for losses arising from work performed by Consultant for the City/County/SHRA/RT. This requirement may, however, be waived in individual cases at the discretion of the City/County/SHRA/RT.

(3) All Coverages

Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City/County/SHRA/RT.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Bests' rating of

no less than A:VII. This requirement may, however, be waived in individual cases for Errors and Omissions Coverage only, provided, however, that in no event will a carrier with a rating below B:IX be acceptable.

F. Verification of Coverage

Consultant shall furnish the City/County/SHRA/RT with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the City/County/SHRA/RT and are to be forwarded to the contracting agency.

G. Payment Withhold

The City/County/SHRA/RT will withhold payments to the Consultant, if certificates of insurance and endorsements required in Paragraph "F" above have not been provided.

12. Additional Provisions

The RT General Provisions set forth in Exhibit "D" are herein incorporated by reference, and shall be applicable, in addition to the provisions set forth above, to the work to be provided for RT.

EXHIBIT "B"

City of Sacramento Chapter 58 Requirements

On August 23, 1988, the Sacramento City Council adopted Ordinance 88-059 amending Chapter 58 of the Sacramento City Code to state that: (a) No person shall submit false information to the City for the purpose of establishing the status of any business entity as a minority/women business enterprise (M/WBE); (b) No person shall submit a bid/proposal to the City containing false M/WBE information; and (c) Any violation of this section is a misdemeanor punished by a fine not exceeding one thousand dollars or imprisonment in the county jail for a term not exceeding six months, or both.

All M/WBE status or bid/proposal information shall be submitted under penalty of perjury; false representation shall be grounds for terminating a contract and initiating action under all applicable laws. In addition, Chapter 58 has been modified to state that "any person or entity who submits a bid or proposal containing information which said person or entity knows to be false shall be disqualified from bidding on future City contracts for a period of up to five years, as determined by the City Manager".

The provisions of this chapter apply to all contracts let by the City of Sacramento including, without limitation, purchases and contracts for supplies and nonprofessional services (City Code Chapter 57), contracts for public projects (City Code Chapter 58), and contracts for professional services (City Code Chapter 59).

I certify that I have read this advisory statement and that all information contained in this proposal is true and correct.

Name of Proposer

Print Name of Person Signing Form

Signature

Date

County and State Where Signed

EXHIBIT "C"

CITY OF SACRAMENTO
SOUTH AFRICA DIVESTMENT AFFIDAVIT

The undersigned hereby declares, under penalty of perjury, as follows:

My name is _____.
(Please Print)

I am employed by _____, hereafter referred to below as "the firm".

I am the _____ of the firm, and as such I am
(Title)
authorized to make this declaration.

The firm does not have and does not contemplate any outstanding loan or letter of credit to:

South Africa or Namibia, or
any business firm organized under the laws of South Africa or Namibia, or
any business firm for the express purpose of doing business with, conducting business operations in, or trading with any private or public entity located in South Africa or Namibia.

The firm is not organized under the laws of South Africa or Namibia. The firm does not have and does not contemplate having business arrangements or business operations in South Africa or Namibia, as those terms are defined in City of Sacramento Ordinance No. 86-126.

The firm is not proposing to sell, as part of this bid, products which have been manufactured or produced in South Africa or Namibia.

If the firm, after the date of this declaration, changes its policy in any manner which would render this declaration no longer entirely accurate, the firm will so notify the Treasurer of the City of Sacramento.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, at _____.

(Signature)

(Title)

EXHIBIT "D"

RT GENERAL PROVISIONS

1. FEDERAL GRANT CONDITIONS

This Agreement is subject to a financial assistance contract between RT and the United States Department of Transportation (hereinafter "DOT"), Urban Mass Transportation Administration (UMTA). Both parties agree to comply with all terms and conditions respectively required of them by virtue of that fact. If UMTA requires any change to this Agreement to comply with its requirements, both parties agree to amend this Contract as required by UMTA. If such changes cause an increase or decrease in the work to be performed by the Contractor or the time for such performance, then the compensation to be paid to Contractor and time of performance shall be equitably adjusted.

2. NON-LIABILITY OF UMTA OR FEDERAL GOVERNMENT

Neither the United States DOT, UMTA, or any other branch or agency of the Federal Government, its employees, agents or officers are obligated or liable to any person or organization other than RT by virtue of the execution of this Contract or by virtue of any participation in its funding.

3. ALLOWABLE COSTS

Expenditures made by the Contractor shall be reimbursable as allowable costs to the extent that they meet all of the requirements set forth below. They must:

- A. Be made in conformance with the Project Description and the Project Budget and all other provisions of the Agreement;
- B. Be necessary in order to accomplish the Project;
- C. Be reasonable in amount for the goods or services purchased;
- D. Be actual net cost to the Contractor (i.e., the price paid minus any refunds, rebates, or other items of value received by the Contractor that have the effect of reducing the cost actually incurred, excluding Program Income);
- E. Be incurred (and be for work performed) after the date of this Agreement, unless specific authorization from the Government (UMTA) to the contrary is received;

- F. Unless permitted otherwise by Federal statute or regulation, conform with Federal guidelines and regulations and Federal cost principles as set forth in OMB Circular A-87, Revised, "Cost Principles for State and Local Governments," that are applicable;
- G. Be satisfactorily documented; and
- H. Be treated uniformly and consistently under accounting principles and procedures approved and prescribed by UMTA for RT, and by RT for its contractors.
- I. All costs charged to the Project shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges.

4. AUDIT AND INSPECTION

Contractor agrees to permit RT, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives to inspect all work, materials, payrolls, and other data and records with regard to the Project, and to audit the books, records, and accounts of Contractor with regard to the Project. Further, Contractor agrees to maintain all required records for at least three years after RT makes final payment under the Contract and all other matters are closed.

5. DISADVANTAGED BUSINESS ENTERPRISES

- A. Policy. It is the policy of the DOT that disadvantaged business enterprises, as defined in 49 C.F.R. Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 C.F.R. Part 23 apply to this Agreement.
- B. DBE Obligation. Contractor agrees to ensure that disadvantaged business enterprises as defined in 49 C.F.R. 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 Contractor shall take all necessary and reasonable steps in accordance with 49 C.F.R. Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. RT and its Contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts assisted by the DOT.

- C. Failure to carry out the requirements set forth in 49 C.F.R. § 23.43(a) shall constitute a breach of contract and, after the notification of the Department, may result in termination of the Agreement or contract by RT or such remedy as RT deems appropriate.

6. CONFLICT OF INTEREST

No employee, officer, or agent of RT shall participate in selection, or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for award: (a) an RT employee, officer or agent; (b) any member of his/her immediate family; (c) his/her partner; or (d) an organization which employs, or is about to employ any of the foregoing parties. RT's officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties of subagreements.

7. INTERESTS OF MEMBERS OF OR DELEGATES TO CONGRESS

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Project or to any benefit therefrom.

8. DEBARRED BIDDERS (Over \$25,000)

Contractor, including any of its officers or holders of a controlling interest, is obligated to inform RT whether or not it is or has been debarred from or determined ineligible for Government contracts and federally-assisted construction contracts pursuant to Executive Order 11246 of September 24, 1965, as amended. Should Contractor be included on such a list or determined ineligible during the performance of this Contract, it shall so inform RT.

9. BID PROTESTS

A. UMTA Review of Protests

- (1) UMTA will only review protests regarding the alleged failure of the grantee to have written protest procedures or alleged failure to follow such procedures.

- (2) Alleged violations on other grounds are under the jurisdiction of the appropriate State or local administrative or judicial authorities. Alleged violations of a specific Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that Federal regulation. See, e.g., Buy America Requirements, 49 CFR Part 661 (Section 661.15); Participation by Minority Business Enterprise in Department of Transportation Programs, 49 CFR Section 23.73.
- (3) UMTA will only review protests submitted by an interested party as defined in paragraph C, below.

B. Remedy

UMTA's remedy for a grantee's failure to have written protest procedures or failure to follow such procedure is limited to requiring the grantee to develop such procedures, if necessary, and follow such procedures in reviewing the protest at issue, if the grantee desires UMTA financial participation in the contract in question. In instances where a grantee has awarded to another bidder or offeror prior to UMTA's decision on the protest, UMTA may refuse to participate in funding the contract.

C. Definitions

For the purposes of this Chapter, the following definitions apply:

- (1) "Days" refers to working days of the Federal Government.
- (2) "File" or "submit" refers to the date of receipt by UMTA.
- (3) "Interested party" means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.
- (4) "Bid" includes the term "offer" or "proposal" as used in the context of negotiated procurements.

D. Time for Filing

- (1) Protestors shall file a protest with UMTA not later than five days after a final decision is rendered under the grantee's protest procedure. In instances where the protestor alleges that the grantee failed to make a final determination on the protest, protestors shall file a protest with UMTA not later than five days after the protestor knew or should have known of the grantee's failure to render a final determination on the protest.

- (2) Grantees shall not award a contract for five days following its decision on a bid protest except in accordance with the provisions and limitations of subparagraph H. After five days, the grantee shall confirm with UMTA that UMTA has not received a protest on the contract in question.

E. Submission of Protest to UMTA

- (1) Protests should be filed with the appropriate UMTA Regional Office with a concurrent copy to the grantee.
- (2) The protest filed with UMTA shall:
 - (a) Include the name and address of the protestor.
 - (b) Identify the grantee, project number, and the number of the contract solicitation.
 - (c) Contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.
 - (d) Include a copy of the local protest filed with the grantee and a copy of the grantee's decision, if any.

F. Grantee Response

- (1) UMTA shall notify the Grantee in a timely manner of the receipt of a protest. UMTA shall instruct the grantee to notify the Contractor of the protest if award has been made or, if no award has been made, to notify all interested parties. The grantee shall instruct all who receive such notice that they may communicate further directly with UMTA.
- (2) The grantee shall submit the following information not later than ten days after receipt of notification by UMTA of the protest:
 - (a) a copy of the grantee's protest procedure;
 - (b) a description of the process followed concerning the protestor's protest; and
 - (c) any supporting documentation.
- (3) The grantee shall provide the protestor with a copy of the above submission.

G. Protestor Comments

The protestor must submit any comments on the grantee's submission not later than ten days after the protestor's receipt of the grantee's submission.

H. Withholding of Award

When a protest has been timely filed with the grantee before award, the grantee shall not make an award prior to five days after the resolution of the protest, or if a protest has been filed with UMTA, during the pendency of that protest, unless the grantee determines that:

- (1) The items to be procured are urgently required;
- (2) Delivery or performance will be unduly delayed by failure to make the award promptly; or
- (3) Failure to make prompt award will otherwise cause undue harm to the grantee or the Federal Government.

In the event that the grantee determines that the award is to be made during the five day period following the local protest decision or the pendency of a protest, the grantee shall notify UMTA prior to making such award. UMTA will not review the sufficiency of the grantee's determination to award during the pendency of a protest prior to UMTA's bid protest decision. UMTA reserves the right not to participate in the funding of any contract awarded during the pendency of a protest.

I. UMTA Action

Upon receipt of the submissions, UMTA will either request further information or a conference among the parties, or will render a decision on the protest.

10. LOBBYING RESTRICTIONS (Contracts Over \$100,000)

A. Definitions

(1) Agency

Agency, as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

(2) Covered Federal Action

Covered Federal action means any of the following Federal actions:

- (a) The awarding of any Federal contract;

- (b) The making of any Federal grant;
- (c) The making of any Federal loan;
- (d) The entering into of any cooperative agreement; and
- (e) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

(3) Indian Tribe

Indian tribe and tribal organization have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

(4) Influencing or Attempting to Influence

Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

(5) Local Government

Local government means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

(6) Officer or Employee of an Agency

Officer or employee of an agency includes the following individuals who are employed by an agency:

- (a) An individual who is appointed to a position in the Government under Title 5, U.S. Code, including a position under a temporary appointment;
- (b) A member of the uniformed services as defined in section 101(3), Title 37, U.S. Code;
- (c) A special Government employee as defined in section 202, Title 18, U.S. Code; and,
- (d) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, U.S. Code appendix 2.

(7) Person

Person means an individual, corporation, company, association, authority, firm, partnership, society, state and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(8) Reasonable Compensation

Reasonable compensation means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(9) Reasonable Payment

Reasonable payment means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(10) Recipient

Recipient includes all contractors and subcontractors at any tier in connection with a Federal contract. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(11) Regularly Employed

Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

(12) State

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

B. Prohibition

- (1) Section 1352 of Title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: 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) The prohibition does not apply as follows:
 - (a) Agency and legislative liaison by Own Employees.
 - (i) The prohibition on the use of appropriated funds, in paragraph B.(1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.
 - (ii) For purposes of paragraph B.(2)(a)(i) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.
 - (iii) For purposes of paragraph B.(2)(a)(i) of this section, the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:
 1. Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
 2. Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(iv) For purposes of paragraph B.(2)(a)(i) of this section, the following agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

1. Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
2. Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
3. Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(v) Only those activities expressly authorized by this section are allowable under this section.

(b) Professional and technical services by Own Employees.

(i) The prohibition on the use of appropriated funds, in paragraph B.(1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.

(ii) For purposes of paragraph B.(2)(b)(i) of this section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying

their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(iii) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(iv) Only those services expressly authorized by this section are allowable under this section.

(c) Reporting for Own Employees.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(d) Professional and technical services by Other than Own Employees.

(i) The prohibition on the use of appropriated funds, in paragraph B.(1) of this section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.

(ii) For purposes of paragraph B.(2)(d)(i) of this section, "professional and technical services" shall be limited to advice and analysis directly

applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the engineer is providing technical services but not directly in the preparation or submission of a bid or proposal are not allowable under this section since the preparation, submission or negotiation of a covered Federal action.

- (iii) Requirements imposed by or pursuant to law as condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (iv) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (v) Only those services expressly authorized by this section are allowable under this section.

C. Disclosure

- (1) Each person who requests or receives from an agency a Federal contract shall file with that agency a certification, set forth in the attachment hereto, that the person has not made, and will not make, any payment prohibited by paragraph B.(1).

- (2) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, Standard Form-LLL, "Disclosure of Lobbying Activities," if such person has made or has agreed to make any payment using unappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph B.(1) of this clause if paid for with appropriated funds.
- (3) Each person shall file a disclosure form at the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph C.(2) of this section. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (b) A change in the persons(s) or individual(s) influencing or attempting to influence a covered Federal action;
 - (c) A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
- (4) Any person who requests or receives from a person referred to in paragraph C.(1) of this section a subcontract exceeding \$100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraph C.(1) of this section. That person shall forward the disclosure forms to the agency.

D. Agreement

In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

E. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph B.(1) of this clause shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

- (2) Any person who fails to file or amend the disclosure form to be filed or amended if required by this clause, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (3) Contractors may rely without liability on the representations made by their subcontractors in the certification and disclosure form.

F. Cost Allowability

Nothing in this Article is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation. Conversely, costs made specifically unallowable by the requirements in this Article will not be made allowable under any of the provisions of Part 31 of the Federal Acquisition Regulation.

G. Lobbying With Nonfederal Funds

Nothing in this Article shall be construed to prohibit a Contractor from lobbying federal agencies or Congress using the Contractor's own funds rather than the revenues received under this Contract. However, if a Contractor makes any contact with a federal agency or Congress with the intent to influence a decision on a covered federal action affecting RT using nonfederal funds, the Contractor shall complete the attached Disclosure of Lobbying Activities form and submit it to RT as required under subparagraph C. above.

Exhibit "E"

Disadvantaged Business Enterprise/Affirmative Action Requirements

The Disadvantaged Business Enterprise/Affirmative Action provisions pertaining to this solicitation, Appendix "E," are mandatory requirements for the submittal of a bid or proposal for the subject contract.

APPENDIX " E "

DISADVANTAGED BUSINESS ENTERPRISE/
AFFIRMATIVE ACTION REQUIREMENTS

- (a) It is the policy of the Department of Transportation and the Sacramento Regional Transit District that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the award of contracts financed with Federal or local funds under this agreement. Consequently the DBE requirements of 49 CFR Part 23 apply to this agreement.
- (b) Contractor agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in contracts awarded by RT and any subcontracts arising thereunder. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform subcontracts let under this contract. In the award and performance of RT contracts, RT and Contractor shall not discriminate on the basis of race, color, religion, national origin, or sex.
- (c) The foregoing paragraphs shall be contained in each subcontract let by Contractor. Failure to carry out the provisions set forth in the foregoing paragraphs shall constitute a breach of contract and may result in termination of the contract by RT or such other remedy as RT deems appropriate.
- (d) Goals for disadvantaged business enterprises (DBE) have not been established for this contract; however, should the Contractor or any subcontractor of Contractor be eligible as a DBE, the RT DBE Officer should be notified as soon as possible before bid opening or proposal submittal. Although DBE goals have not been set for this contract, Affirmative Action requirements are established for firms with five (5) or more employees as stated in Paragraph (e).
- (e) It is the policy of the Sacramento Regional Transit District (RT) to provide maximum opportunity for award of RT contracts to firms which are majority-owned by minorities or women or which practice affirmative action; (i.e., hiring minorities and women). In order to apply this policy to this solicitation, RT

has decided to require submittal of an Affirmative Action Plan for firms with five (5) or more employees which are not majority-owned by women or minorities. If a firm is not otherwise exempt, it must do either of the following:

- (1) Submit its own existing Affirmative Action Plan; or
- (2) Fill out and return RT's attached form.

Failure to submit an Affirmative Action Plan or Form will render any bid or proposal non-responsive, and the bid or proposal will be rejected for non-compliance with the specifications of this solicitation. However, RT reserves the right to request supplemental information in support of the plan or form submittal.

**AFFIRMATIVE ACTION PLAN
BACKGROUND INFORMATION**

According to 49 CFR Part 23, Section 23.5, "Affirmative Action" is defined as "taking specific steps to eliminate discrimination and its effects. . . ." A minority or women-owned business is defined in 49 CFR Part 23, Section 23.5 as a business ". . . which is owned and controlled by one or more minorities or women . . . Owned and controlled means a business:

- (1) Which is at least 51 per centum owned by one or more minorities and women; and
- (2) Whose management and daily business operations are controlled by one or more such individuals."

"Minority" is defined under these same Federal regulations as: "A person who is a citizen or lawful permanent resident of the United States and who is:

- (1) Black (a person having origins in any of the black racial groups of Africa);
- (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
- (3) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless of race);
- (4) Asian American (a person having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islanders); or
- (5) American Indian and Alaskan Native (a person having origins in any of the original peoples of North America)."

A woman who is also a minority should be counted under both categories.

RT's EEO/AA & DBE Officer, Nick Recostodio, may be contacted at (916) 321-2987 for further guidance and assistance.

Affirmative Action Plan

Name of Firm _____ Statistics as of: _____ (Date)

A. Work Force Breakdown (Full time and Part time) by Job Groups

All Job Groups	Overall Totals	Female	Male	Non Minorities	Black	Asian-Pacific Is.	Native American	Hispanic	Total Minorities
Totals: #									
%									

B. Affirmative Action Goals (If any, applicable to the above job groups)

Totals: #									
%									

C. Proposed Efforts to Achieve Affirmative Action Goals

Exhibit "F"

CERTIFICATION OF
RESTRICTIONS ON LOBBYING

I, _____ (name and title of Contractor), hereby certify on behalf of _____ (Company name), 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 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Contract, grant, loan or cooperative agreement, which is funded in whole or in part by Federal funds, 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 any subcontractor at any tier performing work under this Federally-funded Contract, and that all subcontractors of any tier shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is 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 _____ day of _____, 19__.

By: _____
(Signature of authorized official)

(Title of authorized official)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Exhibit "G"

CERTIFICATION OF PARTICIPANTS REGARDING DEBARMENT,
SUSPENSION, AND OTHER INELIGIBILITY
AND VOLUNTARY EXCLUSION
Contracts \$25,000-\$100,000
Or Lower-Tier Participants

The potential third party contractor, or potential subcontractor under a major third-party contract, _____, certifies by submission of this proposal that neither it or its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(If the potential third party contractor or potential subcontractor is unable to certify to any of the statements in this certification, such party shall attach an explanation to this proposal.)

THE POTENTIAL THIRD PARTY CONTRACTOR OR SUBCONTRACTOR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature/Title of Authorized Official

The undersigned Attorney for the _____ (entity) hereby certifies that the _____ (entity) has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Date

Signature of Applicant's Attorney