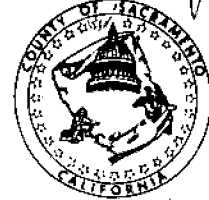


SACRAMENTO HOUSING AND REDEVELOPMENT



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Agency Rpt.

APPROVED BY THE CITY COUNCIL

APR 23 1985

OFFICE OF THE CITY CLERK

APPROVED
APR 23 1985
SACRAMENTO REDEVELOPMENT AGENCY
CITY OF SACRAMENTO

CITY MANAGER'S OFFICE
RECEIVED
APR 16 1985

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CITY CLERK'S OFFICE
CITY OF SACRAMENTO
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Redevelopment Agency and City Council of the City of Sacramento, Sacramento, California

Honorable Members in Session:

SUBJECT: Approval of CDBG Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Plan

SUMMARY

The attached resolutions (1) approve the Community Development Block Grant (CDBG) Minority Business Enterprise and Women Business Enterprise Plan (MBE/WBE Plan), and (2) directs the Agency Executive Director to designate an MBE/WBE Coordinator within SHRA to coordinate the implementing actions of the plan.

BACKGROUND

Recent changes to the Federal Community Development Block Grant (CDBG) Program incorporate a series of Executive Orders governing minority business utilization, as part of the CDBG operating requirements. Generally, the regulations require that CDBG grantees undertake a good faith effort to involve minority business enterprises (MBE's) and women's business enterprises (WBE's) in Federal procurement and contracting activities. In response to this, the Agency has developed the attached MBE Plan which outlines steps to encourage MBE participation in the CDBG program.

In general, the Plan makes the following recommendations:

1. **Organizational Responsibility:** Since the Agency is responsible for both the City and County CDBG funds, the plan recommends that SHRA be the lead Agency for the CDBG program's MBE Program. To ensure adequate coordination between Agency Departments, City Departments and County Departments, staff recommends that one Community Development Coordinator position within the Agency be assigned full time to the task of overseeing the MBE program. In turn, the Plan recommends that both the City and County Public Works Departments (where the bulk of CDBG contracts are handled) designate an MBE contact person to work with the coordinator.

4-23-85
All Districts

(1)

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Redevelopment Agency and
City Council of the
City of Sacramento
Page Two

2. **MBE Coordinator Responsibilities:** The Plan recommends that the MBE Coordinator begin the program by accomplishing the following:

- a. **Develop MBE Directory:** Existing literature on MBE Program's strongly suggest that MBE/WBE's be identified and certified and a directory published and updated. Certification involves determining that the firm is in fact 51% or more owned by a minority or female. The list of certified MBE/WBE's can then be distributed to contracting and purchasing officials and contractors.
- b. **MBE/WBE Contracting Plan:** Secondly, it is suggested that the MBE Coordinator be responsible for preparing an MBE/WBE contracting plan. The County of Sacramento currently has such a plan which was approved and developed for the Federal Highway Administration (FHWA). Staff recommends that this plan be used as a foundation, modified as necessary to conform to CDBG requirements, and be brought back to the governing boards for adoption.
- c. **Advertising and Outreach:** Thirdly, related to the above, it is suggested that the MBE Coordinator develop advertising and outreach procedures for CDBG Contracts which increase MBE/WBE's awareness of such opportunities. The coordinator would further be responsible for ensuring that these requirements are met.
- d. **MBE/WBE Needs Assessment:** The Plan recommends that the coordinator conduct a survey of identified MBE/WBE's to determine their needs and constraints and to help identify future actions to increase MBE/WBE participation.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

34

Redevelopment Agency and
City Council of the
City of Sacramento
Page Three

- e. **Develop an MBE/WBE Handbook:** The Plan also recommends that as the MBE/WBE Program progresses, a handbook outlining City, County and Agency contracting and purchasing procedures be developed. This should be a step by step guide to help MBE/WBE's and unsophisticated small or local businesses in gaining access to the government contracting process.
 - f. **Technical Assistance:** Related to the above, it is recommended that the Coordinator be available to provide technical assistance such as explaining Federal Labor Standards and the bidding process or use of debriefing sessions to assist MBE/WBE's in understanding why bids were unsuccessful. Also, the Coordinator would continue to research other technical assistance and financial assistance programs which MBE's/WBE's could take advantage of.
3. **Goals:** The plan proposes an ultimate goal for both MBE's and WBE's which is equal to their presence in the overall business community. (We are awaiting the 1982 Census Bureau Survey of Minority Businesses to be printed in order to determine the ultimate goals). Recognizing that the Agency is only beginning the overall MBE/WBE effort the plan further recommends that a start-up goal be established after the needs assessment phase is complete. Thereafter, a timetable of increasing annual goals will be established in order to meet the ultimate goal over a 5 year time horizon.

As a point of reference, MBE/WBE goals vary widely for established MBE/WBE's programs and depend on the type and volume of contract work, and availability of MBE/WBE's by type of trade. For example, the County's Federal Highway Administration goals are currently 10% for MBE's and 1% for WBE's with actual utilization rates of .8% for MBE's and .5% for WBE. Similarly, STDA's goals are 15% for MBE's and 3% for WBE's with approximately 11% and 3% utilization rates respectively. The Cable TV project goal is 23% (combined MBE/WBE goals). The City which does not have goals, estimates utilization rates to be 5% which is slightly higher than the Agency's estimated utilization rate. Because of these variations, staff recommends a full analysis of the MBE/WBE market and future CDBG contract opportunities be conducted prior to setting the start-up goal so that the goals and timetables can be meaningful to the program.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

39

Redevelopment Agency and
City Council of the
City of Sacramento
Page Four

It is important to keep in mind that the goals are accomplished through technical assistance and outreach and not through strict "quotas". The legality of quotas has not been established and both State and Federal laws require award to the lowest, responsive bidder. Responsiveness may, however, include the contractor's good faith efforts to seek subcontracts or joint ventures with MBE's and WBE's.

We would also like to note that the Agency views this program as more than an effort to meet Federally mandated requirements. In fact, this proposal may be viewed as a part of our overall economic development efforts. Taken together with our commercial loan programs, our efforts to promote business in depressed areas via the strip coordinators, and our other business development assistance efforts, this Plan can serve as a major supporting element to what the Agency can meaningfully contribute to economic development in Sacramento. In addition, we believe that the CDBG MBE Program can be easily adopted to (or incorporated within) the City's broader effort to develop policies and a structure for overall affirmative economic development.

FINANCIAL DATA

The staff recommends that a position within the Agency be assigned full time to the MBE program. We are currently exploring possibilities for revising staff assignments which may allow the Agency to assign a full time MBE Coordinator at no additional costs. If this is feasible no financial impact will result from the requested action over the short term. As we gain experience with the MBE program, we will be evaluating the adequacy of one staff person, and reporting back to you if additional staff are necessary to accomplish the program.

POLICY IMPLICATIONS

The requested action is in conformance with prevailing Federal requirements and in keeping with the locally adopted 1985 CDBG Statement of Objectives which calls for "providing expanded employment opportunities by promoting program contracts for small and minority businesses and creating new jobs through economic development".

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Redevelopment Agency and
City Council of the
City of Sacramento
Page Five

VOTE AND RECOMMENDATION OF COMMISSION


At its regular meeting of April 15, 1985, the Sacramento Housing and Redevelopment Commission adopted a motion recommending adoption of the attached resolution. The votes were as follows:

- AYES: Amundson, Lopez, Moose, Pettit, Sanchez, Angelides
Walton
- NOES: None
- ABSENT: Luttrell, Ose, Teramoto, Wooley


RECOMMENDATION

The staff recommends adoption of the attached resolution which (1) approves the MBE Plan, and (2) directs the Agency Executive Director to designate an MBE Coordinator and implement the Plan's recommendations.

Respectfully submitted,


WILLIAM H. EDGAR
EXECUTIVE DIRECTOR

TRANSMITTAL TO COUNCIL:


WALTER J. SLIVE
City Manager

Contact Person: Trish Davey

39

RESOLUTION NO. 85-317

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

April 23, 1985

APPROVED
BY THE CITY COUNCIL

APR 25 1985

THE CDBG PROGRAM
MINORITY AND FEMALE OWNED BUSINESS PLAN OFFICE OF THE
CITY CLERK

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1: The Minority and Women Owned Business Enterprise Plan, presented in the staff report for the Community Development Block Grant Program is hereby approved establishing a policy of good faith effort to increase the utilization of minority and female owned enterprises.

Section 2: The Sacramento Housing and Redevelopment Agency is assigned to coordinate implementation of the Plan, and the Executive Director directed to assign staff as necessary to implement the Plan.

Section 3: The Department of Public Works is requested to designate a contact person to coordinate with the Agency in the implementation of this Plan.

CHAIR

ATTEST:

SECRETARY

z

39

RESOLUTION NO. 85-033

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
ON DATE OF

April 23, 1985

THE CDBG PROGRAM MINORITY AND FEMALE OWNED BUSINESS PLAN

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

Section 1. The Minority and Women Owned Business Enterprise Plan, presented in the staff report for the Community Development Block Grant Program is hereby approved establishing a policy of good faith effort to increase the utilization of minority and female owned enterprises.

Section 2: The Sacramento Housing and Redevelopment Agency is assigned to coordinate implementation of the Plan, and the Executive Director directed to assign staff as necessary to implement the Plan.

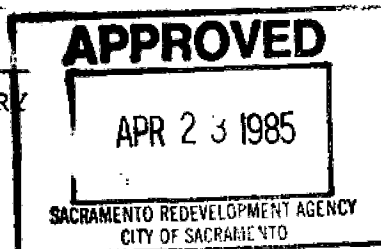
Section 3: The Department of Public Works is requested to designate a contact person to coordinate with the Agency in the implementation of this Plan.

CHAIR

ATTEST:

SECRETARY

z:CDBGMin&FemRACS



29

MINORITY BUSINESS ENTERPRISE (MBE)

AND

WOMEN'S BUSINESS ENTERPRISE (WBE)

UTILIZATION PLAN

**PREPARED BY
SACRAMENTO HOUSING AND
REDEVELOPMENT AGENCY**

39

FORWARD

This document has been prepared to assist the City and County of Sacramento in meeting Federally mandated efforts to increase the use of minority and female owned businesses in government contracts.

Unfortunately, there are no universally accepted definition for what constitutes a "minority business enterprise". Generally, a minority business enterprise is owned and controlled by persons considered socially and economically disadvantaged. The federal government has determined that Blacks, Hispanics, Asians/Pacific Islanders and American Indians are socially disadvantaged. Non-ethnic minorities, often included when considering who is socially and economically disadvantaged, are women and the handicapped.

For our purpose, SHRA has determined that Minority Business Enterprises (MBE) are owned and controlled by the following socially and economically disadvantaged groups:

- Blacks
- Asian/Pacific Islanders
- Hispanics
- American Indians
- Women (WBE)
- Handicapped

The intent of this plan is to provide local socially and economically disadvantaged business enterprises with an equal opportunity to do business with the Agency, the City and the County. The result of the implementation of this plan will be the promotion of increased contracts and purchases with local socially and economically disadvantaged business enterprises.

29

I. INTRODUCTION

A. Purpose of the Plan:

The purpose of this plan is threefold. First, the plan is designed to promote the utilization of minority and women's business enterprises in CDBG funded projects, as well as in other City and County projects. Secondly, the plan will encourage the development of minority and women's business enterprises through the provision of technical assistance. Finally, the implementation of the plan will increase the economic growth of minority and women's business enterprises, thereby increasing the contributions minority and women's businesses can make to the economic system.

Historically, minority and women owned businesses have not fully participated in the labor market. Yet, Minority Business Enterprises (MBE) and Women's Business Enterprises (WBE) play a critical role in the community by providing jobs, catalyzing economic growth and stabilizing the economic bases of the community. Further, minority businesses tend to locate in predominately minority communities and also tend to hire workers who are members of minority groups.

Local governments have an interest in the scale, quality and scope of business activity for two critical reasons. First, their ability to raise revenues to support desired and needed public improvements and services is tied to local economic activity. Secondly, the cost and quality of life of each household are directly dependent on local economic conditions. Household income, stability and growth are closely tied to the labor consumption patterns of local enterprises. Economic decline or instability can result in reduced employment opportunities and increase expenditures on the part of local government to support the dependent population. A solution is to stabilize or expand the local tax base in order not to be forced to reduce services, lower the standards of government performance, increase the current tax rate, impose new taxes, or lobby for greater state and federal financial assistance.

One of the local alternatives is to encourage and promote local business development, including minority and women's business enterprise development. Minority and women's business enterprises, through greater expansion and development, can make a significant contribution in the following:

- stabilizing the tax base
- creating job opportunities
- stimulating private investment
- neighborhood revitalization

In spite of the vital role they play, minority and women's businesses have not received a proportionate amount of public contracting dollars over the years. As a result of this, minority and women's businesses have not shared proportionately in the economic stimulation generated by those contracts.

One critical problem related to increasing the utilization of minority and women's businesses is that many minority and women's businesses do not bid on local government procurements because they are unaware of the service and assistance they can receive to make themselves competitive. In other cases, the minority or woman's business owner simply does not understand the functioning of government agencies, especially procurement policies, and just does not consider government procurement as a viable business option. One crucial way of increasing minority and women's contracting levels is to encourage minority and women's owned firms to bid on local government procurements. By reducing perception, technical and management problems faced by minority and women's owned firms, an increase in the number of firms bidding, both as a prime and as subcontractors, on advertised procurements will result.

B. Legal Mandates for Use of MBE's:

In recognition of the historic and current socio-economic conditions which have constrained minority and women's owned business participation, the Federal government has issued a series of Executive Orders and Regulations which call for all levels of government to encourage and support minority and women owned businesses. These legislative mandates are particularly applicable to Federally funded programs, such as the Community Development Block Grant (CDBG) program.

39

The following are legislative policies and mandates which govern minority and women's business enterprise utilization:

OMB Circular A-102, Attachments O, Section 9 (Appendix A)

This attachment provides standards for use by state and local governments in establishing procedures for procurement of supplies, equipment, construction, and other services with Federal grant funds.

Section 9 of this attachment, entitled "Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms", states that it is National policy to award a fair share of contracts to small and minority business firms. It mandates that affirmative steps be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction, and services. The affirmative steps to be taken include the following:

1. Including qualified small and minority businesses on solicitation lists.
2. Assuring that small and minority businesses are solicited whenever they are potential sources.
3. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
4. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority business.

5. Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprises of the Department of Commerce and the Community Services Administration as required.
6. If any subcontracts are to be let, requiring the steps in 1-5 above.

Section 9, also require that Grantees take similar appropriate affirmative action in support of women's business enterprises.

Executive Order 11625 (Appendix B)

This executive order promotes:

The opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic justice for such persons and improve the functioning of our national economy.

Executive Order 11625 also clarified the role of the Secretary of Commerce, the Advisory Council for Minority Enterprise and Federal Departments in assuring that minority enterprises have the opportunity to fully participate in the free enterprise system. The Executive Order 11625 set reporting requirements. Finally, Executive Order 11625 gave the Secretary power to set policies and standards.

Executive Order 12138 (Appendix C)

This Executive Order, entitled "Creating a National Women's Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating and Implementing a National Program for Women's Business Enterprises," was made in response to the findings of the Interagency Task Force on Women Business Owners and congressional findings which recognized:

1. the significant role which small business and women entrepreneurs can play in promoting full employment and balanced growth in our economy;

- 29
2. the many obstacles facing women entrepreneurs;
and
 3. the need to aid and stimulate women's business enterprise.

This Executive Order created a National Women's Business Enterprises Policy and prescribed arrangements for developing, coordinating and implementing a national program for women's business enterprise.

The Executive Order mandated the Federal Department and agencies the following responsibilities:

1. Each department and agency of the the Executive Branch shall take appropriate action to facilitate, preserve and strengthen women's business enterprise and to ensure full participation by Women in the free enterprise system.
2. Each department and agency shall take affirmative action in support of women's business enterprises in appropriate programs and activities, including but not limited to:
 - a. management, technical, financial and procurement assistance.
 - b. business, related education, training, counseling and information dissemination, and
 - c. procurement
3. Each department or agency empowered to extend Federal financial assistance to any program or activity shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprises on the grounds of sex.

Executive Order 12432 (Appendix D)

Executive Order 12432, entitled "Minority Business Development," set forth provisions to promote minority business development and utilization.

Section 1 states that minority business enterprise development plans shall be developed by each Federal Agency having substantial procurement or grantmaking authority. These plans must establish minority business enterprise development objectives and methods of encouraging both prime contractors and grantees to utilize minority business enterprise.

Section 2 outlines business enterprises development responsibilities of Federal Agencies:

- (1) To the extent permitted by law and consistent with its primary mission, each Federal agency which is required to develop a minority business development plan under Section 1 of this Order shall, to accomplish the objectives set forth in its plan, establish programs concerning provision of direct assistance, procurement assistance, and management and technical assistance to minority business enterprises.
- (2) Each Federal agency shall to the extent permitted by law and consistent with its primary mission, establish minority business development programs, consistent with Section 211 of Public Law 95-507, to develop and implement incentive techniques to encourage greater minority business subcontracting by Federal prime contractors.
- (3) Each Federal agency shall encourage recipients of Federal grants and cooperative agreement to achieve a reasonable minority business participation in contracts let as a result of its grants and agreements. In cases where State and local governments are the recipients, such encouragement shall be consistent with principles of federalism
- (4) Each Federal agency shall provide the Cabinet Council on Commerce and Trade such information as it shall request from time to time concerning the agency's progress in implementing these programs.

39

C. Standards and Goals for Assessing MBE/WBE Participation:

In furtherance of the above legislation and Executive Orders, each Federal Department or Agency sets standards for attaining increased awareness of and participation from MBE's and WBE's. Of primary importance to the CDBG program, is of course, the standards set by the U.S. Department of Housing and Urban Development (HUD).

The HUD regulations propose to review a grant recipient's performance to determine if the recipient has administered its CDBG activities in a manner to encourage the establishment, utilization and expansion of minority and women's business enterprises as described in Executive Orders 11625, 12432 and 12138, and OMB Circular Number A-102, Attachment 0, Section 9.

In reviewing a recipient's performance, HUD will presume, that a recipient has carried out its CDBG program in the furtherance of the objectives of the Executive Orders and requirements of OMB Circular A-102, Attachments 0, Section 9, with respect to minority and women's business enterprises, if during the review period (a) the amount of CDBG funds awarded through contracts and subcontracts of \$10,000 or more to minority and women's firms for supplies, equipment, construction and services divided by the total amount of all such contracts to all firms, approximates the percentage of minority and women's business enterprises in the recipients Metropolitan Statistical Area (MSA) and (b) the proportion of such contracts and subcontracts awarded by the recipient to minority and women's business enterprises exceeds such proportion in the preceding review period.

Where appropriate data is not available to determine the percentage of minority and women's enterprises HUD allows the recipient to estimate the percentage if it is based upon an acceptable survey or other acceptable data.

Where no such data is available or acceptable, HUD will presume that the recipient has carried out its program in accordance with the requirements if the proportion of contract and subcontract dollars for contracts over \$10,000 or more awarded to minority and women's business enterprises has increased over the prior year.

Goals:

In light of HUD's regulations and in recognition that the City and County of Sacramento's current utilization rates fall far below HUD's standards, the Agency has chosen a progressive action plan to correct this under-utilization. The Agency's ultimate goal is full compliance to HUD's regulations. The end result will be a MBE/WBE utilization rate proportionate to the number of MBE/WBE's in the Sacramento Metropolitan Statistical area.*

Currently, utilization rates on CDBG contracts over \$10,000 are below 5% for MBE/WBE's combined. Therefore, a progressive timetable of increasing goals needs to be established over time to bring the utilization rates at or near the ultimate goals. During the start-up phase of the plan, a needs assessment along with further research will be conducted to establish a realistic and meaningful start-up goal. Each year the actual utilization rates will be analysed to determine how the overall MBE/WBE program should be modified to increase effectiveness. SHRA will identify and measure: (1) the number of contracts awarded to MBE/WBE's, (2) the amounts of the contracts awarded MBE/WBE's, (3) the total contract dollars amount awarded MBE/WBE's, (4) types of contracts awarded (prime, subcontracts, joint ventures) awarded MBE/WBE's, and (5) other variables as necessary to determine if SHRA has reached its MBE/WBE contracting goal. If it becomes clear from the analysis that only one or two larger MBE/WBE contracts were awarded to meet the 4% of the contract dollars, efforts shall be made to amend the MBE/WBE plan to increase both the dollar volume and number of MBE/WBE contracts awarded in succeeding years.

During the first year of the plan, SHRA will conduct necessary research to determine the number of minority and women's business enterprises vs non-minority and women's business enterprises in order to determine the percent of MBE/WBE's in the Sacramento MSA overall and by trades typically used in CDBG contracts. Once this is established SHRA will set progressive goals over the next five years increasing the percentages each year until it reaches the percent of MBE/WBE's in the Sacramento MSA.

* Agency staff will utilize the 1982 Survey of Minority Business, and Women Business Economic Study, of the Census Bureau to determine these goals. These documents are on order.

34

D. Definitions:

The following definitions are presented to clarify what is a minority business enterprise and to establish working definitions for this plan:

Minority Business Enterprises (MBE):

A minority business enterprise that has submitted a "Minority Business Enterprise/Women Business Enterprise Self-Certification" to, and been accepted as, a bonafide MBE by the Sacramento Housing and Redevelopment Agency (SHRA). In addition the following requirements apply:

An independent business concern which is at least 51% owned and controlled by minority group member(s). Ownership and control can be measured by:

- a. Responsibility for performance of contract work.
- b. Management responsibility.
- c. At least 51% share of profits and risk.
- d. Other data (such as voting rights) that may be related to ownership and/or control.

Minority Group Member:

A person who is Black, Asian or Pacific Islander, Hispanic, or American Indian or Alaskan Native.

- 1. **Black** - Black Americans consist of all U.S. citizens other than Hispanic, having origins in any of the Black racial groups of Africa.
- 2. **Asian/Pacific Islander** - Asian and Pacific Island Americans consist of U.S. citizens having origins in any of the original people of the East Asia, South-east Asia, the Asian subcontinent and the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippines, Vietnam, Somoa, Guam, the U.S. Trust Territories of the Pacific, Northern Mariannes, Laos, Cambodia, Taiwan, as well as the Hawaiian Islands. The Indian subcontinent takes in the countries of India, Pakistan, Bangladesh, Sri Lanka, Sikkam, and Bhutan.

3. **Hispanic** - Hispanic Americans consist of U.S citizens with origins from Puerto Rico, Mexico, Cuba, or South or Central America. Only those persons from Central and South American countries who are of Spanish origin, decent, or culture should be included in the category. Persons from Brazil Guyana, Surrnan or Trinidad, for example, would be classified according to their race and would not necessarily be included in the Hispanic category. In addition, this category does not include persons from Portugal, who should be classified according to race.
4. **American Indian/Alaskan Native** - American Indians or Alaskan Natives consist of persons having origins in any of the original groups of North America, including the Alentian Islands, or who maintain cultural indentification through tribal affiliation or community recognition, or who demonstrates at least one-quarter descent from such groups.

Women's Business Enterprise (WBE):

A women's business enterprise that has submitted a "Minority Business Enterprise/Women's Business Enterprise Self Certification" form to, and been accepted as, a bonafide WBE by SHRA. In addition, the following requirements apply:

1. An independent business which is at least 51% owned by a woman or women who also control and operate it.
 - a. **Ownership** - Determination of whether a business is at least 51% owned by a woman or women shall be made without regard to community property law. For example, an otherwise qualified WBE which is 51% owned by a married woman in a community property state will not be disqualified because her husband has a 50% interest in her share. Similarly, a business which is 51% owned by a married man and 49% by an unmarried women will not become a qualified WBE by virtue of his wife's 50% interest in his share of the business.
 - b. **Control and Operation** - "Control" means exercising the power to make policy decisions and "operate" means being actively involved in the day-to-day management of the business.

Socially Disadvantaged - Individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identification as members of certain groups.

Economically Disadvantaged - Are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities.

Contractor - The individual, partnership, corporation, joint venture or other level entity entering into a contract with the City of Sacramento, County of Sacramento or the Sacramento Housing and Redevelopment Agency (SHRA).

Subcontractor - The individual partnership, corporation or other legal entity entering into a contract with the contractor to perform a portion of the work.

Joint Venture (JV) - A business enterprise formed by a combination of firms under a JV agreement. To qualify as a bonafide MBE/WBE, the minority-owned/woman or women owned and controlled firms in the joint venture must:

1. Satisfy all requirements for bonafide MBE/WBE participation in their own right.

In cases where a minority woman or women owner firm participates in a JV, the percentage may be credited towards MBE participation or as WBE participation, or allocated, but may not be credited fully to both.

2. Share a clearly defined percentage of the ownership, management responsibilities, risks, and profits of the JV. Only this percentage will be credited towards the MBE/WBE goal.

Brokerage - Buying and selling for others on commission or other fee basis without maintaining a warehouse or other similar inventory storage facilities (supplier and wholesale arrangements may also fall into this business enterprise category).

Construction - Erection, building, alteration, remodeling, improvement or extension of buildings, structures, or other property.

Subagreement - A written agreement between the grantee and contractor and any lower tier agreement for services, supplies, or construction necessary to complete the project.

II. Current Procedures:

The current procedures utilized by Sacramento City, Sacramento County and Sacramento Housing and Redevelopment Agency (SHRA) in the administration of advertisement, awarding, and bidding of contracts where CDBG funds are utilized do not currently conform to the full extent of the legislation and Executive Orders which govern the use of CDBG funds in regards to MBE/WBE utilization. Pursuant to both HUD regulations and the supporting Executive Orders, affirmative steps must be taken to assure that minority business and women's business enterprises are utilized when possible as sources of supplies, equipment, construction and services.

The following is a brief description of the current procedures utilized by the City, County and SHRA. Also included are procedures utilized by the County for projects funded by other federal agencies which meet appropriate MBE/WBE utilization guidelines.

A. County Procedures:

The County Department of Labor Compliance is responsible for overseeing projects funded by CDBG. After the bid packet has been prepared, the bidding is open for a period of 21 days. The bid is advertised in the local newspaper, minority newspaper (Sacramento Observer), and various planning rooms.

A pre-bid conference is held seven (7) days prior to the final bid date. The following standard regulations and requirements are explained at the conference by the Department representative:

1. E.O. 11246
2. E.E.O. Requirements
3. Section 3 requirements
4. Federal Labor Standards Provisions
5. Anti-Kickback Act
6. Prevailing Wage Table
7. Clean Air Act and Federal Water Pollution Control Act.
8. Reporting Requirements and Sanctions.

After the contract has been awarded a pre-job conference is held in order to review the contract specifications. There is currently no extra review of MBE/WBE utilization or good faith effort. Also there are no goals set for CDBG funded projects.

B. City Procedures:

The City Engineering Department of Sacramento is responsible for overseeing projects funded by Federal CDBG funds. The current procedures for advertisement, bidding and awarding contracts are basically the same as that of the County. In relation to special efforts towards MBE/WBE Utilization the following steps are taken:

1. "M.B.E. are encouraged to apply" is stated at the front of the contract specifications.
2. An M.B.E. Register is included in the bid packet.
3. Each contractor has to submit documentation as to subcontracting efforts with MBE/SBE yet there is no criteria for verification of such efforts.

C. Sacramento Housing and Redevelopment Agency Procedures:

The Sacramento Housing and Redevelopment Agency oversees a limited number of construction projects. When this becomes necessary the Technical Services Division of SHRA is responsible for advertising, bidding, awarding and monitoring the project. The current procedures do not exhibit any required steps for MBE/WBE utilization. Appendix E is the Procedures for Public Bid Openings and Appendix F is the Responsibilities of Affirmative Action and Labor Compliance by Technical Staff developed by SHRA.

Two other areas where current procedures need to be reviewed are in Rehabilitation Contracts and Procurement of Consultants.

The Rehabilitation Department does not award the Rehab contracts; it is the discretion of the owner to choose from three bidders. Yet the Rehabilitation Department has established the following procedures:

1. All Contractors must be certified and are placed on a list of contractors by the Rehab Department in order to be eligible to bid on jobs. Certification includes:
 - a. Credit checks
 - b. License verifications
 - c. Once the above is completed the new contractor is allowed to bid and be awarded one job. If he/she performs well and is reasonable then the contractor is allowed to remain on the list of contractors.

- 2. Twice a year the Rehab Department advertises in minority newspapers for contractors to apply to be certified.
- 3. Advertisement:
 - a. Construction daily Newsletter
 - b. Quarterly Newsletter developed by Rehab Department which is sent to all contractors on the Rehab list.
 - c. 3 to 5 contracts are advertised each week.
- 4. Bids are competitive
- 5. Each job over \$5,000 must be bonded. Contractors need not be bonded prior to award but prior to actual start up.
- 6. Only general contractors are eligible.

Contracts and Procurement of Consultants : The Procurement of Consultants financed by the CDBG is done in accordance with OMB Circular A-102, Attachment 0. These policies also apply to the selection of program operators for public services financed in whole or in part with CDBG funds. Attachment G is an excerpt from SHRA's Selection and Retention Policy for Contracted Services Financed through Federal CDBG.

D. Procedures required by other Funding Sources:

The County of Sacramento is certified to administer and monitor projects funded by the Environmental Protection Agency (E.P.A.) and the Federal Highway Administration (FHWA). Both of these funding sources require the grantee (County of Sacramento) to have effective MBE Utilization Procedures. As a result of this requirement, the Board of Supervisors on August 11, 1981, passed Resolution No. 81-934 authorizing the

Director of Public Works to Establish and Implement Minority Business Enterprise Programs. Appendix H is the related Staff report and the Sacramento County Minority Business Program. Appendix I is the required guidelines by E.P.A, which are followed by Sacramento County (Clean Water Grant Bulletin No. 113)

III. OPTIONS FOR INCREASING MBE/WBE PARTICIPATION:

To correct deficient utilization of MBE/WBE's in government procurement activities a broad spectrum of programs and assistance may be considered. In all cases, a needs assessment to determine appropriate actions and proper identification of MBE/WBE's serve as the foundation for an MBE/WBE Plan.

For the City and County of Sacramento, a phased plan of action is suggested which brings forth a progressive program of activities over time which responds to on-going evaluations of the program. In preparing this plan, a range of actions was considered. The spectrum of known activities to increase MBE/WBE participation is briefly outlined in this section.

A. Identify and Certify MBE/WBE's:

The first suggested step in creating an MBE/WBE utilization plan is to identify MBE/WBE's and understand their concerns. Generally, most effective MBE/WBE programs also require a certification process which confirms the status of a MBE/WBE to ensure against fraud.

B. Needs Assessment and Feedback from MBE/WBE's:

A second step is to identify and understand the technical and financial barriers which constrain MBE/WBE participation. This can be accomplished in a number of ways:

1. Surveys of MBE/WBE's
2. Need Assessment Hearings

- 29
3. Establishment of an MBE/WBE Task Force to represent and communicate MBE/WBE concerns to elected officials and staff, or
 4. The establishment of MBE/WBE assistance centers either internally within the local government structure or externally (ex: non-profit).

C. Advertising and Increased Awareness:

In most communities, a pivotal MBE/WBE utilization strategy is to increase awareness of government contracts. This can be accomplished through targeted notice of bids to MBE/WBE's, planning rooms, and on-going notice in minority or women's oriented publications or trade papers.

D. Access to Contract Opportunities:

Closely related to the above, are efforts to increase MBE/WBE's access to contract opportunities. More traditional approaches include:

1. Publishing MBE/WBE newsletter which updates such firms on government activities and future contract opportunities.
2. Designation of an MBE/WBE Coordinator within the government contract office whose responsibility is to coordinate with MBE/WBE's and provide information and technical assistance.
3. Orienting the size and scope of contracts towards the known capabilities of the MBE/WBE community. For example, many large construction contracts can be divided into smaller contracts to allow MBE/WBE's to be more competitive. Similarly for very large contracts with a number of sub-contracting opportunities, individual MBE/WBE contract goals may be established for the project.

4. Development and encouragement of Joint Ventures between established contractors and MBE/WBE's is an excellent means of increasing MBE/WBE utilization on a long term basis.

Joint ventures between MBE/WBE's and larger, well qualified majority owned businesses can be advantageous for a number of reasons:

- . Low cash requirements on the part of the MBE/WBE.
- . Readier access to a market and market information.
- . Minority firm can share in earnings and growth of the venture.
- . Equity injection by the joint venture partners eases the cash flow and short term debt demands of the MBE/WBE.
- . Administrative and managerial expertise is available to the MBE/WBE.

In a joint venture partnership, the MBE/WBE must maintain control over the deal or the relationship may be no different from a prime/subcontractor relationship.

5. Use of pre-bid and pre-construction meetings to clarify MBE/WBE goals to both majority and minority firms can enhance participation.
6. Finally, use of set asides for MBE/WBE's in individual contracts may be used however, the legality of such programs is currently under question.

E. Technical Assistance Options:

Many times a minority or woman enterprise is interested in working on a particular local government contract, but does not not have the capacity to serve as a prime contractor. It lacks either the financial or technical capacity to adequately handle the level of responsibility required of the prime contractor. However, these firms may have the expertise to serve as sub-contractor or as a joint venture partner with technical and financial assistance. Technical assistance can take several forms.

- 34
1. **MBE/WBE Coordinator:** An in-house staff person can be assigned to distribute government procurement information to MBE/WBE's and provide technical assistance on preparing bids.
 2. **MBE/WBE Task Force:** Similarly, an MBE/WBE Advisory Committee to provide outreach and assistance can be established. Excerpted below is an outline for an MBE Advisory Committee (43 CFR Part 23) from Guidance for Implementing Department of Transportation Rules Creating a Minority Business Enterprises Program in DOT Financial Assistance Programs:

The MBE program staff may make an extensive outreach effort to encourage MBE's to discuss their capabilities with the staff so that more knowledge may be obtained regarding these firms. An open door policy should be maintained. The creation of a Minority Business Enterprise Advisory Committee may be an effective tool in communicating with important functions including:

- Serving as an advocate for the local minority business enterprise community;
- Providing a source of information to identify additional MBE's
- Providing assistance in resolving major procurement and contracting problems affecting MBE's;
- Communicating the recipient's MBE program to minority and female businesses;
- Assisting in developing MBE program goals and procedures.
- Providing a sounding board to assess proposed changes in the MBE program;
- Providing an independent assessment of the MBE program.

In order to be effective the committee should be composed of representatives of MBE trade associations and MBE assistance organizations. Selecting individual minority business/female business persons who do not represent a formal association is frequently viewed by MBE firms and non-minority businesses as simply favoring one individual. Members should be selected primarily because of their knowledge of business and/or the minority and female business community. Efforts should be made to obtain representation from the various groups within the minority/female community. The composition of the committee should be reflective of the types of improvements being considered and undertaken. Committee members may participate in a training session which familiarizes them with Federal requirements, administrative procedures and personnel relating to their activities.

Procedures may also be developed for the committee to make comments and recommendations to both the chief executive officer and the Board of Directors. All proceeding should be recorded and placed on file.

3. **MBE Handbook:** In addition, the development of a handbook which explains government procurement and contracting procedures can assist in "de-mystifying" the process and encouraging participation. The handbook might include:

- Procedures outlying specific steps on how to bid;
- Prerequisites for bidding on contracts;
- Information on how plans and specifications can be obtained;
- Names of persons to contact concerning questions on bid documents;

31

- Names of procurement officers and office hours;
- Types of supplies and services purchased;
- Explanations of standard contract implementation procedures and requirements concerning such matters as timely performance of work, contract changes, and payment schedules.

4. Other: A broad range of other options to provide technical assistance may also be developed. Among the more obvious are: (1) supporting and strengthening existing MBE and WBE organizations, (2) building or enhancing an "in-house" network of staff involved in government procurement to share in efforts to increase MBE/WBE utilization, and (3) most important are efforts to encourage existing majority firms or successful minority firms to lend assistance to new or growing MBE/WBE's.

F. Financial Options:

Closely related to technical assistance needs, is the need to provide financial assistance to qualified MBE/WBE's to increase the competitiveness of such businesses. With high interest rates and cutbacks in small business programs, obtaining financial assistance is increasingly difficult.

There are however, two programs available within Sacramento which provide limited assistance.

1. Superior Valley:

Superior Valley is a non-profit corporation funded by the Office of Small Business Development to deliver loan guarantees and other financial and management services to the northern valley area. The basic qualification for assistance by Superior Valley SBDC is that an organization not exceed the size limitations as defined by the U.S. Small Business Administration (SBA).

Financial programs of Superior Valley SBDC are flexible as opposed to the regular SBA programs. Guarantees have been issued on short and long term loans, revolving lines of credit, floating loans, seasonal inventory/accounts receivable loans, equipment purchases, bonds, leases etc.

In the area of contracting, Superior Valley SBDC will fund a contractor on a specific contract. The funding has been in the form of a line of credit or letter of credit. If the contractor is successful he/she may return for other contract lines of credit or establish a revolving line of credit.

Bonding contractors has not been an active financial assistance made in the past. Superior Valley is currently analyzing the possibilities of increasing activity in this area.

In the area of technical assistance, Superior Valley offers classes in loan packaging/finance, pre-business planning, sales training, bid preparation etc. Technical Data Corporation of Oakland also assists in this area. It appears as though SHRA may be able to rely on Superior Valley to be responsible for technical assistance to MBE/WBE's.

2. State Office of Small Business Administration:

This office provides the following services: management assistance, procurement assistance, financial and investment assistance, and a program called 8A.

The 8A program is for socially and economically disadvantaged business people who provide such services as construction, janitorial services, security, printing, etc. The business must become certified through a two part application:

- (1) determination of financial feasibility in the community.
- (2) extensive SBA application which requires attachment of corporate documents, financial records, etc.

39

Once certified the business goes through a process of self marketing where they show up at bidding conferences, make contacts, etc. until they build a reputation and hopefully start to receive bigger and better contracts. They must do at least 50% of the work themselves.

There are training programs, workshops and seminars for all small businesses. The 8A program lacks procurement assistance.

The bonding program operated by this program is not large but it operates at a higher risk. Eligibility depends on money and experience. The program will aid in locating bonding or provide direct assistance, although the amount of money allocated for this is not much.

3. **Set Asides:**

A set-aside is the designation of a given contract for competition solely among MBE/WBE's. MBE/WBE's are young, small and struggling, and are less likely to win contracts in the open market. Setting aside an appropriate contract ensures that a MBE/WBE will perform it and ensures the grantee of some movement toward MBE/WBE utilization goals.

4. **Other Options:**

Although the following options are not within the immediate timeframe of the proposed MBE/WBE plan, they are viable tools/resources that have been used by other communities.

a. **Bonding Problems:**

1. Intercession with bonding companies on behalf of MBE/WBE contractors.
2. Technical assistance on how to prepare bond applications.

3. Waiving bonds for small and medium sized projects
 4. Establishment of a bonding pool where market rates are subsidized or guaranteed by local government to make them more affordable to the minority contractor.
- b. MBE/WBE's face collateral requirements far in excess of the amount of funds borrowed, thereby limiting their future credit opportunities. Effective leveraging of public resources can increase minority business access to affordable capital through interest rate subsidies, extended loan terms, revolving loans, earmark program income, etc.

IV. PROPOSED MBE/WBE PROGRAM

This plan is a progressive plan. The plan is a multi-year plan that moves progressively from the needs assessment stage, to certification, to the establishment of a Minority and Women's Business Enterprise Clearinghouse; from our current less than 5% utilization rate for MBE/WBE's to a percent of the total contract dollars being awarded that is equal to the percent of MBE/WBE's in the Sacramento MSA.

Throughout the implementation of this plan, process and outcome evaluations will be conducted to determine the success of each phase.

- A. Organizational Responsibility: This plan proposes that the Sacramento Housing and Redevelopment Agency, the County of Sacramento and the City of Sacramento adopt a common goal and strategy in increasing MBE/WBE participation.

It is recommended that as an initial step, an MBE/WBE Coordinator be designated within SHRA and that both the City and County of Sacramento designate MBE/WBE contact persons. The MBE/WBE Coordinator will be responsible for:

1. Identifying and certifying MBE/WBE's and distribution of the certified list.
2. Implementation of the revisions to the contracting and outreach process indicated in other sections (B-6).

- 3. Coordination with the City and County MBE/WBE contact persons in the City/County of Sacramento.
- 4. Technical assistance and referrals for MBE/WBE's interested in securing government contracts.
- 5. Collecting of data and assessment of the effectiveness of the plan.

In addition, it is recommended that SHRA study the staffing requirements for a MBE/WBE Unit and that any necessary budget amendments be considered to fully carryout this plan.

B. YEAR ONE (1985) WORKPROGRAM:

- 1. **Identify MBE/WBE's:** The MBE/WBE Coordinator shall be responsible for developing a comprehensive list of MBE/WBE's, both contractor/subcontractors and vendors. The list will be stored in the Agency's computer to facilitate a periodic update. This way, as addresses change, the MBE/WBE's will not become lost, as businesses close, the list will not remain dysfunctional; and, as new MBE/WBE's open they can be added. Information on types of work and capacity level will be coded, as well as information on ethnic identification, etc. The list will be circulated to agency staff who contract and purchase goods and services, to City and County Departments that contract and purchase goods and services; and to contractors in order to promote their utilization of MBE/WBE's as subcontractors and joint venture partners.
- 2. **Certifying MBE/WBE's:** Once the list is established, a MBE/WBE Certification process will be developed by the MBE/WBE coordinator and implemented to ensure that the businesses are owned and controlled in both form and substance by minorities or women.

Any business that wishes to be certified as a legitimate MBE/WBE may complete and submit a certification form.

Upon receipt of the certification form, the MBE/WBE Coordinator will promptly evaluate to determine whether the applicant meets the definition of a MBE/WBE. The Coordinator may request any additional information from the applicant that is necessary to certify the MBE/WBE.

Once the Coordinator has determined the business has met the conditions to be a MBE or WBE, a written notice to this effect will be sent to the applicant and the applicant will be placed on a certified list of MBE/WBE's. A periodic review of the business will be conducted to affirm the MBE or WBE status. The review shall be conducted, at minimum, once a year.

3. **Needs Assessment:** It is recommended that a full needs assessment of MBE/WBE's be conducted within the first year of the plan in order to further refine this program's strategies and present new information for successive years. In order to accomplish this, it is recommended that a comprehensive written survey be conducted. Once the survey is complete, the findings will be analyzed, and the survey results will be printed and made available to the public. Public Hearings will be held on the findings to allow for minority/women's businesses to respond to the Agency's findings. This phase also involves the establishment of annual goals and timetables.
4. **Advertising and Outreach:** The MBE/WBE Coordinator and the City and County MBE/WBE contact persons should develop a common advertising and outreach policy which includes the following minimum requirements for major government procurements (those over \$10,000):
 - a. Advertisement in at least one newspaper of general circulation with language which specifically encourages participation from MBE/WBE's.
 - b. Advertisement both in the Hispano and the Observer.
 - c. Direct mailing of bid notices to individual MBE/WBE Firms.
 - d. Direct mailing of notices to planning rooms, trade organizations, and minority/women's business organizations.

5. Handbook: In addition, it is recommended that an MBE/WBE Handbook be developed to outline essential contracting information such as:

- a. Procedure outlining specific steps on how to bid.
- b. Information on how plans and specs may be obtained.
- c. Types of supplies and services purchased.
- d. Names of persons to contact concerning questions on bid documents.
- e. Explanations of standard contract implementation procedures and requirements.

6. Modify and Adopt the County of Sacramento's FHWA MBE Plan as the standard MBE/WBE Plan for the City/County and Agency: Currently, the only existing, adopted MBE/WBE Plan is the County of Sacramento's Plan prepared for receipt of FHWA funds. This plan is responsive to the same Executive Orders which CDBG funds must respond to, and can easily be adopted to govern all sources of Federal funds. Outlined below are key consideration/changes necessary to modify the current County Plan for SHRA - CDBG use in both the City and County:

- a. Technical Changes: Such changes as necessary that cite HUD regulations, establishment of MBE/WBE utilization goals, time frames, review procedures, etc.
- b. Major Revision/Additions:
 - 1. The definition of an MBE/WBE will conform with the definition utilized by the E.P.A. (see attached Clean Water Grant Program Bulletin No. 113).
 - 2. Additional "Good Faith Efforts": The Positive Effort Criteria as defined in the Clean Water Grant Program Bulletin will augment the current criteria. Duplicated criteria will be eliminated.

3. Pre-Bid Conference will be attended by SHRA staff in order to review MBE/WBE utilization requirements.
4. Pre-Award Conference will be held with contractor to assure compliance with MBE/WBE Plan requirements (SHRA Staff).
5. Realistic goals established according to HUD criteria.
6. Inclusion of an SHRA staff member as a liaison with the City and County.
7. Additions/Revisions of required forms. (such as certification of MBE/WBE Solicitation).
8. Certification requirement stated in Section IV, B, 2 of this document will be utilized with modifications.
9. Extension of the bid time to allow for adequate MBE/WBE soliciting. Bid time is currently 3 weeks. Time frame should be extended to at least 28 days.

c. Review:

1. MBE/WBE Coordinator will review findings and progress, and make necessary changes to the plan.
2. The appropriateness of the plan be reviewed on a yearly basis by the agency staff.

d. Technical Assistance such as:

1. Permit MBE/WBE's to review and evaluate successful bid documents.
2. Use debriefing sessions to explain why bids were unsuccessful.
3. Instruction on job performance requirements.
4. Provide MBE/WBE's projected procurement information or contracting schedules.