

Caltrans Statewide Small Business Council – Meeting Record
 San Joaquin Council of Government Office.555 E. Weber Avenue, Stockton, CA 95202
 July 20, 2012, 8:30 a.m. to 12:00 p.m.

| Action/Task | Who is responsible/ presented | By when | Status |
|---|---|---------|--|
| A. Meeting called to order at 8:38 a.m. | René Halverson, Assistant Director, OBEO and Council Chair | n/a | |
| B. Action Items to Date | René Halverson | | |
| Carryover from the July 20 SBC meeting: | | | |
| <ul style="list-style-type: none"> • Have BBC provide an ethnic breakdown of staff working on DS-II. | René Halverson to coordinate | 9/21/12 | DONE – per Caltrans Legal Department, BBC is not required to comply with this request. This action item is completed. |
| <ul style="list-style-type: none"> • Highway 91 project in Riverside – keep track of goal setting. | René Halverson | 9/21/12 | ASSIGNED – referred to Local Assistance Committee to track with Caltrans Local Assistance representative. |
| 1. Look into the possibility of applying the new DBE Program goals on existing contracts through change orders. | René Halverson | 9/21/12 | DONE – response provided by Caltrans Legal Counsel, Contracts; please see complete response – Addendum to the meeting record re: Action Item #1, July 20, 2012 SBC meeting. |
| 2. Does Caltrans track mega-businesses vs. micro-businesses? | Ramon Carlos | 9/21/12 | DONE – no, Caltrans does not track the difference between mega-businesses vs. micro-businesses; it does track SBs and MBs. |
| 3. Provide the status of the Caltrans plan submitted to FHWA to foster SBs. | Ramon Carlos | 9/21/12 | UPDATE as required – FHWA and FTA reviewed the Caltrans plan to foster small businesses. In order to provide full approval of the plan, both entities require additional detail. Additional detail submitted by Caltrans this week; currently awaiting response. |
| 4. Bring back the awards tracker report, include GFE. | Ramon Carlos | 9/21/12 | DONE – information is online; link: http://www.dot.ca.gov/hq/esc/oe/contractor_info/ (4 th column – Awards, 5 th row down – Awards Tracker). Hard copy of the most current award tracker (June) provided in meeting packets. |
| 5. Lower the speed limit by 10 mph in construction zones and widen the buffer lane statewide. | René Halverson | 9/21/12 | ASSIGNED – referred to Construction Committee to collaborate with Caltrans Construction staff. Division of Construction has set up a separate Safety Committee composed of representatives from industry, labor, and CHP. Council to be updated on progress during subsequent SBC meetings. |

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| 6. Review the draft CUF guidelines – Construction Committee requests to be included in reviewing the draft. | Janice Salais to coordinate with Debbie Hunsaker | 9/21/12 | DONE – Ms. Salais will be sending drafts to all committee chairs and council members; in addition, has contacted Ms. Hunsaker, Chair, Construction Committee. |
| 7. Provide an update of Disparity Study II. | René Halverson | 9/21/12 | DONE – Review team has provided comments to BBC on 8/15; final report due to Caltrans on 8/31. |
| 8. Have Caltrans look at the document that the HSR legal counsel, Mr. Tom Fellenez, wrote to mitigate “bid shopping” as applicable to Design/Build. | René Halverson | 9/21/12 | ASSIGNED – to Ray Tritt, Division of Design; document has been obtained; evaluating its application to Caltrans. |
| 9. Provide a presentation on bonding and insurance during the next SBC meeting. | René Halverson to coordinate | 9/21/12 | DONE – arrangements made to provide this presentation during the Sept. 21 meeting. |
| 10. Provide a presentation that covers the changes in the lien laws effective July 1, 2012 affecting the transportation industry; provide copies of the new forms. | René Halverson | 9/21/12 | DONE – presentation will be made at the Construction Committee meeting on 9/20/12. |
| 11. Consider moving any professional services-related issues currently handled by local agencies to the Professional Services Committee to address. | Eddy Lau and Julian Camacho | 9/21/12 | ASSIGNED – Professional Services committee will be working on this matter; will update the council at subsequent regular meetings. |
| 12. Provide the subcontractor listing for Design/Build projects. | Ramon Carlos | 9/21/12 | IN PROGRESS - Progress update on 11/16/12. |
| 13. Provide data tracking DBE utilization performance of primes and subs, specifically, professional service (A&E) contracts. | Ramon Carlos | 9/21/12 | ASSIGNED – referred to Professional Services Committee to work with OBEO representative; update on progress at next regular SBC meeting. |
| C. Further comments from the Chair - René Halverson | | | |
| <ol style="list-style-type: none"> 1. Announcement: Ms. Halverson shared the news that Mr. Robert Padilla, DBE Program Manager, will be leaving OBEO to join the California High Speed Rail Authority as their Small Business Advocate effective July 23. Everyone joined Ms. Halverson in wishing Mr. Padilla well on this last day with OBEO, and thanked him for his dedication and service to the small and disadvantaged business community. Mr. Ramon Carlos, who manages the OBEO Small Business Branch, will be stepping in as Acting DBE Program Manager. Ms. Anna Silva, who is the DS-II Project Manager, will manage the Small Business Branch while Mr. Carlos is Acting DBE Program Manager. 2. Ms. Halverson recognized and thanked Mr. Zeke Patten for providing us with fresh hot coffee. 3. Ms. Halverson recognized and thanked District 10 Executive Staff for attending. Ms. Halverson also recognized and thanked Ms. Lauren Pulido and Ms. Silvia Dayak for securing the meeting sites and coordinating efforts with OBEO for the SBC committees and full council. 4. Agenda review: Ms. Halverson noted the changes in the agenda format are a result of the survey conducted during the May meeting. District reports – while survey respondents recognized these reports are important, it was suggested they be presented in a different format. The “resurrected” SBC Executive Committee composed of the Chair and Committee Chairs put forth a solution: access district updates online through the individual district web sites; have District | | | |

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| <p>Directors/designees in attendance provide the council with oral reports. Information from all districts regarding upcoming events can be accessed online through district web pages and the event calendar on the OBEO web site.</p> <p>5. Meeting record: New format; technically speaking, the new format is a record of what transpired during the meeting as opposed to minutes, which denote a verbatim account of the discussion. Survey results indicated only 2 out of 38 actually read the minutes and referred back to them, while many stated they don't look at them at all. Criticisms included: too long; too much information; details that didn't matter. Intent of the new format is to capture the salient points of the discussion, the decisions made, and action items. Thus far, the new format has generally been met with approval.</p> | | | |
| <p>Code of Conduct – Tabled until the next SBC meeting scheduled for September 21, 2012.</p> | | | |
| <p>Discussion:</p> <ol style="list-style-type: none"> 1. Re: GFE – Per Director Dougherty, if GFE was determined not acceptable, Caltrans would not have awarded the contract; this action is done prior to the report. 2. Re-certification question – Per Ms. Janice Salais, Certification, if the annual update affidavit has not been submitted, the firm could lose its certification. If so, the firm would need to re-apply. 3. Executive Committee – Composed of the Council Chair and Committee Chairs; will meet on the months when the council is in recess; discuss issues that have been raised in committee; work collaboratively to set the agenda for future council meetings. | | | |
| <p>D. Opening Remarks – Malcolm Dougherty</p> | | | |
| <ol style="list-style-type: none"> 1. Mr. Dougherty thanked all present for their participation; emphasized that it is important to be here. 2. Announcements: Mr. Richard Land has been officially appointed Chief Deputy Director after being the Acting Chief Deputy Director for over a year. Mr. Dougherty considers Mr. Land, who comes with a wealth of experience, including bridge background, an instrumental member of the Caltrans senior management team. 3. New District Directors have been appointed: Mr. Timothy Gubbins, District 5; and Mr. Bassem Muallem, District 8. With the retirement of Mr. Martin Tuttle, Mr. Kome Ajise has been appointed Acting Deputy Director, Local Assistance. 4. Federal Re-Authorization Bill: will provide funding at the same level for the next 27 months. 5. State budget: Prop. 1B funding is significant; one furlough day per month initiated for this fiscal year. 6. High Speed Rail (HSR): the Governor has signed the bill to fund; related projects are moving forward. 7. DBE specifications: coordinated program changes with contractors and conducted outreach to all relevant parties; intent is to avoid any possibility of vendors losing contracts. Caltrans has reached out three times to Local Agencies to distribute information to ensure everyone is using the new DBE specifications. 8. Certification workshops: to begin in August; intent is to expedite the certification process. 9. Activity in District 10: An increase in construction projects is expected over the next five years, which reflects a general increase in work statewide through a combination of \$11.4 billion in ARRA and Prop 1B funds. 10. Projects committed to the end of 2012: all going forward; Caltrans was able to leverage significant funding as a result of timely commitments made; the California Transportation Commission has approved projects in order to maintain our timeline. | | | |
| <p>Discussion:</p> <ol style="list-style-type: none"> a. Council Member Sam Hassoun asked how Stockton's declaration of bankruptcy has affected Caltrans construction projects. Mr. Dougherty stated they are still | | | |

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| evaluating the impact; this is not just happening to Stockton. Ms. Carrie Bowen added the funds for most of the projects are in a separate account, so for now, there has not been an immediate impact. | | | |
| b. Council Member Diana LaCome asked how the transportation bill is affecting California. | Lance Yokota, FHWA | 9/21/12 | Mr. Yokota to update the council in September. Mr. Dougherty remarked we are still evaluating how the bill will impact California’s legislation. |
| c. Council Member Lee Cunningham said she is heartened to hear some GFE have been rejected. Mr. Dougherty added when a firm does not meet GFE, it becomes common knowledge in the construction community. | | | |
| d. Council Member Rodrigo Garcia expressed concern on behalf of the Hispanic community about multi-year contracts. They feel these should be amended to comply with the new DBE program goals. Mr. Dougherty stated Caltrans in collaboration with FHWA have completed an evaluation on how to implement the new program changes. While anything going forward from this point will be amended, construction projects already executed will not be adjusted once they have begun. Currently, there are over 700 contracts in varying states of execution. Caltrans is limited in its ability to change some contracts due to the need to meet project deadlines. In regards to Design/Build, most already have contracts executed. It was suggested Mr. Dougherty look at change orders as a means to adhere to the new program. Mr. Dougherty responded he will evaluate ongoing projects to determine whether they can be adjusted to meet new DBE Program standards through the use of change orders. Council Member Eddy Lau said Caltrans should be proactive and offer opportunities to DBEs. Mr. Dougherty responded they are being proactive in their efforts. Caltrans looks at the earliest possible opportunity to make any changes. With local contracts this is very difficult to do. He is willing to look at long term contracts for opportunities through change orders. Mr. Garcia asked if it would be possible to make changes if the contractor volunteered to do so. Mr. Dougherty responded contractors are not allowed to change the scope. At this point, Mr. Hassoun noted many contractors meet and/or exceed DBE goals. Ms. Angela Shell, Construction, stated under the UDBE program a contractor has to substitute another UDBE, not a DBE, for existing and ongoing contracts. Mr. Mike Duman, FHWA, stated the FHWA cannot change project goals for existing projects. Additionally, they use whatever is in place at that point in time; they do not retroactively make changes. | | | Update during September SBC meeting. |
| e. Council Member Patrick Lowry: of those GFE rejected, how many were the result of NAICS code issues? Mr. Dougherty said he will have to look into that. | Janice Salais | 9/21/12 | Janice Salais, Certification, will respond to Mr. Lowry’s question. |
| f. Re: federal transportation bill – Mr. Duman reported Congress has made significant changes. The reauthorization bill covers a 27-month period. In addition, the gas tax has been extended to | Mike Duman, FHWA | 9/21/12 | Additional information to be shared at the next SBC meeting on Sept. 21 by FHWA. |

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| 2016. A number of programs have been consolidated. There will be more to report in September. | | | |
| ACTION ITEM #1: Look into the possibility of applying the new DBE Program goals on existing contracts through change orders. | | | |
| E. District Director Updates | | | |
| <p>1. District 10 – Carrie Bowen, District Director</p> <ul style="list-style-type: none"> a. The district wants to provide more opportunities for DVBE and minority owned businesses by increasing outreach efforts and mandatory pre-bid meetings. b. Currently, the district has half a billion dollars in construction projects in progress, which is the largest dollar amount and most construction that the district has ever had, due in large part to ARRA and 99 Bond funding. c. Last week, the district broke ground on the Merced 99 Plainsburg Freeway Project, which will make that Section of Route 99 a full freeway. d. Mandatory Pre-Bid Meeting, August 10, 2012, 9:00 a.m. to 11:00 a.m., San Joaquin County Office of Education on Arch Rd., Stockton – South Stockton Widening project and the Manteca Phase III project; both projects are state funded; DVBE goal to be assigned. e. At the June California Transportation Commission meeting, over \$200 million in projects were voted for the district. <ul style="list-style-type: none"> ▪ San Joaquin County: \$123,700,000 – South Stockton Widening Project on State Route 99 from four to six lanes (and improve and reconstruct various interchanges from just north of Arch Road to just south of State Route 4). ▪ San Joaquin County: \$30,994,000 – Manteca Phase 3: reconstruct the interchange on State Route 99 (just south of Cottage Avenue to just north of Arch Road). ▪ Stanislaus County: \$37,100,000 – Route 99/State Route 219 (Kiernan Avenue): reconstruct the interchange and construct auxiliary lanes. ▪ Merced County: \$1,406,000 – SR 152: construct double thrie beam median barrier from San Luis Dam Service Road to San Luis Forebay Bridge near Los Banos. ▪ Merced County: \$11,882,000 – AME: realign and widen a portion of State Route 99 to six lanes and construct a new interchange to replace the Buhach Road Interchange. f. A total of 10 Minor B projects were awarded in the 2011/2012 Fiscal Year in the amount of \$1,346,315. All projects went to certified SBs; 2.3% (\$31,338) went to certified DVBEs. Minor B project limit increased from \$250,000 to \$270,000 for calendar years 2012 and 2013. | | | |
| <p>2. District 4 – Bijan Sartipi, District Director</p> <ul style="list-style-type: none"> a. As of July 6, 2012: 118 active projects under construction contract valued at \$4.39 billion. b. As of July 12, 2012: 29 construction contracts with an estimated value of \$610 million that have been advertised or are being readied for advertising. c. As of June 30, 2012: of \$24.72 million Director’s Orders for 20 contracts, 25% has been awarded to SBEs. A total of 17 contractors are working on Director’s Orders; 6 of them are SBs. d. In addition, there are 34 District Director Orders with an estimated value of \$7.702 million; 72% is SBE; 7%, DVBE; 21%, non-SBE; 28 contractors are working on DDOs, of which 20 are SBEs and one is a DVBE. e. A&E contracts: goal achievements are: 16.58%, non-UDBE; 18.62%, UDBE; 27.04%, DBE; 4.17%, DVBE; 47.63%, SBE. These percentages are based on actual dollars paid. | | | |

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| f. | Federally funded contracts: 30 total worth \$103 million. | | |
| g. | Non-federally funded contracts: 13 total worth \$140 million. | | |
| h. | Minor B contracts: for the 2012-2013 fiscal year, 7 projects have been identified worth an estimated \$1.39 million. | | |
| i. | Non-Minor B contracts: 2 projects identified that are within the \$250,000 limit; total, \$475,000; they will be advertised under the SBE process. | | |
| j. | CalMentor as of July 19, 2012: there are 26 active members in the program; since the program began in 2007, 99 protégés have been accepted into the program, of which 32 have graduated; 4 more will be graduating on July 26. Eight active Memorandums of Understanding (MOU) are in place. There are 7 public agency participants: Alameda County Public Works; Alameda County Transportation Commission; Business Outreach Committee Representative; Metropolitan Transportation Commission; Santa Clara Valley Transportation Authority; San Mateo County Transit District/Peninsula Joint Powers Authority (SAMTRANS); Transbay Joint Powers Authority. Since January 2012, the program has enrolled 9 new protégés and 1 new mentor. The next event will be on July 26 in District 4. In October, there will be a combined event with local partners through the Business Outreach Committee. | | |
| k. | Mandatory Pre-Bid Meeting for Projects 04-3A7771 and 04-3A7761 (both are I-80 ICM Projects), July 16, 2012, 1:00 p.m. to 3:00 p.m., Oakland [1515 Clay Street, Room 1]; estimated \$25 million. | | |
| l. | Mandatory Re-Bid Meeting for 04-3A92111 and 04-3A9221 (both are ALA 880 HOV lane extensions), July 25, 2012, 1:00 p.m. to 3:00 p.m., Oakland [1515 Clay Street, Room 1]; estimated \$51 million. | | |
| m. | Mandatory Re-Bid for 04-2640U1 (to replace the Petaluma River Bridge and construct the Petaluma Blvd. South Interchange), July 26, 2012, 10:00 a.m. to 12:00 p.m., Petaluma Community Center [320 North McDowell Blvd., Petaluma]; site visit will follow the re-bid; estimated \$77 million. | | |
| n. | District 4 finished the 2011/2012 fiscal year successfully delivering 100% of its contracts for delivery – 44 projects with estimated cost of \$324.2 million. Over the past seven years, the district has delivered 342 of 342 projects with an estimated value of \$4.44 billion. | | |
| Discussion: | | | |
| a. | Ms. Cunningham noted she is now a protégé with the Mentor-Protégé Program, to which she gave high praise. She thanked the district for having the program and said it has already impacted her company greatly. Ms. Cunningham asked how mega businesses vs. micro-businesses were being tracked? This then became Action Item #2. | | |
| b. | Council Member Paul Guerrero asked Mr. Sartipi if there were any plans to widen Hwy 12. Mr. Sartipi: currently working on a planning study; no money at this time to do the construction; section targeted traverses four Caltrans districts, which is why it is very difficult to coordinate and raise funds. Ms. Bowen: the operational improvement project in this area involves three districts; they are actually working on a vision that will take 20 years to realize. The first phase focuses on safety projects, i.e., bridge examination. Mr. Sartipi mentioned the Rio Vista Bridge as a structure needing replacement, but there are no funds to do so. He added that visioning is necessary, looking at safety issues, accidents, and so forth. | | |
| c. | Council Member (Alt.) Marvin Dean, who is a graduate of CalMentor, asked how graduates are tracked. Mr. Sartipi referred Mr. Dean to the District 4 CalMentor web site. Council Member Johnathan Hou, who will be graduating soon from the program, noted that it can vary slightly between Districts 4 and 7. The program in District 7 has its participants draw up a MOU which lists milestones to be achieved. Based on the Protégé’s learning curve, the mentor will determine whether the protégé is ready to graduate. The program helps the protégé understand the Caltrans process and procedure. Council Member Patrick Lowry added the program also has specific elements that must be attained. | | |
| ACTION ITEM #2: Does Caltrans track mega-businesses vs. micro-businesses? | | | |
| 3. | District 6 – Lori Guinan, Deputy District Director, Administration, presented on behalf of District Director Sharri Bender Ehlert | | |

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| <p>a. Ms. Guinan noted District 6 is the hub for Districts 5, 9, and 10.</p> <p>b. *State funded contracts from 7/1/11 through 4/23/12: DVBE, 4.85% (statewide goal is 5%); of a total \$3,693,184 spent, \$176,109 is DVBE. SBE, 49.1% (statewide goal is 25%); of a total \$3,693,148 spent, \$1,813,530 is SBE.</p> <p>c. **DBE participation from 7/1/11 through 4/23/12: 8.4% (statewide goal is 13.5%); during this period, 11 contracts (federal) were awarded totaling \$113,436,782. Of this, \$9,544,917 was DBE.</p> <p>d. District 6 has 54 contracts at \$511,990,672.</p> <p>e. The district will continue to work with its SB partners, as evidenced by the work it has been doing in the community. During the last fiscal year, the district participated in 29 outreach events which included 15 workshops (certification; marketing; contract opportunities), CalMentor outreach mixers, business expo information booths at community and trade events, and guest speaking engagements (24th Annual Central California Hispanic Chamber of Commerce; 5th Annual Public Contracting Expo; Fresno Area Hispanic Chamber of Commerce Quarterly; National Association of Women in Construction, Fresno Chapter).</p> <p>f. Future outreach events are scheduled for the remainder of this year, including workshops in partnership with the Small Business Administration on SBE/DBE programs throughout the district; continuing in outreach efforts in partnership with ABIRC (Asian Business Institute and Research Center) covering certification, marketing, and internet contracting; CalMentor activities to further develop that program in the district; and partnering with the Central California Small Business Development Center/U.C. Merced to conduct Veterans Outreach Workshops.</p> <p>*These figures are from the DPAC web site and are most current to date. In addition, the figures do not include Cal-Card purchases, purchase orders, and CMAS (California Multiple Award Schedules).</p> <p>**These figures are from the Office Engineer intranet web site and are most current to date. No breakdowns as to contract number or project; no breakdown as to specific UDBE/DBE groups.</p> | | | |
| <p>4. District 11 – Laurie Berman, District Director</p> <p>a. The 905 corridor is opening on schedule thanks to Ms. Llewellyn’s company.</p> <p>b. CalMentor Program: the district kicked off its fourth cycle in January with 21 mentor-protégé pairings.</p> <p>c. Procurement Fairs 2012: held on March 21; the district spent \$98,200 on SBs. Another will be held in November in Imperial County; details to be announced.</p> <p>d. Preparing to conduct outreach to inform contractors about the new changes in the DBE program.</p> <p>e. California Black Chamber of Commerce “Ron Brown Business and Economic Summit,” August 9 to 11, San Diego at the Double Tree Hotel: the district will be receiving a Small Business Advocate Award.</p> <p>f. Construction projects for the 2012/2013 fiscal year: a total of 32 new start projects totaling approximately \$502 million with a SB opportunity focus of approximately eleven projects nearing \$7.7 million.</p> <p>g. Minor B project for the 2012/2013 fiscal year: a total of 16 new start projects totaling \$2 million in contracts.</p> <p>h. Worker safety: Ms. Berman is a supporter of lowering the speed limit by 10 mph and creating a bigger lane buffer to increase worker safety.</p> | | | |
| <p>Announcement – Mr. Angel Carrera, DGS</p> <ul style="list-style-type: none"> • SARA (State Agency Recognition Awards) 2012 call for nominations: Mr. Carrera arranged to have the application packets at the council meeting and encouraged members to nominate awardees; he emphasized that anyone could nominate an individual to receive a SARA. • Annual DGS Report: to be sent out to all SBC members; reflects the 2009/2010 period; the current version will be late – still working on it. • CalCon, August 1-2, 2012, Pasadena: to be construction focused. | | | |

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| F. High Speed Rail (HSR) in the Central Valley – Lori Guinan, Deputy District Director, Administration, District 6 | | | |
| <ol style="list-style-type: none"> 1. Request for Proposals (RFP) for the Design/Build (D/B) segment within Fresno County is out to bid. 2. Realignment project: The High Speed Rail Authority (HSRA) has asked Caltrans if it can meet the construction completion schedule and prepare plans, specifications, estimates, right of way acquisition and construction for the realignment of Route 99 in Fresno between Ashlan and Clinton Avenues, all of which Caltrans believes it can. The realignment is estimated to cost approximately \$100 million for construction, which originally has been part of the \$1.8 billion D/B segment within Fresno County. However, because it is freeway work, HSR decided to engage Caltrans. Currently, Caltrans is in negotiations with HSRA, and it has not been determined if this work will be done by Caltrans or the D/B contractor. 3. Governor Brown has signed the bill authorizing \$5.8 billion (including \$2.6 billion in state rail bond funds and \$3.2 billion in Federal aid) to start construction. 4. Merced to Fresno approved in May: work north of Downtown could begin once the contract has been awarded. No work yet south of Downtown (Fresno to Bakersfield) until certified by the Authority. 5. The first construction package is expected to be worth \$1.5 billion to \$2 billion, and includes twelve street overcrossings or underpasses, two elevated viaducts, a tunnel, and a bridge across the San Joaquin River. Laying the tracks will be done later under a separate contract. There will be five D/B contracts to do the various types of work. 6. HSR has a 30% SB goal. Re: interagency agreements in which Caltrans staff members do work with HSR – Mr. Dougherty takes into consideration any goals established for construction projects. In-house work done with existing Caltrans staff (an estimated twenty to thirty PYs) is not subject to goals. However, Caltrans will work with HSR to make sure this is compatible with their goals. <ol style="list-style-type: none"> a. Mr. Lau asked if there was the opportunity for HSR to choose between design work done in-house with District 6 or contracting out. Mr. Dougherty replied that had not yet been determined. Generally, resources include 10% in-house and the remainder from outside. They may have enough in-house resources to cover the work, but it is a matter of balancing in-house resources with other work demands outside of HSR. Therefore, they cannot commit yet to a specific amount to contract out. b. Mr. Dougherty stated HSR has made a commitment, which it intends to meet, but it is not going to rely on Caltrans to fulfill it; Caltrans in-house resources cannot be counted on as part of the effort to meet HSR’s commitment. | | | |
| G. Meeting Record approval - René Halverson | | | |
| <ol style="list-style-type: none"> 1. Amendments to the record acknowledged. | | | |
| <p>Discussion about the change to the “meeting record” format:</p> <ul style="list-style-type: none"> • Mr. Patten cited the SBC Operating Guidelines, Article 8 in reference to the meeting minutes; need to discuss with the council if this is to be changed to a “meeting record.” • Ms. Halverson responded the change in format was based on feedback received through the survey conducted at the May 22 SBC meeting. She also noted Article 8 says nothing about changing either the format or the title, or the necessity to receive approval to do so. • Mr. Dougherty stated the format was changed to better capture points made and action items. • Mr. Guerrero said it was not so much the change in format, but the way in which it was done – the council was not asked for feedback on the change. • Mr. Dougherty pointed out the survey revealed most people did not even read the minutes in its former format. | | | |

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| <ul style="list-style-type: none"> • Ms. Halverson stated meeting minutes denote a verbatim capture of what transpired, whereas a meeting record captures the main points of the discussion, decisions made, and action items. • Ms. Cunningham asked how much of their discussions would actually be captured. Mr. Dougherty emphasized the importance of capturing action items and the opportunity to amend the meeting record as needed. • Mr. Hassoun stated the council has been meeting for many years, and reminded his colleagues they were guests of Caltrans, this is Caltrans’ meeting, and Caltrans should be allowed to run the meeting. He asked why the council was spending so much time on the format of this document rather than focusing on what can impact SBs. • Mr. Garcia said he liked the format, but as a former secretary, he knows it is possible to summarize points. He recommended an ad hoc committee on how minutes are compiled and added he still thinks they should be called “minutes.” • Mr. Hassoun suggested less committees is better, time is of the essence, change is difficult, and let’s move on. • Other members voiced positive reactions to the format and supported the changes made. | | | |
| <ol style="list-style-type: none"> 2. Amendments made previously and the following correction to the meeting record noted: Council Member Chris Chavez: his organization should be “HCSA” (Hispanic Contractors and Suppliers Association). 3. Motion to approve the meeting record as amended made by Ms. Llewellyn; seconded by Council Member Frank Ramirez. 4. Meeting record approved unanimously. | | | |
| <p>Council Member Richard Hernandez made another request for the status of OBEO’s plan to foster SBs that had been submitted to FHWA for approval; the initial request had been made a few months ago. This became the following Action Item.</p> | | | |
| <p>ACTION ITEM #3: Provide the status of the Caltrans plan submitted to FHWA to foster SBs.</p> | | | |
| <p>Discussion re: goal setting for Hwy 91</p> <ul style="list-style-type: none"> • Lance Yokota, FHWA, stated this is a State route; on July 26, a 9.4% DBE goal was released. • Mr. Hernandez commented the RCTC goal is 9%, but it will probably be closer to 4.5%. • Mr. Yokota said the RFP is written much the way Mr. Ray Tritt explained during the March SBC meeting; D/B will have to plan how to meet the commitment. The enforcement mechanism in place encourages contractors to meet or demonstrate GFE, or suffer the consequence of a penalty. There will be tracking on the D/B contract and meetings with the Design Builder to require modifications if and when things do not go as planned. • Mr. Hernandez stated once a contract is signed, the goals are locked in. • Ms. Halverson requested the discussion continue offline. | | | |
| <p>H. Committee Meeting Reports</p> | | | |
| <ol style="list-style-type: none"> 1. Commodities – Mr. Patten <ol style="list-style-type: none"> a. Clarified the committee’s representatives include Ms. Alicia Sequeira, OBEO, and DPAC staff. b. Ms. Sequeira explained the committee’s action items are handled by the specific committee members. If there is a need for a higher level response, the | | | |

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 July 20, 2012, 8:30 a.m. to 12:00 p.m.

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|---|----------------------------------|---------|--------|
| <p>matter can be taken to the council.</p> <p>c. The committee requested the award tracker, which tracks contracts awarded, be brought back. The committee also requested the GFE report include those contractors denied.</p> | | | |
| ACTION ITEM #4: Bring back the awards tracker report, include GFE. | | | |
| <p>2. Local Assistance – committee meeting not held; both the Chair and Co-Chair could not attend either the committee meeting or the full council meeting.</p> | | | |
| <p>3. Construction – Ms. Llewellyn reported for the Committee Chair, Ms. Debbie Hunsaker, who could not be at the meeting.</p> <p>a. Safety item: requesting Caltrans lower the speed limit by 10 mph and widen the buffer lane in construction zones district-wide. Include use of lane closures and changeable message signs (CMS). Mr. Dougherty supported this, however, there would be a need to balance CMS usage between construction zones and “no drinking while driving” warnings. The RE can handle CMS requests.</p> <p>b. CUF Guidelines update: requesting the committee participate in the review of the CUF guidelines draft.</p> <p>c. Disparity Study II: what is the status? Mr. Dougherty said it will be placed on the agenda for the next SBC meeting [in September].</p> <p>d. Supportive services contract status requested: Ms. Halverson responded funding issues and non-responsive proposals have necessitated re-advertising.</p> <p>e. Requesting Caltrans review the document written by HSR legal counsel, Tom Fellenez, to mitigate “bid shopping” as applicable to Design/Build.</p> <p>f. Liability on Design/Build projects: how do SBs protect themselves when bidding on D/B? SBs can be sued on anything. Mr. Hassoun mentioned that he is working with Ms. Halverson to provide a guest speaker who can provide a presentation on bonding and insurance at the September SBC meeting.</p> <p>g. New lien laws: went into effect as of January 1 - what are they? Are there new forms? If so, can the council get copies?</p> | | | |
| ACTION ITEM #5: Lower the speed limit district-wide by 10 mph in construction zones and widen the buffer lane. | | | |
| ACTION ITEM #6: Review the draft CUF guidelines – Construction Committee requests to be included in reviewing the draft. | | | |
| ACTION ITEM #7: Provide an update of Disparity Study II. | | | |
| ACTION ITEM #8: Have Caltrans look at the document that the HSR legal counsel, Mr. Tom Fellenez, wrote to mitigate “bid shopping” as applicable to Design/Build. | | | |
| ACTION ITEM #9: Provide a presentation on bonding and insurance during the next SBC meeting. | | | |
| ACTION ITEM #10: Provide a presentation that covers the changes in the lien laws effective July 1, 2012 affecting the transportation industry; provide copies of the new forms. | | | |
| <p>4. Professional Services – Mr. Lau</p> <p>a. Implementation of work code C-8715: very slow; the committee is working with Ms. Salais, Certification, who will intervene if an entity does not use this.</p> <p>b. Tracking DBE utilization: Mr. Robert Padilla, DBE Program Manager, stated detail reporting is not available. Mr. Lau said this information was supposed to be</p> | | | |

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| <p>available on the Caltrans web site, but it is still not.</p> <p>c. Re: RCTC raising the DBE goal to 9.4% - the committee is glad to hear this, but wondered how the FHWA is going to enforce this goal? Mr. Yokota responded the goal was expanded because of the change from UDBE to DBE goal; oversight and monitoring have been built into the contract.</p> <p>d. The committee discussed moving any professional services-related issues currently handled by local agencies to the Professional Services Committee to address. Enforcement and oversight are the main reasons for doing so; see Action Item #11.</p> <p>e. Mr. Guerrero suggested goals should be set for each district. Mr. Dougherty responded a blanket goal cannot be used for every project in a district as there are many variables to be considered.</p> <p>f. Mr. Lau expressed appreciation for the reception held at the Guerrero residence the night before.</p> <p>g. Subcontractor listing: request for a subcontractor listing for Design/Build projects; see Action Item #12.</p> <p>h. Council Member Josie Calderon raised concern regarding utilization enforcement of primes and subs, specifically professional services (A&E) contracts; see Action Item #13.</p> | | | |
| ACTION ITEM #11: Consider moving any professional services-related issues currently handled by local agencies to the Professional Services Committee to address. | | | |
| ACTION ITEM #12: Provide the subcontractor listing for Design/Build projects. | | | |
| ACTION ITEM #13: Provide data tracking DBE utilization performance of primes and subs, specifically professional service (A&E) contracts. | | | |
| <p>I. Public Comment – Ms. Halverson, Facilitator</p> <p>1. Mr. Dean thanked Mr. Dougherty for his participation; appreciated the teleconferencing option; thanked Mr. Hassoun for accommodating SB participation at the AGC meetings; shared information about the upcoming 6th Annual Contractors Summit (flyers on display).</p> <p>2. Mr. Hassoun commented AGC has sent multiple invitations to council members to attend their events which can provide networking and award opportunities. However, the response has been very low. They are in the process of distributing information about their next meeting. Mr. Hassoun suggested members identify themselves as DBE or UDBE.</p> <p>3. Ms. LaCome and Ms. Cunningham asked why Caltrans staff members were directed not to attend the reception and awards ceremony at the Guerrero residence. Both Mr. Dougherty and Ms. Halverson responded there was no direction given from either of their offices not to attend the reception/awards ceremony at the Guerrero's. The direction given was staff members could attend the reception on their own time following the council committee meetings.</p> | | | |
| Meeting adjourned: 12:10 p.m. | | | |
| Next meeting: September 21, 2012, Oakland | | Carole Ching to notify SBC members. | 8/20/12 |

Attachments (distributed during the July meeting):

- Addendum to Action Item #7 from Lance Yokota, FHWA
- District 7 Remarks

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- District 10 Mandatory Pre-Bid Meeting, August 10, 2012, Stockton
- District 11 Outreach Events Update
- Dragados/Samsung/Pulice High-Speed Train Small Business Contracting Program, “California High-Speed Train Project,” July 24, 2012, Modesto
- California Black Chamber of Commerce and Foundation, “Annual Ron Brown Business and Economic Summit,” August 9-11, 2012, San Diego
- DGS, Call for Nominations, “State Agency Recognition Awards 2012” (SARA), deadline September 7, 2012
- AGC, “Projects 2012 and Beyond,” September 19, 2012, Pleasanton

Addendum to the meeting record, July 20, 2012 re: Action Item #1 – response provided by Caltrans Legal Counsel, Contracts.

PRESENT

Council Members:

1. Calderon, Josie
2. Chaudhary, Arvin
3. Chavez, Chris
4. Cunningham, Lee
5. Dean, Marvin (teleconference; Alternate, Debbie Hunsaker)
6. Garcia, Rodrigo
7. Guerrero, Paul
8. Hassoun, Sam
9. Hernandez, Richard
10. Hou, Johnathan
11. Hunsaker, Debbie (teleconference)
12. Johnson, Bernard
13. LaCome, Diana
14. Lau, Eddy
15. Llewellyn, Rebecca
16. Lowry, Patrick
17. Martinez, Mark (Alternate, Jesus Vargas)
18. Ortiz, Leonard (teleconference)
19. Patten, Ezekiel
20. Ramirez, Frank

21. Yu, M.C. (Alternate, Eddy Lau)

Caltrans Staff:

1. Halverson, René Halverson, Assistant Director, OBEO & Council Chair
2. Dougherty, Malcolm, Director
3. Agar, Dennis T., District 10
4. Bayar, Zoe, DPAC
5. Blas, Will, District 7 (teleconference)
6. Boulware, La Sonja, District 11 (teleconference)
7. Bowen, Carrie, District 10
8. Carlos, Ramon, OBEO
9. Ching, Carole, OBEO
10. Danko, Ann, District 5 (teleconference)
11. Dayak, Silvia, District 10
12. Effinger, Rob, Project Delivery (teleconference)
13. Gustinell, Sherri, OBEO (teleconference)
14. Gongora, Michelle, District 11 (teleconference)
15. Guinan, Lori, District 6
16. Nogueira, Zelig, District 10
17. Padilla, Robert, OBEO
18. Pulido, Lauren, District 10
19. Salais, Janice, OBEO

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20. Sartipi, Bijan, District 4
21. Sequeira, Alicia, OBEO (teleconference)
22. Shell, Angela, Construction
23. Silva, Anna, OBEO (teleconference)
24. Valdry, Rhonda, DPAC (teleconference)
25. Wabinga, Christina, DPAC (teleconference)
26. Whitmore, Liza, District 3
27. Williams, John, DPAC (teleconference)
28. Zhang, Ray, Local Assistance

Guests:

1. Carrera, Angel, DGS
2. Duman, Mike, FHWA
3. Yokota, Lance, FHWA

Public Participants:

1. Ajiake, Matthew, Sonika Corporation
2. McCray, Algerine
3. Onodera, Yasunai, TAC
4. Smith, Sandra

Approved by:



RENÉ HALVERSON

Assistant Director

Business and Economic Opportunity

California Department of Transportation

ADDENDUM to the Meeting Record, July 20, 2012

RE: Action Item #1, July 20, 2012 SBC Meeting:

Look into the possibility of applying the new DBE Program goals on existing contracts through change orders.

Also discussed:

Can Caltrans write a Contract Change Order to substitute a subcontractor for a DBE or DVBE?

The following response was provided by Caltrans Legal Counsel, Contracts:

No. Public Contract Code Section 4107 states in pertinent part:

“A prime contractor whose bid is accepted may not:

(a) Substitute a person as subcontractor in place of the subcontractor listed in the original bid, except [Caltrans] ...may ...consent to the substitution of another person as a subcontractor in any of the following situations:

- (1)...refuses to execute a [sub] contract...
- (2) ...bankrupt or insolvent...
- (3) ...fails...to perform his or her subcontract
- (4) ...fails ...to meet bond requirements..
- (5) ...name of subcontractor was listed [in error]
- (6) ...not licensed...
- (7) ...substantial unsatisfactory [performance]
- (8) ...ineligible to work... [because of violations of the Labor Code]
- (9) ... [Caltrans] determines ...the listed subcontractor is not a responsible contractor”

The Subletting and Subcontracting Law (PCC 4100 et seq.) is designed to give listed subcontractors, who are required to be identified by the prime at the time of bid, a statutory right to work on the project. They can only be removed if the prime contractor complies with PCC 4107 above and obtains Caltrans consent. Arguably, this does not apply to a subcontractor who does less work than one-half of one percent of the prime contractor’s bid or \$10,000, whichever amount is greater. (PCC 4104) Very few subcontractors fit within this category. The policy decision behind the law is to prohibit “bid shopping.” If you don’t give the subcontractor a statutory right to work on the project (after he/she is listed), primes will try to “shop around” for a lower price for the subcontractor’s work. The Legislature has determined that the quality of our infrastructure would be compromised.

Caltrans can also be sued for interfering with the Prime/subcontractor's contract. Under tort law, if a party causes another party to breach a contract, that party can be sued for interference of contract. In the event Caltrans issues a CCO and the CCO causes the prime to breach its contract with the sub, the prime and sub can sue Caltrans, because Caltrans caused the Prime/subcontract to be terminated or breached. Caltrans has no legal right to interfere with the contractual rights of others, absent a statute or some other legal authority.