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MARIPOSA COUNTY RESOLUTION NO. 81-167

BE IT HEREBY RESOLVED by the Board of Supervisors of Mariposa County, a political subdivision of the State of California, that the Board of Supervisors hereby approves the following document:

Minority Business Enterprise Program for Mariposa County  
for purposes of the Bear Valley Road FAS Project only

PASSED AND ADOPTED by the Mariposa County Board of Supervisors this 8th day of September 1981, by the following vote:

AYES: Taber, Barrick, Erickson  
NOES: Dalton  
EXCUSED: Moffitt  
ABSTAINED: None

Eric J. Erickson  
ERIC J. ERICKSON, Vice-Chairman  
Mariposa County Board of Supervisors

ATTEST:

Ellen Bronson  
ELLEN BRONSON, County Clerk  
Ex Officio Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Richard K. Denhalter  
RICHARD K. DENHALTER,  
County Counsel

MARIPOSA COUNTY MINORITY BUSINESS PROGRAM

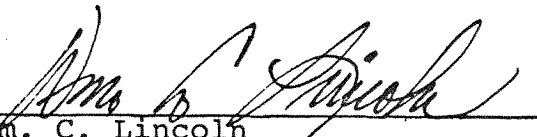
ROAD DEPARTMENT

I. Policy Statement

It is the policy of the Mariposa County Road Department to utilize Minority Business Enterprises in all aspects of contracting to the maximum feasible extent.

This policy is fully described in the Mariposa County Road Department Minority Business Program which constitutes departmental policy and a commitment to substantially increase Minority Business and Female Business Utilization. This policy includes any program or facility funded wholly or in part by any U.S. Department of Transportation modal element, through Mariposa County Road Department.

Mariposa County Road Department, its contractors and subcontractors, which are the recipients of Federal-aid funds, agree to ensure that minority business enterprises have the maximum opportunity to participate in the performance of contracts and subcontracts. In this regard, Mariposa County Road Department and all of its contractors and subcontractors will take all reasonable steps in accordance with 49CFR23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts.

  
Wm. C. Lincoln  
Road Commissioner

II. Minority Business Enterprises (MBE) Liaison Officer

Wm. C. Lincoln, Road Commissioner, Mariposa County, is the MBE Liaison Officer for the Mariposa County Road Department and shall report to the Chairman of the Mariposa County Board of Supervisors. Mr. Lincoln shall assign such staff as is necessary to fully implement the provision of 49CFR Part 23 and such other MBE programs as may be required.

III. Duties of the MBE Liaison Officer

The MBE Liaison Officer shall develop, manage and implement the MBE Program on a day-to-day basis. The Liaison Officer shall:

- ◆ Develop and carry out technical assistance programs for MBE's.
- ◆ Arrange solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules, so as to facilitate the participation of MBE's. Where such changes are found necessary to increase MBE utilization, they will be made in consultation and cooperation with the functional unit involved.
- ◆ Provide advice to MBE's in overcoming barriers, such as inability to obtain bonding or financing.
- ◆ Carry out information and communication programs on contracting opportunities in a timely manner.

- Investigate the full extent of services offered by banks owned and controlled by minorities or women. Ensure that, where possible, Mariposa County Road Department gives consideration to utilizing said banks on an equal basis with other banks.
- Utilize a listing of MBE's certified by Caltrans. Said listing to be made available to all bidders on Mariposa County Road Department projects. Such listing shall include, at a minimum, the following information: Name, address, telephone number, ethnic and/or sexual ownership, type of work performed by firm.
- Review for approval any removal and/or substitution of a Minority Business Enterprise during contract performance. Prior to the approval of substitution and/or removal of MBE, prime contractors will be required to prove performance of good faith efforts to replace the MBE with another eligible MBE.
- Establish overall Departmental goals for both minority and female business enterprises. Goals shall be evaluated on June 30th of each year and adjusted as necessary.
- Establish individual project goals for minority and female business enterprises. All projects with an estimated cost of \$100,000 or more will be evaluated for the appropriateness of goals.

- Maintain such documentation as is necessary to verify Mariposa County Road Department performance of the above activities.

IV. Establishment of Overall Departmental Goal

The Department will establish an overall goal for its use of MBE's. This goal will be updated annually as of June 30, of each year. The Department's overall goal and the methodology used to determine the goal for the fiscal year beginning July 1, 1981, is shown on Attachment A.

V. Contract Goals

All projects with an estimated value of \$100,000 or more, receiving U.S. DOT funds, will be evaluated for the appropriateness of MBE goals. Projects will be evaluated and goals established, utilizing the following criteria:

- Size of project.
- Opportunities for MBE's as subcontractors, vendors, suppliers.
- Minority population of Mariposa County.
- Existing MBE goals being utilized in the project area by other State, Federal, or local jurisdictions.
- Availability of MBE's.
- Past experience on projects similar to the project being evaluated.

- Such other factors as may effect the utilization of MBE's.

Each project will be evaluated in conformance with the above criteria. Complete documentation will be retained of every project so evaluated.

Contracts which do not contain specific goals will contain the following provisions:

- (1) "Policy. It is the policy of the Mariposa County Road Department that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this agreement."
- (2) "MBE Obligation. (i) The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CRF Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts.

Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts."

MBE use on projects without goals will be reported to the Liaison Officer and will be included in Mariposa County Road Department reports to Caltrans and the appropriate DOT element. MBE use on such projects will be counted toward attainment of the overall Departmental goals.

VI. Public Notification

At the time of submittal of this program to the U.S. Department of Transportation, Mariposa County Road Department will publish a notice in both minority and majority local media. Said publication shall:

- Announce the Departmental overall goals.
- Inform the public that the goals and a description of how they were set, are available for public inspection for a period of 30 days.
- Inform the public that U.S. DOT and Mariposa County Road Department will accept comments on the goals for 45 days from the date of the notice.
- The notice shall advise interested parties that comments are for informational purposes only.

In addition to the foregoing, interested minority and majority contractor organizations will receive direct mailings of this complete program with a request that they provide written comments to Mariposa County Road Department on this program.

VII. Contract Procedure

This plan shall be implemented through the utilization of a contract special provision which is attached hereto. These procedures require bidders to submit the names of MBE subcontractors and suppliers, a description of the work each is to perform or material to be furnished, and the dollar value of each MBE subcontract.

VIII. MBE Notification

State plan rooms and MBE assistance centers will receive complimentary plans and specifications for projects within their geographical area of responsibility. Notice to contractors will contain information concerning project goals and opportunities for supplying materials and subcontracting by MBEs. Project advertising will contain information regarding MBE participation and will be placed in periodicals of local general circulation and minority focus media. Listings of certified MBE prepared by Caltans will be available for contractors to use in requesting subcontracts for work and materials. All certified MBEs indicating interest in bidding projects in Mariposa County will be notified through direct mailings of the "Notice to Contractor".



IX. Minority and Female Owned Banks

Mariposa County Road Department will advise all contractors of the services of banks owned and controlled by minorities or females. This information will be disseminated during pre-bid and pre-construction conferences (if scheduled) and the contract specifications.

X. Selection Criteria for Contracts with MBE Goals

Every contract containing MBE goals shall be evaluated by the MBE Liaison Officer or his/her designee to ascertain bidding contractors' efforts to attain the MBE goals. The award of any project with MBE goals must be concurred with by the MBE Liaison Officer or his/her designee before said contract may be awarded.

Competitors that fail to meet the MBE goals and fail to demonstrate sufficient reasonable efforts shall not be eligible to be awarded the contract.

Any contracts that contain MBE goals, pursuant to this policy, will be monitored on an ongoing basis by project personnel during the course of construction. The MBE Liaison Officer is to be immediately advised of any circumstances wherein contractor compliance with the MBE provision is questionable. The contractor shall submit a final report for each project with MBE goals which includes total payments to the prime contractor as well as payments the prime contractor has made to MBE subcontractors, vendors and suppliers.

If this report indicates the prime contractor has not achieved the project goals, project personnel shall attach an evaluation, in narrative form, of the reasons for failure to attain the goals and any corrective action that was taken.

Prime contractors will be required to notify Mariposa County Road Department personnel of any situation in which regularly scheduled progress payments are not made to MBE subcontractors, vendors or suppliers.

XI. Set-Asides

If determined necessary by the MBE Liaison Officer, Mariposa County Road Department will consider the use of MBE set-asides as a tool to achieve overall Departmental goal.

XII. Counting MBE Participants

Mariposa County Road Department, its contractors, and subcontractors shall count MBE participation in accordance with the provisions of Section 23.47, Title 49, of the Code of Federal Regulations.

XIII. Records and Reports

The MBE Liaison Officer shall maintain such records, and provide such reports, as are necessary to ensure full compliance with this policy. Such records and reports shall include, as a minimum, the following information:

- Procedures which have been adopted to comply with this MBE policy.

- Awards to MBE's.
- Awards to majority contractors.
- Final project reports concerning MBE utilization.
- Such other data as is needed to fully evaluate Mariposa County Road Department compliance with this program.

The MBE Liaison Officer shall submit reports to Caltrans and to the U.S. DOT elements as required. These reports will include:

- Number and dollar value of contracts awarded to MBE's.
- Description of general categories of contracts awarded to MBE's.
- The percentage of the dollar value of all contracts awarded during the quarter which were awarded to MBE's.
- Indication as to the extent of which the percentage met or exceeded the overall goal.
- Reports shall be broken down separately by ethnic grouping and sex.

XIV. MBE Listing

Mariposa County Road Department will utilize a listing of firms certified by Caltrans to be Minority Businesses in accordance with the DOT order.

This listing will be developed and maintained in accordance with Section 23.51, 23.53, 23.55, and 23.87 of 49 CFR. This listing shall be made available to prospective contractors at no charge.

Contractors will be permitted to rely upon the authenticity of firms listed in this directory. A contractor desiring to use an MBE not included in the Caltrans certified listing will be allowed to do so, but will be required to provide the appropriate certification from the MBE before such participation is counted towards award of the project.

XV. Complaints

Any complaints received by Mariposa County Road Department concerning this program will be investigated by Mariposa County Road Department. Mariposa County Road Department will endeavor to resolve said complaints within 90 days of receipt by the MBE Liaison Officer. The appropriate DOT element will be furnished a copy of the complaint and invited to participate in the investigation/resolution. The DOT element will receive a complete investigative report on the complaint and will be requested to concur in the proposed disposition of said complaint.

Contractors will be directed to notify Mariposa County Road Department of any complaints they may receive concerning this program.

MARIPOSA COUNTY MINORITY BUSINESS PROGRAM

ATTACHMENT A

Mariposa County does not have records which indicate minority and/or female-owned business participation in past projects. The governmental overall goal was set relative to the experience of other agencies' established programs.

The 1980 Census reveals that California has a minority population which represents 33% of the total population. The State's overall MBE goal of 9.1% is composed of 6.5% minority and 2.6% female-owned businesses.

The 1980 Census shows that Mariposa County has a minority population of 5.6%. Prorating the comparative population percentages indicates an overall goal of 1.5% for Mariposa County.

$$\frac{9.1 \text{ (State overall goal)}}{33 \text{ (minority \%)}} = X \frac{\text{(Mariposa County overall goal)}}{5.6 \text{ (minority\%)}}$$

$$X = 1.54\%$$

The female percentage of the population does not vary significantly throughout the State and is therefore not used as a consideration in determining the overall MBE goal.

The State suggests that the female MBE participation should be in approximately a 5:1 ratio to the minority MBE participation.

Mariposa County therefore feels an overall MBE goal of 1.5% with 1.3% minority business participation and 0.2% female business participation would appear to satisfy the accepted State goals.