



**Metro**

Los Angeles County  
Metropolitan Transportation Authority

One Gateway Plaza  
Los Angeles, CA 90012-2952

213.922.2000 Tel  
metro.net

**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE**  
**April 21, 2011**

**SUBJECT: SMALL BUSINESS ENTERPRISE (SBE) PROGRAM**

**ACTION: APPROVE SBE GOAL AND PROGRAM REVISIONS**

**RECOMMENDATION**

Approve a Small Business Enterprise (SBE) Goal increase from 15% to 25% for FY11 and FY12 and SBE Program revisions implementing SB 1341 (Price) small business initiatives and SBE certification process changes.

**ISSUE**

The proposed Small Business Enterprise (SBE) Program changes incorporate the Metro sponsored SB 1341 (Price) amending the Public Utilities Code (PUC) signed into law effective January 1, 2011.

**DISCUSSION**

Staff recommends a 25% SBE overall program goal for FY11 and FY12. The current 15% program goal was established in 1997 with the creation of the SBE program with an average 10% SBE participation rate annually.

Currently, mandatory SBE contract goals are established on non-federally funded competitively negotiated contracts only. Staff recommends expanding the SBE program to also include mandatory SBE contract goals on non-federally funded competitively bid contracts and adding statutory authority that allows MTA to implement a small business preference program. Additional staff recommendations will increase the SBE program Personal Net Worth (PNW) from \$250,000 to \$1,320,000 and extends the SBE certification period from three to five years.

In 2010, MTA conducted an independent performance audit of its SBE programs. The audit findings recommended that MTA consider increasing the SBE PNW threshold,

expand the SBE program to include non-federally funded competitively bid contracts and explore additional ways to increase small business participation. Prior to the audit, staff had begun the legal process to amend the statute required for MTA to carry out the recommended program changes.

After the passage of Proposition 209 prohibiting preferential treatment in public contracting on the basis of race, sex, ethnicity, or national origin, MTA's non-federally funded competitively bid contracts were limited to voluntary minority and women-owned goals. The new PUC change authorizes MTA to apply mandatory SBE goals to all competitively bid contracts. As a result, staff will discontinue the application of the voluntary minority and women-owned program.

These key changes will afford small business firms opportunity for success in contracting with MTA. Guidelines implementing recommended changes will be outlined in MTA solicitation documents and applicable procedural manuals. A summary of significant SBE program changes is provided in Attachment 2.

The recommended 25% SBE goal is consistent with the Board's small business program policy to increase participation of SBE firms in MTA's non-federally funded contracting as the projected number of contracts in this funding source along with projected Measure R projects that are anticipated over the next 10 years. The recommended SBE goal is also in line with other SBE programs surveyed as part of the SBE program performance audit review.

## **FINANCIAL IMPACT**

Funding to support the SBE Program is included in the FY11 budget for multiple capital and non-capital projects. For activities that impact capital projects, funding has been included in the life of project budget for each project.

### **Impact to Bus and Rail Operating and Capital Projects**

The source of funds for SBE activities is primarily capital funds and is included in the capital project budgets.

## **OPTIONS**

1) The Board may choose to approve a lower or higher SBE goal. Setting a lower goal is not recommended as best practices support a higher SBE goal than what was approved in prior fiscal years. Conversely, setting a higher goal is not recommended as our current analysis of non-federal spending does not substantiate a higher goal.

2) The Board may choose not to approve SBE program changes and continue with existing program. This option is not recommended as changes support increase of SBE participation on affected contracts.

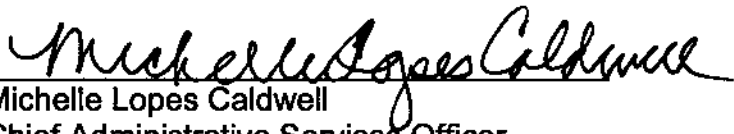
### **NEXT STEPS**

- Adopt SBE goal and program changes effective May 1, 2011.
- Staff will continue to review SBE Program best practices over the next 12 months for future implementation.

### **ATTACHMENTS**

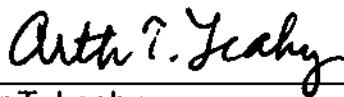
1. Summary of Significant Changes to SBE Program Matrix

Prepared by: Tashai R. Smith, Director, Small Business Programs



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Michelle Lopes Caldwell  
Chief Administrative Services Officer



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Arthur T. Leahy  
Chief Executive Officer

# ATTACHMENT 1

## SUMMARY OF SIGNIFICANT CHANGES TO SBE PROGRAM

Current Policy	Proposed Policy
<p>Subpart A – General Requirements Section B Applicability</p>	<p>This program sets forth the policies and procedures to be implemented by MTA to ensure that all small businesses shall have maximum opportunity to participate in MTA non-federally funded contracts.</p>
<p>Subpart A – General Requirements Section C Authority</p>	<p>This program sets forth the policies and procedures to be implemented by MTA to ensure that all small businesses shall have maximum opportunity to participate in all MTA state and locally funded competitively negotiated contracts.</p> <p>N/A</p>
<p>Subpart C - Administrative Requirements</p>	<p>Authority and references for MTA's SBE Program are derived from, but not limited to, the following:  (Add) Chapter 424, Section 130232 of the Public Utilities Code, relating to public contracts, as amended  Small Business Enterprise (SBE) Preference Program:  (a) Opportunity for small business preference shall apply to non-federally funded contracts for construction, construction components of design-build teams, procurement of goods and in the delivery of services.  (b) MTA shall grant the following preference (discount) of bidder/proposer cost/price as follows:  1) 5% preference to bidder/proposer that is an eligible MTA SBE certified firm.  2) 5% preference to bidder/proposer that meets or exceeds an established SBE goal.</p>
<p>Subpart E – Certification Standards And Procedures Section B Certification Standards</p>	<p>This PNW statement must show that the individual business owner's or owners' personal net worth is less than \$1,320,000, excluding equity in their primary residence and in the SBE applicant business.</p>
<p>Subpart E – Certification Standards And Procedures Recertification</p>	<p>Every five years, each SBE certified firm is required to have its SBE certification status examined.</p>