

SBCAG STAFF REPORT

SUBJECT: Federal Title VI and Disadvantaged Business Enterprise Program Updates

MEETING DATE: January 18, 2018

AGENDA ITEM: 4G

STAFF CONTACT: Gregg Hart

RECOMMENDATION:

1. Adopt Resolution 18-04 adopting the 2017 Disadvantaged Enterprise Program; and
2. Adopt Resolution 18-05 adopting the 2017 Title VI Program with Limited English Proficiency (LEP) Plan.

SUMMARY:

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) require federal funding recipients, such as the Santa Barbara County Association of Governments (SBCAG), to adopt a Disadvantaged Enterprise Program and a Title VI Program to ensure nondiscrimination in federally funded contracts. The SBCAG Board adopted a Title VI Program for the agency in 2014. The 2017 Title VI Program incorporates additional language that is required now that SBCAG will be operating the Clean Air Express transit service. SBCAG's Disadvantaged Business Enterprise Program has also been updated to provide additional documentation required of transit operators.

DISCUSSION:

Caltrans is required to have on file with the Federal Transit Agency a Title VI Civil Rights Program documenting how it would ensure nondiscrimination and promote environmental justice in the administration and use of federal transit funding. SBCAG, as a subrecipient of transit funding from Caltrans, is also required to have a Title VI program. The SBCAG Board adopted a Title VI Program in 2014. SBCAG will be operating the Clean Air Express next year and this new status as a transit operator requires updating the agency's Title VI Program to reflect this new status as a transit operator. Similarly, SBCAG's Disadvantaged Enterprise Program has also been updated to meet additional requirements as a transit operator.

SBCAG staff have drafted an updated Title VI program that establishes a framework for SBCAG's efforts to ensure compliance with Title VI and related statutes regarding nondiscrimination and environmental justice. The program will ensure that no person is excluded from participation in, denied the benefits of, or discriminated against under its projects, programs or activities on the basis of race, color or national origin. The Title VI program includes a Limited English Proficiency (LEP) Plan, with a procedure for providing equal services to those who do not speak fluent English.

The U.S. Department of Transportation (DOT), Federal Transit Administration (FTA) and Caltrans also require periodic updates of SBCAG's Disadvantaged Business Program. SBCAG submitted the draft 2017 Disadvantaged Enterprise Program to the Caltrans District 5 Local Assistance Engineer and received the approval to move forward with public participation and comment period.

SBCAG published a notice of the Draft 2017 Disadvantaged Business Enterprise Program and Title VI Program updates pursuant to federal regulations in area general circulation newspapers: Santa Barbara News-Press, Lompoc Record, Santa Maria Times and Santa Ynez Valley News. The documents were available for the required 30 day public comment period from November 16 to December 15th. SBCAG staff received two email comments on the document which are included as Attachment C. Following adoption by the SBCAG Board, the 2017 Title VI and Disadvantaged Business Enterprise Programs will be submitted to the US Department of Transportation, Federal Transit Administration and Caltrans.

The recommended action is not a project under the California Environmental Quality Act (CEQA) pursuant to section 15378 of the CEQA Guidelines.

ATTACHMENTS:

- A. Resolution 18-04
- B. Resolution 18-05
- C. 2017 Title VI Program (web posting only)
- D. 2017 Disadvantaged Enterprise Program (web posting only)
- E. Public comment emails

ATTACHMENT A

A RESOLUTION OF THE SANTA BARBARA
COUNTY ASSOCIATION OF GOVERNMENTS

ADOPTION OF SBCAG DISADVANTAGED)
BUSINESS ENTERPRISE PROGRAM 2017)
)
)
_____)

RESOLUTION NO. 18-04

WHEREAS, the Santa Barbara County Association of Governments ("SBCAG") proposes to utilize Federal Highway Administration and Federal Transit Administration funds for contractual services;

WHEREAS, federal statutes and federal regulations, including but not limited to, Titles I, III, V, and VI of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Titles I, II, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Title 49 of the U.S. Code, and Title 49 of the Code of Federal Regulations (CFR), Part 26 require adoption of a Disadvantaged Business Enterprise ("DBE") Program for fund recipients using federal funds;

WHEREAS, SBCAG provided a 30-day public comment period on the Draft 2017 Disadvantaged Business Enterprise Program updates and provided notice of the public comment period in area general circulation newspapers: Santa Barbara News-Press, Lompoc Record, Santa Maria Times, and Santa Ynez Valley News;

WHEREAS, Title 49, CFR, Section 26.23 requires SBCAG to sign and date a policy statement expressing commitment to SBCAG's DBE Program;

WHEREAS, Title 49, CFR, Section 26.25 requires SBCAG to have a DBE Liaison Officer that has direct, independent access to the Chief Executive Officer concerning DBE Program matters and that is responsible for implementation of the DBE Program; and

WHEREAS, Title 49, CFR, Section 26.25 requires adequate staff to administer DBE Program compliance.

NOW, THEREFORE, BE IT RESOLVED that the SBCAG Board of Directors adopts the Disadvantaged Business Enterprise Program 2017 attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the Board of Directors authorizes and directs the Executive Director and the designated DBE Liaison Officer to take all steps necessary and

proper to implement and to ensure compliance with the SBCAG 2017 DBE Program and Title 49, CFR, Part 26.

BE IT FURTHER RESOLVED that the SBCAG Board of Directors hereby designates the SBCAG staff positions listed in Exhibit B as the key personnel that shall monitor and track compliance with the SBCAG DBE Program. The Board further authorizes the Director as necessary and appropriate to make changes to such employee designations.

PASSED AND ADOPTED this 18th day of January 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

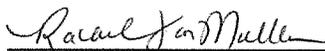
ATTEST:

Santa Barbara County
Association of Governments

Marjie Kirn
Executive Director

Joan Hartmann, Chair

APPROVED AS TO FORM:



Rachel Van Mullem
Chief Assistant County Counsel

ATTACHMENT B

A RESOLUTION OF THE SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS

ADOPTION OF SBCAG TITLE VI)
NONDISCRIMINATION POLICY AND PROGRAM)
2017 WITH LIMITED ENGLISH PROFICIENCY)
(LEP) PLAN)
_____)

RESOLUTION NO. 18-05

WHEREAS, the Santa Barbara County Association of Governments ("SBCAG") has a clear interest in maintaining an employment environment that is committed to an active nondiscrimination program, and ensuring that no person is excluded from participation in, denied the benefits of, or discriminated against under its projects, programs or activities on the basis on race, color, or national origin, as provided in the Title VI of the Civil Rights Act and 49 United States Code Section 5332;

WHEREAS, federal and state statutes, regulations, and orders, including but not limited to, Section 162(a) of the Federal-Aid Highway Act of 1973, Section 504 of the Rehabilitation Act of 1973, Title 49 of the Code of Federal Regulations (CFR), Part 21, Executive Order No. 12898 and 13166, and the California Transportation Development Act require adoption of a Title VI Program with a Limited English Proficiency (LEP) Plan for federal fund recipients such as SBCAG;

WHEREAS, SBCAG provided a 30-day public comment period on the Draft 2017 Title VI Program with LEP Plan updates and provided notice of the public comment period in area general circulation newspapers: Santa Barbara News-Press, Lompoc Record, Santa Maria Times, and Santa Ynez Valley News;

WHEREAS, as a federal fund recipient, SBCAG is required to sign a Title VI policy statement assuring every effort will be made to ensure nondiscrimination in all of SBCAG's programs and activities where federally funded or not;

WHEREAS, pursuant federal regulations, orders, and policies such as the U.S. Department of Transportation (DOT) Order 1050.2, Department of Federal Transit Administration policies, and Title 2, CFR, Part 1200, SBCAG is required to make certain assurances and certifications as part of Title VI compliance;

WHEREAS, SBCAG's 2017 Title VI Program requires that the Executive Director and Title VI Coordinator are authorized to ensure compliance with provisions of the policy and law.

NOW, THEREFORE, BE IT RESOLVED that the SBCAG Board of Directors adopts the 2017 Title VI Program with a LEP Plan as SBCAG's nondiscrimination policy attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that SBCAG's Executive Director and Title VI Coordinator are authorized to ensure compliance with provisions of this policy and with the law, including but

not limited to the requirements of Title 23 Code of Federal Regulations (CFR) 200 and Title 49 CFR 21.

BE IT FURTHER RESOLVED that SBCAG's Executive Director is authorized to make all assurances and certifications required by federal and state agencies to maintain compliance of the Title VI Program.

PASSED AND ADOPTED this 18th day of January 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

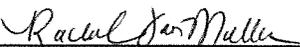
ATTEST:

Santa Barbara County
Association of Governments

Marjie Kirn
Executive Director

Joan Hartmann, Chair

APPROVED AS TO FORM:



Rachel Van Mullem
Chief Assistant County Counsel

ATTACHMENT E

From: Thomas Becker
To: [Marjie Kirn](#); [Gregg Hart](#)
Subject: Public comment on Draft Disadvantaged Enterprise Program Update 12/16/17
Date: Saturday, December 16, 2017 8:13:20 AM

Cars Are Basic CAB) is submitting this letter to be included in the public comment section of the SBCAG Draft Disadvantaged Enterprise Program Update. We request that staff provide detailed responses to the enumerated points in our letter.

1) SBCAG staff has refused to provide detailed responses to CAB's request for information on minority-owned businesses and economic conditions of minority groups in Santa Barbara County. This year, CAB submitted to SBCAG a series of questions and comments during the Fast Forward 2040 RTIP update. This includes comments/questions submitted for both the Fast Forward plan and the Fast Forward EIR. CAB's purpose was to engage in a dialogue with SBCAG about ways to improve the business and economic conditions of minority groups. SBCAG's refusal to engage with us damaged the ability of both the public and the SBCAG board to understand conditions and policies that have caused, and continue to cause, high poverty rates and low home-ownership rates among people who are members of minority groups. As part of the Draft Disadvantaged Enterprise Program update, CAB is requesting SBCAG staff answer ALL of the questions we submitted as part of the Fast Forward 2040 process. We request that staff answer our questions IN DETAIL, providing precise statistical data and clear, well researched and sourced responses.

2) SBCAG staff has refused to investigate complaints from disadvantaged business owners of discrimination, unfair practices and violations of state and federal civil rights law by CalTrans towards disadvantaged businesses. SBCAG has jurisdiction and a legal duty to investigate civil rights violations committed by any entity that receives taxpayer money THROUGH SBCAG. That FACT is clearly stated in SBCAG's own documents. It was also established by SBCAG legal council that SBCAG has authority to investigate improper activity of ANY entity that receives taxpayer money THROUGH SBCAG. With FULL and COMPLETE knowledge of those facts, SBCAG staff has refused to process complaints from disadvantaged business owners concerning unfair, discriminatory behavior and civil rights violations by CalTrans. If CalTrans receives taxpayer money THROUGH SBCAG, then SBCAG is required to process civil rights complaints from disadvantaged business owners if those complaints are filed against CalTrans. If SBCAG staff refuses to process a civil rights complaint they have jurisdiction over, that is a serious violation of state and federal law.

Tom Becker
Cars Are Basic
lesdeplorable7@gmail.com