

## RTA TMC Agenda Item No. 6

**Subject:** Small Business Enterprise (SBE) goals on RTA projects

**Date:** November 29, 2011

### **Background:**

At the Call to the Public during the last Regional Council meeting, Ramon Gaanderse, Executive Director of Tucson Utility Contractors Association, expressed concern about the high SBE goal applied to RTA funded projects, and that the high goal was likely to result in less competitive bids. The RTA Board asked that this item be placed on the next agenda for discussion.

### **Report:**

Staff was made aware of concerns related to the SBE requirements on the upcoming Houghton Road project, as expressed by contractors at the September TUCA/PAG meeting. A memo was sent to all jurisdictions on October 3<sup>rd</sup>, requesting that all jurisdictions identify their adopted ordinances and policies relating to SBE requirements. They were also asked to list of all RTA funded projects currently being bid as well as those which have been bid within last 24 months, together with the SBE requirements for those projects.

The City of Tucson and Pima County are the only jurisdictions which have adopted policies and ordinances relating to SBE requirements. The other communities acknowledge that there are times when federal funding brings about other requirements (DBE), but that these requirements are administered by ADOT, as these smaller communities are not certified to perform FHWA projects. The range in SBE goals on recently awarded and currently bidding projects range between 0% and 28%. A spreadsheet comparing the SBE requirements of recent projects is attached.

Staff has reviewed the Ordinances and Policies of the City and Tucson and Pima County, and met with representatives of TUCA and the City of Tucson Office of Equal Opportunity Programs to attempt to understand the concerns and issues currently being expressed. While the impact of the program with respect to bid competitiveness and the quality, timeliness cost to the public of the finished work is debated, the following understanding is agreed upon by all involved:

- The use of SBE subcontractors does not necessarily have a direct cost impact on the cost of an RTA construction project.
- The determination of the SBE goal for subcontractor participation is made subjectively, by the Lead Agency.

The RTA TMC Policy Subcommittee discussed this issue on October 21<sup>st</sup>, and voted to recommend to the RTA TMC that a maximum SBE goal for RTA funded projects be set at 10%.

**Recommendation:**

Staff has concerns about the degree of subjectivity applied to the setting of the SBE goal for a project. We also have concerns about "forcing", through SBE goals, a contractor to take on a greater number of subcontractors than it would otherwise choose to. The use of subcontractors that the contractor does not control adds to scheduling and coordination complexity. This may or may not add to project cost, but does add delay and performance risks that would not otherwise be present.

We also have major concerns about the SBE goal setting process, which in the case of the City of Tucson seems to encourage both the maximization of subcontracting and the number of enrolled SBE contractors. The formula used to determine the SBE goal is based upon the number of certified SBE contractors, multiplied by the percentage of work staff estimates is available for subcontracting in various trade areas. The initial goal is then modified, in an admittedly subjective fashion, to achieve final goal. We note that individual SBE subcontractors which are capable of performing work in multiple trade areas are counted multiple times, and if the number of SBE contractors exceeds 100, an initial goal which exceeds the amount of work available to be subcontracted would be produced by the formula used.

We note that the County, which uses the same list of SBE qualified firms, has not had an SBE goal exceed 10% on its recent RTA projects.

Staff finds the objective of SBE programs to be laudable, but for large projects, which by their nature are more complex and require greater coordination, we believe high SBE goals may be detrimental to efficient project delivery, resulting in delay, bid competitiveness, and performance risks. We therefore recommend the establishment of a maximum SBE goal for RTA projects which exceed \$10 million in estimated construction cost.

**Attachments:**

Spreadsheet comparing the SBE Goals for recent RTA projects

Correspondence between the Tucson Utility Contractors Association (TUCA) and the City of Tucson Office of Equal Opportunity Programs

Mayor and Council Memorandum from the City of Tucson Office of Equal Opportunity Programs

Copies of the City of Tucson and Pima County ordinances relating to SBE programs

## Summary of SBE Requirements for Recent RTA Projects

Project Name	Engineers Estimate	Goal Set Status	Goal Set	Jurisdiction	Ordinance
Sabino Canyon Rd Bridge/Tanque Verde Creek Deck	\$1,167,000	SBE Goal Set	1.00%	Pima County	yes
Continental Middle School Pathway	\$644,530	SBE Goal Set	8.00%	Pima County	yes
La Cholla Blvd: Ruthrauff Rd to River Rd	\$15,413,979	SBE Goal Set	7.00%	Pima County	yes
Tanque Verde Rd: Catalina Hwy to Houghton Rd	\$11,342,372	SBE Goal Set	10.00%	Pima County	yes
Picture Rocks & Desert Winds Transport Enhancement	\$884,287	SBE Goal Set	10.00%	Pima County	yes
Magee Rd: Mona Lisa to La Canada	\$26,679,626	SBE Goal Set	6.00%	Pima County	yes
Cortaro Farms/Magee Rd: Thornydale Rd to Mona Lisa	\$16,297,681	SBE Goal Set	9.00%	Pima County	yes
Golder Ranch Drive at COD Wash:Deck Rehabilitation	\$521,995	No SBE Goal	0.00%	Pima County	yes
Laguna Elementary School- Shannon Rd	\$708,900	DBE Goal	4.60%	Pima County	yes
Camino de Manana	\$18,500,000	No SBE Goal	N/A	Marana	no
Twin Peaks Interchange	\$65,000,000	Per FHWA	N/A	Marana	Federalized
Sahuarita Road, Phase 1	\$6,500,000	No SBE Goal	N/A	Sahuarita	no
Golf Links Rd & Kolb Rd Intersection	\$2,759,689	SBE Goal Set	26.00%	Tucson	yes
Golf Links Rd & Wilmot Rd Intersection	\$1,234,872	SBE Goal Set	28.00%	Tucson	yes
Starr Pass & Mission Rd	\$4,290,673	SBE Goal Set	22.00%	Tucson	yes
Speedway Blvd / Camino Seco – Houghton	\$17,241,663	SBE Goal Set	19.00%	Tucson	yes
Sabino Canyon & Tanque Verde Inter.	\$3,694,185	SBE Goal Set	21.00%	Tucson	yes
Downtown Links / 8 <sup>th</sup> St Drainage	\$6,247,253	SBE Goal Set	22.00%	Tucson	yes
Ft. Lowell Rd Improvements	\$642,666	SBE Goal Set	14.00%	Tucson	yes
Houghton Rd Widening	\$22,554,741	SBE Goal Set	27.00%	Tucson	yes