



CALIFORNIA DEPARTMENT OF TRANSPORTATION

**Statewide Small Business Council
Revised Meeting Minutes – January 21, 2011**

Radisson Hotel
500 Leisure Lane
Sacramento, CA

Statewide Council Members Present

Chaudhary, Arvin	CELSOC
Chavez, Chris	HCSA
Chen, Lynn	CACP
Cunningham, Lee	CWOE
Garcia, Rodrigo	SHPE
Golliet, Gene	SDVOB
Guerrero, Paul	CAL-SBE
Hassoun, Sam	GLA
Hou, Johnathan	ABA
Hunsaker, Debbie	GFACC
Johnson, Bernard	SDRMSSDC
Jordan, Fred	SFAACC
LaCome, Diana	NCA
Lau, Eddy	AAAE, SFO
Llewellyn, Rebecca	WCOE
Mallarapu, Shobha	NAWBO
Matu, Cassy	SACHCC
McGlover, Stephen	CCCC
Ortiz, Leonard	LBA
Patten, Ezekiel	BBA
Vargas, Jesus	SICHCC
Yang, William	AAAE, S. CA

Caltrans Staff Present

McKim, Cindy	Director
Fonseca, Olivia	Chair
Anbiah, Denix	Local Assistance
Bayar, Zoe	A&E Acquisitions
Effinger, Robert	Construction Practices
Gastinell, Sherri	OBEO
Pulido, Lauren	District 10
Rettke, Megan	DPAC
Rice, Lorna	District 11
Salais, Janice	OBEO
Sartipi, Bijan	District 4
Sequeira, Alicia	OBEO
Skewis, Rose	OBEO
Sultan, Mohsen	Local Assistance
Whitmore, Liza	District 3

Guests

Azizi, Max	FHWA
Carrera, Angel	DGS
Hernandez, Richard	SHPE
Keller, Marty	OSBA
Loder, Kathy	
Yokota, Lance	FHWA

Public Participation

Popek, Beverly Asian, Inc.

Note: Some attendees did not sign in.

Welcome/Introduction/Opening Remarks

Olivia Fonseca, Deputy Director, Office of Business and Economic Opportunity, California Department of Transportation (Caltrans), Statewide Small Business Council (SBC) Chair called the meeting to order at 8:35 a.m. Chair Fonseca welcomed Statewide Small Business (SB) councilmembers, Caltrans staff and guests to the meeting and wished everyone a happy new year. All were asked to introduce themselves.

Chair Fonseca introduced Caltrans Director Cindy McKim. Director McKim apologized for her absence and commented that it has been a hectic few months, particularly with the late budget. Transportation in California is moving at a quick pace, and there are many contract opportunities. Even though Caltrans is specially funded, we are indirectly affected by the General Fund, and it will take a few months to see how Caltrans will be impacted. The General Fund is in real trouble, and it hurts every one of us with a potential reduction in all state services. Former Governor Schwarzenegger used proposed gas tax swap, and the recent passage of Proposition 22 possibly prohibits this. Now, Governor Brown is proposing the use of weight fees. Passage of Propositions 22 and 26 potentially undoes portions of the gas tax swap; so, if the Legislature reapproves the gas tax swap by November with a supermajority, Caltrans loses that revenue. Regardless, if the gas tax swap isn't passed by a supermajority, those funds don't automatically go back to gas sales tax, which would make it very difficult to plan projects. It represents \$1.5 billion funding per year for transportation. Our budget is based on this scenario. The hope is that whatever happens we get to keep at least the level of funding built into the program in place or else it will affect our current construction projects. This means we may have to terminate or suspend projects; so, we not only lose projects, but penalty costs will go up exponentially. We need to at least maintain the funding anticipated.

Councilmember Patten commented that with the oil tax increase, Caltrans should benefit. Director McKim noted that those dollars are not coming to transportation. Cost paid at pump is a little less than gas tax swap. Extra doubling sounds attractive, but doubling of gas tax had some indexing ability. Gas tax is priced per gallon. Use of fuel efficient cars means less revenue based on the purchase price of gas. It use to be that as the price of gas went up, Caltrans revenue went up. We need to get stable, reliable transportation funding to keep pace.

Councilmember Cunningham stated that with the State in financial trouble, she expects taxes to increase. There needs to be stable funding for transportation to turn the economy around and create jobs. Small business is the backbone of State; and, when Caltrans' budget is cut, primes can't be paid and subs dry up. All locals need to make sure people understand when cutting state government, ultimately, they're cutting contractors' opportunities. Director McKim mentioned that if State government is cut, contracts are cut and that the budget impasse's impact on small business, and all business as a whole, is significant. We were not able to procure products, and large numbers are from small businesses.

Councilmember Cunningham stressed that the negative impact on small business has to be made clear to the public. She indicated the Council members need to get this message to the media; if government does it, it doesn't have the same impact. Director McKim reiterated that this message needs to come from the member organization's perspective.

Councilmember Llewellyn commented that small businesses are being purchased by large businesses, whose owners do not live in the State or country.

Councilmember Jordan observed that when the State gets a cold, minorities and women get pneumonia. In bad times, it gets worse for the communities that need it the most, and he wants Caltrans to keep this in mind and double the attainment goal. Director McKim stated that Caltrans has made significant progress in terms of

DBE/SB participation in contracting opportunities not only in contracting but the actual procurement of supplies and materials. The message that she's seeing from Governor Brown is that we need to reduce contracts even more. The edict on cell phones is an example. With less state travel, small business restaurants and hotels will see less state spending on those activities. The consequences to reduce state travel resonates nicely with public, but the impact is on those in the business of selling...the ripple effect on the economy. Under directives, we have been travel frugal for last 18 months and foresee more restrictions in next 18 months, signaling reduced training, conferences, meetings; and the acquisition of supplies and materials will be significantly curtailed over the next several months.

Councilmember Guerrero said that he has been observing Caltrans for a long time; and, if contractors worked like Caltrans, they would be out of business. Why does a contract have to go through so many hands; it is a waste – too many hands touch paperwork; mentioned that efficiency experts came in and observed duplicative services. Director McKim mentioned that there is always room for efficiencies.

Councilmember Garcia expressed his concern that the budget problem affects every one of us. Small business is disappearing. Small business is the economic driver. Small businesses are aware that we need a healthy economy and will pitch in and sit at the table with you to discuss participation. Small businesses work with difficult situations that impact large companies, too. The issue with Caltrans is that the union is not happy with the formula for consulting. Larger companies formed an alliance called project delivery to lobby for more job hours. Today, we're faced with the same situation; we're all hurting. Now is the time to all agree to work together for the benefit of all.

Councilmember Hunsaker indicated elected officials can get this message to taxpayers. We need to get the message out to the general public by stressing the direct impact on them.

Councilmember Cunningham stated that advertising will help change an image; spotlight the benefits to a small business when they are involved in highway projects.

Councilmember Llewellyn commented that she is seeing more trash on the roadways and that the citizens of California need to realize that it costs them a lot of money to clear this trash as well as worker safety issues. Caltrans needs a public announcement to get more community involvement.

Councilmember McGlover agreed that the message regarding the impact to individuals is not getting out. The community needs to understand this.

Councilmember Lau stated that his friends have been asking him what he expects the Governor will do with Caltrans. In his experience with Governor Brown through the years, frugality has been a constant. Those who remember, he appointed the first woman director of Caltrans who wasn't an engineer. At that time, Caltrans experienced the first ever layoffs of engineers. Governor Brown did not believe in driving or highways. The next four years will be frugal.

Director McKim announced new appointments/departures: District 10 has a new District Director: Carrie Bowen. Ms. Bowen was previously Deputy District Director for the Central Region Environmental Division on loan to the rail authority. Richard Harmon, Assistant Director for Legislative Affairs, is leaving for the private sector and until we find a replacement, Brad Mettam, is on loan from the Bishop office. Ken Decrescenzo, Federal Liaison, is retiring. He was responsible for overseeing the federal program. We will be consolidating this management position with the Legislative Affairs position incorporating federal and state legislative reviews.

Chair Fonseca thanked Director McKim for her comments and invited her to stay as long as she was able.

Councilmember Lau, as chair of the Professional Services Committee, conveyed their displeasure with District 43 in unbundling stormwater contracts. He commented that they were not getting anywhere, and it was business as usual. At the end of day, no SBs/DBEs were chosen and participation was very low. Professional services committee believes that there needs to be a culture change in District 43's upper management in the stormwater unit. District 43 is the only unit to not come forth with contracts for SBs/DBEs and wants the SBC to look at District 43's performance.

Chair Fonseca reminded council members that if they haven't already done so they need to reaffirm their place on the council and identify which council committees they are interested in. Not everyone is sitting at the table today because we have not received their commitment letters. We also have other organizations that would like to join but cannot due to the council size limit. Only those who are formal members can vote on approval of the November minutes. Additionally, council members must attend and participate in committee meetings and not just attend the full council meeting. Otherwise, the member's travel expense claim will not be paid, and the member loses his/her place on the council.

ITEM 1 – Approval of November 4, 2010, Meeting Minutes

Motion: Councilmember Guerrero

Second: Councilmember Yang

Approved by consensus.

Chair Fonseca invited Marty Keller, the Governor's Small Business Advocate, to speak to the Council. Mr. Keller commented on hearing the SBC's sense of urgency and suggested that they follow up on this sentiment by meeting separately on how to address these issues. Assembly Speaker Perez put together a package of small business support elements that includes support to the small business program, sponsored several million dollars funding the California Capital Access Program (CalCAP) and small business loan program. Assemblyman Feuer is also reaching out to small business to find out what needs to be done next. Mr. Keller suggests sending delegates to see Assemblyman Feuer, Senator Price, and the Jobs & Economic Development committees; they are looking for legislative ideas to support small business. In the Assembly, there is liberal democratic representation from the Imperial Valley where there is 37 percent unemployment. Too much regulation puts a stranglehold on small business. President Obama is also reviewing federal regulations to reduce impacts to small business. Create a dialog, not necessarily directly with CT, dealing with larger issues that impact transportation, jobs, capital investments. Next advocates meeting is Tuesday in the Department of General Services executive dining room, and the agenda includes these issues from a more macro point of view from 10 a.m. to 3 p.m.

Councilmember Jordan voiced agreement with an organized day at the Capitol to advance these issues. Chair Fonseca noted that councilmembers will represent their individual organization's not the Caltrans SBC when arranging their visit to the Capitol.

Chair Fonseca thanked Mr. Keller for his comments and directed attention to items in the meeting packets: letter to FHWA that reported total DBE participation for Caltrans reflected just over 8 percent DBE/UDBE participation for FFY for 2010; the OE/DPAC data report provided to FHWA; two letters – one to FHWA and one to FTA. It indicates that we awarded \$1.7 billion in federal aid last FFY and even though this doesn't meet the overall goal of 13.5 percent attainment to date, is a big stride compared to previous years.

Councilmember Guerrero questioned how 2 percent Hispanic participation can be at parity. Chair Fonseca stressed that the disparity study completed in 2007 was based on 2002-2006 data. In 2006, at the time of review, Hispanics were at parity. The next disparity study will recalculate all. Mr. Yokota from FHWA added that the Disparity Study is not only DBE utilization but utilization of all firms by race/sex. It includes all Hispanic-owned firms that are big/non-DBEs. If there are significant disparities, they are covered by contract goals. The Disparity Study showed disparity, but the court defines significant disparity at 80 percent. Hispanics are at 81 percent, right above the cutoff; so, the fact that they didn't make the cutoff is court defined. Major point shows DBE utilization in Disparity Study of all firms not just DBEs.

Councilmember LaCome commented that 49 CFR 5.0 states if recipient doesn't achieve a certain level of attainment at mid-year that you can adjust at that point. Mr. Yokota agreed – can adjust use of contract goals and race-neutral activity. Councilmember LaCome wanted to know what does it take to make a mid-year adjustment? Chair Fonseca stated that the individual UDBE goal on contracts is adjusted throughout the year. Mr. Yokota said that it is up to Caltrans to make the adjustment on the race-conscious goal.

Councilmember James asked if this utilization is for DBEs or award. Chair Fonseca responded that utilization on the report is commitment and award. Councilmember James continued to say that his company is listed as a UDBE on three projects and received zero work from these contracts. Caltrans has a 13.5 percent DBE goal, and we get reports every couple of months. What can be done to get this number to 13.5 percent or more? Chair Fonseca asked all to look at the OE/DPAC report. Race-conscious attainment is 6.16 percent; race neutral is 2.20 percent. Next set is minority and women (M/WBE) not certified at 3.63 percent. We collect and report M/WBE to the SBC as reported to the Director so that you're aware of the potential if these firms were certified at time of bid opening then 3.63 percent would be included in the FHWA report, as certified DBEs. Disparity study looks at all groups regardless their certification. Projected goal is 13.5 percent certified or not, women or minority; however, when we report to FHWA, we report solely certified participation. We try our best to get firms certified so that it counts toward our goal.

Councilmember Mallarapu commented that usually firms that are not certified are usually not qualified to be certified. How do we count their contracts? Chair Fonseca said minority or women-owned businesses are counted towards overall availability of potential eligible firms that may be certified.

Councilmember Garcia asked when will the new disparity study contract be released. Chair Fonseca stated that it is very close to release. The Scope of Work is written; and, now, it is a matter of getting the funding in order to advertise and select a consultant. Councilmember Garcia also spoke about the participation reports and that they are difficult to follow since they're in different formats. Can you give an overview and explanation; give background of overall total dollars spent. Chair Fonseca agreed to discuss this at the next meeting.

Councilmember Llewellyn commented that the rule is you have to be certified or you wouldn't be counted in the FHWA report. Chair Fonseca reported that solely certified DBE participation is reported to FHWA.

Councilmember Vargas urged that with future disparity studies, double check numbers and verify to see if business has same ownership. Hispanic businesses may fall back into the race-conscious goal.

Councilmember Matu mentioned obstacles to DBE certification and asked if there was a way to speed up or streamline certification. Chair Fonseca replied that the certification process cannot be streamlined. The challenge is that it requires a lot of documentation to support owner/management control. The certification unit faced challenges with the closure of the City of Los Angeles office who performed DBE certification determinations, and Caltrans is moving forward as quickly as possible.

Councilmember James wanted to know if Caltrans could do set-aside contracts since goals are not met; primes are not hiring African-American firms on Caltrans projects unless they have to, which seems egregious. Chair Fonseca indicated the DBE regs allow for a DBE set aside when the DOT finds egregious lack of participation. Chair Fonseca asked FHWA to define egregious; at what point is this data sufficient to set aside contracts for certain groups. Councilmember James commented that reports received every few months shows without a question that there is discrimination against the African-American community. If Caltrans has asked FHWA to give them a definition for egregious, we need to speak with the FHWA and meet to get resolution. Mr. Azizi said that he would share this with Mr. Mammano.

Councilmember Patten stated that FHWA needs to make the goal mandatory or things won't change. Mr. Yokota indicated the DBE regs do not allow for mandatory goals.

Councilmember Hou expressed his concern about "front" companies. He commented that this issue has settled down for while; but, Caltrans needs to revisit front issues. Chair Fonseca stressed to the council that if they are aware of a DBE firm that is not participating on a project they're to contact her. For DBE certification, ownership is one criteria as well as management and control.

Councilmember Mallarapu asked what is Caltrans policy to withhold payment from primes. Caltrans Chief of Construction Practices, Mr. Rob Effinger, said that DBE utilization is tracked; and, if we find DBEs listed and not utilized, there are penalties – will not pay for work if not done by the listed DBE.

Chair Fonseca recognized Councilmember Sam Hassoun, AGC representative, who commented about good faith effort (GFE) vs. actual goal. Contractors do not want to do GFE and risk losing to the second or third low bidder. A lot of primes would rather do business with DBEs/UDBEs who they can trust and deliver. Councilmember Hassoun stressed the importance of small business making an effort to meet and get to know primes. No one wants to do good faith anymore; they don't want to face a panel as to why they didn't make goal.

Councilmember Lau indicated District 4 is the model on DBE reporting. FHWA cannot require Caltrans to model this report but can indicate a preference on data reporting. Mr. Yokota stated let's make sure to note that Mr. Lau really likes District 4 reports. FHWA can only require Caltrans to report data on the standard forms. Mr. Lance Yokota liked the District 4 format.

ITEM 2 – Environmental Justice presentation – Ken Baxter (District 10) and Christine Cox (District 6).

Ms. Cox and Mr. Baxter gave an overview of Caltrans Title VI support in planning and project delivery in District 10 and the central region. As defined by SB 115, environmental justice is "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws and policies." In terms of transportation projects, environmental justice can be defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin or income, from the early stages of transportation planning and investment decision making through construction, operations and maintenance. (See presentation handout in meeting folder for details.)

Chair Fonseca and other Council members thanked Ms. Cox and Mr. Baxter for an excellent presentation. Councilmember Guerrero commented that they should take this presentation to other districts to assist and train.

ITEM 3 – Statewide Committee Reports

Committees met the night before and discussed 2010 and upcoming 2011 Action Items; refer to the Committee minutes for updates.

Due to time constraints, Chair Fonseca requested a consensus for each committee to report a summary of their meeting outcomes. Councilmember LaCome has agreed to continue as Construction Committee chair for another year with Councilmember Hunsaker as Co-Chair. Councilmember Lau commented that this item was not on yesterday's Professional Services Committee agenda but will be addressed. Councilmembers McGlover and Patten will remain Chair and Co-Chair, respectively, of the Commodities Committee and will train Councilmember Chavez for future office position. Local Assistance Committee nominated Councilmember Camacho to remain Committee Chair.

ITEM 4 – Public Comment/Good of the Order

Councilmember LaCome complimented Denix Anbiah and Mohsen Sultan of District 4 for their detailed reports.

Chair Fonseca announced that tomorrow she will be on her way to the TRB Annual Meeting and is very pleased to represent the DBE community as the next Chair of the TRB DBE Committee bringing you the national perspective and other issues similarly faced in the east and midwest.

As Director McKim mentioned earlier, we are challenged with less resources and funding and due to these constraints Statewide SBC meetings are scheduled every other month. Our next meeting will be held in District 7 in March.

Councilmember Chavez commented that he would like to see Statewide SBC meetings start at 7:30 or 8:00 a.m.

Councilmember Cunningham confirmed her commitment to the Statewide SBC and stated that attendance at this meeting is part of the agreement and to let someone else take your place if you cannot make this commitment. Chair Fonseca commented that commitment to the council includes full participation, including attendance at subcommittee meetings. Travel will not be reimbursed for one day's attendance. Chair Fonseca expressed her appreciation to members for their time.

Councilmember McGlover stated that the reporting problems with BidSync needs to be corrected since it is difficult to follow through if you don't have accurate information. On April 7, there is a construction career day in Los Angeles.

Councilmember Lau would like to discuss Chair Fonseca at the DC trip, design build contracts; impact of DBEs on design/build contracts. Chair Fonseca agreed to take up with TRB to see if a study can be done re: Design/Build. Councilmember Lau wants to look at Design/Build rules and regulations to see funding impact from our standpoint. Councilmember LaCome stated that this will be a priority item for this year and to work together.

Chair Fonseca requested that Committee minutes be sent to her for inclusion in future SBC meeting minutes.

Councilmember Vargas announced that there is an educational San Joaquin County workshop on January 30.

Mr. Carrera advised the Council to feel free to contact him right away if they have any issues with any item dealing with DGS.

Councilmember Guerrero asked about public tolls legislation and how does District 4 get tolls. District 4 Director Sartipi stated that they received special legislation.

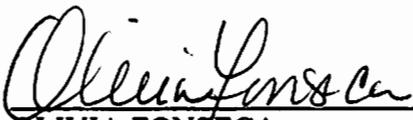
District 3 Small Business Liaison Liza Whitmore announced an SBA event in Citrus Heights on January 27 at 10 a.m. (registration begins at 8:30 a.m.)

Councilmember LaCome wanted to verify that Councilmembers who miss more than three meetings are dropped, including subcommittee meetings. Chair Fonseca confirmed.

Meeting adjourned: 11:56 a.m.

Next meeting: March 18, 2011
District 7 Headquarters
100 South Main Street, Room 01.037
Los Angeles, CA

Approved by:



OLIVIA FONSECA
Deputy Director
Office of Business and Economic Opportunity
California Department of Transportation