Office of the Governor ARNOLD SCHWARZENEGGER THE PEOPLE'S GOVERNOR

EXECUTIVE ORDER S-11-06

07/21/2006

WHEREAS California's sustained economic prosperity is tied directly to the success of the State's small businesses, with over one million small businesses employing more than 6.8 million people, representing 98 percent of all California enterprises and employing more than 50 percent of the workforce; and

WHEREAS it is the State of California's policy to encourage the establishment of new businesses, grow existing businesses and promote more small and emerging businesses contracting with the State of California; and

WHEREAS Executive Order S-02-06 ensures each agency secretary, department director, and executive officer's State procurement and contracting processes are administered in order to meet or exceed the 25 percent small business participation goal; and

WHEREAS the expansion and maintenance of a viable infrastructure, including the State's system of roads, highways, and transit-related systems, are vital to the mobility of people and goods and represent opportunities for small and emerging businesses to participate in and be a successful part of the California economy; and
WHEREAS an integral part of any successful transportation and transit-related economy is the unimpeded participation of all willing, ready, and able construction contractors and subcontractors, professional architectural and engineering firms, suppliers and truckers, without regard to race, ethnicity, gender or physical disability; and

WHEREAS the successful delivery of necessary infrastructure for California will require the participation of a robust and growing community of businesses of all sizes to provide professional skills, services and materials; and

WHEREAS the State of California embraces and actively supports the requirements of the United States Code of Federal Regulations regarding the participation of small businesses, including certified Disadvantaged Business Enterprises, on federally-assisted transportation projects; and

WHEREAS approximately $4 million from the Federal Highway Administration is continuously appropriated and available within the Small Business Expansion Fund (Fund 918) for loan guarantees under Corporations Code section 14070 et seq. on federally-assisted transportation projects; and
WHEREAS the Small Business Expansion Fund can be utilized to guarantee up to approximately $17 million in loans for small businesses, including Disadvantaged Business Enterprises, participating in transportation construction projects; and

WHEREAS the difficulty in obtaining performance bonds serves as an impediment to some small and emerging businesses in contracting for transportation projects and therefore limits competition; and

WHEREAS the California Department of Transportation embraces and actively supports the District 7 Small Business Architect and Engineering Mentor Protégé Program and will implement the program in all districts; and

WHEREAS with the support of the Federal Highway Administration and the Federal Transit Administration, the California Department of Transportation will complete a Disadvantaged Business Enterprise Disparity Study to determine if discrimination exists against Disadvantaged Business Enterprises in the State's public transportation contracting industry.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this Order to become effective immediately:

1. The California Business, Transportation and Housing Agency (Agency) and the California Department of Transportation (Department) will encourage, and whenever possible increase, small business participation, including Disadvantaged Business Enterprises, in federally-assisted highway and transit-related projects. This shall include, but not be limited to, reassessing and augmenting outreach and assistance to small and emerging businesses to assist them in doing business with the Department. In addition, the Agency and the Department will provide information on advertised contracts and will invite participation in small business forums in order to address small business issues.

2. The Agency shall create a Small Enterprise Officer position to inform and assist Small Business Enterprise firms, including Disadvantaged Business Enterprises, in growing their business expertise and increasing their capacity to acquire and perform on contracts. The Small Enterprise Officer will coordinate activities with the Small Business Advocate in the Governor's Office of Planning and Research (OPR).

3. The Department shall provide marketing tools to the Department's district offices to promote participation by small businesses, including Disadvantaged Business Enterprises, which are ready, willing, and able to participate in contracts; develop and schedule Procurement Fairs that match small businesses with prime contractors; and introduce these businesses to departmental contracting officials.

4. The Department shall consult with its Statewide and District Small Business Councils, the Associated General Contractors of California, the Consulting Engineers and Land Surveyors of California, and other organizations. The consultation will identify ways to assist small businesses, including Disadvantaged Business Enterprises, and increase their opportunities to participate on the Department's federally-assisted transportation and transit-related projects. The Department will coordinate outreach activities with the Small Enterprise Officer and also will continue to seek guidance and assistance from the OPR Small Business Advocate.

5. The Agency shall utilize the Small Business Expansion Fund through agreements with Financial Development Corporations to provide approximately $4 million from the Federal Highway Administration to guarantee up to approximately $17 million in loans for Small and Disadvantaged Business Enterprises participating in federally-assisted transportation and transit-related projects.

6. The Department shall inform all qualified small businesses, including Disadvantaged Business Enterprises, bidding on transportation-related contracts of the State's Small Business Loan Guarantee Program and the Small Business Expansion Fund.

7. The Agency and the Department shall develop a legislative proposal for my consideration to establish and administer a $40 million State Transportation Bonding Guarantee Program, which will sunset no later than June 30, 2011. The legislative proposal shall specify that the program will be funded through from Revenue and Taxation Code section 7102, pertaining to transportation spillover funds, and that these funds will be reimbursed to the Public Transportation Account by the Department when the program sunsets. Further, the Agency is directed to explore seeking additional funding participation from charitable foundations and other entities for this purpose. The State Transportation Bonding Guarantee Program will specifically assist small and emerging businesses, including Disadvantaged Business Enterprises, who bid on state and federally-assisted transportation and transit-related projects.

8. The Agency and the Department will also work together to explore measures to reduce the cost of insurance coverage to prime contractors and subcontractors on Department contracts. This will include exploring the feasibility of using alternative insurance structures to reduce the cost and increase the availability of insurance for small businesses.

This Order is not intended to, and does not create any right or benefit, substantive or procedural, enforceable in law or equity, against the State of California, its departments, agencies or other entities, its officers or employees, or any other person. Nothing in this Order shall be construed to require any action that would result in a violation of a court order or a loss of eligibility for federal funding.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 21st day of July 2006.