EXECUTIVE DIRECTIVE NO. 2001-26

February 8, 2001

TO: THE HEADS OF ALL DEPARTMENTS, OFFICES AND COMMISSIONS OF CITY GOVERNMENT

SUBJECT: CITY OF LOS ANGELES MINORITY, WOMEN AND OTHER BUSINESS ENTERPRISE PROGRAM

Effective immediately, each department (Awarding Authority) which issues invitations for bids or requests for proposals (RFPs) for work to be performed under contracts awarded by the City of Los Angeles shall implement this directive by utilizing the outreach program set forth herein.

It is the policy of the City of Los Angeles to provide Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs) and all Other Business Enterprises (OBEs) an equal opportunity to participate in the performance of all city contracts. This policy applies to all City Departments, Proprietary Departments, and Boards and Commissions, which may, by their authority, award construction, procurement, and personal service contracts.

The Mayor’s Office of Economic Development (MOED) shall have the primary responsibility for coordinating and managing city business development and outreach efforts designed to enhance business opportunities for minority, women, and other business enterprises, including small local businesses.

In coordination with the Mayor’s Office of Economic Development, the heads of all departments of city government shall be responsible for developing, managing, and implementing the MBE, WBE, and OBE policy and program. Departments are required

1 For the purposes of this Executive Directive, “minority group member” shall be synonymous with “minority person” as defined in the code of Federal Regulations, 41 CFR, Part 26.
to submit a quarterly report covering the activities and their outcomes relating to the efforts undertaken by the respective Departments to implement the minority, women, and other business enterprise program outlined in this Directive.

All Awarding Authorities which issue invitations for bids or RFPs for work to be performed under contracts valued at $100,000 or more shall require bidders or proposers to conduct the City's "Good Faith Effort," unless otherwise determined by MOED. The aforementioned policy shall be implemented as outlined in the City of Los Angeles Minority, Women and Other Business Enterprise Program.

**City of Los Angeles Minority, Women and Other Business Enterprise Program**

**Departmental Responsibilities**

The department heads will assign to the Purchasing Agent, Contract Administrators, Contract Compliance Officers and/or Affirmative Action Officers the responsibility for developing, managing, and implementing the MBE, WBE and OBE policy and program on a day-to-day basis. In order to implement effectively this policy the following program areas will be incorporated within the body of each individual departmental plan:

1. Development of information and communication outreach programs on contracting and bidding procedures, along with the timely dissemination of contract and bid information to both public and private business assistance centers, Chambers of Commerce, Minority and Women Business and Trade Associations.

2. Development of effective vendor database and directories, which will include but not be limited to, qualified minority, women-owned, and other businesses, business assistance agencies, capital providers, bonding and insurance providers, and certification providers, which will be made available to all buyers, storekeepers with purchasing authority, and all other departmental personnel with authority to solicit bids and enter into negotiated personal service contracts.

3. Development and maintenance of listings of MBEs, WBEs, and OBEs to be made available to all prime contractors, vendors, and suppliers who seek to comply with contract requirements and/or subcontracts and joint venture opportunities. The listing shall include, but not limited to: the name, address, telephone number, ethnicity and gender of owner, and the service, commodity or goods provided, sold or manufactured.

4. Participation in minority trade fairs and other outside activities related to the development of minority, women and other vendors.
5. Provide information to MBE, WBEs and OBEs on projected department contractual needs, conduct pre-bid and post conferences, permit MBEs, WBEs, and OBEs to review and evaluate successful bid documents of similar contracting or procurement opportunities.

6. Evaluate and verify, as necessary, the eligibility of all firms and joint ventures who claim to be minority or women-owned in coordination with the City of Los Angeles' certification entity and/or any other certification entity that has a reciprocal certification agreement with the City of Los Angeles.

7. Develop and implement workshops for buyers, storekeepers, and any departmental personnel with authority to negotiate, construction, procurement, and personal service contracts, on how to do business with minority, women-owned, and other business enterprises.

8. All bids, RFPs, and construction notices, whenever possible, be published in widely circulated newspapers, trade associations and business publications, including those which focus on minority and women business communities, and through the utilization of radio and any other electronic media.

9. The Small, Local business Program (10% Preference) shall be utilized to further encourage and strengthen the bidding opportunities for small local businesses.

10. All purchasing authorities and/or department designees, with the authority to negotiate contracts, shall maintain such records, and provide such reports as are necessary to ensure full compliance with this policy.

11. All bids and RFPs will give notice that the City requires a good faith outreach effort by contractors, suppliers, and vendors to subcontract with minority, women and other contractors, suppliers, and vendors in their performance of City contracts.

12. The "Good Faith Effort" requirement shall be applied in all city procurement, personal services and construction contracts valued in excess of $100,000, unless otherwise determined by MOED. All Awarding Authorities shall notify MOED of the anticipated levels of MBE and WBE participation for each contract.

13. Other government entities may not have Good Faith Effort programs that meet the city's standards for business development or outreach. In the event that the city participates ("piggybacks") onto an existing contract of another government entity or association of government entities, the city shall first evaluate the host contract to determine the extent and effect of
the other entity's outreach and business development requirements. The results of the required evaluation shall be communicated to the Mayor's Office of Economic Development as part of the request for approval of any resulting contract by the Mayor's Office.

**Mayor's Office of Economic Development Responsibilities**

Departments shall seek assistance from the Mayor's Office of Economic Development to implement the previously stated departmental responsibilities. MOED has the responsibility of providing the respective Departments, covered by this directive, with the following services, including but not limited to:

1. Strategic implementation of City MBE, WBE, OBE and small local business outreach and business development efforts.

2. Technical expertise in the areas of MBE, WBE and OBE outreach program design, development and implementation.

3. Information relating to compliance with Federal and State business outreach regulations.

4. Technical expertise in coordinating outreach efforts with minority, women, and other professional associations, trade groups, business assistance centers and related organizations.

5. Technical expertise in the development of the necessary databases, directories, and reports relating to MBE, WBE and OBE program compliance.

6. The Good Faith Effort requirement does not apply to contracts valued at $100,000 or less, but that fact shall not prevent MOED from providing to departments, at its discretion, outreach and other services authorized under this directive, with respect to such contracts.

7. Such other assistance as may be necessary in connection with the implementation of this directive by the Departments.

**Quarterly Reports**

Departments shall submit a Quarterly Report to MOED covering the activities relating to the efforts undertaken by the Departments to implement the MBE, WBE and OBE outreach program. The Report shall include data on construction, procurement and personal services contracts and be due 15 calendar days after the close of each calendar quarter, commencing with the quarter ending March 31, 2001. The Report shall include, but not be limited to:
1. A summary of all contract dollars and number of contracts awarded during the quarter to prime contractors and subcontractors, with a breakdown of awards to MBE, WBE and OBE firms. The data shall be further summarized by ethnic categories as determined by MOED.

2. A list of all contracts awarded or contract amendments awarded during the quarter. Each contract shall list the name of the prime contractor and each subcontractor on the project and include award date, contract term, contract type, award amount, contact person, ethnicity, gender, city, state, zip, telephone and fax number.

3. The number of business and contracting opportunity seminars, conferences, and other related events participated in by the Department.

4. All significant efforts undertaken to implement the various elements of the MBE, WBE and OBE Program outlined in this Directive.

5. Any and all other data or Departmental information relating to business development or business outreach as may be requested by MOED to further program development.

Good Faith Effort Policy and Documentation

Bidders and proposers shall assist the city in implementing this policy by taking all reasonable steps to ensure that all available business enterprises, including MBEs, WBEs, and OBEs, have an equal opportunity to compete for and participate in city contracts. As outlined below, the following indicators and point scale will be used to determine the bidder's and proposer's compliance with the Good Faith Effort requirements:

(1) The bidder's or proposer's efforts to obtain participation by MBEs, WBEs, and OBEs can reasonably be expected by the Awarding Authority to produce a level of participation by interested subcontractors, including _______percent MBE and ______ percent WBE as established by the Awarding Authority.

0 Points

(2) The bidder or proposer attended pre-solicitation or pre-bid meetings, if any, scheduled by the Awarding Authority to inform all bidders or proposers of the requirements for the project for which the contract will be awarded. The Awarding Authority may waive this requirement if the bidder or proposer certifies it is informed as to those project requirements.

10 Points

(3) The bidder or proposer identified and selected specific items of the project for which the contract will be awarded to be performed by subcontractors
to provide an opportunity for participation by MBEs, WBEs, and OBEs. The bidder or proposer shall, when economically feasible, divide total contract requirements into small portions or quantities to permit maximum participation of MBEs, WBEs, and OBEs.

10 Points

(4) The bidder or proposer advertised for bids or proposals from interested business enterprises no less than 10 calendar days prior to the submission of bids or proposals, in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media specified by the Awarding Authority.

9 Points

(5) The bidder or proposer provided written notice of its interest in bidding on the contract to those business enterprises, including MBEs and WBEs, having an interest in participating in such contracts. All notices of interest shall be provided not less than 10 calendar days prior to the date the bids or proposals were required to be submitted. In all instances, the bidder or proposer must document that invitations for subcontracting bids were sent to available MBEs, WBEs, and OBEs for each item of work to be performed. The Mayor's Office of Economic Development shall be available to help identify interested MBEs, WBEs, and OBEs.

15 Points

(6) The bidder or proposer documented efforts to follow-up initial solicitations of interest by contacting business enterprises to determine with certainty whether the enterprises were interested in performing specific portions of the project not less than three calendar days prior to the date the bids or proposals were required to be submitted.

10 Points

(7) The bidder or proposer provided interested business enterprises with information about the plans, specifications and requirements for the selected subcontracting work.

5 Points

(8) The bidder or proposer requested assistance from organizations that provide assistance in the recruitment and placement of MBEs, WBEs, and OBEs not less than 15 calendar days prior to the submission of bids or proposals.

10 Points
The bidder or proposer negotiated in good faith with interested MBEs, WBEs, and OBEs and did not unjustifiably reject as unsatisfactory bids or proposals prepared by a business enterprise, as determined by the Awarding Authority. As documentation the bidder or proposer must submit a list of all sub-bidders for each item of work solicited, including dollar amounts of potential work for MBEs, WBEs and OBEs.

26 Points

The bidder or proposer documented efforts to advise and assist interested MBEs, WBEs, and OBEs in obtaining bonds, lines of credit, or insurance required by the Awarding Authority or contractor.

5 Points

An Awarding Authority's determination of the adequacy of a bidder's or proposer's Good Faith Effort must be based on due consideration of all indicators of good faith as set forth above. Achievement of anticipated levels of participation in indicator (1) above, may only be used as one of the ten indicia of whether a bidder or proposer has met the Good Faith Effort to recruit MBEs, WBEs, and OBEs. If the Awarding Authority has established anticipated levels of participation for MBE and WBE subcontractors, failure to meet those levels shall not by itself be the basis for disqualification of the bidder or proposer.

Each indicator is to be graded on a Pass/Fail basis. Either full credit or no credit will be awarded. No partial credit is to be given. A minimum of 75 of 100 evaluation points are required to establish compliance with the Good Faith Effort requirements. The Good Faith Effort is required even if the bidder has achieved the anticipated MBE and WBE participation levels. The Good Faith Effort also is required even if the bidder is a certified Minority or Woman Business Enterprise.

In the event that an Awarding Authority is considering awarding to other than the lowest bidder, or not awarding a contract to a proposer, because the bidder or proposer is determined to be non-responsive for failure to comply with the Good Faith Effort requirements set forth above, the Awarding Authority shall, if requested, and prior to the award of the contract, afford the bidder or proposer the opportunity to present evidence to the Awarding Authority in a public hearing of the bidder's or proposer's compliance with the Good Faith Efforts in making its outreach. In no case shall an Awarding Authority deny award of a contract to a bidder or proposer pursuant to this program, if the bidder or proposer complies with the Good Faith Effort but fails to meet the anticipated levels of participation.

Nothing herein restricts the discretion of the Awarding Authority to reject all bids or proposals in accordance with provisions of the City Charter or Administrative Code.
The directions set forth herein shall take effect immediately, and all Awarding Authorities, including the city's proprietary departments, shall modify their implementation programs to the extent such programs are inconsistent with this Executive Directive.