Torres, Genara FOI #12095

From: jcharlessullivan@yahoo.com
Sent: Thursday, January 20, 2011 9:15 PM
To: Van Duyne, Sheree
Cc: Torres, Genara
Subject: Freedom of Information Online Request Form

Information:

First Name: john
Last Name: sullivan
Company: lawyer
Mailing Address 1: 113 Regester Avenue
Mailing Address 2:
City: Baltimore
State: MD
Zip Code: 21212
Email Address: jcharlessullivan@yahoo.com
Phone: 410-206-3602
Required copies of the records: Yes

List of specific record(s):
I am seeking the proposed Disadvantaged Business Enterprise goal setting methodology report for The Port Authority for federal fiscal years 2011-2013. Thank you.

THE PORT AUTHORITY OF NY & NJ

Sheree Van Duyne
Acting FOI Administrator

February 18, 2011

Mr. John Sullivan
113 Regester Avenue
Baltimore, MD 21212

Re: Freedom of Information Reference No. 12095

Dear Mr. Sullivan:

This is a response to your January 20, 2011 request, which has been processed under the Port Authority's policy on Freedom of Information (the "Policy," copy enclosed) for a copy of the proposed Disadvantaged Business Enterprises goal setting methodology report for the Port Authority federal fiscal years 2011-2013.

Material responsive to your request and available under the Policy, which consists of 5 pages, is enclosed, for a $1.25 photocopying charge for this material (25¢ per page). Payment should be made in cash, certified check or money order payable to "The Port Authority of New York & New Jersey" and should be sent to my attention at 225 Park Avenue South, 17th Floor, New York, NY 10003.

Please refer to the above FOI Reference number in any future correspondence relating to your request.

Sincerely,

Sheree Van Duyne
Acting FOI Administrator

Enclosure

225 Park Avenue South
17th Floor
New York, NY 10003
T: 212-435-7348 F: 212-435-7555

PORT AUTHORITY OF NEW YORK & NEW JERSEY
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

FISCAL YEARS 2011 – 2013 PLAN

(John F. Kennedy International / LaGuardia / Newark Liberty International / Stewart International/ Teterboro / Airports)

OVERVIEW

It is the policy of the Port Authority of New York and New Jersey to update its DBE goal, based on an ongoing assessment of the availability of ready, willing and able DBEs in its local market area. The local market area consists of the five New York boroughs of Manhattan, Brooklyn, Queens, Richmond (Staten Island) and the Bronx; the four suburban New York counties of Nassau, Rockland, Suffolk and Westchester; and the eight northern New Jersey counties of Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset and Union. Further, in the last five years 80.1% of the Port Authority bidders were located in this market area and 91.8% of the contracting dollars were earned by contractors located within our market area.

Overall DBE Program Goal

The Port Authority's three year overall DBE program goal for FYs 2011-2013 is 16.0%.

Anticipated FAA Assisted Project Expenditures:

FY 2011	$51 Million
FY 2012	$53 Million
FY 2013	$52 Million
Total	$156 Million

DBE 3-Year Overall Goal: (*percentage*) **16%**

Total dollar amount projected to be expended on DBE's: **$24,960,000**

Breakdown of Projected Expenditures by Project Description:

FY	Paving Runways & Taxiways	Runway Safety Areas	Planning	School Soundproofing	Studies	Total	DBE Participation
2011	$26 Million	$0	$4 Million	$20 Million	$1 Million	$51 Million	$8.16 Million
2012	$18 Million	$20 Million	$4 Million	$10 Million	$1 Million	$53 Million	$8.48 Million
2013	$20 Million	$21 Million	$10 Million	$0	$1 Million	$52 Million	$8.32 Million
Total	**$64 Million**	**$41 Million**	**$18 Million**	**$30 Million**	**$3 Million**	**$156 Million**	**$24.96 Million**

METHODOLOGY

The following is a summary of the method the Port Authority used to calculate this overall goal:

Step 1 – Trade Analysis List - The method used to derive a major portion of the Port Authority's overall DBE goal was based on a review of FAA-assisted contracting activity at the five Port Authority regional airports for the period between October 1, 2005 to September 30, 2010. This compares the number of available, willing, and able DBEs (numerator) with the total number of firms (denominator) from the same trade specialty pool. The source for available DBEs is both the New York State and New Jersey Unified Certification Program DBE directories. The source of all available firms is County Business Patterns data from the U.S. Cencus Bureau (2008 CBP), which lists available firms by North American Industry Classification System (NAICS) Codes. The Market area is the Port District described in the first paragraph of this document. As a result of our trade analysis of specialties involved for the identified period (NAICS# 236220, 237310, 238110, 238120, 238390, 238910, 333319, 339950, 423310, 423320, 423390, 423610, 423840, 484220, 541330, 561612), we found a total of 1,243 DBEs available to bid on Port Authority prime/subcontracting construction and architectural engineering consultant contracts out of a total of 11,212 firms.

$$\text{Base Figure} = \frac{\text{Ready, Willing and Able DBEs}}{\text{All firms ready, willing and able (DBEs and Non-DBEs)}}$$

NAICS Codes	Description of Trades	Total Number of Firms	Total Number of DBEs	Percentage of DBE Participation
236220	Commercial & Institutional Building Construction	2217	136	6%
237310	Highway Street & Bridge Construction	434	234	54%
238110	Poured Concrete Foundation & Structural Contractors	674	77	11%
238120	Structural Steel & Precast Contractors	226	69	31%
238390	Other Building Finishing Contractors	415	31	7%
238910	Site Preparation Contractors	1100	172	16%
333319	Highway Safety Equipment	47	2	4%
339950	Sign Manufacturer	360	21	6%
423310	Lumber & Related Products	401	14	3%
423320	Brick, Stone & Related Construction Material Wholesaler	265	24	9%
423390	Other Construction Material Merchant	169	45	27%
423610	Electrical Apparatus & Equipment	798	56	7%
423840	Industrial Supplies Merchant Wholesaler	450	27	6%
484220	Trucking	777	69	9%
541330	Engineering Services	2179	248	11%
561612	Security Guards & Patrol Services	700	18	3%
TOTAL		**11,212**	**1,243**	**11%**

Step 2- Adjustment – We examined evidence to determine what adjustment, if any, was needed to the base figure of 11.0% in order to arrive at an appropriate three year goal for FYs 2011 – 2013. Based on that examination, we believe an upward adjustment of the relative availability percentage by 5%, bringing the goal to 16.0%, would be appropriate.

The following factors were considered for adjusting the base figure and were determined to provide greater information as to the capacity for DBE firm utilization:

Using the same goal methodology from previous years, our past relative availability percentage in FY 2006, FY 2007, FY2008, FY2009 and FY 2010 was 16.4%, 17.0%, 13.0%, 16.5% and 17%, respectively. A five year average of 16.0%. Our actual DBE attainment in FY 2006, FY 2007, FY2008, FY2009 and FY 2010 was 18.8%, 14.8%, 22.9%, 18.0% and 8.5%, respectively. A five year average of 16.6%.

In addition, our recommended adjustment would be in line with the agency's M/WBE goal of 17% for all business activities, which is supported by a disparity study.

Step 3 –Goal - Based on the FYs 2005-2010 trade analyses, our previous disparity study findings, and our best assessment of the volume and type of future DOT-assisted contracts, the Port Authority has established an overall DBE goal of 16.0% for FYs 2011 - 2013.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

The Port Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Port Authority provides the following services to DBEs to increase their participation::

1. Training to assist these firms to fully utilize the latest technology and business applications to create efficiencies and enhance their capabilities i.e., project management, accounting and inventory software.

2. On-site technical support and consultation at business resource centers, e.g., WTC Business Resource Center at 115 Broadway, New York, NY and Northeast Region Small Business Transportation Resource Center at LaGuardia Community College in Queens, New York.

3. Informational seminars relating to business growth management and upcoming opportunities.

4. Quarterly business newsletter published by the Port Authority's Office of Business and Job Opportunity.

5. A Mentor-Protégé Program overseen by the Port Authority's Engineering Department and Office of Business and Job Opportunity which matches M/W/DBE construction firms with major construction companies.

The Port Authority estimates that, in meeting its overall goal of 16.0% it will attain 3.5% from race-neutral participation and 12.5% through race-conscious measures. The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

Based on our analysis of the total publicly bid prime construction contracts between 4Q2009 and 3Q2010, we found the M/W/DBE participation rate to be approximately 3.5%. This suggests that 12.5% of our overall DBE goal will have to be achieved through race-conscious measures. We will adjust this estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation while tracking and reporting race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to the following DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures: DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

PROCESS

Before establishing an overall DBE goal, the Port Authority consults with minority, women and general contractor groups as well as community organizations and other officials, i.e. Association of Minority Enterprises of New York, Inc., the Regional Alliance for Small Contractors, Inc., New York State Association of Minority Contractors, National Hispanic Business Group, NY/NJ Minority Purchasing Council, Professional Women in Construction, Asian Women in Business, Caribbean American Chamber of Commerce & Industry and Asian American Business Development Center, whose members might be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and efforts to establish a level playing field for DBEs.

Following this consultation, the Port Authority publishes a notice informing the public that the proposed goal and its rationale are available for inspection during normal business hours at a designated Port Authority business office in New York for 30-days following the date of the notice, and informing the public that the Port Authority and DOT accepts written comments regarding the goal for up to 45-days from the date of the issuance of the notice. To further publicize the Port Authority's DBE program and proposed goal, the notice is also published in local market area media such as Hoy(NY/NJ), Chinese World Journal(NY), El Diario(NY/NJ), the Daily News(NY), the Star Ledger(NJ), and the Minority Commerce Weekly(NY/NJ). In conformance with applicable regulations, the Port Authority issues this notice by January 30th of each year and includes addresses where comments may be sent and the addresses where the proposed goal and materials may be reviewed. The Port Authority's overall goal submission to DOT includes a summary of information and comments received during this public participation process and our responses. A copy of the published goal and public notices are also provided to the FAA.

CONTRACT GOALS

The Port Authority will use contract goals to meet any portion of the overall goal the Port Authority does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall DBE goal that is not projected to be met through the use of race-neutral means.

The Port Authority will establish contract goals on those DOT-assisted contracts that have subcontracting possibilities and will express its contract goals as a percentage of total DOT financial assistance the Port Authority is estimated to receive for FYs 2011-2013.