PROCEDURE FOR ADMINISTRATIVE RECONSIDERATION
OF THE CITY’S DETERMINATION OF ADEQUACY
OF GOOD FAITH EFFORTS TO MEET A DBE GOAL

Purpose

Pursuant to Exhibit 9-H of Caltrans’ Local Assistance Procedures Manual and 49 C.F.R. 26.53(d), the City shall follow the procedure set forth herein if a bidder\(^1\) requests that the City reconsider its determination that the bidder failed to meet the established Disadvantaged Business Enterprise (DBE) Goal and did not make adequate Good Faith Efforts (GFE).

Obligation to Notify Bidder of Opportunity for Administrative Reconsideration

Any time the City determines that the apparent lowest responsive responsible bidder failed to meet the DBE Goal established for a project or, alternatively, failed to demonstrate an adequate GFE to meet the established DBE Goal, the City shall provide the bidder an opportunity for administrative reconsideration prior to awarding the contract.\(^2\)

Appointment of Reconsideration Official

The City’s decision on reconsideration shall be made by an official who did not take part in the original determination that the bidder failed to meet the DBE Goal or make adequate GFEs to do so.

In most cases, this official shall be the Assistant Director of Public Works. In the event the Assistant Director of Public Works is not available or was involved in the original determination, the City Manager shall appoint an alternative official to hear the request for reconsideration.

\(^1\) For the purpose of this Procedure for Administrative Reconsideration Procedure, only a bidder that would have been the lowest responsive responsible bidder, but for the City’s determination regarding the bidder’s failure to meet the established DBE and/or the City’s finding that the bidder did not make an adequate GFE, may appeal the City’s determination under this Procedure. Bidders may not use this procedure to contest the City’s determination(s) regarding a competing bidder. Unless otherwise stated in this procedure, all other terms used herein shall have the same meaning as set forth in Chapter 3.56 of the Sacramento City Code.

\(^2\) Please note that for Design-Build contracts, the procedure varies slightly. The bidders on the design-build contract may request administrative reconsideration on the City’s determination regarding the adequacy of the bidder’s Open-Ended DBE Performance Plan, as described in 49 C.F.R. § 26.53 (e). The selected bidder may also request reconsideration at the end of the project if the City determines that the selected bidder failed to meet its Open-Ended DBE Performance Plan and makes a finding of no GFE when the contract is closed out.

Approved by CMO - August 13, 2024
Reconsideration Hearing

The Reconsideration Official shall hold an in-person hearing with the bidder requesting reconsideration to discuss the issue of whether it met the goal or made an adequate GFE to do so.

The bidder will have the opportunity to provide written documentation or oral argument on the issue of whether it met the DBE goal or made an adequate GFE to do so.

Decisions regarding the adequacy of the bidder’s GFEs shall be made in accordance with Appendix A to Part 26 of Title 49 of the Code of Federal Regulations, the Caltrans’ Local Assistance Procedures Manual, and any other applicable law and regulations.

Written Decision on Reconsideration

As soon as practicable after the reconsideration hearing, the Reconsideration Official shall provide a written decision on the request for reconsideration. The written decision shall explain the basis for the Reconsideration Official’s determination that the bidder did or did not meet the DBE Goal or made an adequate GFE to do so.

No Further Appeals

No further administrative remedies are available upon the conclusion of the Administrative Reconsideration process. The decision of the City’s Reconsideration Official cannot be further appealed to Caltrans, the U.S. Department of Transportation, or to other officials of the City of Sacramento.