

Date: April 17, 2007

Committee Meeting Date: April 19, 2007

Board Meeting Date: May 3, 2007

BOARD MEMORANDUM

ACTION X DISCUSSION INFO

TO: Administration & Finance Committee
Santa Clara Valley Transportation Authority
Board of Directors

THROUGH: Michael T. Burns
General Manager

FROM: Jerry G. Mikolajczyk
Chief Financial Officer

SUBJECT: DBE Availability and Utilization Study Contract Award

RECOMMENDATION:

Authorize the General Manager to execute a contract with CRA International (CRA) in the amount of \$287,484.00 to conduct a DBE Availability and Utilization Study. The term of the contract will be from May 4, 2007 to August 30, 2007.

BACKGROUND:

In March of last year, staff reported to the Board that as a result of the 9th Circuit Court of Appeals decision in the *Western States Paving Co., Inc. v. Washington State Department of Transportation* case (*Western States*) race-conscious federal DBE programs were prohibited in the 9th Circuit absent evidence of discrimination in the transportation contracting industry.

Caltrans determined it did not have sufficient data to satisfy the evidentiary standards established in the *Western States* case and notified subrecipients of Federal Highway Administration (FHWA) funds that, effective May 1, 2006, contracts must be advertised and awarded without specific DBE contract goals. VTA as an FHWA subrecipient entered into an Implementation Agreement with Caltrans whereby, among other things, VTA agreed to assist Caltrans achieve its Overall Statewide DBE goal by *race neutral* means. VTA has also received the same direction from the Federal Transit Administration (FTA) for grant funds received through that agency.

The Bay Area Disparity Committee, a group of DBE managers from local transit agencies, including VTA, met extensively over a period of months to draft a Scope of Work for a Joint Disparity Study Request for Proposals (RFP). BART was the lead agency in the RFP process. The BART Board of Directors, who was to award the Disparity Study contract, ultimately decided in January of this year to reject all bids and further determined that BART would re-solicit for a BART-only study.

At the February meeting of the VTA Board, the General Manager reported that VTA would immediately issue an RFP for a VTA DBE Availability and Utilization Study to determine whether there is discrimination in VTA's contracting market sufficient to support a return to a race conscious DBE program.

DISCUSSION:

A Request for Proposals for a DBE Availability/Utilization Study was issued by VTA on February 23, 2007. The RFP was advertised in the San Jose Mercury News, *Passenger Transport* and listed on the VTA Web Page. In addition, a notification of the RFP was directly sent to 6 firms. A Pre-proposal meeting was held on March 7, 2007. The following 2 firms submitted proposals:

- Mason Tillman Associates
- CRA International

An evaluation panel consisting of a representative of VTA's Office of Small & Disadvantaged Business, a VTA Senior Assistant Counsel, the Director of the Office of Equality Assurance from the City of San Jose and a VTA Contract Administrator evaluated the proposals using the following evaluation criteria:

- Cost and Price
- Qualifications of the Firm
- Staffing and Organization
- Demonstrated Understanding of the Project Requirements
- Local Firm Preference

CRA's price proposal was \$287,484. Mason Tillman's price proposal was \$292,646. Both firms were interviewed on April 9, 2007. Using the established evaluation criteria, the panel determined that CRA's proposal offered the best combination of qualifications, staffing and understanding of the Project.

The CRA staff is exceptionally experienced in the conduct of disparity studies and statistical evidence of discrimination. The proposed study director, Mark Berkman Ph.D. has performed disparity studies for Alameda County, Contra Costa County, the City of San Francisco and the City of Hayward, as well as report updates for BART and San Francisco MUNI. The CRA team also includes Robert Fairlie, Ph.D. from UC Santa Cruz, an expert in national academic literature on Disparity Studies.

The cumulative scores for the firms are as follows:

EVALUATION OF THE WRITTEN PROPOSALS:

	CRA	Mason Tillman
Cost and Price (30 Pts)	25	26.4
Qualifications of the Firm (20)	19	15.8
Staffing and Organization (20)	18.8	15.8
Project Understanding (20)	18.4	16.6
Local Firm Preference (10)	<u>1.4</u>	<u>0</u>
Total (100)	82.6	74.6

FINAL EVALUATION AFTER ORAL INTERVIEWS:

	CRA	Mason Tillman
Cost and Price (30 Pts)	30.0	28.4
Qualifications of the Firm (20)	19.6	15.8
Staffing and Organization (20)	19.6	15.8
Project Understanding (20)	20.0	17.4
Local Firm Preference (10)	<u>1.4</u>	<u>0</u>
Total (100)	90.6	77.4

The Oral Interviews were scored using the published evaluation criteria. Using those criteria, the review panel questioned the firms more specifically in the following areas:

- Ability and leadership skills of the Project Manager
- Proposed team’s cohesiveness
- Content and quality of the presentation
- Response to specific questions
- Findings from reference checks
- Overall impression from the written proposal and the interview

Based on the combination of the written proposal and the oral interview, the panel’s final scores for the firms were:

CRA	90.6 Points
Mason Tillman	77.4 Points

CRA’s higher scores in the areas of Qualifications and Staffing were also due in part to the very recent Disparity Study conducted by CRA for the San Francisco Municipal Transportation Authority and the San Francisco International Airport. That study was awarded to CRA to determine if the San Francisco Agencies had sufficient data to satisfy the evidentiary standards established in the *Western States* case and allow them to return to a race conscious DBE program. This is the same reason that VTA desires to conduct this study. The recent data that CRA have developed in the San Francisco study can be utilized in the VTA study, where appropriate, and gives CRA an advantage in completing

the VTA study within the tight time frame established. The same team that conducted the study for San Francisco is being proposed for this contract.

CRA has proposed to collect anecdotal evidence, required by Western States, by means of a telephone survey, in addition to public hearings. The survey method was used successfully on the San Francisco study and, with minor modifications, will be ready to go for the VTA study. CRA having recently gathered this information in the Bay Area was deemed by the evaluation team to be very advantageous given the time schedule VTA has established for this project.

Although the fixed price quoted by both firms was close, CRA's price was lower.

CRA is a large multinational economic consulting firm with 12 offices in the U.S. CRA performs economic analysis for a wide spectrum of issues and organizations, and does not just specialize in disparity studies. The depth of the firm gives it additional credibility and is also an advantage if the study were to be challenged. The majority of the effort on this contract will be performed out of CRA's Oakland office with approximately 14% of the work to be performed in its Palo Alto office.

This contract provides for approximately 1000 hours of service to complete the study. We have outlined an aggressive schedule for completion of this study, one that will give VTA the best chance to support the return to a race conscious DBE program by the next Federal fiscal year.

ALTERNATIVES:

The Board could direct staff to seek additional proposals. This alternative is not recommended since VTA has conducted an open selection process and it is unlikely that additional competition would elicit greater competition.

FISCAL IMPACT:

Since the need for this study was determined subsequent to the last revision of the Fiscal Year 2007 budget, no funding had been included. The study will be funded from the Fiscal Year 2007 Operating Budget contingency line item and funds included in the Fiscal Year 2008 Recommended Operating Budget.

SMALL BUSINESS ENTERPRISE (SBE) PARTICIPATION:

Based on identifiable subcontracting opportunities, a Small Business Enterprise (SBE) goal of 8% has been established for this contract. The recommended contractor has met the goal and committed to 8% participation on this contract.

Attachment

Prepared by: Thomas B. Smith, Purchasing & Materials Manager

ATTACHMENT

**Listing of Recommended Sub-contractors
RFP 07-04 Disadvantaged Business Enterprise Availability/Utilization Study**

Prime Contractor	Contact Person	Location
CRA International	Mark Berkman, Ph.D.	Oakland, CA
Sub-contractor	Contact Person	Location
Berry Business Development Group	Angela Berry Robertson	Dallas, TX
QSA Research & Strategy	Rebecca Quarles, Ph.D.	Alexandria, VA
The Henne Group	Jeff Henne	San Francisco
Robert Fairlie, Ph.D.	Associate Professor	U.C. Santa Cruz