Transportation Link

The official publication of the U.S. Department of Transportation's Office of Small and Disadvantaged Business Utilization

www.osdbu.dot.gov

Brandon Neal Appointed Director of OSDBU

OF TRANS

The U.S. Department of Transportation is pleased to announce that Brandon Neal has been appointed Director of the Office of Small and Disadvantaged Business Utilization (OSDBU). As Director, Mr. Neal provides senior leadership and advises the Secretary of Transportation on opportunities for small and disadvantaged businesses to participate in the agency's contracting process.

Prior to his appointment, Mr. Neal was the Finance Director for African-American Affairs for President Barack Obama's historic presidential campaign. Working from the main office in Chicago, IL, he was responsible for fundraising from business and minority leaders from across the country. He was also the liaison between CEOs of small and large businesses and worked closely with the members of the National Finance Committee (NFC), consisting of 300 CEOs and senior executives of small and large businesses.

Prior to the Obama campaign, Mr. Neal was the Deputy Political Director of the Democratic Governors Association (DGA) and was promoted to Director of External Affairs. He was responsible for serving as the liaison and articulating DGA's message to external minority groups and disadvantaged communities.

Formerly, Mr. Neal served as the youngest member of the senior leadership team at the National Association for the Advancement of Colored People (NAACP) in Baltimore, MD. He was a National Director and was responsible for developing, training and implementing an advocacy agenda for over 70,000 members in the US, Germany, and Japan.

Mr. Neal obtained an MPA from the School of Public Affairs at American University and a BA from Howard University.

Ray LaHood Becomes 16th U.S. Secretary of Transportation

On January 20, 2009, Ray LaHood was sworn in as the 16th Secretary of Transportation. LaHood leads an agency with more than 55,000 employees and a \$70 billion budget that oversees air, maritime and surface transportation missions.

Before becoming Secretary of Transportation, LaHood served for 14 years in the U.S. House of Representatives from the 18th District of Illinois (from 1995-2009). During that time, he served on the House Transportation and Infrastructure Committee and, after that, on the House Appropriations Committee. Prior to his election



to the House, he served as Chief of Staff to U.S. Congressman Robert Michel, whom he succeeded in representing the 18th District, and as District Administrative Assistant to Congressman Thomas Railsback. He also served in the Illinois State Legislature.

Prior to his career in government, Secretary LaHood was a high school teacher, having received his degree from Bradley University in Peoria, Illinois. He was also director of the Rock Island County Youth Services Bureau and Chief planner for the Bi-States Metropolitan Planning Commission in Illinois.

Secretary LaHood's primary goals in implementing President Obama's priorities for transportation include safety across all modes, restoring economic health and creating jobs, sus-

tainability – shaping the economy of the coming decades by building new transportation infrastructure, and assuring that transportation policies focus on people who use the transportation system and their communities.

More information on Secretary LaHood can be found at: www.dot.gov/bios/lahood.htm

American Recovery and Reinvestment Act of 2009: Historic Investment in America's Transportation Systems

The American Recovery and Reinvestment Act (ARRA) includes appropriations and tax relief designed to jump-start the economy, create or save millions of jobs, and put a down-payment on addressing long neglected challenges so our country can thrive in the 21st century. A crucial part of ARRA is the \$48 billion investment in new infrastructure which will include the largest increase in funding of our nation's roads, bridges, air traffic and mass transit systems since the creation of the national highway system in the 1950s.

The U.S. Department of Transportation (DOT) has begun working closely with the state transportation agencies and other *continued on page 2*

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calendar

JUNE 6-9

25th Annual Airport Business Diversity Conference sponsored by the Airport Minority Advisory Council; Baltimore, MD

www.amac-org.com/events.html

JUNE 9-11

Women in Business 2009: The Bridge to Quality Conference sponsored by the Women's Business Enterprise National Council; San Francisco, CA www.wbenc.org/wib2009/

JUNE 16-18

California Association of Equal Rights Professional (CAERP) 33rd Training Conference; Lake Tahoe, CA http://osdbuweb.dot.gov/documents/calendar_ event/CAERP2009savethedate.pdf

JUNE 17

Small Business Matchmaking Event sponsored by Business Matchmaking, Inc.; New York, NY www.businessmatchmaking.com/events.shtml

JUNE 24-26

Women's Business Conference 2009 sponsored by the National Association of Women Business Owners (NAWBO); Chicago, IL

http://nawbo.org/section_110.cfm

JULY 14

Small Business Matchmaking Event sponsored by Business Matchmaking, Inc.; San Francisco, CA www.businessmatchmaking.com/events.shtml

JULY 20-23

Annual FAA National Small Business Procurement Opportunities Training Conference and Trade Show sponsored by the American Small Business Alliance; Atlantic City, NJ

www.asballiance.com/details.aspx?p_id=15

JULY 20-23

5th Annual National Veterans Small Business Conference and Expo; Las Vegas, NV www.nationalveteransconference.com/index.aspx

ARRA...continued from page 1

entities to ensure that funds are made available in an efficient and effective manner. Secretary of Transportation Ray LaHood recently stated that, "I have met with state officials and other transportation stakeholders, and we have discussed how the money can be spent quickly to create jobs on projects that make long-term sense for our transportation systems in communities across the nation. We also reviewed the need for transparency and full accountability on this spending. We will do things by the book. We at the Department of Transportation are ready to go."

Note that preference must be given to projects that can be started and completed expeditiously. The law sets a goal of having 50% or more of the funds for projects started no later than **120 days** after enactment. To learn more about ARRA, including how to track ARRA investments in your community, please visit www.recovery.gov.

Below is a description of transportation projects identified in the Act:

- \$27.5 billion in highway investments for restoration, repair, construction and other eligible activities through formula grants to States. Included in this amount is \$760 million for the following:

 \$550 million for investments in transportation at Indian reserva
 - tions and Federal lands.
 - \$60 million in competitive discretionary grants to states for capital expenditures.
 - \$45 million for the Territorial Highway program.
 - \$105 million for the Puerto Rico highway program.
- \$8.4 billion for investments in public transportation

\$6.9 billion in transit capital assistance to States and urban areas.
\$1.5 billion in capital expenditures and investment grants.

- \$1.5 billion for competitive grants to State and local governments for transportation investments
 - Eligible projects include, but are not limited to, highway or bridge projects including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for businesses and road realignments, passenger and freight rail transportation projects, and port infrastructure investments.

• \$1.3 billion for investments in our air transportation system

- \$1.1 billion for discretionary grants to airports for the procurement, installation and commissioning of runway incursion prevention devices.
- \$200 million for improvements to power systems, air route traffic control centers, air traffic control towers, terminal radar approach control facilities, and navigation and landing equipment.
- \$9.3 billion for investments in rail transportation, including Amtrak, high speed and intercity rail
 - \$8 billion to support the development of inner city high speed rail.
 - \$1.3 billion in capital grants to Amtrak, of which \$450 million is to be used for security improvements.

DOT Online Info on ARRA DOT has created a dedicated web site to provide the most up-to-date information on the status of this funding, including DOT plans and reports, approved projects, frequently asked questions, and links to recovery web sites at several Operating Administrations within DOT. Visit www.dot.gov/recovery to learn more. In addition you can visit www.osdbu.dot.gov and www.recovery.gov for more information.

DOT Helping Main Street by Extending Credit to Small Businesses across the Country

With the current crisis in the financial industry, many small businesses are having a difficult time obtaining loans or lines of credit. It is important to be aware of the programs offered by the Federal Government that are available to help. One program, managed by the DOT's OSDBU, is the Short Term Lending Program (STLP).

Government agencies generally do not make loans directly to businesses. The government provides a guaranty to banks and lenders for money lent to small businesses. This guaranty is a promise to pay a portion of the loan back to the bank in case a business owner defaults on the loan. This guaranty reduces the lender's risk, which allows the lender to make loans to business owners who do not qualify for traditional loans.

The STLP is administered by the OSDBU through cooperative agreements between DOT and banks called Participating Lenders (PLs). Loan documentation and financing transactions are performed directly by the PLs which offer the line of credit. Short-term working capital provides a revolving line of credit for which the primary collateral is accounts receivable arising from the contracts or subcontracts being financed. Key facts regarding the STLP include:

- Eligible applicants include firms that have received DBE certification from a state or local transportation agency and firms that have been certified by the SBA as an 8(a), Small Disadvantaged Business, HUBZone, or Service Disabled Veteran-Owned Small Business.
- The maximum line of credit is \$750,000.
- A line of credit normally covers a one-year period and one or more renewals can be requested up to five years. You can increase the line of credit during the term if you obtain additional transportation contracts.
- Borrowings under the line of credit carry the interest of the prime rate as published daily in the Wall Street Journal, adjusted on the first day of each calendar month plus two points.

For additional information regarding the STLP, including frequently asked questions and a loan application, visit www.osdbu.dot.gov

Federal Loan Programs for Small Businesses include:

SBA's Basic 7(a) Loan Program

Loan proceeds can be used for most sound business purposes including working capital, machinery and equipment, furniture and fixtures, land and building (including purchase, renovation and new construction), leasehold improvements, and debt refinancing (under special conditions). www.sba.gov/services/ financialassistance/sbaloantopics/7a/index.html

SBA's Certified Development Company (CDC), a 504 Loan Program

Provides long-term, fixed-rate financing to small businesses to acquire real estate or machinery or equipment for expansion or modernization. Typically a 504 project includes a loan secured from a private-sector lender with a senior lien, a loan secured from a CDC (funded by a 100 percent SBA-guaranteed debenture) with a junior lien covering up to 40 percent of the total cost, and a contribution of at least 10 percent equity from the borrower. www.sba.gov/services/financialassistance/sbaloantopics/cdc504/index.html

For a listing of all the SBA's loan programs, visit the following site: http://www.sba.gov

For more information on all of the federal government's loan programs, visit www.business.gov, the U.S. Government's official web site for small businesses. Business.gov provides access to federal, state, and local information that helps business owners successfully start and operate while staying compliant with laws and regulations.

procurement assistance page

Could Your Teaming Partner Affect Your Small Business Size Status?

Jerry Franco, Chief Procurement Assistance Division

"Affiliation" at a Glance

As small business owners, it is tough to navigate through all the ins and outs of government contracting. One such example that ALL small business owners need to be aware of is the increased focus on protesting a con-

What is affiliation?

"Businesses and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists."

(http://www.smallbusinessnotes.com/fedgovernment/sba/13cfr121/103.html)

tract award based upon "affiliation." If the Small Business Administration (SBA) determines that a company has partnered with another company and is unduly reliant on them to perform the work, the relationship could be deemed as affiliation.

When there is an accusation of affiliation, the SBA conducts a formal size determination.

Formal size determinations may include more than the small business contractor serving as the prime on a particular procurement but also their subcontractors if undue reliance is called into question. Undue reliance may serve as grounds for affiliation.

The governing regulation on affiliation is located at 13 CFR 121.103(h)(3). This is an important regulation to become familiar with. It says that subcontractors performing primary and vital requirements of a contract are considered ostensible subcontractors and a contractor and its ostensible subcontractors are treated as a joint venture and, therefore, affiliates for size determination purposes. Bottom line, the partnership may make them ineligible to submit a proposal because it exceeds the applicable size standard for the solicitation.

Unlike many protests which are submitted to the Government Accountability Office (GAO) for review and disposition, protests based upon "affiliation" are submitted to the SBA. In essence, a protesting firm is alleging that the subcontractor is somehow "affiliated" with the prime small business contractor and therefore, both the prime contractor and subcontractor must meet the applicable size standard of the procurement. The SBA considers factors such as ownership, management, previous relationships with or ties to another business, and contractual relationships in determining whether affiliation exists.

Affiliation is a complex issue; however, small businesses should be aware of several salient points as they write proposals or partner with larger firms where affiliation could be called into question. Here are some of the questions you should be prepared to respond to as you prepare your proposal to avoid affiliation issues:

- Is the procurement a re-compete of an existing piece of work and your selected subcontractor was previously the prime?
- Does the subcontractor have more "key" personnel than the prime contractor?
- Is the subcontractor responsible for more key contract areas than the prime contractor?
- Has the prime and subcontractor developed discrete tasks for each firm rather than designating a percentage of work to be performed by each either in their teaming agreement or their proposal?
- Do the companies in question have continued on page 6

5th Annual National Veterans Small Business Conference

The 5th Annual National Veterans Small Business Conference and Expo will take place July 20-23, 2009, at Caesars Palace in Las Vegas, Nevada.

The conference will bring together business owners – both small and large – and Federal Government representatives to share best practices of how to do business together. The conference will also include sessions on Federal contracting for small businesses that are just breaking into the public sector.

General sessions and breakouts will be led by small business owners, as well as representatives from various Federal Agencies.

For additional information, including registration, go to: www.nationalveteransconference.com/

The conference is open to both government and nongovernment personnel and is a great opportunity to learn about the federal contracting process. OSDBU plans to be an active participant.

Session & Breakout topics include:

- Contracting 101 and 201
- Marketing and selling to the Federal Government
- Legislation affecting small businesses
- Legal issues with Government contracting
- Managing small business finances
- Successful business strategies
- Subcontracting
- And more!

An Overview of Planned Contracting Opportunities at DOT

The Procurement Forecast:

Each year, the OSDBU issues the DOT Fiscal Year (FY) Procurement Forecast on October 1st in accordance with Public Law 100-656, Section 501 and as documented in the Transportation Acquisition Manual Chapter 1219.202-270. The Procurement Forecast is one of the most important resources DOT provides for small, disadvantaged, and woman-owned businesses. It offers, in one easily accessible format, information concerning the anticipated procurement opportunities of each of DOT's Operating Administrations except the Federal Aviation Administration over the simplified acquisition threshold (see FAR 2.101). It also serves as an invaluable reference tool for locating technical and/or procurement contacts.

The FY 09 forecast can be found on the OSDBU website in a user-friendly, searchable format. Some of the available search parameters include: Operating Administration, office code, RFP release date, dollar amount, competition type, and keyword.

The tables below summarize the types of opportunities presented in the third and fourth quarters of the DOT Procurement Forecast FY 2009 and their distribution according to competition type, business category, DOT Operating Administration, and anticipated period of release. Because these numbers reflect future procurement opportunities they are subject to change, so check back often to see if items you are tracking are still being planned.

Information available in the FY 2009 procurement forecast:

- Procurement Category (e.g., A&E Services; Computers and Peripherals)
- DOT Operating Administration
- Contact Person and Telephone Number
- Description of Procurement
- Estimated Dollar Value
- Estimated Solicitation Release Date
- Type of Acquisition Strategy (e.g., 8(a) competitive; small business set aside)

The FY 09 Procurement Forecast is located at www.osdbu. dot.gov/Procurement/ProcurementForecastInstructions.cfm

The FY 09 FAA Procurement Forecast is located at www.arnet.gov/far/current/html/Subpart%202_1.html

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Anticipated Third and Fourth Quarter FY 2009 Procurements Organized by Release Date:

FY 2009 Quarter / Number of Procurements 3rd Quarter / 58 4th Quarter / 50 To be determined / 96

Anticipated Third and Fourth Quarter FY 2009 Procurements Organized by Competition Type:

Competition Type / Number of Procurements Full and Open / 44 Small Business Set-Aside / 14 8a Competitive / 16 8a Non-Competitive / 3 To be determined / 39 Note that several opportunities do not have a specific competition type reported.

Anticipated Third and Fourth Quarter FY 2009 Procurements Organized by Operating Administration:

Operating Administration / Number of Procurements Office of the Secretary / 5 Federal Highway Administration / 44 Maritime Administration / 16 Research and Innovative Technology Administration / 2 Federal Motor Carrier Safety Administration / 7 National Highway Traffic Safety Administration / 5 Saint Lawrence Seaway Development Corporation / 13 Federal Railroad Administration / 5 Federal Transit Administration / 11

Anticipated Third and Fourth Quarter FY 2009 Procurements Organized by Business Category:

Business Category / Number of Procurements **Business Services / 6** Construction / 44 Services (not listed) / 18 Computer Related Services / 6 Engineering Services / 7 Architectural & Engineering Services / 8 Vessel Building/Repair / 6 Computer and Peripherals / 1 Commercial Equipment / 3 Management Services / 1 Transportation Services / 2 Environmental Services / 1 Supplies (not listed) / 1 Education Services / 1 Marketing/Advertising Services / 1 Office Furniture / 1 Professional Equipment / 1

Florida DOT Announces \$1.4 Billion in Accelerated Road Construction

Last fall, the Florida Department of Transportation (FDOT) announced the acceleration of more than 179 projects, totaling \$1.4 billion in road construction funding. The projects include road resurfacing, lane additions, bridge rehabilitation and safety enhancements to the state's transportation system. The focus is accelerating implementation of projects that have already been planned and budgeted for and is not directly tied to funding from the American Recovery and Reinvestment Act (ARRA). According to FDOT, the projects will employ 39,000 people and generate \$7.84 billion in economic benefits, a \$5.60 return on each state dollar invested.

This effort is part of the governor's economic stimulus initiative, "*Accelerate Florida*," which aims to speed up billions of dollars in construction and other capital projects, creating thousands of new jobs and improving the state's schools, roads, and water systems.

FDOT has advanced the construction start dates by one to five months since launching "*Accelerate Florida*." These accelerated projects are in addition to projects totaling more than \$250 million for which FDOT had already received bids prior to the in-

struction to accelerate projects. All state agencies are charged with accelerating billions of dollars in approved

construction and capital outlay projects through expedited approval and contracting.

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To help speed up the starting dates of construction projects, FDOT has streamlined the process for obtaining a drainage/driveway permit by reducing the 90-day timeframe allowed by Florida law to between 15 and 30 days. FDOT accelerated projects include the following:

- Adding capacity to U.S. 301 in Sarasota by widening from four to six lanes.
- Providing congestion relief to S.R. 60 in Indian River County by widening from four to six lanes.
- Expanding the capacity of S.R. 50 in Lake and Orange counties from four to six lanes.
- Protecting our vital infrastructure by repairing and replacing the bridges on our State Highway System, including the S.R. 39 Bridge over the Hillsborough River.
- Improving connectivity in Northwest Miami-Dade County by adding four lanes on NW 87th Avenue from NW 58th Street to NW 74th Street.

For additional information about "*Accelerate Florida*" and the state's bidding and contracting process, please visit http://www.dot.state.fl.us/cc-admin/.

"AFFILIATION" AT A GLANCE ... continued from page 4

totally separate and independent corporate operations?

- Is the prime financially dependent on the subcontractor?
- Does the prime and subcontractor have common stockholders, directors, or managers?
- Do both companies maintain and conduct separate and independent business relationships?
- Have the companies in question ever worked together on any previous contracts?
- Does the proposal fail to clearly define what positions the prime contractor will be filling and what positions the subcontractor will be filling?

Finally, if a decision rendered by an Area Office adversely affects your company, don't hesitate to appeal the decision to the Office of Hearings and Appeals (OHA). Information about OHA can be found at www.sba.gov/ aboutsba/sbaprograms/oha/index.html. OHA will only overturn a decision made by the Area Office when the Area Office erred in key findings of law or fact. It is your responsibility to provide details in your appeal letter which the Area Office did not cite or possibly consider from the solicitation, your proposal, your nondisclosure statements and teaming agreements, oral presentation materials, etc. Take the time to review the decision rendered by the Area Office and determine if the information used to make an adverse decision was based upon a misinterpretation of facts. Be sure to address each in your appeal.

In many instances, the Area Office will reference other Size Appeal Decisions which led to their ruling. Proactively read these cases which are located at www.sba.gov/aboutsba/sbaprograms/oha/ OHADecisions/OHA_DECISIONS.html and determine if they were referenced correctly. In a recent appeal to OHA, the references cited by the Area Office were not relevant to the case in question and the company appealing the decision made sure to point out why these citations were flawed and thus resulted that the Area Office's decision was flawed based upon facts.

New Tool Offers Information on U.S. Department of Transportation Business Opportunities on the OSDBU Web Site

As you may know, the Federal Government posts all of its contract opportunities in one central location on the web – www.fedbizopps.gov. This is an excellent resource to search for contract opportunities in several different ways including Federal agency, industry code, small business set-aside type, and date of posting.

Recently, OSDBU added a new feature to the web site to make it easier for visitors to learn about business opportunities with DOT and its 11 Operating Administrations. This tool pulls records from FedBizOpps and posts them on the OSDBU's web site in the Procurement Assistance section. These DOT opportunities can then be searched by Operating Administration, Procurement Category, and Small Business Set-Aside Type. In addition, users can even search the Federal Aviation Administration's opportunities, which follow their own procurement rules.

You can access this tool by clicking on the Procurement Assistance navigation bar on the left side of the OSDBU home page, and then clicking on the FedBizOpps bar which will show a list of records by Operating Administration, or by clicking on one of the navigation bar below it to search to narrow your search. All records pulled from FedBizOpps are updated each week, so visit often so that you can stay up-to-date on the status of opportunities that you are tracking.

Disadvantaged Business Enterprise (DBE) Program Releases New Q & A re: ARRA Implementation

OSDBU recently published a new Question & Answer (Q&A) to address how recipients administer their DBE programs in the context of increases in the American Recovery and Reinvestment Act (ARRA). There has been concern expressed by recipients of DOT financial assistance (state and local transportation agencies) that there may not be a sufficient number of certified DBEs to meet existing overall goals, as applied to recipients' expanded programs.

In order to address this concern, the Department recommends that recipients should begin, as soon as possible, outreach to affected persons. This outreach should include dialogue with representatives of the contracting industry and the DBE community to begin to understand recipient-specific issues. This will allow recipients and DOT Operating Administrations to be better prepared to respond to the funding requirements of the ARRA.

For more information on this and other Q&As, please visit www.osdbu.dot.gov/DBEProgram/dbeqna.cfm

Joe Henebury Retires After Thirty-Five Years of Service

After thirty-five years of service, Joseph Henebury, Director of DOT's Small Business Innovation Research (SBIR) Program in the Communications and Technology Outreach Division, retired on March 31st.

Joe joined the John A. Volpe National Transportation Systems Center staff in 1974 as a Budget Analyst where he conducted all budget activities for major Center sponsors, and prepared all budget materials for the Office of Management and Budget, the Office of the Secretary, and for Congressional review. He was Chief of the Facilities Branch and then transferred to the Office of Plans and Programs. Joe was the initiator and manager of a \$9.5 million technical task directive contract with the Massachusetts Institute of Technology (MIT). As Defense Conversion Manager at the Center, he planned and managed the DOT SBIR portion of the Advanced Research Project Agency (ARPA) Defense Technology Conversion, Reinvestment and Transition Assistance Program.

Joe is also a decorated veteran of the U.S. Marine Corps and was awarded the Silver Star Medal "for conspicuous gallantry and intrepidity in action" during the Vietnam War. After the war, Joe furthered his service to his country through his tremendous contributions at the Department of Transportation. Although he will be greatly missed, we wish him the best in his retirement and thank him for his many years of service.

Congratulations Joe!