ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION

MEMORANDUM

TO: E. JACK HAMMITT 616E
Joint Project Administrator

FROM: JAMES R. REDPATH
Assistant Attorney General

DATE: July 16, 1996

RE: IGA/CITY OF PHOENIX; CITY OF TUCSON; MARICOPA COUNTY; PIMA COUNTY AND TUCSON AIRPORT AUTHORITY REGARDING LIMITED WORK SHARING AND THE STANDARDIZED CERTIFICATION OF MINORITY-OWNED, WOMEN-OWNED, AND DISADVANTAGED BUSINESS ENTERPRISES
A.G. Contract No.: KR96-1373-TRN
ECS File: JPA 96-38
Agreement No.: 75130

I have reviewed the above referenced agreement. I would appreciate your contacting me to explain the following:

1. Where did this agreement come from?
2. Who is pushing it?
3. What is the authority for this agreement?

If you have any questions, please contact me at 542-8837.

James R Redpath

JAMES R. REDPATH
Assistant Attorney General

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75130 AG CONTRACT #: KR96-1373-TRN

AGREEMENT NO. 75130

ADOT ECS File: JPA 96-38

INTERGOVERNMENTAL AGREEMENT BETWEEN ARIZONA DEPARTMENT OF TRANSPORTATION, CITY OF PHOENIX, CITY OF TUCSON, MARICOPA COUNTY, PIMA COUNTY, AND TUCSON AIRPORT AUTHORITY REGARDING LIMITED WORK SHARING AND THE STANDARDIZED CERTIFICATION OF MINORITY-OWNED, WOMEN-OWNED, AND DISADVANTAGED BUSINESS ENTERPRISES

1996 MAY 22 AM 11: 07

CITY CLERK DEPT

THIS INTERGOVERNMENTAL AGREEMENT is entered into on _____, 1996 by and between Arizona Department of Transportation, City of Phoenix, City of Tucson, Maricopa County, Pima County, and the Tucson Airport Authority (hereinafter called the "Participating Jurisdictions").

WHEREAS, the Participating Jurisdictions each conduct, or are in the process of establishing a certification process as part of a Minority and Woman-owned Business Enterprise (MWBE) program, or a Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, certain economies can be achieved if the Participating Jurisdictions agree to standardize their certification paperwork and enter into a limited work sharing agreement; and

WHEREAS, such a joint effot would be beneficial to the DBE, MBE, and WBE community; and

WHEREAS, the Participating Jurisdictions may enter into agreements with one another for joint or cooperative action pursuant to the provisions of Arizona Revised Statutes;

NOW THEREFORE, in consideration of the covenants and conditions, hereinafter set forth, the Participating Jurisdictions do mutually agree as follows:

ARTICLE I: PURPOSE

A. In order to facilitate minority, women, and disadvantaged firms in becoming certified as Minority-owned, Women-owned, and Disadvantaged Business Enterprises (M/W/DBEs), the Participating Jurisdictions agree to take steps towards the formation of a Joint One-Stop Certification Program under which each Participating Jurisdiction could accept the certification decision of the other Participating Jurisdictions.

B. One of the major obstacles facing minority, women, and disadvantaged business owners in obtaining certification is that each jurisdiction subjects M/W/DBE program applicants to a separate certification process, and each process requires that the M/W/DBE invest substantial time, effort, and money in completing the certification paperwork and in submitting documentation. Reciprocal certification would save the M/W/DBE business community time, expense, and effort in obtaining certification status.

C. A Joint One-Stop Certification Program would ensure uniformity in the certification process, and reduce agency budgets and staff time in performing application reviews and on-site visits.

D. As a first step towards the creation of a Joint One-Stop Certification Program, the Participating Jurisdictions agree to standardize their certification paperwork and processes, and enter into a limited workshare agreement as described below.

ARTICLE II: MUTUAL OBLIGATIONS OF THE PARTIES

The following will apply to each Participating Jurisdiction as it is or becomes able to certify enterprises:

A. Participating Jurisdictions will use the standardized "Application for Certification as Minority, Woman, and Disadvantaged Business Enterprises" which was developed by a team comprised of representatives of the Participating Jurisdictions.

B. Each Participating Jurisdiction reserves the right of final refusal on certification decisions for its own program. Likewise, each Participating Jurisdiction has full authority over the decertification and graduation of M/W/DBEs from its own program.

C. A Steering Committee will be established, comprised of Participating Jurisdiction M/W/DBE program administrators. Their responsibilities will include but are not limited to meeting on a quarterly basis to establish guidelines, to measure program status and

identify issues for resolution, to monitor the compliance of rules and regulations, and to measure cost impact on the various Participating Jurisdictions.

D. A Certification Task Force comprised of individuals directly responsible for executing the application process will meet on a monthly basis for the sake of information sharing, and report to the Steering Committee. Individuals will be eligible for a seat on the Task Force if their responsibilities to their employer include the intake and review of certification applications, on-site investigations, collection and maintenance of documentation, and making recommendations for certification status.

E. Applicants for M/W/DBE status will be provided a copy of the standardized "Application for Certification as Minority, Woman, and Disadvantaged Business Enterprises" by the agency where such request is made. This Participating Jurisdiction then becomes the originating agency. M/W/DBE applicants will be given the option to have their entire application file forwarded to other Participating Jurisdictions where they may be eligible for certification, given jurisdictional or other program limitations. The M/W/DBE applicant's signature on an appropriate affidavit will authorize release of information by the originating jurisdiction to the Participating Jurisdictions designated by the applicant. The originating jurisdiction bears the cost of copying and forwarding the applicant's file.

1. The originating jurisdiction will conduct the intake interview, review the application, request additional information and / or documentation as needed, conduct the initial on-site visit, and take other steps necessary to the creation of a certification file. The program administrator for the originating jurisdiction will then make a certification status determination.

2. Where the applicant has signed a release, a copy of the certification application file, the originating jurisdiction's recommendation, and other relevant and necessary information will be submitted to Participating Jurisdictions designated by the applicant (secondary agencies), to which the applicant may be eligible for certification given

jurisdictional or other program limitations. Each secondary agencies then makes an independent determination of the applicant's certification status.

3. Each Participating Jurisdiction shall provide its own notice of certification status, and maintain its own process for appeal of certification decisions.

4. Third party challenges shall be handled by the agency subject to the challenge.

5. Each Participating Jurisdiction shall publish its own listing / directory of firms certified by that agency.

6. Each Participating Jurisdiction is responsible for initiating and conducting its own recertification process.

ARTICLE III: LIABILITY

A. No Participating Jurisdiction shall incur legal liability for the actions of the other under the terms and conditions of this agreement. Each Participating Jurisdiction shall be solely and entirely responsible for its acts and the acts of its agents and employees during the performance of this agreement.

B. The parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this agreement where the sole relief sought is monetary damages in an amount under the jurisdictional limits set forth in A.R.S. § 12-133.

ARTICLE IV: EFFECTIVE DATE AND DURATION

A. This agreement shall be effective upon filing with the Secretary of State.

B. This agreement shall remain in effect for two years following the date of filing, or until June 30, 1998 (6-30-98), whichever is later.

C. This agreement may be amended upon written mutual assent of all the parties.

ARTICLE V: TERMINATION

A. Any portion of this agreement may be terminated upon 30 days written notice from one Participating Jurisdiction to the other Participating Jurisdictions.

B. Any such termination shall not relieve a Participating Jurisdiction from liabilities or costs incurred under this agreement prior to the effective date of the termination.

C. This agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-501 *et seq.*

ARTICLE VI: LEGAL JURISDICTION

Nothing in this agreement shall be considered as either limiting or extending the legal jurisdiction of the Participating Jurisdictions.

ARTICLE VII: SEVERABILITY

In the event that any portion of this agreement or the application thereof is held invalid, such invalidity shall have no effect on other provisions and their application which can be given effect without the invalid provision or application, and to this end, the provisions of this agreement are severable.

ARTICLE VIII: EQUAL EMPLOYMENT

Each Participating Jurisdiction agrees to comply with all applicable federal and state equal employment laws and its respective Code or policy regarding equal employment.

ARTICLE IX: ADA COMPLIANCE

Each Participating Jurisdiction agrees to comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

IN WITNESS WHEREOF, the parties have executed this Intergovernmental Agreement on the date written above.

ARIZONA DEPT OF TRANSPORTATION

_____
Director

CITY OF PHOENIX, a municipal corporation
FRANK FAIRBANKS, City Manager

By _____
Lionel D. Lyons, Director
Equal Opportunity Department

ATTEST:

ATTEST _____
CITY CLERK

City Clerk

This foregoing agreement has been reviewed by the undersigned attorneys who have determined that it is proper as to form and within the power and authority granted under the laws of the State of Arizona.

APPROVED AS TO FORM:

Assistant Attorney General

City Attorney, Phoenix
ACTING

CITY OF TUCSON

MARICOPA COUNTY

Mayor, City of Tucson

Chairman, Board of Supervisors

ATTEST:

City Clerk

Clerk of the Board

This foregoing agreement has been reviewed by the undersigned attorneys who have determined that it is proper as to form and within the power and authority granted under the laws of the State of Arizona.

Assistant City Attorney

Deputy County Attorney

PIMA COUNTY

TUCSON AIRPORT AUTHORITY

Chairman, Board of Supervisors

Director

ATTEST:

Clerk of the Board	Clerk

This foregoing agreement has been reviewed by the undersigned attorneys who have determined that it is proper as to form and within the power and authority granted under the laws of the State of Arizona.

Deputy County Attorney	Attorney