



Business Plan for DBE Outreach on Federally-Funded Projects

California Department of Transportation

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Prepared by

California Department of Transportation
Office of Business and Economic Opportunity
1823 – 14th Street
Sacramento, CA 95811

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Special thanks go to:

Olivia Fonseca, Deputy Director, Office of Business and Economic Opportunity (OBEO) and Chair of the Caltrans Statewide Small Business Council

Sherri Gustinell, Interim Manager, DBE Program, OBEO

Robert Padilla, DBE Program Manager, OBEO

Diana LaCome, National Concilio of America and Caltrans Statewide Small Business Member

Flatiron, Prime Contractor

Granite Construction, Prime Contractor

Associated General Contractors Association of California – Members

Southern California Contractors Association – Members

Engineering Underground and Electrical Contractors – Members

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Executive Summary

Under 49 Code of Federal Regulations (CFR) Part 26, the Disadvantaged Business Enterprise (DBE) Program is intended to remedy past and current discrimination against disadvantaged business enterprises, ensure a “level playing field” and foster equal opportunity in Department of Transportation federally-assisted contracts, improve the flexibility and efficiency of the DBE Program, and reduce burdens on small businesses.

The purpose of the California Department of Transportation's (Caltrans) DBE Program is to increase the level of participation of disadvantaged businesses, including small businesses, in all transportation related federally-funded projects.

The Office of Business and Economic Opportunity (OBEO) Program is committed to increasing the participation of DBE firms as prime contractors, subcontractors, suppliers, truckers, manufacturers, or professional service providers, and to help Bidders meet the DBE goal on every project. The OBEO Program encourages every Bidder to meet and exceed the goal.

The Business Plan for DBE Outreach on Federally-Funded Projects (Business Plan) is presented to the bidding community as a tool and guide to meeting the DBE goal on individual contracts. This guide will assist you in conducting adequate outreach to meet the goal.

The 49 CFR Part 26 requires recipients of federal highway funds to set a triennial overall DBE goal. As a recipient of federal highway funds, Caltrans overall DBE goal for Federal Fiscal Year 2010 is 13.5 percent. Caltrans proposes to meet the overall goal through race-neutral and race-conscious measures.

- Race-conscious measures are those in which Caltrans sets an individual DBE contract goal on the contract.
- A race-neutral measure is one in which the Bidder includes DBEs in the contract regardless of the DBE goal on the contract.
- Caltrans proposes to meet 6.75 percent of the overall 13.5 percent goal by using race-neutral measures and the remaining 6.75 percent of the overall goal through race-conscious measures.
- In 2007, Caltrans completed a disparity study that indicated African-American, Asian-Pacific American, Women and Native American firms were under parity when it came to other racial and ethnic groups. Therefore, Caltrans identified the four groups as Underutilized DBEs (UDBE) and thus compose the race-conscious measures targeted to meet the 6.75 percent overall UDBE goal.
- The same disparity study identified Hispanic and Subcontinent Asian firms as meeting parity. The two groups are still DBEs and their involvement counts towards the 6.75 percent race-neutral goal.

Major subcontractors also have a role in assisting the Bidder and Caltrans attain the annual DBE/UDBE goals. Every little bit helps. Subcontractors are encouraged to utilize DBE/UDBEs as additional lower-tier participation, including the use of DBE/UDBEs as suppliers and other services, such as trucking. Subcontractors when your subbid includes DBE/UDBE participation, provide that information to the Bidder as well.

The Bidder should clearly identify who the Point of Contact is and preferably that individual is the contract Estimator or Project Manager. This way DBE/UDBEs have a Point of Contact to start developing the business RELATIONSHIP.

The DBE/UDBE outreach should continue after the contract is awarded for unobligated work or supplies as needed on the contract.

DBE/UDBE data capturing and reporting is extremely important to defining program success. When asked, provide all DBE/UDBE data on the DBE/UDBE Submittal, Quarterly reports and at Final Utilization. The data is used annually to establish the annual DBE overall goals AND the individual DBE race-conscious contract goal.

Outreach Efforts

This Business Plan is a guide to maximize DBE/UDBE participation on individual contracts. This guide corresponds with the Caltrans form DES-OE-0102.10, “Caltrans Bidder UDBE/DBE-Commitment.”

As you conduct outreach, we strongly encourage you to document your efforts. The Bidder is advised to maximize DBE/UDBE participation on a contract:

1. Develop relationships with DBE/UDBEs.
2. Identify what resources the Bidder can provide DBE/UDBEs.
3. Continuously conduct outreach – all year round.
4. Consider multi-tier DBE/UDBE participation.
5. Ask the major subcontractors to outreach and consider DBE/UDBEs in their subbids as well.
6. Every dollar to a DBE/UDBE counts towards the goal.

The Special Provisions for each federally-funded project require the Bidder to document and demonstrate adequate outreach efforts to maximize DBE/UDBE participation.

The outreach efforts should include but are not be limited to:

- 1. WORK MADE AVAILABLE TO DBE/UDBEs:** The items of work which the Bidder made available to DBE/UDBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE/UDBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE/UDBE firms.

Guidance:

The Bidder should select portions of the contract that facilitate DBE/UDBE participation to reach the individual DBE/UDBE contract goal. The selection of work, supplies and services should be greater than what is expected to meet the individual DBE/UDBE contract goal. The Bidder should identify to the DBE/UDBE what items of work could be broken down to facilitate DBE/UDBE participation. The items of work for subbids from DBE/UDBEs should be sufficient enough to meet the DBE/UDBE goal on the contract. The Bidder should consider breaking down work items into economically feasible units on some of the items of work normally performed by the Bidder with their own forces.

In documenting the work made available to DBE/UDBEs, list the bid item number, description of the work and what portion of the item was offered if applicable.

- 2. SOLICIT DBE/UDBE PARTICIPATION:** Provide the list of names of the certified DBE/UDBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBE/UDBEs were interested and the dates of the follow up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBE/UDBEs through all reasonable and available means and provide sufficient time to allow DBE/UDBEs to respond.

Guidance:

Solicitation begins with obtaining the DBE/UDBE Certification Directory. The Directory is found at the Web site: www.dot.ca.gov/hq/bep/find_certified.htm. A tutorial provides instructions on how to use the “DBE Query Form” to search for DBE firms. On the query form, you will select one or a combination of different search criteria to refine your search. You do not have to enter search criteria in every field; however, the more fields you select, the more narrow your search. If you do not select any criteria, you will get an error page and will be directed to log back into the DBE Query Form. A search for DBE/UDBE firms may be made by:

- *Firm/DBA Name*
- *Firm Identification Number*
- *Caltrans Districts*
- *County*
- *Majority Owner Gender*
- *Race/Ethnicity*
- *DBE Firms*
- *License Type*
- *NAICS Categories*
- *NAICS Codes*
- *Work Category Codes*
- *City*
- *Zip Code*
- *Area Code*

The solicitations should include:

- *Contract description.*
- *Bid opening date.*
- *Items of work the Bidder is soliciting subbids on.*
- *Name of the estimator.*
- *Assistance available to DBE/UDBEs.*
- *Subbid conditions, such as providing bonding, insurance, etc., with the subbid.*

The Bidder should continue soliciting and performing follow-up activities for DBE/UDBE subbids until the Bidder knows, prior to bid opening, that enough DBE/UDBEs have indicated an interest in the project, and the Bidder feels reasonably comfortable that sufficient subbids will be received from DBE/UDBEs prior to bid submittal. If the Bidder determines there are not enough DBE/UDBEs responding to the solicitation, the Bidder should expand its reach to additional DBE/UDBEs. The Bidder is advised to consider identifying additional subbid items in order to expand the solicitation to DBE/UDBEs.

The Bidder should solicit DBE/UDBEs well in advance of bid opening and conduct follow up well in advance of the bid opening.

The Bidder should follow up with DBE/UDBEs immediately after a pre-bid meeting if one is scheduled.

The key is to develop a relationship with the DBE/UDBEs early in the contract solicitation process.

The Bidder may use email, fax, written notices, telephone, and in-person contact as solicitation methods. Maintain the supporting documents that describe evidence of disconnected phone numbers, mail return, and comments to the solicitation from the DBE/UDBEs. Document DBE/UDBE responses to the solicitations.

The Division of Engineering Services Office Engineer “Opt-in” is a great feature that allows Bidders, DBE/UDBEs, small businesses and Disabled Veteran Businesses to participate in the bidding process without picking up a plan set. A detailed explanation of the Opt-in feature can be found at the Web site: www.dot.ca.gov/hq/esc/oe/. Opt-in participants are allowed to enter their DBE/UDBE status as well as services they offer or materials they supply as searchable fields. The Bidder is encouraged to contact the DBE/UDBEs who have Opt-in on the contract that you are soliciting participation.

Document the names and dates of written solicitations sent to certified DBE/UDBEs for subbids.

- 3. SOLICIT DBE/UDBE SUBBIDS:** Provide the name of selected firm and their status as a DBE/UDBE for each item of work made available. Include name, address, and telephone number of each DBE/UDBE that provided a quote and their price quote. If the firm selected for the item is not a DBE/UDBE, provide the reasons for the selection.

Guidance:

The Bidder should identify the exact reason a DBE/UDBE subbid was rejected. If the reason for rejecting a DBE/UDBE subbid is price, the Bidder should provide the price difference between the DBE/UDBE subbid and the selected subbid. If the reason a DBE/UDBE subbid was not selected due to price, the 49 CFR Part 26 indicates the Bidder will need to explain why the Bidder felt the DBE/UDBE price difference excessive or unreasonable.

Maintain copies of quotes from rejected DBE/UDBEs and the quotes from the firms selected. Additionally, the Bidder should maintain their own quote if the reason the Bidder rejected a DBE/UDBE subbid is because the Bidder is performing the work themselves.

The 49 CFR Part 26 indicates the ability or desire of a Bidder to perform the work of a contract with its own forces does not relieve the Bidder of the responsibility to make good faith efforts. The Bidder is not required to accept higher quotes from DBE/UDBEs if the price difference is excessive or unreasonable. The Bidder should negotiate in good faith with interested DBE/UDBEs. The Bidder should document their discussions and efforts to negotiate in good faith with interested DBE/UDBEs. The 49 CFR Part 26 indicates the fact that there may be some additional costs involved in finding and using DBE/UDBEs is not in itself sufficient reason for a Bidder's failure to meet the contract DBE/UDBE goal as long as such costs are reasonable.

The 49 CFR Part 26 indicates the Bidder should not reject DBE/UDBEs as being unqualified without sound reasons based on a thorough investigation of the DBE/UDBEs capabilities. If a DBE/UDBE is not solicited or selected for reasons of being unqualified, the Bidder should be ready to explain why the DBE/UDBE was unqualified for a solicitation or for selection. The Bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Bidder's efforts to meet the contract goal.

The Southern California Contractors Association has committed to assist their members work with specific groups, organizations or associations, including unions, in soliciting DBE/UDBE subbids.

- 4. ADVERTISEMENTS:** Provide the name and date of each publication in which you requested DBE/UDBE participation for the project. Attach copies of the published advertisements.

Guidance:

The advertisement should include the contract description, bid opening date, items of work the Bidder is soliciting subbids on, Estimator name, and assistance available to DBE/UDBEs.

The advertisement(s) should be placed in publications that DBE/UDBEs frequently use to locate Caltrans contracts. Such locations are:

- *Caltrans Office Engineer “Opt-in” Web site at www.dot.ca.gov/hq/esc/oe/.*
- *Minority/women business trade papers.*
- *Minority/women organization/chamber newsletters.*
- *Business development centers — The Small Business Development Center Web site is www.sba.gov/localresources/district/ca/index.html and the Federal Technical Center Web site is www.theftc.org.*
- *Business trade papers.*

Beware of advertisement publications that limit the advertisement to “members-only” access. This method of advertisement is limited and not available to all DBE/UDBEs.

The 49 CFR Part 26 does not specify where, how often or for how many days the advertisement must be placed; however, the recommendation is to place the advertisement in publications that are considered “general circulation papers” with ample time to allow DBE/UDBEs to read the advertisement and take appropriate action to find out more about the subbid opportunity.

The Bidder should place the advertisement in a publication that is near the contract location. As an example, placing an advertisement for DBE/UDBE subbids in a San Diego based publication for a contract in Sacramento is not considered an appropriate advertisement reach for DBE/UDBE subbids.

- 5. CONTACT OTHER RESOURCES:** Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE/UDBE firms. If the agencies were contacted in writing, provide copies of supporting documents.

Guidance:

The Bidder should contact:

- *Minority/women organization/chambers.*
- *Business development centers — The Small Business Development Center Web site is: www.sba.gov/localresources/district/ca/index.html. The Federal Technology Center Web site is www.theftc.org.*
- *Follow-up on the initial solicitation.*
- *Document evidence of any responses or assistance received from this solicitation.*

- 6. PROVIDE PROJECT INFORMATION:** Provide a list of efforts made to interested DBE/UDBEs with adequate information about plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE/UDBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents as appropriate.

Guidance:

The Bidder should identify the contract information and requirements in all solicitations.

The Bidder should identify in the solicitation where plan and specifications can be located. In addition to identifying that plans and specifications can be found at the Bidder's office, other location(s) for plans and specifications can be found at:

- *Caltrans – download for free at www.dot.ca.gov/hq/esc/oe/*
- *Small Business Development Centers at www.sba.gov/localresources/district/ca/index.html*
- *Builders Exchanges at Web site: www.constructionweblinks.com/Industry*
- *Plan Rooms located in District 2 – Redding, District 6 – Fresno, and District 11 – San Diego.*

- 7. PROVIDE DBE/UDBEs WITH ASSISTANCE:** List efforts made to assist interested DBE/UDBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE/UDBE subcontractor purchases or leases from the prime contractor or their affiliate. If such assistance is provided by you, identify the name of the DBE/UDBE assisted, nature of the assistance offered, and date. Provide copies of supporting documents as appropriate.

Guidance:

The Bidder should identify the assistance being offered in all solicitations. Don't forget to identify the assistance offered in the Caltrans Opt-In website. Perhaps you have a financial agent, material supplier, manufacturer, or insurance agent that you can refer the DBE/UDBE to.

The Bidder should identify bonding requirements and provide information on whether the Bidder will waive bonding or provide suggestions on where the DBE/UDBE can obtain bonding assistance. Such assistance is available through the:

- *Small Business Administration Web site: www.sba.gov.*
- *US Department of Transportation, Office of Small and Disadvantaged Business Utilization Web site: www.osdbu.dot.gov.*

The Bidder should be sure they have adequately and clearly relayed to the DBE/UDBE what assistance is available from the Bidder.

8. ADDITIONAL SUPPORT SERVICES: Any additional data to support demonstration of good faith efforts.

Guidance:

The Bidder may identify others efforts, such as:

- *Attended a pre-bid meeting and made contact with DBE/UDBEs.*
- *Attended a Caltrans sponsored outreach event and made contact with DBE/UDBEs.*
- *Attended minority/women business organization meetings.*
- *Utilized DBE/UDBE business support services, i.e., advertisements, temporary help, janitorial services, printing services, drug testing services, courier services, etc.*
- *Participated as a mentor in the DBE/UDBE mentor protégé program.*
- *Encouraged first-time subcontractors to use and report DBE/UDBEs as lower-tier subcontractors.*
- *Ongoing outreach to meet the Bidder's unobligated work or supplies.*