

Federal Transit Administration  
Disadvantaged Business Enterprise  
Program Plan

2019



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## ACKNOWLEDGEMENTS

The California Department of Transportation (Caltrans), Office of Business and Economic Opportunity (OBEO), gratefully acknowledges the cooperation and contribution of staff of the Division of Procurement and Contracts, Division of Rail and Mass Transportation, and the Division of Transportation Planning.

**This Disadvantaged Business Enterprise Program Plan reflects all current Federal Transit Administration (FTA) reporting, monitoring, contract language, and program-related requirements as it pertains to FTA recipients, sub-recipients, subgrantees, and Caltrans' awarding divisions.**

To obtain a copy of the Policy Statement and Caltrans' DBE Program Plan, contact:

California Department of Transportation  
Office of Business and Economic Opportunity  
Disadvantaged Business Enterprise Program  
1823 14th Street  
Sacramento, CA 95811  
(916) 324-0449

Or, access via website:

<https://dot.ca.gov/programs/business-and-economic-opportunity>

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## **Disadvantaged Business Enterprise Program POLICY STATEMENT**

The California Department of Transportation (Caltrans) established a Disadvantaged Business Enterprise (DBE) Program in accordance with the United States Department of Transportation (USDOT), 49 Code of Federal Regulations (CFR), Part 26. Caltrans, as the recipient of USDOT's federal financial assistance, signed an assurance that it will comply with 49 CFR, Part 26.

It is Caltrans' policy to ensure DBEs, as defined in 49 CFR, Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. Caltrans' objectives (§ 26.1) are to:

- Ensure nondiscrimination in the award and administration of USDOT-assisted contracts.
- Create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts.
- Ensure that only firms that fully meet 49 CFR, Part 26, eligibility standards are permitted to participate as DBEs.
- Help remove barriers to the participation of DBEs in federal-aid activities conducted by recipients.
- Assist the development of firms that can compete successfully in the market place outside the DBE Program.
- Provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

Pursuant to §26.3, the Office of Civil Rights (OCR) manages and administers Caltrans' DBE Program. The OCR Assistant Director is the designated DBE Liaison Officer. In that capacity, the OCR Assistant Director is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations Caltrans incurs in its financial assistance agreements with the USDOT.

Caltrans ensures this Policy Statement is disseminated to all its division executives and staff, and all subrecipients/sub-grantees. This Policy Statement is accessible to DBE and non-DBE businesses that perform on USDOT-assisted contracts. Caltrans uses various networks to distribute this policy such as trade associations, online publications, electronic notification via stakeholder distribution lists, and the OCR web portal.

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### **Applicability and Commitment to the DBE Program §26.23 and §26.3**

The California Department of Transportation (Caltrans) is a recipient of federal financial assistance from the United States Department of Transportation (USDOT), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA).

As required by federal law, Caltrans established and implemented a Disadvantaged Business Enterprise (DBE) Program, pursuant to the requirements of 49 Code of Federal Regulations (CFR), Part 26. Caltrans is committed to continue the implementation of its DBE Program in accord with the applicable requirements and has signed an assurance to that effect with USDOT as a condition of continued eligibility for federal financial assistance.

### **Responsibilities**

Overall, it is the responsibility of the Caltrans Director to implement the Department's Policy of nondiscrimination. The Director has delegated responsibility for developing, implementing, and monitoring the daily operations of the DBE Program to the DBE Liaison Officer. The duties of the Liaison Officer have been assigned to the Assistant Director of the OBEO, and the Caltrans' DBE Program is managed and administered by the OBEO. The Director expects all Caltrans personnel to adhere to the provisions and the spirit of the DBE Program.

### **Dissemination of Policy Statement**

Caltrans' policy, "California Department of Transportation, Disadvantaged Business Enterprise Program," describes Caltrans' commitment to, and objectives for, its DBE Program. Caltrans circulates a copy of the signed Policy Statement to all applicable awarding and administrative divisions within Caltrans. The policy outlines the responsibilities for implementing the program. Caltrans circulates the policy to local agencies and DBE and non-DBE businesses that perform work on USDOT federally assisted contracts.

The OBEO's DBE Program, publishes and distributes the Policy Statement on OBEO's website, through Caltrans, Industry and Trade publications, on-line publications, and through Caltrans' Statewide Small Business Council. To obtain a copy of the Policy Statement and Caltrans' DBE Program Plan, contact:

California Department of Transportation  
Office of Business and Economic Opportunity  
Disadvantaged Business Enterprise Program  
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(916) 324-0449

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## ATTACHMENTS

- A. Caltrans Executive Branch Organizational Chart
- B. Office of Business and Economic Opportunity Organizational Chart
- C. Division of Rail and Mass Transportation Organizational Chart
- D. DBE Awards and Commitments Forms (All Caltrans Contracts) §26.55
  - a) ADM-0227F
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- E. Division of Procurement and Contracts: Boilerplate section
- F. Caltrans Standard Agreement
- G. Implementation Agreement
- H. CA 2016 Triennial Disadvantaged Business Enterprise Goal and Methodology for FTA Funded Programs §26.51(a-c)
- I. "Fostering Small Business Element" plan
- J. DBE Certification Forms and Documentation Requirement

## **I. General Requirements**

### **A. Objectives §26.1**

The objectives are found within the Policy Statement on this first page of this program plan.

### **B. Applicability §26.3**

Caltrans is the recipient of federal-aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, and Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107.

Caltrans is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal Transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Caltrans adheres to The Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100 et seq.), as well as the Business and Professions Code § 7000.5 et seq.

### **C. Exemptions and Waivers §26.55**

Caltrans understands it can apply for an exemption from any provision of 49 CFR, Part 26. The exemption request must be in writing and requested of the Office of the Secretary of Transportation.

### **D. Definitions §26.5**

Caltrans will adopt the definitions contained in §26.5 of Part 26 for this program and will add and include any new/amended definitions as they are provided by USDOT; and not include any definitions for terms not included in the definitions found in Section 26.5 of Part 26.

**Affiliation** has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

1. Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:
  - a. One concern controls or has the power to control the other; or
  - b. A third party or parties controls or has the power to control both; or
  - c. An identity of interest between or among parties exists such that affiliation may be found.

2. In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

**Alaska Native** means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

**Alaska Native Corporation (ANC)** means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).

**Assets** mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

**BDP** means Caltrans' Business Development Program.

**Bidder** means any individual, business, or organization that responds to a solicitation with a bid.

**Business, business concern or business enterprise** means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

**CEB** means Caltrans' Contract Evaluation Branch.

**Compliance** means that a recipient has correctly implemented the requirements of this part.

**Contingent Liability** means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

**Contract** means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is a contract.

**Contractor** means one who participates, through a contract or subcontract (at any tier), in a USDOT-assisted highway, transit, or airport program.

**Days** mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or federal holiday, the period extends to the next day that is not a Saturday, Sunday, or federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

**DBELO** means the Caltrans Disadvantage Business Enterprise Liaison Officer.

**Department or USDOT** means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA).

**Direct Recipient** means a recipient that receives USDOT financial assistance and passes some or all of it onto a sub-recipient.

**Disadvantaged Business Enterprise or DBE** means a for-profit small business concern

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**Domestic Partnership** means a legal relationship available to all same-sex couples, and to those opposite-sex couples where at least one party is age 62 or older. It affords the couple "the same rights, protections, and benefits, and... the same responsibilities, obligations, and duties under law..." as married spouses. (see "Spouse" on page 7)

**DOTP** means Caltrans' Division of Transportation Planning.

**DRMT** means Caltrans' Division of Rail and Mass Transportation.

**FHWA** means Federal Highway Administration.

**FTA** means Federal Transit Administration.

**Good Faith Efforts or GFE** means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

**Home state** means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

**Immediate family member** means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under state law.

**Indian tribe** means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Corporation (ANC), which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the state in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

**Joint venture** means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

**Liabilities** mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

**Native Hawaiian** means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

**Native Hawaiian Organization** means any community service organization serving Native Hawaiians in the State of Hawaii that is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

**Noncompliance** means that a recipient or sub-recipient that has not correctly implemented the requirements of this part.

**OBEO** means Caltrans’ Office of Business and Economic Opportunity.

**Offeror** means any individual, business, or organization that responds to a solicitation.

**Operating Administration or OA** means any of the following parts of USDOT: Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

**Personal net worth** means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth

does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

**Primary industry classification** means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau website:

<http://www.census.gov/eos/www/naics/>.

**Primary Recipient** means a recipient that receives USDOT financial assistance and passes some or all of it on to a sub-recipient.

**Prime** means one who participates, through a contract or subcontract (at any tier), in a USDOT-assisted highway, transit, or airport program.

**Principal place of business** means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

**Program** means any undertaking on a recipient's part to use USDOT financial assistance, authorized by the laws to which this part applies.

**Proposer** means any individual, business, or organization that responds to a solicitation with a proposal.

**Race-conscious measure or program** is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

**Race-neutral measure or program** is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

**RE** means Resident Engineer.

**Recipient** is any entity, public or private, to which USDOT financial assistance is extended, whether directly or through another recipient, through the programs of the FHWA or FTA, or who has applied for such assistance.

**Secretary** means the Secretary of Transportation or his/her designee.

**Set-aside** means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

**Small Business Administration or SBA** means the United States Small Business Administration.

**SBA certified firm** refers to firms that have a current, valid certification from, or recognized by, the SBA under the 8(a) BD or SDB programs.

**Small business concern** means, with respect to firms seeking to participate as DBEs in USDOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

**Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.
2. Any individual in the following groups, members of which are reputedly presumed to be socially and economically disadvantaged:
  - a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
  - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - c. "Native Americans," which includes persons who are enrolled members of a federally recognized Indian tribe, Alaska Natives, or Native Hawaiians;
  - d. "Asian-Pacific Americans," which include persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

- e. "Subcontinent Asian Americans," which include persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
  - f. Women;
  - g. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, when the SBA designation becomes effective.
3. Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

**Spouse** means a married person, including a person in a domestic partnership or a civil union recognized under state law. Also reference "Domestic Partnership," that will fall under the definition of Spouse.

**State** means the State of California.

**Sub-recipient** means any entity, public or private, that participates, through an agreement with a recipient, in a USDOT-assisted highway, transit, or airport program.

**Third-Party Contract** means any contract let by a sub-recipient that is USDOT-assisted.

**Tribally-owned concern** means any concern at least 51 percent owned by an Indian tribe as defined in this section.

**USDOT-assisted contract** means any contract between a recipient and a contractor (at any tier) funded in whole or in part with USDOT financial assistance, including letters of credit or loan guarantees, except a contract, solely for the purchase of land.

**Vendor** means one who participates, through a contract or subcontract (at any tier), in a USDOT-assisted highway, transit, or airport program.

**You** refers to a recipient or sub-recipient, unless a statement in the text of this part or the context requires otherwise (i.e., 'You must do XYZ' means that recipients or sub-recipients must do XYZ).

*[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011; 79 FR 59592, Oct. 2, 2014]*

#### **E. Nondiscrimination Requirements §26.7**

Caltrans will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with

the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin. (Subpart A, §26.7(a)).

In administering its DBE program, Caltrans will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin. (Subpart A, §26.7(b)).

#### ***F. Record Keeping §26.11***

##### **Scheduled Reporting (§26.11(a)(b))**

1. Caltrans provides semi-annual and annual DBE achievement reports to FHWA and FTA. Caltrans reports DBE participation on the Uniform Report of DBE Awards or Commitments and Payments form to the appropriate operating administration within the USDOT as follows:

- DBE activity from October 1 through March 31, will be submitted by June 1.
- DBE activity from April 1 through September 30, will be submitted by December 1.

Caltrans awarding divisions/oversight divisions, and sub-recipients must collect and provide the following Data to Caltrans' OBEO:

- Prime and Subcontract Awards.
- Commitments.
- Payments to prime contractors and consultants.
- Payments to DBE subcontractors and subconsultants by race and gender.

This information is provided by the awarding divisions and program oversight divisions.

The Division of Rail and Mass Transportation reports the following information to Caltrans OBEO on a semi-annual basis as it relates to Sub-recipient USDOT-assisted contracts only:

- Prime and Subcontractor Awards.
- DBE Commitments submitted by the successful Offeror at the time of award.
- Payments to prime contractors.
- Payments to DBE subcontractors and suppliers, based on monthly reporting by the prime contractor.
- Total Payments are gathered at the time of the final utilization report submitted by the prime contractor at the close of the project as outlined in the contract requirements.

The Office of Regional Planning (ORP) DBE Liaison coordinates the semi-annual FTA Uniform Report of DBE Commitments/Awards and Payments and requests Metropolitan Planning Organizations (MPOs) and Regional Transportation Planning Agencies (RTPAs) receiving federal funds for their DBE activities.

Caltrans designates District Transit Representatives (DTRs) in eleven of the twelve statewide Caltrans district offices to assist with FTA Section 5311 implementation (District 12, which encompasses all of Orange County, is an urban area and not eligible to compete for 5311 projects); DTR responsibilities include DBE semi-annual report collection. Upon notice from the Division of Rail and Mass Transportation (DRMT) that the semi-annual reports are due, the DTR distributes the reporting form and corresponding instructions for completion to all sub-recipients in the District. The ADM-0227F form (DBE Awards and Commitments) (See Attachment D-a) and the ADM-3069 form (DBE Utilization Report) (See Attachment D-e) are also distributed to the sub-recipients. These forms are required by USDOT and are used to track DBE commitments to actual payments made, as well as to reduce fraud.

Caltrans is planning to implement a Memorandum of Understanding (MOU) once approved by FTA to allow agencies that receive 5307 funds from FTA to report their DBE and Non-DBE third-party contracting opportunities directly to the FTA. The MOU would delegate all DBE reporting responsibilities to direct recipients by allowing sub-recipients to aggregate Caltrans administered funds into their local DBE Program Plan. Agencies that are unable to aggregate their direct funds with 5310, 5311, or 5339 funds prior to the Caltrans DBE three-year reporting period will remain a part of the Caltrans DBE Program Plan and must report their DBE and Non-DBE third-party contracting opportunities to Caltrans. Implementing a MOU with direct recipients would help to facilitate accurate DBE reporting to the FTA by reducing reporting redundancies and potential double counting.

The Division of Transportation Planning, Office of Regional Planning, reports the following information to Caltrans OBEO on a semi-annual basis, as it relates to Sub-recipient USDOT-assisted contracts only:

- Prime and Subcontractor Awards.
- DBE Commitments submitted by the successful Offeror at the time of award.
- Payments to prime contractors.
- Payments to DBE subcontractors and suppliers, based on monthly reporting by the prime contractor.
- Total Payments are gathered at the time of the final utilization report submitted by the prime contractor at the close of the project as outlined in the contract requirements.

The Office of Regional Planning's (ORP) DBE Liaison coordinates the semi-annual FTA Uniform Report of DBE Commitments/Awards and Payments and requests Metropolitan Planning Organizations (MPOs) and Regional Transportation Planning Agencies (RTPAs) receiving federal funds for their DBE activities.

## 2. DBE Program Annual Element Update

The OBEO submits Caltrans' DBE Program Annual Element Update (Update) to FHWA and FTA by November 15 each year. The Update provides information on Caltrans' organization changes, accomplishments of the past federal fiscal year (FFY), and goals for the coming FFY in accordance with 49 CFR, Part 26. The Update supplements Caltrans' DBE Program Plan.

The following divisions/districts provide updates to Caltrans' OBEO each August:

- Division of Rail and Mass Transportation.
- Division of Procurement and Contracts.
- Division of Engineering Services.
- Division of Construction.
- Division of Design Build.
- Division of Local Assistance.
- Division of Transportation Planning.
- Caltrans Districts.

## 3. Ad-Hoc Reports

Caltrans submits information regarding the program to the USDOT as directed or requested. This information includes contract number, award amount, and DBE commitment. Any GFE awards are reviewed by the Sub-recipient and is then sent to Caltrans' DRMT and Caltrans' Contract Evaluation Branch (CEB) for review and approval. DRMT coordinates with OBEO to produce a Commitment at Award Tracker to document all DBEs listed for commitment throughout the fiscal year.

### **Bidders List §26.11 (c)**

Caltrans, per 49 CFR, Part 26.11, will collect information regarding all DBE and non-DBE firms that propose, bid, or quote on USDOT federally assisted contracts. Caltrans maintains contract information and provides it as supporting documentation to the consultant hired to conduct the Disparity Study on behalf of the Department. As appropriate, Caltrans can use business information that the study team collected as part of the disparity study to augment its vendor data. The OBEO maintains the collected businesses. Caltrans conducted its recent study in 2019.

Sub-recipients of Caltrans, per 49 CFR, Part 26.11, shall provide a bidders list in conjunction with every procurement action. This language can be found in:

- Division of Rail and Mass Transportation—The Disadvantaged Business Enterprise Combination Race-Neutral/Race-Conscious Implementation Agreement for Federal Transit Administration Sub-recipients. (See Attachment G.).

#### **Maintain and Retention of Certified Firms Records §26.11(d)**

All DBE Certification files are kept in a secure location in accordance with 49 CFR Part 26.11(d). Access to these records is limited to authorized Certification Branch personnel. Initial documentation submitted as part of the application process is received and assigned to a Certification Analyst for processing. All files, while not in review, must be secured in a locked drawer of the respective analyst's desk until completed.

All information is retained in a secured file room location. This information includes:

- Most recent 3-year tax returns for the firm.
- Most recent 3-year tax return for its affiliates and personal tax returns for the majority owner(s).
- All annual updates.
- No Change affidavits.
- Change Notices.
- On-site reports.
- Personal Net Worth Statements.
- All correspondence.

#### **MAP 21 Reporting Requirements §26.11 (e)**

Caltrans is required to report to USDOT's Office of Civil Rights specific data pertaining to the number of certified DBE firms within the Unified Certification Program (UCP). Caltrans reports the percentage and location (whether in-state or out-of-state) of certified DBE firms in the CUCP Directory controlled by the following:

- Women.
- Socially and economically disadvantaged individuals (other than women).

This data is to be reported to the USDOT, Office of Civil Rights, by January 1 each year and is posted on the OBEO website at:

<https://dot.ca.gov/programs/business-and-economic-opportunity>

### **G. Federal Financial Agreement and Assurances §26.13(a)**

Caltrans signed the following assurance, which applies to the administration of USDOT federally assisted contracts and their administration:

Caltrans shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. Caltrans shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

### **Federal Contract Assurances and Sanctions: §26.13(b)**

Caltrans ensures contract language for all federal-aid projects, including:

“The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26, in the award and administration of USDOT federally assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of the contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- Withholding Monthly Progress payments.
- Assessing Sanctions.
- Liquidating Damages.
- Disqualifying the Contractor from future bidding as “Non-responsible.”

Each third-party contract awarded by a sub-recipient must include this assurance. Language is found in the following areas:

- Division of Rail and Mass Transportation: The Disadvantaged Business Enterprise Combination Race-Neutral/Race-Conscious Implementation Agreement for Federal Transit Administration Sub-recipients. (See Attachment G.)
  - Division of Transportation Planning, 2017 Regional Planning Handbook:
-

## **II. Administrative Requirements**

### **A. DBE Program Plan and Updates §26.21**

As a condition of receipt of FTA funding, Caltrans submits significant changes in the DBE Program to USDOT for approval. Caltrans understands significant changes to the plan must be approved by the applicable USDOT agency prior to implementation. Caltrans has established a “one plan” philosophy, where sub-recipients and subgrantees must adhere to Caltrans’ DBE Program Plan.

When the DBE Program Plan must be updated to reflect significant program changes, the OBEO initiates revisions with all applicable Caltrans divisions. The Caltrans DBE Program Plan is posted on the OBEO website once submitted and approved by the applicable USDOT agency.

Caltrans divisions required to provide input to the plan with significant changes are:

- Division of Rail and Mass Transportation
- Division of Transportation Planning

Sub-recipients of USDOT funds shall update their individual agency plans without being independent of Caltrans’ DBE Program Plan. Caltrans will remain in compliance by continual focus on DBE contracting opportunities on all FTA funded contracts.

### **B. Policy Statement §26.23**

The Policy Statement is elaborated on the first page of this DBE Program Plan.

### **C. DBE Liaison Officer §26.25**

Caltrans’ DBE Liaison Officer (DBELO), which is also the Assistant Director of the OBEO, talks directly and regularly to the Caltrans Chief Deputy Director (Chief Deputy) and Director, about DBE program matters. In addition to daily email communication with the Chief Deputy, the DBELO attends weekly executive staff meetings with the Director and attends monthly Caltrans Executive Board Meetings. The DBELO also has quarterly one-on-one meetings with the Chief Deputy and Deputy Director of Planning and Modal Programs, and the Chiefs of Transportation Planning and Rail and Mass Transportation. These communications illustrate how the OBEO Assistant Director works closely with Caltrans’ managers and consultants to fulfill the responsibility of developing, implementing, and monitoring all aspects of the DBE Program daily. OBEO also holds monthly meetings with the staff of Planning and Modal to brainstorm and share updates, look ahead for potential contracts, discuss reports compiled jointly, plan strategically, and coordinate training and outreach. Federal Transit Administration (FTA) contract goals are set in consultation with OBEO, which also reviews Good Faith Effort of

bidders. The DBELO also works with FTA Regional Civil Rights Officer (currently Lynette Little), who is regularly invited to Caltrans' Small Business Council Meetings with the Director or Chief Deputy.

The OBEO encompasses six branches to ensure the delivery of DBE Program requirements. The current Caltrans Executive Branch organizational chart is included. (See Attachment A.)

An additional position is being added to create better synergy and coordination between OBEO and other Caltrans divisions that receive FTA funds. A Memorandum of Understanding (MOU) between Caltrans' divisions of Rail and Mass Transportation, Transportation Planning, and the OBEO will allow this position to report directly to the DBELO on FTA DBE contracts administration and Title VI compliance.

The current Assistant Director can be contacted at:

**Assistant Director**

California Department of Transportation  
Office of Business and Economic Opportunity  
1823 14<sup>th</sup> Street  
Sacramento, CA 95811  
Phone: (916) 324-0449  
Facsimile: (916) 324-1949

E-mail: [smallbusinessadvocate@dot.ca.gov](mailto:smallbusinessadvocate@dot.ca.gov)

website: <https://dot.ca.gov/programs/business-and-economic-opportunity>

**Assistant Director, OBEO:**

1. Serves as the Caltrans Disadvantage Business Enterprise Liaison Officer also referred to as the DBELO.
2. Ensures Caltrans meets its DBE participation goals.
3. Advises the Director and governing bodies on DBE Program matters and achievements.
4. Develops, implements, updates, and monitors all aspects of the DBE Program and DBE policy.
5. Oversees and ensures the gathering and reporting of statistical data and other program-related studies as required by the USDOT.
6. Oversees the coordination of Caltrans' statewide DBE outreach activities.
7. Coordinates, assists, and develops DBE Program requirement training for Caltrans staff.

8. Oversees the DBE Certification Branch and ensures Caltrans representation in the California Unified Certification Program (CUCP).
9. Facilitates the assistance for DBEs in obtaining the necessary information to compete by providing guidance and direction, and advising DBEs where to seek management, technical expertise, bonding, financing, and other supportive services.
10. Establishes and maintains a good working relationship with local agencies, industry partners, and community-based organizations.
11. Chairs and facilitates statewide Small Business Council (SBC) meetings.
12. Ensures coordination with Caltrans managers, FHWA, and FTA, local agencies, and the business community.
13. Ensures only firms meeting eligibility standards participate as DBEs on USDOT federally assisted contracts.
14. The OBEO, DRMT, and DOTP meet monthly to discuss the DBE Program.

The OBEO's staff administers the program in compliance with 49 CFR, Part 26. In addition, there are staff in Caltrans' divisions with DBE Program implementation responsibilities (See Attachment B, OBEO Organizational Chart). Those divisions are: Division of Procurement and Contracts, Service Contracts, Architectural and Engineering Consultant Contracts and Minor B Contracts; and Sub-recipient Monitoring Processes and Procedures; Division of Local Assistance; Division of Rail and Mass Transportation; and Division of Transportation Planning.

#### ***D. DBE Financial Institutions §26.27***

A thorough review of the California Unified Certification (CUCP) database by Caltrans was unable to identify any financial institutions owned and controlled by socially and economically disadvantaged individual operating in California. However, a review of the Federal Reserve website identified 34 minority owned financial institutions.

Of these financial institutions, 23 of the banks are headquartered in the United States, while the rest are international banks operating in California. In consideration of the Community Reinvestment Act (CRA), Caltrans has studied the full extent of services offered by these minority owned financial institutions. Caltrans will include encouraging prime contractors to partner with and utilize these financial institutions on USDOT-assisted contracts in Caltrans' trainings and outreach events.

On an annual basis, Caltrans will continue to monitor the CUCP database and compare to what is reported in the Federal Reserve to identify DBE certified financial institutions. Should Caltrans identify any such financial institution,

Caltrans will immediately evaluate the best action and policy to make reasonable efforts to utilize these financial institutions and integrate the use of them by Prime contractors into Caltrans' trainings and outreach events.

#### **E. Prompt Payment §26.29**

Caltrans federal-aid and USDOT federally assisted projects include a specification that directs bidders' attention to the Implementation Agreement (see Attachment G). This clause applies to both DBE and non-DBE subcontracts.

Most sub-recipients are municipal agencies advertising their own projects and need for services. Caltrans is considered a "pass-through," passing Federal Transit Administration funds on to local agencies. In these cases, work is completed by a third party who bills the sub-recipient. The sub-recipient must pay the third party within 7 days. After the payment is made to the third party, the sub-recipient can submit a request for reimbursement to Caltrans. To ensure the 7-day prompt payment requirements are being followed, Caltrans requests evidence of prompt payment to be submitted along with the request for reimbursement. Caltrans reviews contracting records and monitors work sites to make sure the vehicles or equipment, or operating funds are all spent on activities that continue to meet FTA Requirements. This includes recipients of the 5310 Program. Starting January, 2020, Caltrans keeps a running tally of DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

Since sub-recipients are paid in arrears, not in advance. Caltrans reserves the right to withhold payments from sub-recipients in the event Caltrans determines that prompt payment requirements are not adhered to. Sub-recipients must submit proof of DBE payments to DRMT as part of the request for reimbursement (RFR). DRMT staff will verify DBEs were paid in accordance with the prompt payment requirements in 49CFR 26.29 and as an enforcement mechanism. Any late payments to DBEs will not be reimbursed. Each third-party contract awarded by a sub-recipient must include the prompt payment clause found in:

- Division of Rail and Mass Transportation: The Disadvantaged Business Enterprise Combination Race-Neutral/Race-Conscious Implementation Agreement for Federal Transit Administration Sub-recipients. (See Attachment G.)

#### **Retainage: §26.29(b)**

All federal aid and USDOT-assisted projects include a specification that Caltrans will not withhold retainage from the prime contractor, and that the prime contractor, and any of its subcontractors, may not withhold retainage from any subcontractor.

In addition, Caltrans has a “Stop Notice” system in place when a subcontractor reports that they have not been paid by a prime. The subcontractor can go onto Caltrans’ Division of Accounting website to file the “Stop Notice”:

<https://dot.ca.gov/programs/accounting/forms-and-publications>

Once filed, Caltrans withholds funds for the amount of the claim. The following are the steps that are taken after the Stop Notice is filed:

- Prime contractor and the claimant resolve the Stop Notice claim and the claimant releases the Stop Notice withhold by providing the release to the Department. Stop Notice release form can be found on the Division of Accounting website here:

<https://dot.ca.gov/-/media/dot-media/programs/accounting/documents/stop-notice-info-a11y.pdf>

Provided there are no additional withholds that affect the prime contractor’s payments, the Department pays the withheld funds to the prime contractor.

**If the Stop Notice claims are not resolved, the following may occur:**

- Prime contractor submits an affidavit if the validity of the Stop Notice is challenged.
- Claimant submits a counter-affidavit within 20 days of receiving the contractor’s affidavit. If a counter-affidavit is not submitted within the statutory time period and there are no other withholds that affect the prime contractor’s payments, the funds withheld are released to the prime contractor.
- If an affidavit and counter-affidavit are both filed, the Stop Notice stays in effect and the Department takes no further action.
- Prime contractor or claimant may file a Declaration of Rights action with the court regarding the Stop Notice. The Department will act as directed by the court.

If the claimant does not file an action to enforce the Stop Notice within 180 days following the prime contract acceptance date, the funds withheld are released to the prime contractor, provided there are no other withholds that affect the prime contractor’s payments.

**Compliance/Title VI Program Branch:** OBEO’s Compliance/Title VI Program Branch conducts reviews/investigations as a result of risk-based assessments in addition to conducting reviews/investigations of complaints

related to DBEs participating on active Caltrans contracts. Types of complaint investigations may include, but not be limited to, evaluating commercially useful function (CUF), independence issues, and DBEs acting as an extra participant. Findings are documented and reported to the OBEO Assistant Director and may also be communicated to Caltrans Division of Rail and Mass Transportation, Division of Transportation Planning, Legal Department, Division of Local Assistance, Audits and Investigations, as well as FHWA, FTA, Office of Inspector General, and other government entities, for further review and/or action.

**F. Directory §26.31(a)**

Caltrans maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE.

The directory is accessible electronically on the OBEO website. It lists DBE firms certified by the CUCP to be counted on USDOT-assisted contracts in the State of California. The list provides the following information for each DBE firm: name, contact person, address, telephone number, e-mail address, and where (geographically) the firm is willing to work in California. In addition, the list includes the North American Industry Classification System (NAICS) codes, work category codes, and licenses. Work category codes supplement the NAICS codes with clear, specific, and detailed narrative descriptions of the type of work in which the firm is certified (follow this link to view the Work Codes:

<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-search>

Confidential information concerning DBEs is not shared. Caltrans updates the directory on a regular basis.

Caltrans currently holds the position as the CUCP chair, of the CUCP committee. Caltrans verifies that no CUCP member has a separate UCP directory claiming to reflect all DBE firms in the state. Caltrans maintains a MOA with all certifying agencies with regards to the CUCP. An updated MOA is currently being amended and voted upon by all certifying agencies.

Caltrans makes the directory available in print upon request. The printed version of the directory is updated annually; for the most current list, download and print the directory from the website at:

<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-search>

**G. Overconcentration §26.33**

Caltrans has determined there is no evidence of overconcentration of participation with DBEs on Caltrans' contracts. Caltrans relies in part on the

disparity study, which is conducted every three years. Caltrans determines whether there is an overconcentration of DBE firms in a certain type of work, with its Commitment at Award monthly report, which tracks DBEs listed on contracts toward contract goal.

#### **H. Business Development Programs §26.35**

In accordance with DBE regulations contained in 49 CFR, Part 26, Caltrans established the Small Business Program to assist small businesses, including DBEs, to compete fairly and successfully in the market place. To accomplish this, in 2018 the OBEO instituted several changes to their original DBE/SS Program and initiated a “Pay-for-Performance” methodology to the DBE/SS Program. This is designed to give DBEs enrolled into the Business Development Program (BDP) the tools to work on USDOT projects by:

- Improving the capacity of participating DBEs—allowing for a level playing field when competing for Caltrans or USDOT-funded contracts.
- Developing or updating business plans for each participating DBE.
- Assisting DBEs, who have not worked or have limited experience working with Caltrans, in submitting quality bids on USDOT projects.

With the DBE/SS Program goal of increasing the number of certified DBEs participating on USDOT-funded projects, Caltrans Cal Mentor (Architectural and Engineering) Program asks prime contractors/consultants to mentor smaller, less experienced firms seeking opportunities in highway transportation projects. Forums are held to promote the program and solicit participation of potential prime contractors and subcontractors as protégés. The program intends to develop protégé’s business acumen, which increases their potential for state and federal contract awards.

The program encourages mentors and protégés to enter a Memorandum of Understanding (MOU) with one another for one or two years. The MOU establishes the objectives and expectations for each party involved. Details are left to the individual parties, although a MOU template is available through district offices.

##### **1. Small Business Program**

It is the Caltrans Small Business Advocate’s responsibility to identify and implement innovative acquisition operating processes, such as payment processes and strategies to encourage and assist small business participation on Caltrans’ contracting and procurement opportunities.

The OBEO directs Caltrans’ small business activities, which include, but are not limited to, educating small businesses, including DBEs, on how they can do business with Caltrans; participating in forums and industry meetings to hear about and address small business issues; developing

and implementing outreach methods; promoting small businesses to the public and Caltrans' districts/divisions; and assisting in developing brochures and other written material, providing in-person trainings and marketing tools that promote small businesses and DBE participation in contracts.

Additionally, the OBEO coordinates and facilitates an annual District Small Business Liaison (DSBL) in-person conference, DSBL bi-monthly conference calls, and maintains Caltrans' Small Business Advocate e-mail posted on OBEO's website whose main purpose is assisting small businesses with information regarding certification, doing business with Caltrans, outreach events, etc.

The OBEO Training and Outreach Branch maintains a Caltrans Event Calendar on OBEO's website. It provides information about outreach events statewide. The DSBLs disseminate information on networking opportunities for all small businesses, including DBEs, and provides expertise and advocacy for Small Business and DBE firms related to contracting and marketing opportunities.

## 2. Statewide Small Business Council

Caltrans officially established the Statewide Small Business Council (SBC) in 1994. Currently, the council, which has a maximum membership of 35, is currently composed of 26 members, who represent trade organizations and associations throughout California. Many of these representatives are owners/operators of DBE firms, small businesses, women-owned businesses, and Disabled Veteran Business Enterprises. The purpose of the Caltrans SBC is to encourage the participation of small businesses, including DBEs, on Caltrans' contracts. The SBC provides business trade associations with a forum to comment and provide feedback on Caltrans' policies and practices that affect or impact small business utilization and participation in Caltrans' contracts and projects. The SBC has four committees: Construction, Local Assistance/Professional Services, Commodities, and Executive. Caltrans uses external advisory committees to develop solutions to the state's transportation problems, to disseminate information regarding specified Caltrans' projects and programs, and to provide a forum for interactive discussions with interested parties. External advisory committees do not adopt policies that conflict with Caltrans' policies or that could be construed as representing Caltrans' policies.

## 3. Free Networking Tools

Caltrans has made free tools available to prime contractors and subcontractors alike on the Caltrans website. This can be found on the Office Engineer's (OE) web page (below) to assist in connecting primes and subcontractors on major construction contracts, using the sites "Primes Seeking Help" and "Opt-In" features.

**I. Monitoring and Enforcement Mechanisms §26.37**

The following monitoring and enforcement mechanisms are taken by Caltrans to ensure compliance with 49 CFR Part 26:

- Caltrans will bring to the attention of the USDOT any instances of fraud or dishonest participation within the program. USDOT may then take the necessary steps provided in §26.109.
- Caltrans will consider similar actions utilizing its own legal authorities.
- Caltrans' Contractor Compliance Branch will investigate substantiated claims.
- Caltrans will also provide a monitoring and enforcement mechanism to verify payment to subcontractors on sub-recipient contracts.

**J. Division of Procurement and Contracts §26.37(a)(b)(c)**

The Caltrans Contract Manager is responsible for monitoring the Contractor for compliance with program requirements.

Caltrans' Contract Manager monitors the contract until it has concluded. Invoice and Payment instructs the contractor to submit the Disadvantaged Business Enterprise Utilization Report ADM-3069 (See Attachment D-e) with each invoice (§26.37(c)).

The Caltrans Contract Manager is instructed to "review the form as submitted by the Contractor to ensure the form is complete and accurate. Once you receive the ADM-3069 (see Attachment D-e) from the Contractor, enter the total (or percent) of federal (only) dollars (being used in the Agreement) on the form, then sign, date, and e-mail [smallbusinessadvocate@dot.ca.gov](mailto:smallbusinessadvocate@dot.ca.gov) or FAX to (916) 324-1949."

Sub-recipients must monitor each USDOT-assisted third-party contract for DBE commitment and utilization throughout the life of the third-party contract. Sub-recipients shall report DBE payments using the Disadvantaged Business Enterprise Utilization Report ADM-3069 (See Attachment D-e) with each invoice submitted to Caltrans for reimbursement.

**K. Fostering Small Business Participation §26.39**

Caltrans has incorporated a non-discriminatory element to its DBE Program to facilitate competition on USDOT-assisted public works projects by small business concerns (both DBE and non-DBE small businesses). Details

outlining Caltrans' "Fostering Small Business Element" plan was approved by FHWA on March 27, 2013, (see Attachment I).

### **III. Goals, Good Faith Efforts, and Counting**

#### **A. *Set-asides or Quotas §26.43***

Caltrans does not use quotas in any way in the administration of this DBE program.

#### **B. *Overall Goals §26.45***

A description of the methodology to calculate the overall goal and the goal calculations can be found on the OEBO website at:

<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe/overall-disadvantaged-business-enterprise-goal-and-methodology-federal-fiscal-years-2019-2021>

This section of the DBE program will be updated on a triennial basis and any time there is an adjustment made to the overall goal.

In accordance with §26.45(f), Caltrans will submit its overall goal to the USDOT no later than August 1 of each triennial year. Caltrans' next proposed triennial goal and methodology are due to USDOT by August 1, 2020. Before establishing the triennial goal, Caltrans will consult with its contracted Disparity Study consultant to obtain the relevant information concerning the current availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and Caltrans' efforts to establish a level-playing field for the participation of DBEs on contracting and procurement opportunities. Simultaneously, Caltrans will consult with minority, women's, general contractor groups, and community organizations.

Following the consultation, Caltrans will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for review during normal business hours at all Caltrans principal offices throughout the state and online for 30 days following the date of the notice. Caltrans will also inform the public that it will accept comments of the proposed goal and methodology for no less than 30 days from the date of the notice.

#### **C. *Shortfall Analysis §26.47(c)***

The Office of Business and Economic Opportunities (OBEO) Engineering Services Branch is responsible for goal setting for the Division of Rail and Mass Transit (DRMT) and the Division of Transportation Planning (DOTP) contracts. Both divisions are funded by the FTA.

Caltrans was informed that FTA expects both the race-neutral and race-conscious portions of the goal to be met for the overall goal to be considered

to have been achieved – this is an FTA requirement, not a regulatory requirement, per 49 CFR 26.47(c). According to the SMR, Caltrans cannot consider the overall goal met if they do not meet either the race conscious or race-neutral portion of the goal. Due to this, Caltrans may exceed the overall goal if Caltrans is performing at a higher than expected rate on the race-neutral portion of the goal.

In an effort to ensure Caltrans does not exceed its overall and race conscious goal, the Department will collect goal-setting data and will compare it monthly to the list of expected projects. Caltrans will closely examine each contract and will not set a goal without first checking the uniform report to ensure the goal is not being set too high.

Sub-recipients are required to report bi-annually. When the information is received from the sub-recipients, Caltrans reviews them and uses the data to create the uniform report.

By December 2nd, of any given year, OBEO will review the uniform report and other contributing metrics to determine whether or not a shortfall analysis is required, per the 2019 SMR directives. If a shortfall analysis is required, OBEO will coordinate with DRMT and DOTP to receive the information needed to write the shortfall analysis. The shortfall analysis shall be written and submitted to FTA no later than December 31 of any given year. The shortfall analysis shall be signed by the DBELO, as required by FTA. The document provides an analysis of Caltrans' efforts in an attempt to meet the goal, what contributing efforts may have played a role in the shortfall, as well as outline corrective actions to achieve the goal in the upcoming year.

#### ***D. Transit Vehicle Manufacturers (TVMs) §26.49***

Pre-Award: Caltrans will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section.

Post-Award: Caltrans will report the award of FTA-assisted transit vehicle procurements to the FTA in the manner prescribed in the grant award. The report will include the name of the successful bidder and the total dollar value of the contract.

Each sub-recipient must meet TVM pre-and post-award reporting requirements. This language can be found:

- Division of Rail and Mass Transportation—The Disadvantaged Business Enterprise Combination Race-Neutral/Race-Conscious Implementation

Agreement for Federal Transit Administration Sub-recipients. (See Attachment G.)

**E. Breakout of Estimated Race-Neutral and Race-Conscious Participation §26.51(a-c)**

The current breakout of estimated race-neutral and race-conscious participation can be found in Attachment H. This section of the DBE program will be updated triennially, monitored, and adjusted based on monthly monitoring described in Section 26.11 to adjust contract goals to enable Caltrans to meet its overall DBE goal.

**F. Contract Goals §26.51(d-g)**

To remain in compliance, Caltrans will focus on DBE contracting opportunities on all FTA-funded contracts by establishing contract goals. Caltrans will establish contract goals only on those USDOT-assisted contracts that have contracting opportunities. Caltrans does not need to establish a contract goal on every such contract, and contract goals will be based on the type and location of work and availability of DBEs to perform the work.

Caltrans strives to meet the overall annual DBE goal using race-neutral measures to the fullest extent possible as it pertains to the FTA program. Caltrans currently has a race-conscious DBE Program for FTA funded contracts and grants. Therefore, in addition to those race-neutral measures, Caltrans and its recipients set individual contract goals on applicable contracts, procurements, and grants with contracting opportunities.

The OBEO approves DBE contract goals on contracts set by the Division of Rail and Mass Transportation and Division of Transportation Planning.

It is the responsibility of the OBEO to set and approve DBE contract goals prior to advertisement. DBE contract goals are calculated for each project based on contracting opportunities and DBE availability. An abundance of DBE firms must also be factored in. A search for DBE availability is conducted on the CUCP database, using relevant Work Codes and the district the project is located in.

**G. Good Faith Efforts and Procedures §26.53**

Caltrans uses 49 Code of Federal Regulations 26.53 as its procedures. The following are excerpts from Federal Regulations 26.53:

(a) When you have established a DBE contract goal, you must award the contract only to a bidder/offeror who makes good faith efforts to meet it. You must determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things:

(1) Documents that it has obtained enough DBE participation to meet the goal;  
or

(2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeror's good faith efforts.

(b) In your solicitations for DOT-assisted contracts for which a contract goal has been established, you must require the following:

(1) Award of the contract will be conditioned on meeting the requirements of this section;

(2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:

(i) The names and addresses of DBE firms that will participate in the contract;

(ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;

(iii) The dollar amount of the participation of each DBE firm participating;

(iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and

(v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.

(vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and

(3) (i) At your discretion, the bidder/offeror must present the information required by paragraph (b)(2) of this section -

(A) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or

(B) No later than 5 days.

(ii) Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.

(c) You must make sure all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing yourself to the performance of the contract by the bidder/offeror.

(d) If you determine that the apparent successful bidder/offeror has failed to meet the requirements of paragraph (a) of this section, you must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.

(1) As part of this reconsideration, the bidder/offeror must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

(2) Your decision on reconsideration must be made by an official who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.

(3) The bidder/offeror must have the opportunity to meet in person with your reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

(4) You must send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

(5) The result of the reconsideration process is not administratively appealable to the Department of Transportation.

(e) In a "design-build" or "turnkey" contracting situation, in which the recipient lets a master contract to a contractor, who in turn lets subsequent subcontracts for the work of the project, a recipient may establish a goal for the project. The master contractor then establishes contract goals, as appropriate, for the subcontracts it lets. Recipients must maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of this part.

(f)(1)

(i) You must require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without your prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

(ii) You must include in each prime contract a provision stating:

(A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and

(B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

(2) You may provide such written consent only if you agree, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm.

(3) For purposes of this paragraph, good cause includes the following circumstances:

(i) The listed DBE subcontractor fails or refuses to execute a written contract;

(ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

(iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.

(iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;

(vii) You have determined that the listed DBE subcontractor is not a responsible contractor;

(vi) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;

The listed DBE is ineligible to receive DBE credit for the type of work required;

(viii) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;

(ix) Other documented good cause that you determine compels the termination of the DBE subcontractor – provided that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

(4) Before transmitting to you its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to you, of its intent to request to terminate and/or substitute, and the reason for the request.

(5) The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise you and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why you should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), you may provide a response period shorter than five days.

(6) In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

(g) When a DBE subcontractor is terminated as provided in paragraph (f) of this section, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established for the procurement. The good faith efforts shall be documented by the contractor. If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

(h) You must include in each prime contract the contract clause required by § 26.13(b), stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section you deem appropriate if the prime contractor fails to comply with the requirements of this section.

(i) You must apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

(j) You must require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

#### **Demonstration of Good Faith Efforts §26.53(a)(c)**

It is the obligation of the agency to make good faith efforts. The agency can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts (GFE).

**DBE information that Offerors must submit by the 4<sup>th</sup> business day of bid opening and within 5 days of bid opening include, but are not limited to:**

- The Bidders' Overall DBE Commitment.
- The Total of Goods and Services Made Available to DBE Firms.
- The Quantity of DBE Solicitations Made.
- Reason(s) for Rejecting DBE Quotes.
- The Relative DBE Commitments and Good Faith Efforts Made by Other Offerors.

In its determination of DRMT administered contracts, the CEB ensures the completeness and accuracy of documents such as the contact lists, publication proof, solicitation letters, fax / e-mail transmissions, and quotes from DBEs and non-DBEs.

For trucking bid items, the CEB will verify the DBE trucking firm is certified to perform the work. The CEB will contact the bidder to determine how it used the DBE's quote to arrive at its commitment amount. The CEB will question the bidder on how many and what types of trucks are needed to do the work and the number of trucks owned by the DBE trucker. The CEB will get copies of the current registration(s) or non-operating permit(s) for each truck. CEB will ask the bidder if the DBE trucker will be brokering any trucks; if so, verify the certification, registration(s) and non-use permit(s) and brokerage fee credit for non-DBE trucks.

For DBE bulk suppliers, CEB will verify the DBE has enough trucks or existing lease agreements for enough trucks to perform the work. CEB will also have the DBE sign a written declaration declaring their drivers will be driving the leased trucks. CEB will get clarification on the origin and destination of the materials to be supplied. CEB will question the bidder on who will be paying for the material.

Once a determination is made, CEB writes a letter with its findings and supporting data to the awarding division and bidder. Should the good faith effort of a bidder be rejected, the CEB will include in their decision letter the areas of deficiency by the bidder. This may include, but not limited to, bidder comparison of DBE quotes accepted by another bidder/proposer, list of available DBEs based on the Work Codes and work area in the CUCP database.

The Offeror's bid must at minimum demonstrate the proposer's intent to meet the contract goal when fully implemented and results in the proposer meeting the DBE goal, unless the proposer can demonstrate afterwards that they made good faith efforts throughout the contract period. In addition to the DBE Commitment, proposers submit good faith efforts documentation demonstrating their efforts to achieve the DBE goal up to the proposal due date.

For each third-party contract let by a sub-recipient, the offeror must include demonstration of GFE. This language can be found in the following areas:

- Division of Rail and Mass Transportation—The Disadvantaged Business Enterprise Combination Race-Neutral/Race-Conscious Implementation Agreement for Federal Transit Administration Sub-recipients. (See Attachment G.)
- Division of Transportation Planning, 2017 Regional Planning Handbook:

#### **Administrative Reconsideration §26.53(d)**

The following awarding division's contracts may be subject to Administrative Reconsideration with the Caltrans Reconsideration Panel:

- Division of Engineering, Contract Awards.
- Division of Procurement and Contracts.
- Division of Design, Design-Build.

Within five business days of being informed by Caltrans that it is not a responsive bidder, due to the lack of sufficient documentation of good faith efforts, a prime contractor/consultant may request administrative reconsideration. Requests for reconsideration must be sent in writing to:

**Reconsideration Official**  
California Department of Transportation  
Division of Engineering Services—Office Engineer  
1801 30<sup>th</sup> Street, MS-9  
Sacramento, CA 95816-8041

Caltrans Division/Office representatives make up a three-person Administrative Reconsideration Panel. Those representatives are drawn from a pool of senior representatives from the Division of Local Assistance, the Office of Business and Economic Opportunity, the Division of Engineering, Contract Awards, and the Division of Construction. The panel members will take turns at being the Chair of the Administrative Reconsideration Panel, which provides the final decision on behalf of Caltrans. The pool of panel members is well versed in the program requirements; and most importantly, none of the participating panel members will have played any role in the original determination that the prime did not document sufficient good faith efforts.

As a part of the reconsideration, the prime will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal, or made adequate good faith efforts based on scope, intensity, and appropriateness required to meet the program objective (without introducing new documents after bid closing date). After the hearing, Caltrans will send the prime a written decision on reconsideration, explaining the basis for finding

that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the USDOT.

Sub-recipients may follow a similar approach to the Good Faith Administrative Reconsideration process. The sub-recipient must not allow the initial GFE decision-making person, or staff, to participate in the reconsideration process. The sub-recipient will notify the offeror of the initial GFE findings, giving the offeror the opportunity to request a reconsideration hearing.

### **Administrative Remedies for noncompliance §26.53(f)(3)**

If the contractor fails or refuses to comply in with the substitution process in the specified time, the Caltrans resident engineer or contract manager must verbally warn the contractor and document the warning in their daily contract reports.

If the prime contractor replaces a listed DBE without written approval from the resident engineer, payment for the items of work committed to the DBE must be temporarily withheld from the next progress payment. Send the prime contractor written notice of the improper substitution and payment withhold. In addition, if the DBE is also a subcontractor required to be listed at bid time by the Fair Practices Act, the substitution process must comply with Section 3-507C (5), "Hearing Process for Substitution Violations," of this manual.

If the substitution is found to be in violation of the Fair Practices Act, the hearing officer may assess the prime contractor a penalty of up to 10 percent of the subcontract amount. Any temporary withholds become permanent when a violation is confirmed. Federally funded contracts require the contractor to report a DBE firm that becomes certified or decertified during the course of the project. A DBE subcontractor that becomes decertified during the course of the project must notify the contractor in writing with the date of decertification. In the same manner, a subcontractor that becomes a certified DBE during the course of the project must notify the contractor in writing with the date of certification. The prime contractor must notify the resident engineer if the contractor becomes aware of a DBE obtaining or losing its certification during construction.

The contractor must still honor contractual commitments with a DBE firm performing work on the contract even if the DBE loses its certification during construction. No substitution is required. For federal reporting purposes only, DBE credit for Caltrans will be limited to payments made while the firm was certified. This has no effect on the Form CEM-2402 (See Attachment D-f), "Final Report - Utilization of Disadvantaged Business Enterprises First-Tier Subcontractors," which should show the total paid to the DBE. For additional information on the final report, refer to Section 8-305A below (see Construction Manual at:

### **Good Faith Efforts when a DBE is replaced on a contract §26.53(f)(g)**

Caltrans will require a contractor to make good faith efforts to replace a DBE that is terminated or otherwise failed to complete its work on a contract with another certified DBE to the extent needed to meet the contract goal. Contractors are required to notify the contracts Resident Engineer or Contract Manager immediately of the DBE's inability or unwillingness to perform or provide reasonable documentation.

The contractor is required to obtain prior approval of the substitute DBE from the Resident Engineer (RE), Contract Manager, or the DEBEO for Caltrans' contracts. These approvals come from either the Resident Engineer or Contract Manager for Caltrans contracts. Should the contractor be unsuccessful in replacing the committed DBE with another DBE, then it is the responsibility of the resident engineer or contract manager to ensure the contractor has submitted sufficient documentation of good faith efforts. If the contractor is able to replace the committed DBE with another DBE, the resident engineer or contract manager must collect copies of the new or amended subcontracts.

Caltrans sub-recipient must include GFE when a DBE is replaced on a contract. This language can be found in the following areas:

- Division of Rail and Mass Transportation - The Disadvantaged Business Enterprise Combination Race-Neutral/Race-Conscious Implementation Agreement for Federal Transit Administration Sub-recipients. (See Attachment G.)
- Division of Transportation Planning, 2017 Regional Planning Handbook

### **DBE Prime Credit §26.53(i)**

If the Offeror is a DBE firm, the CEB will review the firm's DBE certification. The CEB will review the Work Codes assigned to the DBE firm and compare the codes to the items on the contract. The DBE Offeror must be certified to perform/provide at least 30 percent of the work on the project. On average the DBE prime most likely has met the DBE goal with their own forces.

### **Subcontracts §26.53(j)**

Sub-recipients and Contractors awarded a USDOT-assisted contract must make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

## **H. Counting DBE Participation §26.55(a-h)**

Caltrans has incorporated the DBE credit application into its Standard Specification boilerplate contract language. The following are excerpts from the Caltrans' contracting language:

DBE Trucking Credit information can be found on page 31 of this program plan.

### **- Division of Procurement and Contracts (Non-A&E & Service Contracts): Non-A&E Boilerplate Contract Language – DBE Credit**

#### **DBE Eligibility**

1. The dollar value of work performed by a DBE is credited/counted toward the goal only after the DBE has been paid.
2. Credit for DBE Prime Contractors.
3. Contractor, if a certified DBE, is eligible to claim all of the work toward the goal except that portion of the work to be performed by non-DBE Subcontractors. (See Attachment E).
4. Credit for Material or Supplies.

Credit for materials or supplies purchased from DBEs will be as follows:

- a. If the materials or supplies are obtained from a DBE manufacturer, one hundred percent (100%) of the cost of the materials or supplies will count toward the DBE goal. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.

DBE Trucking Credit information can be found on page 31 of this program plan.

### **- Division of Procurement of Contracts (Architectural & Engineering): A&E Contract Boilerplate Language**

#### **Credit for DBE Prime Consultants**

A consultant, if he / she is a certified DBE, is eligible to claim all of the work toward the goal except that portion of the work to be performed by non-DBE subconsultants. (See Attachment E).

Caltrans counts sub-recipient DBE participation toward the Department's overall goal. Sub-recipient procedures for counting DBE participation can be found in the following areas:

1. Division of Rail and Mass Transportation - The Disadvantaged Business Enterprise Combination Race-Neutral/Race-Conscious

Implementation Agreement for Federal Transit Administration Sub-recipients. (See Attachment G.)

2. Division of Transportation Planning, 2017 Regional Planning Handbook:

**Additional Measure for Properly Counting DBE toward Contract Goal Credit:**

The Contract Evaluation Branch ensures all DBE firms listed for credit on a USDOT-assisted contract are currently certified at the time of bid opening. At the same time, verifying the firm has all of the relevant licenses and Work Codes for the work they have been listed to perform for DBE credit.

Caltrans' Certification Branch aligns Work Codes closely to NAICS codes and licenses held by the disadvantaged business owner(s). These Work Codes were developed by the Caltrans Certification Staff within and are meant to be narrowly tailored towards Caltrans applicable work. Codes are only assigned, as part of the certification process, on approval of the firm's certification after a comprehensive review of the firm's primary activities and a site visit has been conducted based on 49 CFR Part 26. Additional Work Codes (and NAICS codes) are assigned during the life of the firm upon their request, but only after additional review with supporting documentation of their ability to perform the requested work code(s) and justification for the additional codes being sought. Another site visit may be conducted on an as-needed basis.

These initial efforts by the Certification Branch to verify applicable Work Codes assigned to the certified DBE firms helps to ensure the Contract Evaluation Branch, as well as the prime, are able to verify the firm's capabilities prior to commitment and contract award. A supplier's role as a regular dealer or broker is evaluated on a "project by project" basis. For the database holding the Work Codes and correlating NAICS codes, please visit the OBEO website at:

[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).

**Joint Ventures §26.55(b)**

The DBE joint venture partners must share in the capital contributions, control, management, and risks and profits of the joint venture. The prime contractor who wishes to use a DBE joint venture must attach and submit the joint venture agreement.

**DBE Commercially Useful Function §26.55(c)**

Caltrans counts only the value of the work actually performed by the DBE toward the DBE participation goal. To determine the value of the work performed that can be counted toward participation goals, Caltrans' Contract Evaluation Branch, within the OBEO, considers:

- The entire amount of the contract that is performed using the DBE's own forces.
- The entire amount of fees or commissions charged by a DBE for providing a genuine service, provided the fee is not excessive.
- The portion of the work that a DBE subcontracts to another DBE.
- The portion of work another subcontractor subcontracts out to a DBE.
- The items of work the DBE performs that qualify as a CUF.

Caltrans' sub-recipients and subgrantees are expected to perform the same evaluation mechanism on all USDOT federally assisted projects.

Once a contract is awarded, Caltrans monitors projects for DBE commercially useful function. The following information provides insight into how Caltrans' contracts and sub-recipient contracts are monitored:

The Resident Engineer (RE) must identify if/when the DBE firm, other than the listed DBE, is found performing the work. The RE notifies the prime contractor immediately, in writing, that an apparent violation is taking place. An administrative hold is made on the next estimate for the dollar amount of work that should have been performed as listed on the DBE commitment for the specific firm.

Payment is not made for non-approved DBE work until the RE approves a request for a substitution. RE or Labor Compliance sends the prime contractor a letter, which gives the reasons for the deduction, and information needed if the prime contractor wants to pursue the appropriate substitution process.

### **2014 Caltrans Construction Manual – Section 8-302A**

<http://www.dot.ca.gov/hq/construc/constmanual/chapter8/sec8-3.pdf>

8-302A Commercially Useful Function - a DBE performs a commercially useful function when it does all of the following (as detailed in the Code of Federal Regulations Section 26.55[c]):

1. Performs at least 30 percent of the total cost of its contract with its own work force and does not subcontract out portions of its contract work that are greater than normal industry practices for the type of work performed.
2. Performs, manages, and supervises the work involved.
3. Negotiates prices, determines quantity and quality, orders materials and supplies, pays for the materials and supplies, and installs the materials where applicable.

**Division of Procurement and Contracts Non-A&E: Boilerplate Language - Performance of DBE Contractors and other DBE Subcontractors/Suppliers (See Attachment E.)**

- A. A DBE performs a Commercially Useful Function (CUF) when the DBE is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible for materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.
- B. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- C. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, presume that the DBE is not performing a CUF.
- D. DBE subcontractors shall perform the work and supply the materials, which they have listed in their response to the Agreement award requirements specified in the form ADM-0227F (See Attachment D-a.), attached, unless Contractor has received prior written authorization to perform the work with other forces or to obtain the materials from other sources as set forth in the **Section 26 below** entitled, "DBE Substitution."
- E. Contractor shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Contractor) pursuant to prior written authorization of the Contract Manager.

**Additional Monitoring and Enforcement Mechanisms**

If additional staff are provided, OBEO's Compliance Branch investigate claims of DBE noncompliance of commercially useful function on USDOT-assisted Caltrans construction projects. Findings of these claims should be documented and reported to the OBEO Assistant Director. Depending on the relevance and the severity of noncompliance, the Caltrans Compliance Branch may send their findings to the Office of the Inspector General, California State Licensing Board, and any other applicable local entities for further review and/or corrective action.

**DBE Trucking §26.55(d)**

At the time of DBE commitment, and prior to award, the OBEO's CEB contacts the bidder to determine how the trucking firm is quoted for use to ascertain the appropriate commitment credit. The CEB will research and ask the DBE trucking firm and the bidding contractor/proposer, at minimum, the following questions:

- How many trucks needed to perform the committed work?
- How many trucks are owned by the DBE trucker?
- Obtain copies of registration(s) or non-operating permits for each truck?

USDOT allows the bidder to get credit only for work that can be performed by the DBE's trucks, as verified by registration(s) or non-operating permits, and brokerage fee credit for non-DBE trucks. "One-for-One" is not allowed on trucking when being used toward the contract goal.

For suppliers of bulk materials, the DBE must own at least one truck; other trucks, used to perform the work committed to by the DBE, must be a long-term lease. Oil suppliers have been asked to provide a form affirming that only the businesses own forces will operate machinery and transport the materials.

**Division of Procurement and Contracts (Non-A&E Contracts): Boilerplate Language – (See Attachment E.)**

Credit for DBE trucking companies will be as follows:

1. The DBE must manage and supervise the entire trucking operation for which it is responsible. There cannot be a contrived arrangement for the purpose of meeting the DBE goal.
2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
3. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
6. A lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during

the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

#### **DBE Credit to a Non-DBE & DBE Ceases to be Certified §26.55(f)(g)**

Caltrans ensures no contractor/proposer will be given DBE credit toward contract goal commitment if a firm is not certified as a DBE at the time of contract execution. The Contract Evaluation Branch confirms all committed DBEs toward commitment goal credit are certified with the applicable licenses and Work Codes.

The Contract Evaluation Branch and the sub-recipient keep records of the suspension, removal of certification, or removal of applicable Work Codes for the certified firm. The sub-recipient ensures no reported participation of a DBE is counted toward goal credit for that contract unless a DBE subcontract is already executed.

#### **Counting DBE Participation and Contract Goal Credit §26.55(g)**

Caltrans ensures that the DBE participation toward the contract goal credit is not counted until the “Disadvantaged Business Enterprise (DBE) Utilization Report” is submitted once the contract has been accepted and prior to the final payment released to the contractor/proposer.

The following forms are collected:

- “Disadvantaged Business Enterprise (DBE) Final Utilization Report” CEM-2402 (see Attachment D-f), Division of Construction contracts
- “Disadvantaged Business Enterprise (DBE) Utilization Report” ADM-3069 (See Attachment D-e), Division of Procurement and Contracts

Should a contractor not comply with the timely submittal of the DBE Final Utilization Report, Caltrans has the ability to withhold from the final payment to the contractor. No contract goal credit will be given until payment is made.

### **IV. Race-Neutral Measures Designed to Assist All Small Businesses Meeting the Requisite Size Standards**

#### ***A. Examples of race-neutral activities Caltrans performs include:***

1. Host bi-monthly statewide SBC and committee meetings.
2. Provide technical assistance and training on transportation contracting related topics through a Supportive Services contract to assist all small businesses, including DBEs.
3. Conduct business communication and outreach activities to increase small business participation.

4. Provide access to the CUCP Directory via the Internet.
5. Market the CUCP database of certified DBEs that are also small businesses that meet the requisite federal size standards and emphasize the user-friendly format.
6. Update the OBEO website, in a timely and relevant manner, with information on small business activities so that anyone interested may obtain practical advice on how to market their business, find contracting opportunities with Caltrans and other state agencies, and other useful information.
7. Partner with other divisions to generate ideas for enhancing the overall success of small businesses, including DBEs that meet the requisite size standards and reach out to local agencies for ideas that can be tailored to their jurisdictions.
8. Post “Best Practices” on Caltrans’ website.
9. Work with organizations such as the Associated General Contractors (AGC), the Consulting Engineers and Land Surveyors of California (CELSOC), the United Contractors (UCON), and the American Council of Engineering Companies (ACEC) to identify ways to assist small businesses that meet the requisite size standards, including DBEs, to increase their opportunities to participate as contractors or subcontractors on Caltrans projects.
10. Expand technical assistance and supportive services on a statewide level in order to provide small businesses that meet the requisite size standards, including DBEs, with assistance on bidding and contract administration.
11. Partner with the Small Business Administration, Small Business Development Centers, and other government agencies.
12. Ensure compliance to prompt payment specifications, which helps all contractors and subcontractors.
13. Track all DBE participation on federally assisted contracts, including monitoring the CUF of DBEs.
14. Host construction mandatory pre-bid meetings and A&E pre-bid conferences to encourage all businesses to attend and facilitate networking among potential bidders.
15. Maintain weekly “Ads for Bid” on the Internet describing projects advertised for bid.
16. Promote the “Opt-In” feature on the Caltrans OE website for construction projects. Allow all interested subcontractors, suppliers, and truckers to advertise services/capabilities directly to bidding prime contractors.

17. Disseminate the “How to do Business with Caltrans” brochure, which provides information on procurement topics, especially to contractors/vendors new to doing business with the State of California. The booklet includes helpful tips on how to market their commodities or services to Caltrans, as well as how to market their commodities or services to other state departments and agencies through the California Department of General Services.
18. Provide information on where to obtain assistance with surety bonding and liability insurance.
19. Implement, maintain, and promote the Mentor Protégé and Cal Mentor Programs throughout the State of California.
20. Encourage each district or region to establish a District Small Business Council.
21. Improve access to bid openings by making them available via teleconference, web-based video, and the Internet. All bidders bid summaries are now provided on the Office Engineer’s website.
22. Unbundle large A&E contracts into smaller contracts.
23. Host district procurement fairs and increase the number of districts in which the fairs are held.
24. Administer prime contractor trainings concentrating on the award and reporting requirements throughout the life of a project. At which time, Caltrans’ OBEO encourages the participation of DBE and non-DBE small business on its contracts.
25. DBE Certification Standards and Procedures

**A. DBE Certification – Determining Burdens of Proof and Group Membership - §26.61 & §26.63**

The CUCP uses the certification standards of Subpart D of 49 CFR Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The CUCP will make the certification decision based on the facts as a whole. The firm seeking certification has the burden of demonstrating to the CUCP, by a preponderance of evidence, that it meets the requirements of 49CFR Part 26, Subpart D concerning group membership or individual disadvantage, business size, ownership, and control.

The DBE certification process allows small businesses, independently owned and controlled by one or more socially and economically disadvantaged individuals, admittance into the DBE Program. The Program’s goal is to remove barriers for DBE participation on USDOT federally assisted highway

and transit projects. DBE certification standards and procedures include collecting information, applying the criteria for eligibility, providing a DBE eligibility determination, and implementing an appeal process for denials and decertification.

Applicants are to submit application packets to the appropriate CUCP certifying agency. Caltrans certifies statewide and the other CUCP certifying agencies certify geographically by region.

It is the role of a Certification Branch to confirm if the majority owner(s) is a member of one of the presumptive groups (Women, Black Americans, Native Americans, Hispanic Americans, Asian-Pacific Americans, and Subcontinent Asian-Americans) by reviewing one of the following documents which indicates group membership:

- Applicants Birth Certificate.
- Parent's or Grandparent's Birth Certificate.
- Naturalization Papers.
- Passport.
- Military Discharge Papers.
- Tribal Role Card to verify the Tribe is federally recognized.
- Any Other Relevant documentation that Provides Evidence of Group Membership.

The CUCP will reputedly presume that these individuals are citizens of the United States or lawfully admitted permanent residents.

Individuals who are not presumed to be socially and economically disadvantaged have the burden of proving proof they are socially and economically disadvantaged based on 49 CFR Part 26, Appendix E. The applicant is asked to provide a written justification and backup documents to prove his social and economic disadvantage.

CUCP's application forms and documentation requirement are in Attachment J of this program.

### ***B. Certification – Determining Business Size §26.65***

A firm's business size standard is based on the Small Business Administration's definition. It is calculated by averaging the last three years of gross receipts including all affiliated businesses. The CUCP will evaluate taxes, contracts, and operating agreements to determine if affiliation exists and to determine if the firm is under the threshold and is eligible to be DBE. Business size standards are relevant to the main NAICS Code dollar size standard or number of employees, and in no case may exceed \$23.98 million.

It is important to note that the CUCP also uses Work Codes that further define the NAICS Codes. Work Codes are aligned closely to NAICS codes and

licenses held by the disadvantaged owner(s). This information is on the OBEO website at

<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-search>

Click the second bullet where it says, "Access the Work Code Description Chart." This document identifies the work code, category, description, license requirement (if any), and the corresponding NAICS Code(s). Codes are only assigned on approval of the firm's certification after a comprehensive review of the firm's primary activities and an onsite visit has been conducted based on 49 CFR Part 26 and 13 CRF Part 121.

### **C. Certification – Determining Social and Economic Disadvantaged §26.67**

The Certification Branch evaluates a Personal Worth (PNW) Statement for each of the owners who make up 51 percent ownership of the applicant firm, as well as their Adjusted Gross Income on their Federal 1040 income taxes. Only disadvantaged persons having a PNW Statement of less than \$1.32M may be considered a potential qualified DBE. We attribute to an individual claiming disadvantaged status any assets he or she has transferred to an immediate family member, trust beneficiary (immediate family), to his or her own firm for less than the fair market value within two years prior to an application for participation in the DBE Program or within two years of our review of the firm's annual affidavit, unless the applicant claiming disadvantaged status can demonstrate the transfer is to, or on behalf of, an immediate family member for that individual's education, medical expenses, or some other form of essential support.

The CUCP requires the disadvantaged applicant(s) making up the 51 percent ownership to submit a notarized Personal Net Worth statement as provided by USDOT in 49 CFR part 26, Appendix G without change.

The CUCP will exclude the ownership interest in the applicant firm; and exclude the individual's equity in his or her primary residence. The CUCP will ensure home equity loan balances are included in the equity calculation and not as a separate liability. The CUCP will not use a contingent liability to reduce the individual's net worth. Only the present value of assets (such as vested pension plans, or individual retirement accounts, less the tax and interest penalties) will be counted.

The CUCP will also review in cases where an individual is able to accumulate substantial wealth. We will review such factors such as: whether the average gross income of the owner over the most recent three-year period exceeds \$350,000; whether the income was unusual and not likely to occur in the future; whether the earnings were offset by losses; whether the income was reinvested in the firm or used to pay taxes; whether other evidence that income is indicative of economic disadvantage; and whether the fair market

value of the owner's assets exceed \$6 million. If the CUCP determines that the individual is not, in fact, socially or economically disadvantaged, a proceeding will be started under § 26.87.

***D. Certification – Determining Ownership Certification §26.69***

To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals. To establish real ownership, the majority owner of a corporation must own at least 51 percent of each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding; the majority owner of a partnership must own each class of partnership interest, and the ownership must be reflected in the partnership agreement; the majority owner of a limited liability company must own each class of member interest. For a sole proprietor, ownership is shown on the firm's Federal 1040 income taxes, specifically Schedule C. The disadvantaged owner must submit documentation on initial capitalization; and if the firm was established so long ago the documents do not exist, then a statement explaining how the ownership was acquired and where the funds came from.

To establish substantial ownership, proof of initial capitalization must be submitted. For a corporation with a Statement by Domestic Stock Corporation: Articles of Incorporation, Corporate By-laws, first organizational meeting minutes ratifying the By-laws and electing the officers and directors, board meeting minutes, stock certificate(s), stock transfer ledger, current Federal 1120 or 1120s tax forms with all schedules including compensation to officers for the previous three years; and for partnership: proof of initial capital investment for each partner (canceled checks, front and back; loan agreements; promissory notes, etc.; and a written description of the transaction); Partnership Agreement, By-laws, minutes, and buy-out or profit sharing agreements; and Federal 1065 income tax forms with all schedules, including Schedule K, for the previous three years; for a For Limited Liability Company, all applicable federal and state taxes and corporate or partnership documents filed with the Secretary of State.

The CUCP will consider all of the facts in the record viewed as a whole, including where the assets originated from and how they were used to obtain ownership of the firm. The disadvantaged owners must enjoy the customary incidents of ownership and share in the risk and profits commensurate with their ownership interest. The CUCP will review salaries, tax documents, and state wage forms to determine if salaries are appropriate.

If an individual claims ownership through expertise, we would review documents to substantiate the expertise was in a specialized field, of outstanding quality, critical to the firm's operations, indispensable to the firm, and specific to the work of the firm.

### ***E. Certification – Determining Control §26.71***

The socially and economically disadvantaged owner(s) must possess the power to direct or cause the direction to the management and policies of the firm and to make day-to-day decisions, as well as long-term decisions on matters of management, policy, and operation. Any delegation of duties must be revocable.

A Responsible Managing Officer (RMO) under California law is an individual who is a bona fide officer of the applicant firm for a contractor's license and is actively engaged in the classification of work that shows that the majority owner has control of the firm [California Business & Professions Code ("Code") §7068(c)]. If state law requires the owner to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially and economically disadvantaged majority owner(s) must possess the required license or credential.

When determining if there are any independence issues, the firm's DBE application, backup documentation, and Site Visit Questionnaire are reviewed to determine if there are shared resources, such as personnel, equipment, and/or facilities.

Another item that is reviewed is whether the majority owner(s) has overall control of the operations, management, and policy. A determination is made as to whether the majority owner(s) direct the day-to-day management of the firm, as well as long-term, by reviewing a wide array of documents, such as: resumes for each principal, owner, and key employee; duty statement(s) providing details of the present day-to-day duties of each principal and key employee of the firm; proof of initial capital investment (canceled checks, both front and back; loan agreements; promissory notes, etc.; and a written description of the transaction); any current and applicable license(s) or permit(s) (e.g. contractor, professional licenses, etc.) required to transact the firm's business; bank signature card or statement from the bank indicating authorized signers and number of signatures required; financial statements/balance sheets; loan agreements; equipment rentals; lease and/or purchase agreements; bills of sale; invoices accompanied by canceled checks; copies of loan documents; agreements for purchase or rental of office and/or yard space; quarterly wage and withholding reports for the last four quarters; fictitious business name statement; all management service agreements, third party agreements, and/or franchise agreements; complete copy of any existing trusts, and if stock certificates are held in trust; proof if the firm has been certified as a minority or woman business enterprise by any other agency; a notarized PNW for each socially and economically disadvantaged owner who individually owns or contributes to an ownership interest of 51 or more percent in the firm, and whose ownership and control are relied upon for DBE certification; and current Federal 1040 income tax forms with all schedules' including Schedule C (if applicable) for the previous three years.

The CUCP will review minutes of the board meeting and firm bylaws to determine if the disadvantaged individual holds the highest officer position in the company.

In order to view the individual as controlling the firm, the disadvantaged owner must not engage in outside employment that would hinder or prevent them from devoting sufficient time to controlling the business. This determination would be established by reviewing resumes, duty statements, and any information that can be substantiated at the onsite review.

Additionally, for trucker/truck broker businesses, the following documents are reviewed: driver license, all Department of Motor Vehicle Registrations, a list of registered trucks, all DMV Permits, and Public Liability and Property Damage Insurance Coverage.

Additionally, for suppliers, the following documents are reviewed: list of manufacturers (including addresses, phone numbers, and contact persons), inventory lists and any addresses of storage sites.

Additionally, for broker/agent businesses, the following documents are reviewed: business license, distributor agreement, and selling agreement.

#### ***F. Certification – Establishing NAICS Codes §26.71(n)(1)***

The CUCP identifies the most specific available NAICS code for the type of work a firm can perform and the disadvantaged owner is able to control and the work the firm will perform on contracts. In order for the firm to receive these codes they must demonstrate that the disadvantaged owner(s) can control the firm with respect to that code(s). If the firm seeks additional codes, they must submit their request in writing and provide documentation to prove the disadvantaged owner has the expertise in those codes to control the work. In addition, the CUCP uses Work Category Codes. The Work Category Codes are on the OBEO website, along with a description of each code, the corresponding license requirements (if applicable), and the NAICS Codes. The Work Category Codes assist in further describing the work a firm can perform. The link to the Work Code Template is:

<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-search>

The size standards are, for the most part, expressed in either millions of dollars (those preceded by "\$") or number of employees (those without the "\$"). A size standard represents the largest that a concern can be and still qualify as a small business for federal government programs. For the most part, size standards are the average annual receipts or the average employment of a firm. How to calculate average annual receipts and average employment of a firm can be found in 13 CFR § 121.104 and 13 CFR § 121.106, respectively. SBA also includes the table of size standards in the Small Business Size Regulations, 13 CFR § 121.201. This table includes size standards that have changed since the last publication of 13 CFR § 121.

Below are some of the documents used to assist with the NAICS and/or Work Category Code assignments to the applicant firms:

- Invoices.
- Billings statement.
- Purchase agreement.
- Supplier or distributor agreement.
- License information.
- Tax returns.
- Site Visit Questionnaire.

If a firm wants to add a NAICS and/or Work Category Code, they may send their request in writing to the CUCP certifying agency. At Caltrans, the firm can e-mail the request to:

[dbe.certification@dot.ca.gov](mailto:dbe.certification@dot.ca.gov)

The request will be assigned to a certification analyst who will then contact the firm if additional information is needed or a site visit needs to be scheduled.

#### **G. Certification – §26.73**

The following areas must be reviewed when making an eligibility determination:

- Present circumstances of a firm.
- Whether the firm is for-profit.
- If the firm is owned by another firm.
- Subsidiaries.
- Alaska Native Corporations.

Regulations §26.73 states that you must not consider commercially useful function (CUF) issues in any way in making decisions about whether to certify a firm as a DBE and CUF issues are not appealable during the certification process. Certification will be made based on standards as a whole.

#### **V. Unified Certification Program §26.81**

As mandated by the USDOT, California has a Unified Certification Program in place with a signed Memorandum of Agreement (MOA) approved by USDOT. The MOA was updated in 2017.

Caltrans is the lead certifying agency and certifies firms throughout California, as well as all files that cannot be handled by individual certifying agencies. Caltrans also maintains the statewide DBE Directory that can be found at:

<https://dot.ca.gov/programs/business-and-economic-opportunity>

The Assistant Director for the OBEO is also the Chair of the CUCP Executive Committee. The Chair of the Executive Committee participates in all committees and receives regular reports from the Standing Committees. The CUCP Executive Committee is comprised of a Chair, Vice Chair, Treasurer, and Secretary. The CUCP Executive Committee meets quarterly with at least one in-person meeting a year.

The CUCP standing committees are the Documents Committee, Oversight Committee, Support Committee, and Training Committee. The Executive Committee Chair has oversight of these committees. This Chair also develops a CUCP Strategic Management Plan every two years. Each of these standing committees has a Chair who reports directly to the CUCP Executive Committee, which makes all the final decisions on behalf of the CUCP.

In addition, there are two clusters (Part 26 and Part 23) that meet monthly by teleconference to discuss certification issues. These clusters work together to coordinate certification processes, review and approve certifying agencies' certification recommendations, assist with training activities, and oversee other activities of the CUCP. The clusters each have a Chair and the meeting record is documented.

Caltrans hosts the DBE certification program website. All certifying agencies have a link to the OBEO's website for DBE certification program information and documents pertaining to the CUCP.

The CUCP certifying agencies include:

City of Fresno, City of Los Angeles, Los Angeles County Metropolitan Transit Authority, San Diego County Regional Airport Authority, San Francisco Bay Area Rapid Transit District, San Francisco International Airport, San Francisco Municipal Transportation Agency, San Mateo County Transit District, and Santa Clara Valley Transportation Authority.

Each year the CUCP conducts mandatory annual training for all certifying agencies throughout California. Presenters are from the Federal Highway Administration, Federal Aviation Administration, the Federal Transit Administration, and the USDOT. Additional training meetings are also held throughout the year on topics such as: onsite, trucking issues, Work Codes, and denial writing. In addition, the CUCP conducts periodic desk reviews and/or onsite visits of the CUCP agencies to ensure consistency in administering the DBE Program.

The CUCP has a training plan for new certifying members. The CUCP uses standard letters, forms and templates, such as the Site Visit Questionnaire in the training of new certifying members. Until he or she has the appropriate training, they are not allowed to enter information into the DBE directory or make certification decisions.

## **VI. UCP – Certification Decisions §26.83(a-m)**

Caltrans and CUCP Partners will ensure that only firms certified as eligible as DBEs participate in its program; and will determine the eligibility of firms as DBEs consistent with the Standards of 49 CFR 26, subpart D. Caltrans processes DBE applications from firms throughout the state, and CUCP members DBE Certification decisions are made independently by each CUCP member's staff within its geographic areas as to which firms qualify. All Certification decisions are made in accordance with 49 CFR Part 26, Subpart D & E; this Program Plan; and the CUCP Memorandum of Understanding.

There is no fee required for the DBE certification process. Once Caltrans receives a DBE application, the following steps are taken:

1. The application is logged, date stamped, and routed to a certification file analyst.
2. The file analyst sends an e-mail to the firm confirming receipt of the application.
3. The file analyst identifies any missing documents or clarification required within 10 working days and prepares a letter requesting the additional information and allows the applicant 30 days to respond.
4. Once the file analyst receives all requested documents, there are 90 days to make an eligibility determination. If a firm is non-responsive to the request for information and two attempts to obtain the information by the certification analyst, the firm may be denied for non-cooperation. If a firm is responsive, an onsite visit is conducted.
5. Onsite visits are grouped together based on location when possible for cost savings. An onsite analyst will conduct the onsite visit using a standard Site Visit Questionnaire to obtain facts supporting or rebutting a firm's eligibility for DBE certification. Interviews are conducted with principal officers of the applicant firm. The onsite analyst may also interview other key personnel of the firm, if necessary. The onsite analyst's observations are used in assisting to determine whether a firm meets the criteria. Caltrans may also perform an onsite visit to a job site, if there are such sites on which the firm is working at the time of the eligibility determination. The onsite visit report once generated is forwarded to the certification file analyst.

6. The certification file analyst reviews the report. Assertions made during the onsite visit are verified in conjunction with the file documents. The entire file is then analyzed (including the certification application documents) to determine legal structure, ownership, and control of the applicant firm. The firms bonding and financial capacity; lease and loan agreements; bank account signature cards; contracts; and payroll records are also reviewed. The certification file analyst analyzes the federal income tax returns filed by the firm, its affiliates, and owners for the last 3 years. An examination of the equipment listed as owned by or available to the firm, along with the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program, are also considered.
7. The certification file analyst then submits a recommendation to the Certification Branch Manager, who will further scrutinize the file and either affirm or reject the recommendation. If agreed, the Certification Branch Manager will forward the recommendation to the Office Chief for final approval and signature.

If it is necessary to remove a firm's DBE certification, a certification file analyst will evaluate the firm's status and prepare a Proposal to Remove letter sent to the firm with information and/or action signed by the Office Chief. The firm must respond within 30 days; otherwise, the certification file analyst will prepare a Final Removal letter and the firm will be removed from the DBE Directory.

On an annual basis, Caltrans and the CUCP partnering agencies will require all DBE firms to provide an Affidavit of "No Change" sworn to by the firm's owner(s) before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. The affidavit of No Change/Annual Update is generated by Caltrans/CUCP and issues a 60-day reminder and 30-day reminder letter to firms reminding them to submit their completed Annual Update Affidavit (AUA), as well as current federal taxes documenting the firm's size and annual gross receipts.

This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes that the firm previously shared with the CUCP. If there are changes to a firm during the AUA process, firms are required to submit supporting documentation evidencing the changes.

If after reviewing the Annual No Change Affidavit information the CUCP finds evidence to believe that the firm may no longer meet the eligibility requirements, additional information may be requested, on a case-by-case basis.

If the DBE firm fails to submit its annual "No Change/Update" Affidavit by the specified deadline, the CUCP will send a letter notifying the firm that it may be decertified if it does not respond within 10 business days. If the DBE firm fails to

respond within the specified time frame, a final letter will be sent. The CUCP will then send that final letter decertifying the firm for failure to cooperate.

The CUCP DBE certification does not include any expiration or recertification terms.

Every five years Caltrans conducts a more detailed annual review of a business' DBE certification. When the request for the update is generated, Caltrans support staff mails the packet out to the firm. The package includes a Personal Financial Statement and a supporting documents checklist. When an AUA is received in the office, it will be assigned to an analyst for processing on a rotational basis.

This procedure is very similar to the certification process. Analysts will complete the eligibility worksheet and review the following:

1. Verify: Name, address, contact person, e-mail, telephone number, ethnic declaration, gender, and business structure.
  - If applicable, make appropriate changes in the CUCP database.
2. Verify Work Codes: Analyze the firm's eligibility for the Work/NAICS Codes. Note any codes that need to be deleted or replaced.
  - If applicable, prepare proposal to change NAICS/Work Codes letter
3. Verify date of last site visit: Determine if a new site visit needs to be conducted.
  - If applicable, send notification requesting the addition of the firm to the onsite schedule. The analyst is responsible for preparing the site visit questionnaire.
4. Verify license: Determine if codes require any type of professional license. If needed, verify that the license is active and in good standing with appropriate agency.
5. Verify ownership of Officers and/or Board Members: Note if any changes were made with these areas and analyze as in the certification process.
6. Finances: Check the gross receipts on the tax forms. Take the amount from the previous three years and average them to see if the applicant firm is still below the size standard for that particular type of business.
7. Verify Personal Net Worth (PNW): Determine if the majority owner's PNW is below \$1.32 million. Update new figure in the CUCP database.

8. Bank Signature Card: Check the card to see if any names were added or deleted. If there have been changes, Caltrans staff will contact the firm to verify and ask for an explanation for the change.

When the analyst has completed the Eligibility Worksheet, they will recommend, based on any issues or concerns, whether or not to continue certification or decertify the firm based on the correct guidelines. If it is determined that a firm is to be decertified, the findings will be reviewed and approved by Quality Review before any final action.

## **VII. Interstate Certification §26.85**

When the CUCP receives a request for interstate certification, a firm is required to complete an out-of-state declaration and provide the CUCP with all documents sent to his/her home state for DBE certification, which include a complete copy of the original DBE application form, all supporting documents, and any other information submitted to the home state, or any other state, related to the firm's certification, including Affidavits of No Change, and any notices of changes; in addition, any notices or correspondence from states other than the home state relating to its status as an applicant or certified DBE in those states. Any notices of appeal and USDOT's response, if the firm has filed a certification appeal with USDOT, must also be submitted.

Firms are not treated as a new certification. Firms will be asked to update specific information, for example, taxes, Personal Net Worth Statement, if older than 90 days, etc. If there is pertinent information missing, the firm is sent a letter requesting the information and given 30 days to respond. The file analyst will request the home state's onsite report. The home state has seven (7) days to provide the CUCP with the report. The CUCP then has 60 days from receipt of all information to make an eligibility determination.

If there is reason to believe an out-of-state firm should not be certified, the CUCP certifying agency must send the firm a notice stating the reasons for the determination. The out-of-state firm has the right to respond to the reasons for the determination either in-person, in writing, or both. If the firm requests a meeting in-person, the meeting must be scheduled within 30 days of receiving the firm's request. A written decision must be made within 30 days of the written response or the in-person meeting, whichever is later.

The firm is informed of its right to appeal the decision within 90 days by contacting the:

**DBE Appeal Team**  
U.S. Departmental Office of Civil Rights  
1200 New Jersey Ave., S.E.  
Washington, DC 20590  
Phone: (202) 366-4070

When a firm is denied DBE certification, an entry must be made in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database.

### **VIII. Records and Files §26.83(g) and §26.109**

In accordance with 49 CFR §26.83(g) and §26.109, California Government Code Section 6250 et seq., California Civil Code Section 1798 et seq., and the Information Practices Act, certification documents are safeguarded and held according to the following criteria:

1. DBE files are maintained in a locked and enclosed area that is accessible only to authorized personnel.
2. Documents submitted by the applicant as part of the initial certification process becomes a permanent part of the file and are not purged from the file.
3. Active files are held in Caltrans' Certification Branch for an indefinite period of time. Active is defined to mean any firm that has filed annual updates.

The CUCP Memorandum of Agreement (MOA) provides records retention standards for all CUCP certifying agencies to follow.

### **IX. Denial Procedure §26.85, §26.86**

When the firm fails to meet eligibility criteria, they are notified, in writing, by certified mail, with a return receipt requested. The correspondence explains the reasons for the denial determination and specifically provides evidence in the record to support each reason for the denial. All documents and other information on which the denial is based must be made available on request. When a firm is denied certification, a time period of no more than twelve months must lapse before the firm may reapply to the CUCP for certification. The applicant is not guaranteed that their application, once reopened, will be placed at the top of the processing list. The letter also informs the business of their right to due process in the form of an appeal.

Any firm that is not currently a certified DBE and is denied certification receives a written explanation for the denial. The explanation references evidence cited in the file that supports Caltrans' decision.

1. Caltrans sends written notification to the firm by certified mail explaining the reasons for the denial.

The firm is informed of its right to appeal the decision within 90 days by contacting the:

**DBE Appeal Team**  
U.S. Departmental Office of Civil Rights  
1200 New Jersey Ave., S.E.

Washington, DC 20590  
Phone: (202) 366-4070

When a firm is denied DBE Certification, an entry must be made in the Department of Transportation Office of Civil Rights' Ineligibility Determination Online Database.

An applicant may withdraw their DBE application any time as long as there has not been an eligibility determination made. There is no waiting period for the firm to reapply.

**X. DBE Ineligibility Complaints & Intent to Remove DBE Certification Status §26.87**

Any person may file a written complaint alleging that a currently certified firm is ineligible, specifying the alleged reasons why the firm is ineligible. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected, as provided in §26.109(b).

The CUCP will review its records concerning the firm, any material provided by the firm and the complainant, and other available information. The CUCP may request additional information from the firm and/or conduct any other investigation that is deemed necessary.

If the CUCP determines, based on the review, that there is reasonable cause to believe that the firm is ineligible, the CUCP must provide written notice to the firm that the CUCP proposes to find the firm ineligible, and giving the reasons for the proposed determination. If the CUCP determines that such reasonable cause does not exist, then the CUCP will notify both the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

If, based on notification by the firm of a change in its circumstances or other information that comes to the attention of the CUCP, the CUCP determines that there is reasonable cause to believe that a currently certified firm is ineligible, the CUCP will provide written notice to the firm that the CUCP proposes to find the firm ineligible, and giving the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

When the CUCP makes an administratively final removal of a firm's eligibility, the firm may appeal the removal to Caltrans under §26.89.

Any firm that receives written notice of intent to remove DBE certification status by Caltrans is allowed due process to appeal the determination. The firm is

informed of its right to appeal a determination in the “Intent to Remove” notification letter.

1. Caltrans is responsible for the burden of proof in all decisions of “Intent to Remove” a firm’s DBE certification status and must support its decision with evidence recorded in the Intent to Remove letter.
2. Caltrans sends written notification to the firm, by certified mail, explaining the reason Caltrans proposes to remove the firm’s DBE status. The correspondence informs the firm of its right to appeal to a reconsideration official within 30 days of the date of the notification letter. A reconsideration official is a third party that had nothing to do with the initial determination but is familiar with DBE certification. The firm may request an informal hearing or present information and arguments in writing without requesting a hearing. The firm must contact Caltrans’ representative within 30 days from the date of the notification letter at:

**Reconsideration Official**

California Department of Transportation  
Office of Business and Economic Opportunity  
1823 14<sup>th</sup> Street  
Sacramento, CA 95811  
(916) 324–1700

3. If the firm requests an informal hearing, a hearing date will be set, and a transcription service will be scheduled to transcribe the informal hearing.
4. If the firm chooses not to appeal, the firm will be found ineligible to participate in the DBE Program effective 30 days after the date of the notification letter.
5. Following an evaluation, the firm will be notified in writing of Caltrans’ administrative final decision. The Reconsideration Official may uphold or overturn the “Intent to Remove” determination based on the information presented by the firm.
6. If the final decision is to remove the firm’s certification status, the firm’s name is removed from the CUCP DBE Directory effective the date of the notification letter.
7. The firm is informed of its right to file an appeal with the USDOT within 90 days of Caltrans’ final determination of 49 CFR §26.89.

**DBE Appeal Team**

U.S. Departmental Office of Civil Rights  
1200 New Jersey Ave., S.E.  
Washington, DC 20590  
Phone: (202) 366-4070

## **XI. DBE Suspension of Certification §26.88**

The CUCP developed and implemented AUA/Suspension procedures. The CUCP will immediately suspend a DBE's certification when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated. Additionally, the CUCP may immediately suspend a DBE's certification when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the CUCP in writing of any material change in circumstances.

When a firm is suspended, the CUCP will immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE. Suspension is a temporary status of ineligibility, pending an expedited show cause hearing/proceeding under §26.87 to determine whether the DBE is eligible to participate in the program and consequently should be removed. The suspension takes effect when the DBE receives, or is deemed to have received, the Notice of Suspension.

While suspended, the DBE may not be considered to meet a contract goal on a new contract; and any work it does on a contract received during the suspension shall not be counted toward a recipient's overall goal. The DBE may continue to perform under an existing contract executed before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension, as long as the DBE is performing a commercially useful function under the existing contract.

Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the DBE program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to the CUCP information demonstrating that the firm is eligible notwithstanding its changed circumstances. Within 30 days of receiving this information, the CUCP must either lift the suspension and reinstate the firm's certification or commence a decertification action under §26.87 of this part. If the CUCP commences a decertification proceeding, the suspension remains in effect during the proceeding. The decision to immediately suspend a DBE is not appealable to the USDOT.

## **XII. Information, Confidentiality, Cooperation §26.109(a)(b)**

The CUCP will comply with the provisions of this section, including not releasing any business information to third parties, maintaining confidentiality regarding complaints, and ensuring no retaliation for anyone involved in the complaints. Also, Caltrans will cooperate fully and promptly with the USDOT, and any Operating Administrators (OAs), in a complaint investigation, compliance review, or any inquiries in the DBE Program.

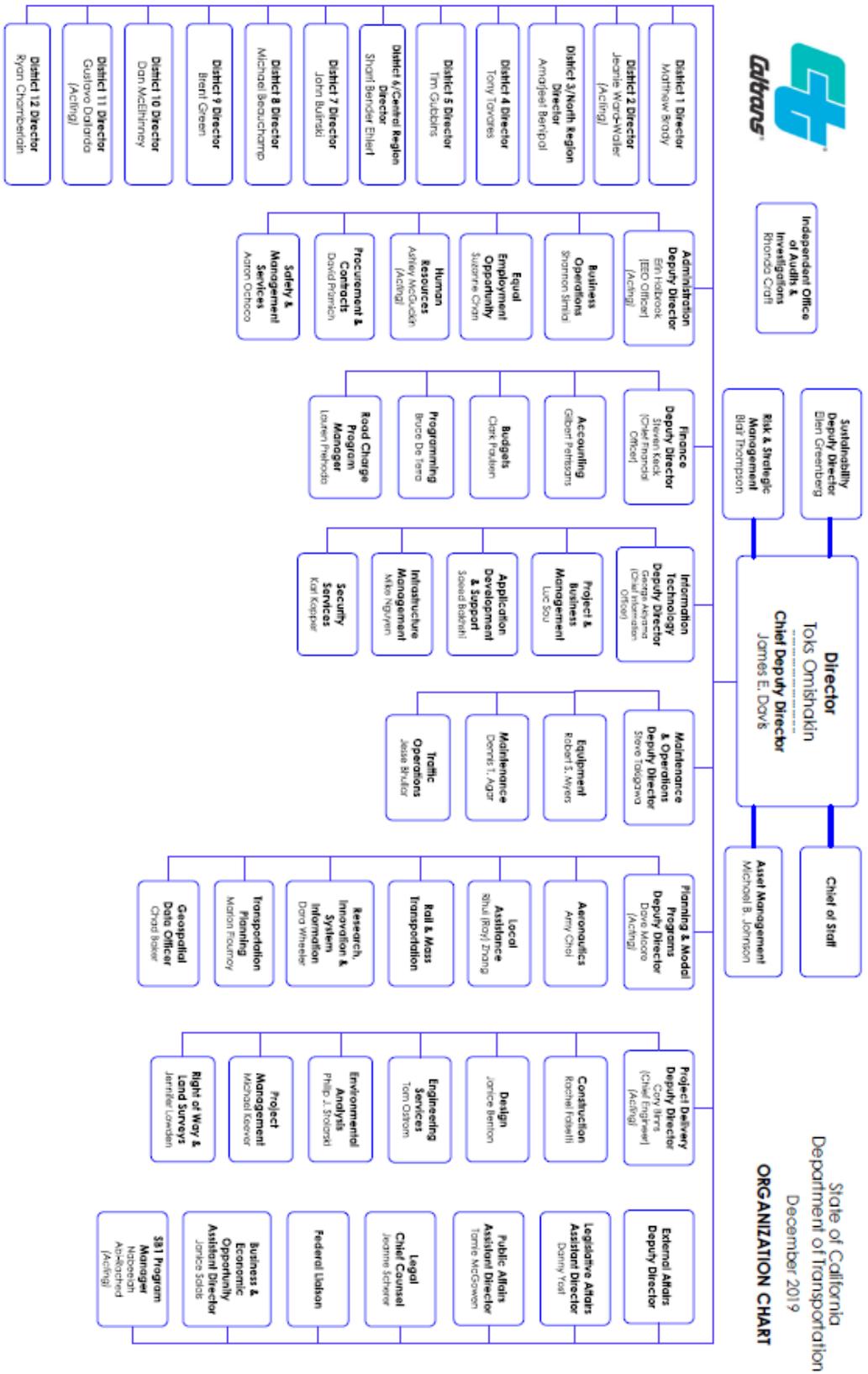
The CUCP complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The CUCP may make available to the public any information concerning the DBE Program that is not prohibited by federal law.

In accordance with 49 CFR §26.83(g) and §26.109, California Government Code Section 6250 et seq., California Civil Code Section 1798 et seq., and the Information Practices Act, certification documents are safeguarded and held according to the following criteria:

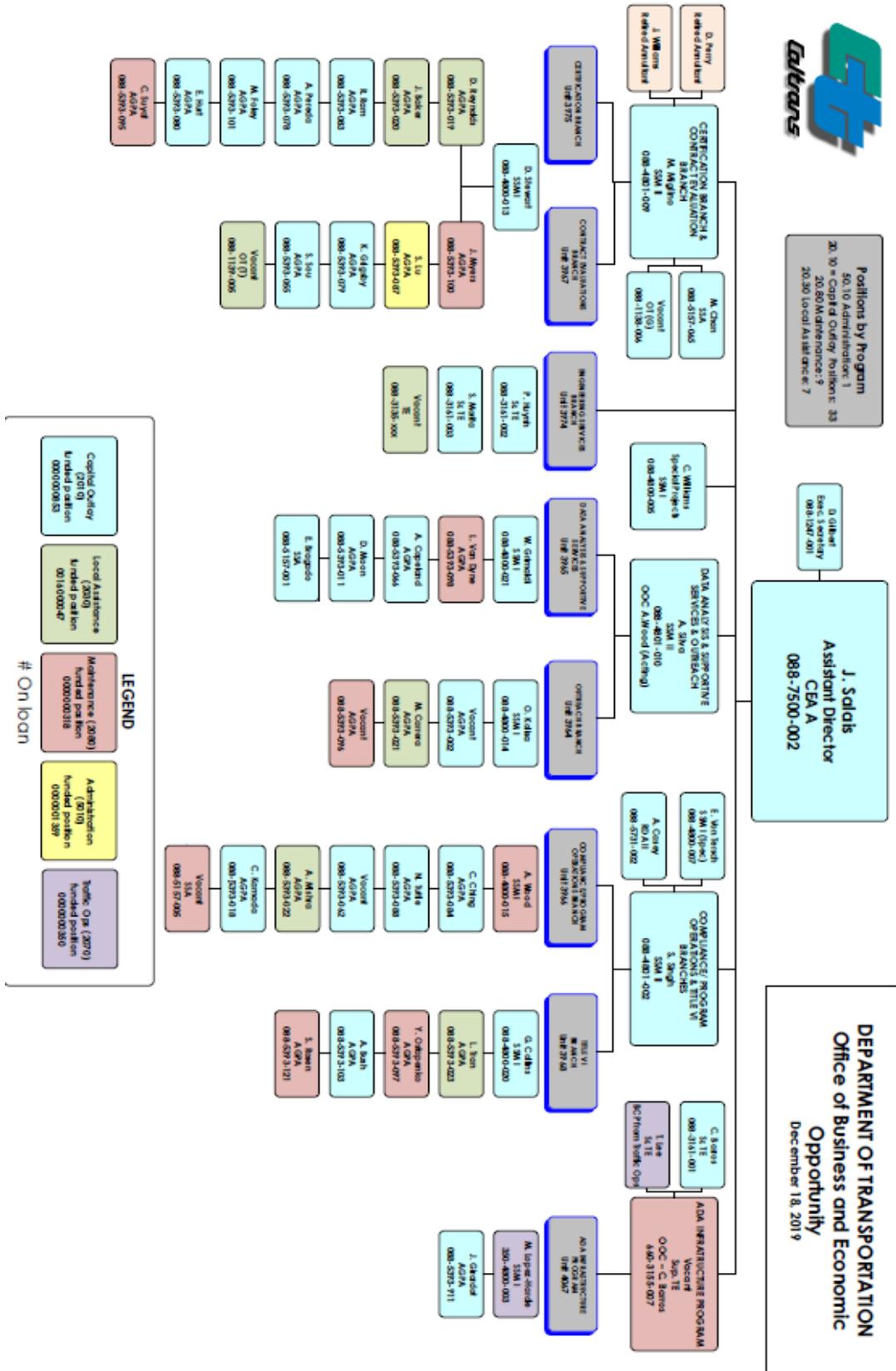
1. DBE files are maintained in a locked and enclosed area that is accessible only to authorized personnel.
2. All documents submitted by the applicant, as part of the initial certification process, becomes a permanent part of the file and are not purged from the file.
3. Active files are held in Caltrans' Certification Branch for an indefinite period of time. Active is defined to mean any firm that has filed annual updates.

Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential at their election. If such confidentiality will hinder the investigation, proceeding, or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing.

# Attachment A – Caltrans Executive Branch Organizational Chart



# Attachment B – Office of Business and Economic Opportunity organizational Chart







# Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts) §26.55(a) ADM-0227F (Page-2)

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**DISADVANTAGED BUSINESS ENTERPRISE (DBE) INFORMATION**  
 ADM-0227F (REV 04/2018)

Page 2 of 2

AUTHORITY: Title 49, Code of Federal Regulations, Part 26 (49 CFR 26)  
**INSTRUCTIONS FOR COMPLETING FORM ADM-0227F** (Please Type or Print Legibly)

**PART A — CONTRACTOR INFORMATION**

Contractor's Business Information: Bidder's/Proposer's Business Name, Address, City, State, Zip Code, Contact Person, Business Phone, Fax Number, and Email Address.

Agreement Number: The Agreement number is the same number as the Invitation for Bid (IFB) or Request for Proposal (RFP) number.

Contract Dollar Amount: Total dollar amount that Contractor proposes to accomplish the Agreement.

Date: Completion date.

**PART B — DBE INFORMATION AND DOCUMENTATION**

Prime: Complete if Prime is a certified DBE.

Subcontractor: Complete if the Subcontractor(s)/Supplier(s) are certified DBE. Please make and attach additional copies of page 1 if needed. Attach a copy of the bid (or price quote) from the DBE (on the DBE's Letterhead) for all DBEs listed.

Column 1 Enter the names (includes all certified DBE Prime and Subcontractors) and complete addresses of all certified DBE Contractor/ Subcontractor(s)/Supplier(s) that will be used in the Agreement.

Column 2 Enter the area code and phone number of the corresponding certified DBE listed in Column 1.

Column 3 Enter the Contracting Tier number for each DBE correspondingly listed in Column 1:  
 0 = Prime or Joint Consultant    1 = Primary Subcontractor    2 = Subcontractor/Supplier of level 1 Primary Subcontractor

Column 4 Enter a description that briefly captures the work to be performed or supplies to be provided by each corresponding DBE firm listed in Column 1.

Column 5 Enter the DBE or California Unified Certification Program (UCP) Certification Number for the corresponding DBE listed in Column 1. Self-certification is NOT acceptable. DBEs must be certified by the submittal date identified in the IFB or RFP. For more certification and verification information, refer to the IFB's or RFP's Notice to Bidders/Proposers Disadvantaged Business Enterprise Program Goal.

Column 6 Enter the correct Ownership Code number below for the corresponding DBE listed in Column 6.  
 1 = Black American                      4 = Asian-Pacific American                      7 = Woman  
 2 = Hispanic American                      5 = Subcontinent Asian American                      8 = Other  
 3 = Native American                      6 = Caucasian                      9 = Not Applicable

Column 7-8 Enter the dollar and/or percentage (%) of the dollar (\$) value claimed for each corresponding DBE listed in Column 1.

**EXAMPLE**

(1) Prime and Subcontractors: List Name(s) and addresses of all DBEs that will participate in this Agreement	(2) Area Code & Phone Number	(3) Tier	(4) Description of Work, Service, or Materials Supplied	(5) DBE or UCP Certification Number	(6) Ownership Code	(7) DBE \$ Amount Claimed	(8) % of \$ Value Claimed	(9) Caltrans Use Only %
Jane Prime Inc., 1234 Jane's Street Jane's City, CA 04321	(XXX) 000-1111	0	Project Management	XXXXXXXX	7, 5	\$48,000	48%	
Joe Subcontractor Inc, 4567 Joe's Street, Joe's City, CA 07654	(XXX) 111-0000	1	Design, surveys, environmental testing	000000000000	6	\$42,000	42%	
Supplier International LLC 1100 X Street Supplier's City, CA 45670	(111) XXX-0001	2	Survey instruments, testing materials	111111111111	3	\$10,000	10%	

**ADDITIONAL INFORMATION**

- Form ADM-0312F should be submitted with the ADM-0227F to demonstrate good faith efforts (GFE) AND protect bidder's/proposer's eligibility for contract award in the event Caltrans determines the bidder/proposer failed to meet the UDBE goal.
- A DBE/UDBE joint venture partner shall submit the joint venture agreement with the form ADM-0227F.

**ADA Notice** For individuals with sensory disabilities, this document is available in alternate formats. For alternate format information, contact the Forms Management Unit at (916) 445-1233, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts)  
 \$26.55(b) ADM-0312 (Page-1)**

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**BIDDER/PROPOSER DISADVANTAGED BUSINESS ENTERPRISE (DBE)**  
**GOOD FAITH EFFORTS DOCUMENTATION**  
 ADM-0312F (REV 03/2010) (Page 1 of 4) (CONTRACTS FEDERALLY FUNDED IN WHOLE OR IN PART)

CONTRACTOR'S NAME	IFB OR RFP OR RFQ NUMBER	DATE
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**BIDDER/PROPOSER INSTRUCTIONS:** Subinitial of only the Disadvantaged Business Enterprise (DBE) Information form, ADM-0227F, may not provide sufficient documentation to demonstrate that adequate good faith efforts (GFE) were made by the bidder/proposer. Bidder/proposer should always submit documentation for making GFE to protect its eligibility for award should Caltrans, in its evaluation, find that the bidder/proposer did not meet the DBE goal. If a bidder/proposer does not meet the DBE goal, a bidder/proposer must make an adequate GFE to be responsive. Bidder/proposer shall complete this Bidder/Proposer Disadvantaged Business Enterprise (DBE) Good Faith Efforts Documentation form, ADM-0312F, and submit the requested information below with its bid by the bid due date and time.

**1. OUTREACH DOCUMENTATION**  
 Describe the bidder's/proposer's outreach efforts to identify and solicit the interest of all certified DBEs that have the capability to perform the work of the contract. Provide copies of supporting documentation.

DESCRIPTION OF OUTREACH	DATE(S)	LOCATION (IF APPLICABLE)	RESULTS

**2. DBE DOCUMENTATION**  
 a. List the names of certified DBEs and all dates on which they were solicited to bid on the contract.  
 b. Include the items of work offered and the dates and methods used for initial and follow-up solicitations to determine with certainty whether the DBEs were interested.  
 c. Attach copies of solicitations, e-mail messages, telephone records, fax confirmations, etc.

Check the appropriate box:     IFB     RFP     RFQ

**SOLICITATIONS**

NAME OF DBE SOLICITED	DATE OF INITIAL SOLICITATION	ITEM(S) OF WORK OFFERED	FOLLOW-UP METHODS AND DATES









## Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts) §26.55(c) CEM-2406 (Page-2)

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**MONTHLY DISADVANTAGED BUSINESS ENTERPRISES (DBE) PAYMENT**  
CEM-2406 (NEW 05/2015)

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### Instructions

The prime contractor enters the contract number, reporting month and year, federal aid number, prime contractor name and address. For each DBE, identify the item(s) of work performed, the DBE firm name, address, certification number, amount paid, payment date, percent of participation credited towards contract commitment (as detailed in section 2-112B of the *Standard Specifications*), and total percent of work completed to date. Use the comments section to explain any differences in the original commitment and the payments to the DBE firms.

If a firm performing work as a DBE becomes decertified during the project, enter payment information for the work performed while certified as a DBE. If a subcontractor performing work as a non-DBE on the project becomes certified as a DBE, enter the amount paid for work performed after certification as a DBE. Any changes to DBE certification must also be submitted on form CEM-2403F, "Disadvantaged Business Enterprise (DBE) certification status change."

The contractor will sign, print name, and date the form indicating that the information provided is completed and correct.



## Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts) §26.55(d) ADM-3059 (Page-2)

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

Page 2 of 2

### REPORT OF UTILIZATION OF SMALL/MICRO BUSINESS AND DISABLED VETERAN BUSINESS ENTERPRISE STATE FUNDED CONTRACTS ONLY

ADM-3059 (REV 12/2017)

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#### Contractor's Instructions:

The intent of this form is for the Prime Contractor to certify payments made to Small/Micro Business (SB/MB) and/or Disabled Veteran Business Enterprise (DVBE) firms participating in the execution of the contract. The Prime Contractor must include information on all SB/MB and/or DVBE firms performing work or supplying materials, even if the SB/MB and/or DVBE firms were not listed at the time of bid.

This form must be completed and submitted to the Caltrans Contract Manager with each invoice. Enter the contract number, Prime Contractor's name, Prime Contractor's business address, total contract dollar amount (as written in the STD 213), contract start date, and contract completion date.

The form has columns for entering specific contract items, a description of work performed and materials provided, SB/MB and/or DVBE business information and certification number, payment amount, date of work completed, date of final payment, and original SB/MB and/or DVBE commitment amount. The "Explanation Attached" checkbox is used to indicate if any additional pages related to SB/MB and/or DVBE payments are attached.

SB/MB and/or DVBE Prime Contractors are required to show the corresponding dollar value of work performed by their own forces.

*Incomplete forms will not be accepted.*

#### Contract Manager's Instructions:

After receiving the ADM-3059 from the Prime Contractor, the Contract Manager will enter the total dollar amount (being used in the agreement) in the space provided. The Contract Manager must sign and date the form ensuring accuracy and completion. The form can be submitted via email to [smallbusinessadvocate@dot.ca.gov](mailto:smallbusinessadvocate@dot.ca.gov) or [business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) or can be faxed to 916-324-1949.

*The ADM-3059 must be submitted monthly.*



**Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts)  
\$26.55(e) ADM-3069 (Page-2)**

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**DISADVANTAGED BUSINESS ENTERPRISES UTILIZATION REPORT**  
ADM-3069 (REV 06/2011)

**Contractor Instructions:**

This form must be completed and submitted to the Caltrans Contract Manager with each invoice. Enter the Contract Number, Invoice Number, Task Order Number (if applicable), Contract Start Date, Completion Date (Expiration Date), Prime Contractor Name, Prime Contractor Business Address, Total Contract Amount (as written on the STD. 213).

This form has two columns for entering the dollar value for the item(s) of work performed or provided by the firm. The Non-DBE column is used to enter the dollar value of work performed by subcontracting firms who are not certified DBE. The DBE column is used to enter the dollar value of work performed only by certified DBE firms.

DBE Prime Contractors are required to show the corresponding dollar value of work performed by their own forces.

To confirm the certification status of a DBE, access the Department of Transportation, Office of Business and Economic Opportunity website at [http://www.dot.ca.gov/hq/dep/ind\\_certified.htm](http://www.dot.ca.gov/hq/dep/ind_certified.htm) or call toll free (888) 810-8348 or (916) 324-1700.

If a contractor who is performing work as a DBE becomes decertified and still performs work after the decertification date, enter the total value performed by this contractor in the DBE column for the certification period and the remaining work or services (after decertification) in the Non-DBE column. If a Subcontractor performing work as a Non-DBE on the project becomes certified as a DBE, enter the dollar value of all work performed after certification as a DBE in the appropriate column.

**Date Work Complete Column:** Enter the date the work and/or Task order was completed for the respective pay period.

**Date of Payment Column:** Enter the date when the Prime Contractor made the payment to the firm for the portion of work listed as being completed.

DBE Prime Contractors are required to show the date of work performed by their own forces.

**Contractor's Signature:** Contractor certifies that the information on the ADM-3069 is complete and correct.

**Contract Manager's Instructions:**

Review the form as submitted by the Contractor to ensure the form is complete and accurate. Once you receive the ADM-3069 from the Contractor, enter the total (or percent) of Federal (only) dollars (being used in the Agreement) on the form, then sign, date, and Email to [smallbusinessadvocate@dot.ca.gov](mailto:smallbusinessadvocate@dot.ca.gov) or FAX to (916) 324-1948.

**ADA Notice** For individuals with sensory disabilities, this document is available in alternate formats. For alternate format information, contact the Forms Management Unit at (916) 445-1233, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.



## Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts) §26.55(f) CEM-2402 (Page-2)

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
FINAL REPORT - UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES  
FIRST-TIER SUBCONTRACTORS  
CEM-2402F (REV 9/2014)

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### Instructions

Contracts advertised on or before June 15, 2012 may contain Underutilized Disadvantaged Business Enterprise goals (UDBE). Participation for UDBE firms must be reported in the UDBE column. Contracts advertised after June 15, 2012 may contain Disadvantaged Business Enterprise (DBE) goals. Participation for contracts advertised after June 15, 2012 must be reported as DBE.

This form has three columns for entering the dollar value for the item(s) of work performed or provided by the firm. The Non-DBE column is used to enter the dollar value of work performed by first-tier subcontracting firms who are not certified as a DBE or UDBE.

The DBE column is used to enter the dollar value of work performed by firms that do not fall into the UDBE category as defined below. The UDBE column is used to enter the dollar value of work performed by firms who fall under one of the following underutilized groups:

- Black American
- Asian Pacific American
- Native American
- Women

DBE and UDBE prime contractors are required to show the corresponding dollar value of work performed by their own forces.

If a firm performing work as a DBE or UDBE on the project becomes decertified and still performs work after the decertification date, enter the total value performed by this firm under the appropriate DBE and UDBE identification column. If a subcontractor performing work as a non-DBE on the project becomes certified as a DBE, enter the dollar value of all work performed after certification as a DBE under the appropriate identification column. Any changes to DBE certification must also be submitted on Form CEM-2403F.

Enter the Date Work Completed as well as the Date of Final Payment (the date when the prime contractor made the "final payment" to the firm for the portion of work listed as being completed). DBE and UDBE prime contractors are required to show the date of work performed by their own forces.

Use the comments section to explain any differences in the original commitment and the final utilization of DBE and UDBE firms.

The contractor and the resident engineer sign and date the form indicating that the information provided is completed and correct and the DBE paperwork and worksites have been monitored for participation.

# Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts) §26.55(g) OBEO0006

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**DBE - COMMITMENT**  
 OBEO-0006 (REV 11/2018)

<b>CONTRACT NO.</b>		
<b>BID AMOUNT</b>		
\$ <span style="border: 1px solid black; display: inline-block; width: 100%; height: 20px;"></span>		
<b>BID OPENING DATE</b>		
<b>BIDDER'S NAME</b>		
<b>DBE GOAL FROM CONTRACT %</b>		
<b>DBE PRIME CONTRACTOR CERTIFICATION*</b>	<b>TOTAL NUMBER OF ALL SUBCONTRACTS (DBE &amp; NON-DBE)</b>	<b>TOTAL VALUE OF ALL SUBCONTRACTS (DBE &amp; NON-DBE)</b>

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED <sup>2</sup>	NAICS OR WORK CATEGORY CODES <sup>3</sup>	NAME OF DBEs (Must be certified on the date bids are opened. Include Caltrans' certification no., DBE address, and phone number. Show 2nd and lower tier subcontractors.)	AMOUNT (\$)

<p>Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.</p> <p>The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq.).</p> <p>Failure to submit a signed DBE Confirmation form and submit copies of the DBE quotes will result in disallowance of the DBE's participation.</p> <p>*Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces.</p> <p><sup>2</sup>If 100% of an item is not to be performed or furnished by the DBE, describe the exact portion of the item to be performed or furnished.</p> <p><sup>3</sup>Use NAICS or Work Category Codes from the California Unified Certification Program database.</p> <p>* NAICS: North American Industry Classification System.</p>	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 80%; text-align: center;"><b>Total Claimed Participation</b></td> <td style="width: 20%; text-align: center;">\$ <span style="border: 1px solid black; display: inline-block; width: 80%; height: 20px;"></span></td> </tr> <tr> <td></td> <td style="text-align: center;">%</td> </tr> </table> <p><b>The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (49 CFR 26.53).</b></p> <hr/> <p>Signature of Bidder</p> <div style="border: 1px solid black; width: 100%; height: 20px; margin-top: 5px;"></div> <p>Date <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span> (Area Code) Tel. No. <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span></p> <hr/> <p>Person to Contact <span style="border: 1px solid black; display: inline-block; width: 150px; height: 20px; vertical-align: middle;"></span> (Please Type or Print)</p>	<b>Total Claimed Participation</b>	\$ <span style="border: 1px solid black; display: inline-block; width: 80%; height: 20px;"></span>		%
<b>Total Claimed Participation</b>	\$ <span style="border: 1px solid black; display: inline-block; width: 80%; height: 20px;"></span>				
	%				





**Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts)  
 §26.55(i) OBEO0008 (Page-2)**

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**  
 OBEO-0008 (REV 09/2017)

Bidder's Name: \_\_\_\_\_  
 Contract No.: \_\_\_\_\_

2. List the names of certified DBEs and all the dates on which they were solicited to bid on this project. Include the items of work offered and the dates and methods used for following up initial and follow-up solicitations to determine with certainty whether the DBEs were interested. Attach copies of solicitations, e-mail messages, telephone records, fax confirmations, etc.

Name of DBE Solicited	Date of Initial Solicitation	Items of Work Offered	Follow Up Methods and Dates

3. For each item of work made available, indicate whether the Bidder provided plans and specifications specific to the items of work being offered, list the selected firm and its status as a DBE, the DBEs that provided quotes, the price quote for each firm, and the price difference for each DBE if the selected firm is not a DBE. Provide copies of each DBE and Non-DBE quote submitted to the Bidder whenever a Non-DBE firm was selected over a DBE for work on the Contract.

Items of Work	Provided Plans/ Specifications for Work Offered Yes/No	Name of Selected Firm	DBE or Non-DBE	Name of Rejected Firm	Quote (\$)	Price Difference (\$)
	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	<input type="checkbox"/> YES <input type="checkbox"/> NO					

If the firm selected for the item is not a DBE, provide the reasons for the selection on a separate sheet and attach names, addresses, and phone numbers for the firms listed above. Provide evidence as to why additional agreements could not be reached for DBEs to perform work.

**Attachment D – DBE Awards and Commitments Forms (All Caltrans Contracts)  
 §26.55(i) OBEO0008 (Page-3)**

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**  
 OBEO-0008 (REV 09/2017)

Bidder's Name: \_\_\_\_\_  
 Contract No.: \_\_\_\_\_

4. Describe the Bidder's outreach efforts to identify and solicit the interest of all certified DBEs that have the capability to perform the work of the Contract. Provide copies of supporting documents.

Description of Outreach	Dates	Location (if applicable)	Results

5. Describe the Bidder's efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the Contract to assist them in responding to a solicitation. Identify the DBEs assisted, the type of information provided, and the date of the contracts. Provide copies of supporting documents.


6. Describe the Bidder's efforts made to assist interested DBEs in obtaining bonding, lines of credit, or insurance. Identify the DBEs assisted, the type of assistance offered, and the dates. Provide copies of supporting documents.


7. Describe the Bidder's efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE purchases or leases from the prime contractor or its affiliate. Identify the DBEs assisted, the type of assistance offered, and the dates. Provide copies of supporting documents. List efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate. Identify the DBE assisted, the assistance offered, and the date. Provide copies of supporting documents.


8. List the names of agencies and the dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.


9. Include additional data to support a demonstration of good faith efforts.


**NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.**

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## Attachment E – Division of Procurement and Contracts (Non-Architectural and Engineering Contracts); Boilerplate section

### Disadvantaged Business Enterprise Program

#### A. For Agreements with NO Goals

This solicitation is subject to Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Although DBE participation goals have not been set for this Agreement, Caltrans encourages the participation of DBEs, as defined in 49 CFR 26, in performing Agreements financed in whole or in part with federal funds. Information about the Federal DBE Program is available at:

<https://www.transportation.gov/small-business/disadvantaged-business-enterprise-dbe-program>

or

<https://dot.ca.gov/programs/business-and-economic-opportunity>

#### A. For Agreements with DBE Participation Goals

This solicitation and resultant Agreement are financed in whole or in part with federal funds and therefore subject to Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." In compliance with 49 CFR 26, Caltrans set an overall annual DBE goal comprising both race neutral and race conscious elements. To ensure equal participation for DBE groups specified in 49 CFR 26.5, Caltrans specifies an Agreement goal for DBE participation. **The required goal for DBE participation in this solicitation is percent (\_\_\_%). (NOTE: The Contract Manager should provide the Contract Analyst with the goal percentage required)**

- 1) To ensure applicable participation of the specified DBEs as defined in 49 CFR 26.5, this solicitation's goal applies to all certified DBEs. Only certified DBE participation will count toward the Agreement goal for this solicitation. DBE participation will count toward Caltrans' federally mandated overall annual DBE goal. In order to ascertain whether its overall annual DBE goal is being achieved, Caltrans tracks DBE participation on all federal-aid contracts.
- 2) It is the bidder's responsibility to verify that the DBE firm is certified as a DBE by the specified bid submittal due date and time. For a list of DBEs certified by the California United Certification Program (CUCP), go to:

<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe>

- 3) Proposer shall review **Attachment \_\_\_\_**, Disadvantaged Business Enterprise (DBE) Program Requirements for detailed information and the required forms. Required forms will be made a part of the Agreement. Failure to meet the DBE goal or Good Faith Effort requirements and provide required DBE participation will result in the bid being rejected as non-responsive.
- 4) The requirement to advertise for the purpose of identifying potential DBEs is/is not (Choose one) waived.

# Attachment F – Caltrans Standard Agreement

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
 STANDARD AGREEMENT (02/09/2017)  
 DOT-213A (REV 4/2014)

AGREEMENT NUMBER [Contract Number]	AMENDMENT NUMBER [Amendment #]
---------------------------------------	-----------------------------------

- This Agreement is entered into between the State Agency and the Contractor named below:  
 STATE AGENCY'S NAME: CALIFORNIA DEPARTMENT OF TRANSPORTION DIVISION OF RAIL & MASS TRANSPORTATION  
 CONTRACTOR'S NAME: [Organization Legal Name]
- The term of this Agreement is:  
 FROM: [Contract Start Date] TO: [Contract End Date]
- The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.  
 Exhibit A - Project Summary and Scope of Work  
 Exhibit B - Project Management and Payment Provisions  
 Exhibit C - General Terms and Conditions  
 Exhibit D - Special Terms and Conditions  
 Exhibit E - 49 USC Section 5333(b) Special Warranty for 5311 Program and 5339 Program (if required)

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

<b>CONTRACTOR</b>		For Department of Transportation Use only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) [Organization Legal Name]		
BY (Authorized Signature in Blue Ink) 	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS [Address 1], [Address 2], [City] [State] [Zip]		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME California Department of Transportation, Division of Rail and Mass Transportation		
BY (Authorized Signature in Blue Ink) 	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING [Name of Program Manager], [### Program Manager]		
ADDRESS 1120 N Street MS-39, Sacramento, CA 95814		

Item	Chapter	Statute	Appr Category	Fund Title	Fund	CFDA	Program
2660-102-0890(2)	23	2016	17102F	Federal Trust	0890	20-509	[Program Common Name]

Current Encumbrance	[Total Encumbered]	Unit	Project ID	Phase	Object	Amount	State FY
Prior Encumbrance	[Prior Encumbered]	3744	0017000158	S	049	[Current + Prior]	16/17
Total Encumbrance	[Current + Prior]						

SIGNATURE OF ACCOUNTING OFFICE (Authorized Signature in Blue Ink) 	DATE SIGNED
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## ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

## Attachment G – Implementation Agreement

### **INSTRUCTIONS FOR COMPLETING THE DISADVANTAGED BUSINESS ENTERPRISE COMBINATION RACE-NEUTRAL/RACE-CONSCIOUS IMPLEMENTATION AGREEMENT FOR FEDERAL TRANSIT ADMINISTRATION SUB-RECIPIENTS**

Division of Rail and Mass Transportation (DRMT) must ensure that our sub-recipients of Federal Transit Administration (FTA) funds meet applicable DBE requirements when funds are used in whole or in part to finance procurement and contracts of products and service(s). To this end, sub-recipients with contracting opportunities must adhere to the *California State Disadvantaged Business Enterprise Program Plan*, for FTA funds administered through Caltrans DRMT.

Additionally, sub-recipients with contracting opportunities must submit a *Disadvantaged Business Enterprise Combination Race-Neutral/Race-Conscious Implementation Agreement for Federal Transit Administration Sub-recipients* (Implementation Plan). Read the entire Implementation Plan before completing. Sub-recipients are responsible for complying with the requirements contained therein.

Sub-recipients must provide the following (these areas are highlighted in gray):

- Enter the agency name (Page 1 of 5)
- DBE Liaison Officer and staffing information must be attached as instructed (Page 3 of 5)
- Signature information (Page 5 of 5).

Otherwise, do not change or add to the wording of the Implementation Agreement.

Failure to meet these requirements may result in withholding of all invoice payments and may be grounds for PROJECT termination.

Sub-recipients need only resubmit the Implementation Plan should the DBE Liaison Officer change or significant staffing changes occur, or should the Implementation Plan be reissued by DRMT as a result of changes in federal or state guidance.

If you have any questions, please contact your DRMT representative.

CALIFORNIA DEPARTMENT OF TRANSPORTATION

DIVISION OF RAIL AND MASS TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISE  
COMBINATION RACE-NEUTRAL/RACE-CONSCIOUS  
IMPLEMENTATION AGREEMENT

FOR

FEDERAL TRANSIT GRANT  
ADMINISTRATION SUB-RECIPIENTS

2019

**DISADVANTAGED BUSINESS ENTERPRISE COMBINATION RACE-NEUTRAL/RACE CONSCIOUS IMPLEMENTATION AGREEMENT** for \_\_\_\_\_ ; hereinafter referred to as “SUB-RECIPIENT”.

**I Definition of Terms**

The terms used in this agreement have the meanings defined in 49 CFR § 26.5.

**II Objective/Policy Statement (§26/1. 26/23)**

The SUB-RECIPIENT intends to receive federal financial assistance from the U. S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the SUB-RECIPIENT will sign the California Department of Transportation’s Disadvantaged Business Enterprise Implementation Agreement (hereinafter referred to as Agreement). The SUB-RECIPIENT agrees to implement the *State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan* (hereinafter referred to as the DBE Program Plan) as it pertains to local agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR, Part 26 requirements.

The SUB-RECIPIENT must implement a policy to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted procurement and contracts of products and services contracts.
- To create a level playing field on which DBE’s can compete fairly for DOT-assisted procurement and contracts of products and services contracts.
- To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in DOT-assisted procurement and contracts of products and services contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

**III Nondiscrimination (§26.7)**

SUB-RECIPIENT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin. In administering the local agency components of the DBE Program Plan, the SUB-RECIPIENT will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

#### **IV Race-Neutral Means of Meeting the Annual DBE Goal (§26.51)**

SUB-RECIPIENT will assist Caltrans to achieve its Overall Statewide DBE Goal by a combination race-neutral/race-conscious means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has been historically low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

#### **V Race Conscious Means of Meeting the Overall Statewide Annual DBE Goal (§26.51(d))**

SUB-RECIPIENT must establish contract goals for Disadvantaged Business Enterprises to meet any portion of your annual anticipated DBE participation level you do not project being able to meet using race neutral means. DBEs are limited to these certified DBEs

that are owned and controlled by African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and non-minority women.

#### **VI Quotas (§26.43)**

SUB-RECIPIENT will not use quotas or set-asides in any way in the administration of the local agency component of the DBE Program Plan.

#### **VII DBE Liaison Officer (DBELO) (§26.25)**

SUB-RECIPIENT must designate a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan, as it pertains to the SUB-RECIPIENT and Verifies that the SUB-RECIPIENT is fully and properly advised concerning DBE Program Plan matters the name, address, telephone number, electronic mail address, and an organization chart displaying the DBELO's position in the organization are found in Attachment \_\_\_\_\_ to this agreement.

The DBELO is responsible for developing, implementing, and monitoring the SUB-RECIPIENT's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine projected annual anticipated DBE participation level.
4. Verifies that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race-neutral means.
6. Participates in pre-bid meetings.
7. Advises the CEO/governing body on DBE matters and DBE race-neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

#### **VIII Federal Financial Assistance Agreement Assurance (§26.13)**

The SUB-RECIPIENT will sign the following assurance, applicable to and to be included in all DOT-assisted procurement and contracts of products and services contracts and their administration, as part of the program supplement agreement for each project.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR, Part 26 as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.). [Note – this language is to be used verbatim, as it is stated in §26.13(a).]

## **IX DBE Financial Institutions (§26.27)**

It is the policy of the SUB-RECIPIENT to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

<https://www.cdfifund.gov/Pages/default.aspx>

## **X Directory (§26.31)**

SUB-RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's website at:

<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-search>

## **XI Counting DBE Participation (§§26.55)**

SUB-RECIPIENT will include in each DOT-assisted RFP/IFB the following DBE Participation notice:

The following Special Program(s) are applicable to this RFP/IFB.

Disadvantaged Business Enterprise (DBE) Program

1. This solicitation and resultant Agreement is financed in whole or in part with federal funds and therefore subject to Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." In compliance with

49 CFR 26, Caltrans set an overall annual DBE goal comprising both race neutral and race conscious elements. To ensure equal participation for DBE groups specified in 49 CFR 26.5, Caltrans specifies a contract goal for DBE participation. The required goal for DBE participation in this solicitation is XX percent (XX%).

2. To ensure applicable participation of the specified DBEs as defined in 49 CFR 26.5, this solicitation's goal applies to all certified DBEs. Only certified DBE participation will count toward the Agreement goal for this solicitation. DBE participation will count towards Caltrans' federally mandated overall annual DBE goal. In order to ascertain whether its overall annual DBE goal is being achieved, Caltrans tracks DBE participation on all federal-aid contracts.

3. It is the Bidder's/Proposer's responsibility to verify that the DBE firm is certified as a DBE by the specified bid submittal due date and time. For a list of DBEs certified by the California United Certification Program (CUCP), go to: <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe>

4. Proposer shall complete and submit "Attachment B," Bidder/Proposer Disadvantaged Business Enterprise DBE Information ADM-0227F and/or Bidder/Proposer Disadvantaged Business Enterprise DBE Good Faith Efforts Documentation ADM-0312 for detailed information and the required forms. Required forms will be made a part of the Agreement. Failure to meet the DBE goal or Good Faith Effort requirements and provide required DBE participation may result a bid/proposal being rejected as non-responsive.

5. The requirement to advertise for the purpose of identifying potential DBEs is waived.

SUB-RECIPIENT will incorporate "Attachment B" in each DOT-assisted RFP/IFB that include the following:

1. Kform15drmt: Disadvantaged Business Enterprise (DBE) Information and Instructions for Bidders,
2. ADM-0227f: Disadvantaged Business Enterprise (DBE) Information Participation, and/or
3. ADM-0312f: Bidder/Proposer Disadvantaged Business Enterprise (DBE) Good Faith Efforts Documentation.

## **XII Required Contract Clauses (§§26.13, 26.29)**

SUB-RECIPIENT will include in each DOT-assisted prime contract and subcontracts the following contract assurance and prompt payment and return of retainage clauses:

### DBE Contract Assurance

The CONTRACTOR, or SUBCONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR or SUBCONTRACTOR shall carry out applicable requirement of 49 CFR Part 26 in the

award and administration of [Federal] DOT-assisted contracts. Failure by the CONTRACTOR or SUBCONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of the Standard Agreement between the STATE and the Awarding Agency, the termination of this contract by the Awarding Agency, or such other remedy the STATE or Awarding Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the CONTRACTOR from future bidding as non-responsive.

Awarding Agency shall notify the DBELO in the event the Awarding Agency finds the CONTRACTOR or SUBCONTRACTOR is in violation of 49 CFR Part 26 within five (5) business days the finding is made.

#### DBE Participation Goal

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The contract goal for participation of Disadvantaged Business Enterprises (DBE) for this contract is XX%.

Offerors are required to document sufficient DBE participation to meet the contract goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53 (3)(i)(A). Award of this contract is conditioned on submission of the following:

1. If the offer meets the DBE contract goal the offeror must include with the offer a completed ADM-0227F form.

If the offer cannot meet the DBE contract goal the offeror must include with the offer a completed ADM-0312F form that documents the offeror's good faith efforts (GFE) and ADM-0227F form.

The contractor shall not terminate the DBE subcontractors listed on ADM-0227F without the Awarding Agency's prior written consent and concurrence from the DBELO. The Awarding Agency may provide such written consent only if the contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, the contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The contractor shall give the DBE five (5) days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the contract for any reason, the contractor shall make good faith efforts (GFE) to find another DBE subcontractor to substitute for the original DBE and immediately notify the Awarding Agency in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement.

### Continued Compliance

The Awarding Agency shall monitor the Contractor's DBE compliance during the life of this contract and submit to the state a completed ADM-0369 form in each their request for reimbursement (RFR) packet.

### Prompt Payment and Return of Retainage

- A. The Awarding Agency shall comply with 49 CFR Part 26.29 and ensure the contractor pay its subcontractors performing work satisfactorily completed related to this contract no later than seven days after the contractor's receipt of payment for work from the Awarding Agency.
- B. Unless the approved project is for Construction, the contractor shall not hold retainage (withhold retention) from any subcontractor. The state shall not hold retainage from any contractor.
- C. If a dispute arises regarding Construction projects only, the contractor may exercise its rights under California Public Contract Code (PCC) Sections 10262 and 10262.5 or California Business and Professions Code (BPC) Section 7108.5, as applicable.

The contractor is required to pay its subcontractors for satisfactory performance of work related to this Agreement no later than seven days after the contractor's receipt of payment for that work from the State. In addition, the contractor is required to return any retainage payment to any subcontractor within seven days after the subcontractor's work related to this Agreement is satisfactorily completed.

### **XIII Good Faith Effort (§§26.53)**

The SUB-RECIPIENT must provide proof of Good Faith Effort (GFE) if the contract DBE Goal is not met as outlined in [Appendix A to Part 26](#). Prior to contract award, the SUB-RECIPIENT must evaluate and find the GFE to be in compliance with Part 26. GFE evaluation shall be provided on the Caltrans 9-E form along with any additional backup documentation. The 9-E form and backup documentation shall be submitted to Caltrans for review and concurrence. Awards shall not be made without Caltrans authorization.

### **XIV FTA Transit Vehicle Manufacturer (TVM) Program (§§26.49)**

#### Pre-award

The SUB-RECIPIENT will follow DBE requirements for rollingstock procurements including requiring each transit vehicle manufacture, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of Section 26.49. The STATE, as part of its oversight responsibilities, will verify certification prior to expenditure authorization.

#### Post-award

SUB-RECIPIENT is required to submit a copy of the final purchase order to the DRMT grant program liaison within fifteen (15) days of issuance. The DRMT grant program

liaison will report to the FTA the award for rollingstock in the manner prescribed by the FTA grant agreement with DRMT. If this requirement is not met, the rollingstock reimbursement request may be denied.

#### **XV Bidders List (§26.11)**

The SUB-RECIPIENT will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted procurement and contracts of products and services contracts. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of the firms.

#### **XVI Reporting**

SUB-RECIPIENT will report bidder DBE information to the Division of Rail and Mass Transportation Procurement Management office prior to execution of contract award.

SUB-RECIPIENT will submit the Disadvantaged Business Enterprise Awards-Commitments and Actual Payments form twice yearly to the District Transit Representative; Report due **April 10** of each year for the period of October 1<sup>st</sup> to March 31<sup>st</sup> and Report due **October 10** of each year for the period of April 1<sup>st</sup> to September 30<sup>th</sup>. Instructions and forms can be found on the DRMT DBE Program website ([https://dot.ca.gov/programs/rail-and-mass-transportation.](https://dot.ca.gov/programs/rail-and-mass-transportation))

#### **XVII Certification (§26.83(a))**

SUB-RECIPIENT Verifies that only DBE firms currently certified by the California Unified Certification Program will participate as DBEs on DOT-assisted procurement and contracts of products and services contracts.

#### **XVIII Confidentiality**

SUB-RECIPIENT will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information consistent with federal, state, and local laws.

[Redacted Signature Area]

[Signature of Agency's Chief Executive Officer]

Date:

[Redacted Date Area]

[Redacted Name Area]

[Print Name of Agency's Chief Executive Officer]

Phone Number:

[Redacted Phone Number Area]

## **Attachment H - CA 2016 Triennial Disadvantaged Business Enterprise Goal and Methodology for FTA Funded Programs §26.51(a-c)**

### **1. CALIFORNIA 2016 TRIENNIAL DISADVANTAGED BUSINESS ENTERPRISE GOAL AND METHODOLOGY FOR THE FEDERAL TRANSIT ADMINISTRATION FUNDED PROGRAMS**

The California Department of Transportation (Caltrans) has completed its goal setting and methodology report for its three-year Disadvantaged Business Enterprise (DBE) overall goal applicable to Federal Fiscal Years (FFY) 2017-2019 contracting opportunities funded in whole or in part by the Federal Transit Administration (FTA).

The proposed DBE overall goal of 4.8% for FTA assisted contracting activity is based on projected availability of ready, willing and able DBEs to participate in the activity. Caltrans' assessment of the FTA assisted contracts projected for the triennial period included a review of the Census Bureau data, California Unified Certification Program (CUCP) DBE database and a 2014 disparity study relevant to our contracting activity.

#### **1. Background**

In June 2015, subsequent to the preparation of this document, Caltrans submitted to the FTA a proposed DBE triennial goal of 6.95% (4% race neutral/2.95% race conscious). As a result of discussions with the FTA, we have revised our proposed goal and methodology.

#### **2. Goal Setting Methodology Section 26.45**

**Basic Requirement:** To begin the goal setting process, the recipient must first develop a base figure for the relative availability of DBEs. After the base figure is achieved, all other relative evidence must be considered in an adjustment of this figure to match the needs of the specific DBE community.

#### **3. Step One – Determination of Base Figure – Section 26.45(c)**

The first step of the goal setting process is to determine the base figure for the relative availability of DBEs based on evidence of ready, willing, and able DBEs in relationship to all comparable businesses known to be available to compete for FTA assisted contracts that Caltrans anticipates awarding during the goal period.

In December 2014, BBC Consulting completed a DBE Availability and Utilization Study (disparity study) to determine if there was evidence of discrimination in the California marketplace that would meet the standards set forth by the 9<sup>th</sup> Circuit Court. The findings in this study support the usage of race conscious goals on Caltrans' FTA funded contracts.

Caltrans anticipates \$2,700,696 in contracting opportunities for FFYs 2017-2019 as shown in Attachment

A. These upcoming contracting opportunities are significantly different than in past years, when American Reinvestment and Recovery Act (ARRA) funding was available

and expended. Additionally, the information gathered during the Disparity study was not used for the same reason.

The types of DBE contracts that are let are small, single task, planning studies that do not vary significantly from one year to the next. The California FTA Program is approximately \$75 million annually. Our largest award in recent history, executed in August 2015, was a three-year, \$1.5 million contract for administration of the Rural Transportation Assistance Program (RTAP). CalACT is the contractor. Since Caltrans was not required to set contract goals this past fiscal year (2014/15), this award was not “unbundled.

There are 28 DBEs ready, willing and available to do the anticipated work over the next three federal fiscal years. The DBE information was taken from the California Unified Certification Program (CUCP) DBE Directory. There are 581 total firms available (both DBE and non-DBE) to complete the anticipated work, and this information was taken from the US Census Bureau 2002 Economic Census Summary Statistics for the State – California. Since the potential DBE participation falls under the same NAICS Code of 54161, contract expenditure dollar weighting was not completed. The base figure is 4.8% and was arrived by dividing the number of DBEs by the number of total firms available.

#### 4. Step Two – Adjust Base Figure Determining if an Adjustment is needed -

Caltrans currently has a 4% race neutral goal and has not been able to consistently attain it.

In FFY 2013, the overall DBE utilization was 4.4 percent. In FFY 2014, the overall DBE utilization was 1.89 percent. In FFY 2015, the overall DBE utilization was 3.71 percent.

The historical median past participation is 3.71 percent.

In the “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program, page 7 suggests that an agency can make a Step 2 adjustment by averaging the base figure with the past median DBE participation. This is not an option that Caltrans wishes to exercise.

#### 5. Race Neutral/Race Conscious Breakdown

The 2014 disparity study concluded that there is evidence of discrimination. Our past median attainment is 3.7 (rounded from 3.71). Consequently, we have included a race conscious component of 1.1%, which will be a part of the 4.8% goal.

See Attachment B for race and gender-neutral measures currently being employed.

#### 6. Consultation on Goal Development 26.15(b)(1)

As part of the disparity study, a consultative process was used to gather input prior to the development of our goal and methodology. In September 2014, Caltrans conducted 5 public hearings, complete with a court transcriber, which were held around California (Sacramento, Oakland, Fresno, Los Angeles and Redding). Participants represented businesses and organizations throughout the state. Staff from Caltrans would open the meeting, then leave the room in order to give attendees anonymity and remove any concern of reprisal. Individuals were given the opportunity to provide oral testimony at the public meeting or submit written testimony via mail, electronic mail and fax. We did not request sign-in sheets, as to preserve the confidentiality of the participants.

Personal interviews were conducted as well; three interviews with transit services firms for Caltrans (2014 disparity study), 41 interviews for Caltrans (2012 FHWA disparity study); and additional anecdotal interview information (2013 San Diego-Imperial study) from 39 businesses and 2 trade association representatives.

As part of the availability analysis, the study team also conducted telephone surveys with more than 3,400 business establishments.

The comments were vast (198 pages of the disparity study; See Attachment C, Appendix J of the study is available on request). Comments were categorized into seven areas:

Keys to business success

Potential barriers to doing business with public agencies Allegations of unfair treatment

Additional information regarding any racial/ethnic or gender-based discrimination Insights regarding race neutral measures

Insights regarding race or gender-based measures DBE and other certification processes.

## 7. Comment Period

The proposed 2016 Triennial Goals and Methodology document was posted on the Caltrans Division of Rail and Mass Transportation, the Office of Business and Economic Opportunity (OBEO), and the California Association of Coordinated Transportation (CalACT) websites. Additionally, information was sent to the Department sponsored Small Business Council, Associated General Contractors, United Contractors, American Council of Engineering Companies, and Southern California Contractors Association. The 30-day comment period was from June 3 through July 6, 2016.

There were seven comments received both verbally (telephone) and in writing (e-mail). The content of the comments was twofold. The first was concerning how prime contractors seemingly skirt around hiring DBEs. The second was the misunderstanding that the purpose of comment period was similar to a job fair.

There were two public meetings:

June 22, 9am – 11am

Los Angeles Metro Center

Henry Huntington Room, 3<sup>rd</sup>  
Floor One Gateway Plaza  
Los Angeles, CA

June 24, 10am -  
Noon Paratransit  
Inc.

Auditorium Conference  
Room 2501 Florin Road  
Sacramento, CA

There were two DBEs in attendance at the Los Angeles meeting. Caltrans described the goals and methodology as well as the potential subcontracting opportunities over the next three federal fiscal years. They both stated that they better understood the purpose of the meeting, but had no comments, questions, or concerns.

There were no attendees at the Sacramento meeting.

## 8. Waiver

The disparity study team analyzed 699 FTA funded prime contracts/subcontracts for the period of October 1, 2007 to September 30, 2013. MBE/WBE participation on Caltrans' and sub-recipients' contracts were slightly lower than what was expected based on their availability for those contracts. The disparity index of 91 indicates that all MBE/WBEs considered together received 91 percent of the contract dollars that they might be expected to receive based on the availability of those contracts.

Four MBE/WBE groups exhibited substantial disparity; non-Hispanic white women owned businesses (disparity index of 54), Black American owned businesses (disparity index of 16); Asian-Pacific American owned businesses (disparity index of 12), and Native American owned businesses (disparity index of 1).

Subcontinent Asian American owned businesses (disparity index of 166) and Hispanic American owned businesses (disparity index of 113) did not exhibit disparity.

Because of the large span of disparity between these two groups and the remaining four, a waiver is being requested to exclude them from the race conscious component of our goal. They will still be counted in the race neutral component.

**Attachment I – “Fostering Small Business Element” Plan**

California Department of Transportation, Disadvantaged Business Enterprise Program  
Plan

**Attachment K**

**“Fostering Small Business Element” plan**



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**California Division**

650 Capitol Mall, Suite 4-100  
Sacramento, CA 95814  
(916) 498-5001  
916 498-5008 (FAX)

March 27, 2013

In Reply Refer To: 901  
HDA-CA

Mr. Malcolm Dougherty, Director  
California Department of Transportation  
1120 N Street  
Sacramento, CA 95814

**Subject: Disadvantaged Business Enterprise (DBE) Program Plan Small Business  
Element Approval**

Dear: Dear Mr. Dougherty:

We are approving the California Department of Transportation's (Caltrans) DBE Small Business Element sent to our office in your letter dated September 19, 2012. This element is required pursuant to Section 1101 (b) of Moving Ahead for Progress in the 21st Century and 49 C.F.R. § 26.39. This memorandum serves as an acknowledgement of the Federal Transit Administration (FTA), the Federal Aviation Administration (FAA) and the Federal Highway Administration's (FHWA) approval.

If you have any questions regarding this matter please contact Lance Yokota, Civil Rights Program Manager, at 916-498-5012.

  
Vincent P. Mammano  
Division Administrator

cc: Rene Halverson  
Ramon Carlos  
Derrin Jourdan, FTA Region 9 Civil Rights Program Manager

**DEPARTMENT OF TRANSPORTATION**  
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*Flex your power!  
Be energy efficient!*

September 19, 2012

Mr. Vincent Mammano  
California Division Administrator  
Federal Highway Administration  
650 Capitol Mall, Suite 4-100  
Sacramento, CA 95814-4708

Dear Mr. Mammano:

In response to your August 16, 2012, review of the California Department of Transportation (Caltrans) Disadvantaged Business Enterprise (DBE) Program Small Business Participation Plan submitted to you on February 28, 2012, enclosed is the updated Caltrans DBE Small Business Element.

Per 49 CFR Part 26 DBE Program Regulations §26.39, this element is to be added to the DBE Program Plan, upon submittal and subsequent approval by the appropriate U.S. Department of Transportation operating administration. Caltrans will provide any additional information that is requested regarding the implementation plan to include: activities, timelines, and deliverables.

If you have any questions or need further information, please contact Ramon Carlos, Caltrans Acting DBE Program Manager, at (916) 324-6990 or by e-mail at [ramon\\_carlos@dot.ca.gov](mailto:ramon_carlos@dot.ca.gov).

Sincerely,

A handwritten signature in cursive script that reads "René Halverson".

RENÉ HALVERSON  
Assistant Director  
Office of Business and Economic Opportunity

Enclosure

cc: Malcolm Dougherty, Director, California Department of Transportation  
✓ Ramon Carlos, Acting DBE Program Manager, California Department of Transportation

*"Caltrans improves mobility across California"*

**Fostering Small Business Participation  
Caltrans Disadvantaged Business Enterprise Program Implementation**

Effective February 28, 2011, the U.S. Department of Transportation (DOT), Office of the Secretary, issued Disadvantaged Business Enterprise (DBE) Program Improvements (Final Rule) (49 CFR Part 26 DBE Program Regulations §26.39 subpart B). The purpose of this rule change is to encourage state programs that, by facilitating small business participation, augment race-neutral efforts to meet DBE goals. Therefore, the California Department of Transportation (Caltrans) hereby submits its proposed Fostering Small Business Participation, an element to structure contracting requirements to facilitate competition by addressing small business concerns, taking all reasonable steps to eliminate obstacles to their participation.

Specifically, Caltrans is required to actively implement DBE program elements that foster small business participation and augment its race-neutral efforts to meet its DBE goals. The program element could include items such as the unbundling of major Federal-aid contracts to allow for increased subcontracting opportunities with small firms. The small business certification that would be recognized by the Federal Highway Administration (FHWA) cannot be the result of self certification. The current small business certifications offered by the California Department of General Services (DGS) and the U.S. Small Business Administration (SBA) are self certifying thus making them ineligible to use on federal-aid contracts as a part of the current DBE program.

Furthermore, Caltrans lacks the resources to implement a Federal Small Business Certification program. It is also important to note that the state of California offers a Small Business Enterprise (SBE) and Disabled Veteran Business Enterprise (DVBE) certification program that Caltrans currently complies with on State-funded contracts. With that in mind, there are other ways Caltrans can help promote small business participation in Federal-aid contracts by proposing the following:

**Proposed Fostering Small Business Measure:**

- Caltrans proposes to unbundle large Federal-aid contracts to promote the use and provide more subcontracting opportunities to smaller industry firms. Unbundling could be done for those contracts that meet a specific size standard, provide an extensive amount of subcontracting opportunities, and the design sequence being broken up into different contracts would not have negative fiscal impact on the Department.

**Fostering Small Business Participation elements currently in place:**

- Caltrans regularly hosts Mandatory Pre-Bid meetings for pre-selected projects to help promote SB/DVBE/DBE participation. These meetings provide an opportunity for prime contractors to meet potential subcontractors.
- District Small Business Liaisons (DSBLs) are Caltrans employees dedicated to assist prime contractors in identifying potential subcontractors through the CUCP (DBE) database.

- Workshops, networking opportunities, and events such as, “Meet the Primes,” are held statewide by individual Caltrans districts to increase potential contract opportunities for primes and subcontractors alike.
- “Mock Contracting Workshops” have been held in a number of districts over the years. These workshops assist small businesses in identifying advertised projects, prime contractors, contract requirements, insurance, bonding, etc. In these workshops, the subcontractors learn from prime contractors what qualifications they seek in a subcontractor.
- Free tools are made available to prime contractors and subcontractors alike, on the Caltrans website. From the “Opt-In” and “Primes Seeking Help” features on the Office Engineer (OE) webpage to assist in connecting primes and subcontractors on major contracts.
- The OE webpage also offers information on how a subcontractor can submit a responsive bid, which may be of great value to those firms without prior contracting experience with Caltrans.
- OBEO is currently working on three “DBE Supportive Services” contracts. These contracts will include one-on-one counseling and technical assistance to small businesses, including DBE firms that could potentially be certified DBE firms, and workshops on certification, bid submitting, marketing outreach, and understanding government contracting, all at no cost.
- The Caltrans Mentor-Protégé and CalMentor Programs are currently available in seven Caltrans districts. This program offers small disadvantaged businesses to pair with large prime contracting or consulting firms that have experience contracting with Caltrans. Depending on the size of each program, a prime can mentor up to two firms for a 12-18 month period, at which time the protégé graduates from the program with the real world experience in government contracting.

Caltrans will continue the small business measures currently in place and adopt the proposed measure that will foster and increase small business participation in Federal-aid contracts. Upon submittal and subsequent approval by the appropriate DOT operating administration, Caltrans will provide an implementation plan to include activities, timelines, and deliverables. Caltrans also commits to amending this plan as new measures for fostering small business arise.

# Attachment J – DBE Certification Form and Document Requirement



OMB APPROVAL NO:  
2105-0510  
Expiration Date: 10/31/2021

Appendix F

## ***UNIFORM CERTIFICATION APPLICATION*** **DISADVANTAGED BUSINESS ENTERPRISE (DBE) /** **AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)** **49 C.F.R. Parts 23 and 26**

### *Roadmap for Applicants*

#### **1. Should I apply?**

You may be eligible to participate in the DBE/ACDBE program if:

- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
- The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
- The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
- The firm meets the Small Business Administration's size standard and does not exceed \$23.98 million in gross annual receipts for DBE (\$56.42 million for ACDBEs). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)

#### **2. How do I apply?**

First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application form, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.

#### **3. Where can I send my application? [INSERT UCP PARTICIPATING MEMBER CONTACT INFORMATION]**

**4. Who will contact me about my application and what are the eligibility standards?** A transportation agency in your state that performs certification functions will contact you. The agency is a member of a statewide Unified Certification Program (UCP), which is required by the U.S. Department of Transportation. The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.

#### **5. Where can I find more information?**

U.S. DOT—<https://www.transportation.gov/civil-rights> (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)

SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS):  
<http://www.census.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

In collecting the information requested by this form, the Department of Transportation (Department) complies with the provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Department's Disadvantaged Business Enterprise Program as defined in 49 C.F.R. §26.5 and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 C.F.R. §23.3. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Under 49 C.F.R. §26.107, dated February 2, 1999 and January 28, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 C.F.R. Parts 180 and 1200. No procurement Suspension and Debarment, take enforcement action under 49 C.F.R. Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.



**INSTRUCTIONS FOR COMPLETING THE  
DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)  
UNIFORM CERTIFICATION APPLICATION**

**NOTE:** All participating firms must be for-profit enterprises. If your firm is not for profit, then you do NOT qualify for the DBE/ACDBE program and should not complete this application. If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

**Section 1: CERTIFICATION INFORMATION**

**A. Basic Contact Information**

- (1) Enter the contact name and title of the person completing this application and the person who will serve as your firm's contact for this application.
- (2) Enter the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
- (3) Enter the primary phone number of your firm.
- (4) Enter a secondary phone number, if any.
- (5) Enter your firm's fax number, if any.
- (6) Enter the contact person's email address.
- (7) Enter your firm's website addresses, if any.
- (8) Enter the street address of the firm where its offices are physically located (not a P.O. Box).
- (9) Enter the mailing address of your firm, if it is different from your firm's street address.

**B. Prior/Other Certifications and Applications**

- (10) Check the appropriate box indicating whether your firm is currently certified in the DBE/ACDBE programs, and provide the name of the certifying agency that certified your firm. List the dates of any site visits conducted by your home state and any other states or UCP members. Also provide the names of state/UCP members that conducted the review.
- (11) Indicate whether your firm or any firms owned by the persons listed has ever been denied certification as a DBE/ACDBE, 8(a), or Small Disadvantaged Business (SDB) firm, or state and local MBE/WBE firm. Indicate if the firm has ever been decertified from one of these programs. Indicate if the application was withdrawn or whether the firm was debarred, suspended, or otherwise had its bidding privileges denied or restricted by any state or local agency, or Federal entity. If your answer is yes, identify the name of the agency, and explain fully the nature of the action in the space provided. Indicate if you have ever appealed this decision to the Department and if so, attach a copy of USDOT's final agency decision(s).

**Section 2: GENERAL INFORMATION**

**A. Business profile:**

- (1) Give a concise description of the firm's primary activities, the product(s) or services the company provides, or type of construction. If your company offers more than one product/service, list primary product or service first (attach additional sheets if necessary). This description may be used in our UCP online directory if you are certified as a DBE.

- (2) If you know the appropriate NAICS Code for the line(s) of work you identified in your business profile, enter the codes in the space provided.
- (3) State the date on which your firm was established as stated in your firm's Articles of Incorporation or charter.
- (4) State the date each person became a firm owner.
- (5) Check the appropriate box describing the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.
- (6) Check the appropriate box that indicates whether your firm is "for profit." If you checked "No," then you do NOT qualify for the DBE/ACDBE program and should not complete this application. All participating firms must be for-profit enterprises. Provide the Federal Tax ID number as stated on your firm's Federal tax return.
- (7) Check the appropriate box that describes the type of legal business structure of your firm, as indicated in your firm's Articles of Incorporation or similar document. If you checked "Other," briefly explain in the space provided.
- (8) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time, part-time, and seasonal basis. Attach a list of employees, their job titles, and dates of employment, to your application.
- (9) Specify the firm's gross receipts for each of the past three years, as stated in your firm's filed Federal tax returns. You must submit complete copies of the firm's Federal tax returns for each year. If there are any affiliates or subsidiaries of the applicant firm or owners, you must provide these firms' gross receipts and submit complete copies of these firm(s) Federal tax returns. Affiliation is defined in 49 C.F.R. §26.5 and 13 C.F.R. Part 121.

**B. Relationships and Dealings with Other Businesses**

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral



agreement. Provide an explanation of any items shared with other firms in the space provided.

- (2) Check the appropriate box indicating whether any other firm currently has or had an ownership interest in your firm at present or at any time in the past. If you checked yes, please explain.
- (3) Check the appropriate box that indicates whether at present or at any time in the past your firm:
  - (a) ever existed under different ownership, a different type of ownership, or a different name;
  - (b) existed as a subsidiary of any other firm;
  - (c) existed as a partnership in which one or more of the partners are/were other firms;
  - (d) owned any percentage of any other firm; and
  - (e) had any subsidiaries of its own.
  - (f) served as a subcontractor with another firm constituting more than 25% of your firm's receipts.

If you answered "Yes" to any of the questions in (3)(a-f), you may be asked to explain the arrangement in detail.

### Section 3: MAJORITY OWNER INFORMATION

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each owner):

#### A. Identify the majority owner of the firm holding 51% or more ownership interest

- (1) Enter the full name of the owner.
- (2) Enter his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) Enter his/her home (street) address.
- (5) Indicate this owner's gender.
- (6) Identify the owner's ethnic group membership. If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
- (7) Check the appropriate box to indicate whether this owner is a U.S. citizen or a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner.
- (8) Enter the number of years during which this owner has been an owner of your firm.
- (9) Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate), the class of stock owned.
- (10) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment. Describe how you acquired your business and attach documentation substantiating this investment.

#### B. Additional Owner Information

- (1) Describe the familial relationship of this owner to each other owner of your firm and employees.
- (2) Indicate whether this owner performs a management or supervisory function for any other business. If you checked "Yes," state the name of the other business and this owner's function/title held in that business.

- (3) (a) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business, the nature of the business relationship, and the owner's function at the firm.
  - (b) If the owner works for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week, please identify this activity.
- (4) (a) Provide the personal net worth of the owner applying for certification in the space provided. Complete and attach the accompanying "Personal Net Worth Statement for DBE/ACDBE Program Eligibility" with your application. Note, complete this section and accompanying statement only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged).
  - (b) Check the appropriate box that indicates whether any trust has been created for the benefit of the disadvantaged owner(s). If you answered "Yes," you may be asked to provide a copy of the trust instrument.
- (5) Check the appropriate to indicate whether any of your immediate family members, managers, or employees, own, manage, or are associated with another company. Immediate family member is defined in 49 C.F.R. §26.5. If you answered "Yes," provide the name of each person, your relationship to them, the name of the company, the type of business, and whether they own or manage the company.

### Section 4: CONTROL

#### A. Identify the firm's Officers and Board of Directors

- (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer.
- (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.
- (3) Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above performs a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. (e.g., ownership interest, shared office space, financial investments, equipment leases, personnel sharing, etc.) If you answered "Yes," identify the name of the firm, the individual's name, and the nature of his/her business relationship with that other firm.

#### B. Duties of Owners, Officers, Directors, Managers and Key Personnel

- (1), (2) Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who are responsible for the functions listed for the firm. Submit résumés for each owner and non-owner identified below. State the name of the individual, title, race



and gender and percentage ownership if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

Indicate whether any of the persons listed in this section perform a management or supervisory function for any other business. Identify the person, business, and their title/function. Identify if any of the persons listed above own or work for any other firm(s) that has a relationship with this firm (e.g. ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If you answered "Yes," describe the nature of his/her business relationship with that other firm.

**C. Inventory:** Indicate firm inventory in these categories:

**(1) Equipment and Vehicles**

State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.

**(2) Office Space**

State the street address of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease.

**(3) Storage Space**

State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

**D. Does your firm rely on any other firm for management functions or employee payroll?**

Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," you may be asked to explain the nature of that reliance and the extent to which the other firm carries out such functions.

**E. Financial / Banking Information**

State the name, City and State of your firm's bank. Identify the persons able to sign checks on this account. Provide bank authorization and signature cards.

**Bonding Information.** State your firm's bonding limits both aggregate and project limits.

**F. Sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms guaranteeing the loan.**

State the name and address of each source, the name of person securing the loan, original dollar amount and the current balance of each loan, and the purpose for which each

loan was made to your firm. Provide copies of signed loan agreements and security agreements

**G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years:**

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

**H. Current licenses/permits held by any owner or employee of your firm.**

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and issuing State of the license or permit. Attach copies of licenses, license renewal forms, permits, and haul authority forms.

**I. Largest contracts completed by your firm in the past three years, if any.**

List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

**J. Largest active jobs on which your firm is currently working.**

For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

**Section 5: AIRPORT CONCESSION (ACDBE) APPLICANTS**

Complete the entries in this section if you are applying for ACDBE certification. Indicate in Section A if you operate a concession at the airport, and/or supply a good or service to an airport concessionaire. Indicate in Section B whether the applicant firm owns or operates any off-airport locations, providing the type of business, lease information, address/location, and annual gross receipts generated. Provide similar information in section C for any airport concession locations the firm currently owns or operates. If the applicant firm has any affiliates, provide the requested information in Section D. Indicate whether the ACDBE firm is participating in any joint ventures, and if so, include the original and any amended joint venture agreements.

**AFFIDAVIT & SIGNATURE**

The Affidavit of Certification must accompany your application. Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

Section 1: CERTIFICATION INFORMATION



A. Basic Contact Information

I am applying for certification as  DBE  ACDBE

(1) Contact person and Title: \_\_\_\_\_ (2) Legal name of firm: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(3) Phone #: ( ) \_\_\_\_ - \_\_\_\_\_ (4) Other Phone #: ( ) \_\_\_\_ - \_\_\_\_\_ (5) Fax #: ( ) \_\_\_\_ - \_\_\_\_\_

(6) E-mail: \_\_\_\_\_ (7) Firm Websites: \_\_\_\_\_

(8) Street address of firm (No P.O. Box): \_\_\_\_\_ City: \_\_\_\_\_ County/Parish: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ - \_\_\_\_\_

(9) Mailing address of firm (if different): \_\_\_\_\_ City: \_\_\_\_\_ County/Parish: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ - \_\_\_\_\_

B. Prior/Other Certifications and Applications

(10) Is your firm currently certified for any of the following U.S. DOT programs?  
 DBE  ACDBE Names of certifying agencies: \_\_\_\_\_

⊗ If you are certified in your home state as a DBE/ACDBE, you do not have to complete this application for other states. Ask your state UCP about the interstate certification process.

List the dates of any site visits conducted by your home state and any other states or UCP members:

Date \_\_\_ / \_\_\_ / \_\_\_ State/UCP Member: \_\_\_\_\_ Date \_\_\_ / \_\_\_ / \_\_\_ State/UCP Member: \_\_\_\_\_

(11) Indicate whether the firm or any persons listed in this application have ever been:  
 (a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm?  Yes  No  
 (b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity?  Yes  No

If yes, explain the nature of the action. (If you appealed the decision to DOT or another agency, attach a copy of the decision, \_\_\_\_\_  
 \_\_\_\_\_

Section 2: GENERAL INFORMATION

A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(2) Applicable NAICS Codes for this line of work include: \_\_\_\_\_

(3) This firm was established on \_\_\_ / \_\_\_ / \_\_\_ (4) I/We have owned this firm since: \_\_\_ / \_\_\_ / \_\_\_



**(5) Method of acquisition** (Check all that apply):

- Started new business  Bought existing business  Inherited business  Gifted
- Merger or consolidation  Other (explain) \_\_\_\_\_

**(6) Is your firm "for profit"?**  Yes

No → **STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application.

Federal Tax ID# \_\_\_\_\_

**(7) Type of Legal Business Structure:** (check all that apply):

- Sole Proprietorship
- Limited Liability Partnership
- Partnership  Corporation
- Limited Liability Company  Other, Describe \_\_\_\_\_

**(8) Number of employees:** Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Seasonal \_\_\_\_\_ Total \_\_\_\_\_

(Provide a list of employees, their job titles, and dates of employment, to your application).

**(9) Specify the firm's gross receipts for the last 3 years.** (Submit complete copies of the firm's Federal tax returns for each year. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of these firms' Federal tax returns).

Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____

**B. Relationships and Dealings with Other Businesses**

**(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity?**  Yes  No

If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?**

- Yes  No If Yes, explain \_\_\_\_\_

**(3) At present, or at any time in the past, has your firm:**

- (a) Ever existed under different ownership, a different type of ownership, or a different name?  Yes  No
- (b) Existed as a subsidiary of any other firm?  Yes  No
- (c) Existed as a partnership in which one or more of the partners are/were other firms?  Yes  No
- (d) Owned any percentage of any other firm?  Yes  No
- (e) Had any subsidiaries?  Yes  No
- (f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts?  Yes  No

(If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues).

Section 3: MAJORITY OWNER INFORMATION



A. Identify the majority owner of the firm holding 51% or more ownership interest.

(1) Full Name: \_\_\_\_\_ (2) Title: \_\_\_\_\_ (3) Home Phone #: \_\_\_\_\_  
 \_\_\_\_\_ ( ) \_\_\_\_\_ - \_\_\_\_\_  
 (4) Home Address (Street and Number): \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 \_\_\_\_\_ - \_\_\_\_\_

(5) Gender:  Male  Female  
 (6) Ethnic group membership (Check all that apply):  
 Black  
 Hispanic  
 Asian Pacific  
 Native American  
 Subcontinent Asian  
 Other (specify) \_\_\_\_\_  
 (7) U.S. Citizenship:  U.S. Citizen  
 Lawfully Admitted Permanent Resident

(8) Number of years as owner: \_\_\_\_\_  
 (9) Percentage owned: \_\_\_\_\_ %  
 Class of stock owned: \_\_\_\_\_ Date acquired \_\_\_\_\_  
 (10) Initial investment to acquire ownership interest in firm:  

Type	Dollar Value
Cash	\$ _____
Real Estate	\$ _____
Equipment	\$ _____
Other	\$ _____

 Describe how you acquired your business:  
 Started business myself.  
 It was a gift from: \_\_\_\_\_  
 I bought it from: \_\_\_\_\_  
 I inherited it from: \_\_\_\_\_  
 Other \_\_\_\_\_  
 (Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (2) Does this owner perform a management or supervisory function for any other business?  Yes  No  
 If Yes, identify: Name of Business: \_\_\_\_\_ Function/Title: \_\_\_\_\_  
 (3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g. ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)  Yes  No  
 Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (b) Does this owner work for any other firm, non-profit organization, or engage in any other activity more than 10 hours per week? If yes, identify this activity: \_\_\_\_\_  
 (4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ \_\_\_\_\_  
 (b) Has any trust been created for the benefit of this disadvantaged owner(s)?  Yes  No  
 (If Yes, you may be asked to provide a copy of the trust instrument).  
 (5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company?  Yes  No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: (Please attach extra sheets, if needed): \_\_\_\_\_  
 \_\_\_\_\_

**Section 3: OWNER INFORMATION, Cont'd.**



**A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm (Attach separate sheets for each additional owner)**

<p>(1) Full Name: _____</p>	<p>(2) Title: _____</p>	<p>(3) Home Phone #: _____</p>										
<p>(4) Home Address (Street and Number): _____</p>	<p>City: _____</p>	<p>State: _____ Zip: _____</p>										
<p>(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female</p> <p>(6) Ethnic group membership (Check all that apply)</p> <p><input type="checkbox"/> Black</p> <p><input type="checkbox"/> Hispanic</p> <p><input type="checkbox"/> Asian Pacific</p> <p><input type="checkbox"/> Native American</p> <p><input type="checkbox"/> Subcontinent Asian</p> <p><input type="checkbox"/> Other (specify) _____</p> <p>(7) U.S. Citizenship:</p> <p><input type="checkbox"/> U.S. Citizen</p> <p><input type="checkbox"/> Lawfully Admitted Permanent Resident</p>	<p>(8) Number of years as owner: _____</p> <p>(9) Percentage owned: _____ %</p> <p>Class of stock owned: _____ Date acquired _____</p> <p>(10) Initial investment to acquire ownership interest in firm:</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Type</th> <th style="text-align: left; border-bottom: 1px solid black;">Dollar Value</th> </tr> </thead> <tbody> <tr> <td>Cash</td> <td>\$ _____</td> </tr> <tr> <td>Real Estate</td> <td>\$ _____</td> </tr> <tr> <td>Equipment</td> <td>\$ _____</td> </tr> <tr> <td>Other</td> <td>\$ _____</td> </tr> </tbody> </table> <p>Describe how you acquired your business:</p> <p><input type="checkbox"/> Started business myself.</p> <p><input type="checkbox"/> It was a gift from: _____</p> <p><input type="checkbox"/> I bought it from: _____</p> <p><input type="checkbox"/> I inherited it from: _____</p> <p><input type="checkbox"/> Other _____</p> <p><i>(Attach documentation substantiating your investment)</i></p>		Type	Dollar Value	Cash	\$ _____	Real Estate	\$ _____	Equipment	\$ _____	Other	\$ _____
Type	Dollar Value											
Cash	\$ _____											
Real Estate	\$ _____											
Equipment	\$ _____											
Other	\$ _____											

**B. Additional Owner Information**

(1) Describe familial relationship to other owners and employees:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(2) Does this owner perform a management or supervisory function for any other business?  Yes  No  
 If Yes, identify: Name of Business: \_\_\_\_\_ Function/Title: \_\_\_\_\_

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)  Yes  No  
 Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:  
 \_\_\_\_\_

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: \_\_\_\_\_

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ \_\_\_\_\_

(b) Has any trust been created for the benefit of this disadvantaged owner(s)?  Yes  No  
*(If Yes, you may be asked to provide a copy of the trust instrument).*

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company?  Yes  No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: *(Please attach extra sheets, if needed):* \_\_\_\_\_  
 \_\_\_\_\_

**Section 4: CONTROL**



**A. Identify your firm's Officers and Board of Directors** (If additional space is required, attach a separate sheet):

	Name	Title	Date Appointed	Ethnicity	Gender
<b>(1) Officers of the Company</b>	(a)				
	(b)				
	(c)				
	(d)				
<b>(2) Board of Directors</b>	(a)				
	(b)				
	(c)				
	(d)				

**(3) Do any of the persons listed above perform a management or supervisory function for any other business?**  
 Yes  No If Yes, identify for each:

Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

**(4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm?** (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)  
 Yes  No

If Yes, identify for each:

Firm Name: \_\_\_\_\_ Person: \_\_\_\_\_  
 Nature of Business Relationship: \_\_\_\_\_

**B. Duties of Owners, Officers, Directors, Managers, and Key Personnel**

**1. Complete for all Owners who are responsible for the following functions of the firm** (Attach separate sheets as needed).

A= Always F = Frequently	S = Seldom N = Never	Majority Owner (51% or more)				Minority Owner (49% or less)			
		Name: _____	Title: _____	Percent Owned: _____		Name: _____	Title: _____	Percent Owned: _____	
		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Sets policy for company direction/scope of operations		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Bidding and estimating		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Major purchasing decisions		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Marketing and sales		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Supervises field operations		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Attend bid opening and lettings		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Perform office management (billing, accounts receivable/payable, etc.)		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hires and fires management staff		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hire and fire field staff or crew		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Designates profits spending or investment		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Obligates business by contract/credit		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Purchase equipment		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Signs business checks		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>



**2. Complete for all Officers, Directors, Managers, and Key Personnel who are responsible for the following functions of the firm. (Attach separate sheets as needed).**

<b>A= Always</b> <b>S = Seldom</b> <b>F = Frequently</b> <b>N = Never</b>	<b>Officer/Director/Manager/Key Personnel</b>				<b>Officer/Director/Manager/ Key Personnel</b>			
	Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____				Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____			
Sets policy for company direction/scope of operations	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Bidding and estimating	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Major purchasing decisions	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Marketing and sales	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Supervises field operations	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Attend bid opening and lettings	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Perform office management (billing, accounts receivable/payable, etc.)	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hires and fires management staff	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hire and fire field staff or crew	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Designates profits spending or investment	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Obligates business by contract/credit	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Purchase equipment	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Signs business checks	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, the business, and their title/function:

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) If Yes, describe the nature of the business relationship:

**C. Inventory:** Indicate your firm's inventory in the following categories (Please attach additional sheets if needed):=

**1. Equipment and Vehicles**

Make and Model	Current Value	Owned or Leased by Firm or Owner?	Used as collateral?	Where is item stored?
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____
6. _____	_____	_____	_____	_____
7. _____	_____	_____	_____	_____
8. _____	_____	_____	_____	_____
9. _____	_____	_____	_____	_____

**2. Office Space**

Street Address Owned or Leased by Firm or Owner? Current Value of Property or Lease

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



3. Storage Space (Provide signed lease agreements for the properties listed)

Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease

D. Does your firm rely on any other firm for management functions or employee payroll?  Yes  No

E. Financial/Banking Information (Provide bank authorization and signature cards)

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are able to sign checks on this account: \_\_\_\_\_

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are able to sign checks on this account: \_\_\_\_\_

Bonding Information: If you have bonding capacity, identify the firm's bonding aggregate and project limits:

Aggregate limit \$ \_\_\_\_\_ Project limit \$ \_\_\_\_\_

F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you the owner and any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner. (Provide copies of signed loan agreements and security agreements).

Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years (Attach additional sheets if needed):

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

H. List current licenses/permits held by any owner and/or employee of your firm

(e.g. contractor, engineer, architect, etc.)(Attach additional sheets if needed):

Name of License/Permit Holder	Type of License/Permit	Expiration Date	State
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____



**I. List the three largest contracts completed by your firm in the past three years, if any:**

	Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1.				
2.				
3.				

**J. List the three largest active jobs on which your firm is currently working:**

	Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1.						
2.						
3.						

**Additional Information:**




**SECTION 5 - AIRPORT CONCESSION**  
**(ACDBE APPLICANTS ONLY)**

A. I am applying for ACDBE certification to: *(check all that apply)*

- Operate a concession at an airport    Supply a good or service to an airport concessionaire

B. Does the applicant firm own/operate any off-airport locations?  Yes  No *If Yes, identify the following*

Type of Business (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Lease Term (years)	Lease Start Date	Address / Location	Annual Gross Receipts Generated

C. Does the applicant firm currently own/operate any airport concession locations?  Yes  No *If Yes, supply the following information:*

Airport Name	Concession Type (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Number of Leases	Number of Locations	Annual Gross Receipts Generated	Lease Type (e.g. Direct Lease, Subcontract Management Agreement, etc. enter all that apply to the leases listed)

D. Does the applicant firm have any affiliates?  Yes  No *If Yes, provide the following information concerning any locations owned/operated by affiliate firms.*

Airport Name	Concession Type (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Number of Leases	Number of Locations	Annual Gross Receipts Generated	Lease Type (e.g. Direct Lease, Subcontract Management Agreement, etc. enter all that apply to the leases listed)

E. Is the ACDBE applicant firm a participant in any joint ventures?  Yes  No *If Yes, attach all original and any amended Joint Venture Agreements and any amendments to the agreements.*



### AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

**A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.**

I \_\_\_\_\_ (full name printed),  
swear or affirm under penalty of law that I am \_\_\_\_\_  
(title) of the applicant firm \_\_\_\_\_ and that I  
have read and understood all of the questions in this  
application and that all of the foregoing information and  
statements submitted in this application and its attachments  
and supporting documents are true and correct to the best of  
my knowledge, and that all responses to the questions are full  
and complete, omitting no material information. The responses  
include all material information necessary to fully and  
accurately identify and explain the operations, capabilities and  
pertinent history of the named firm as well as the ownership,  
control, and affiliations thereof.

I recognize that the information submitted in this application is  
for the purpose of inducing certification approval by a  
government agency. I understand that a government agency  
may, by means it deems appropriate, determine the accuracy  
and truth of the statements in the application, and I authorize  
such agency to contact any entity named in the application, and  
the named firm's bonding companies, banking institutions,  
credit agencies, contractors, clients, and other certifying  
agencies for the purpose of verifying the information supplied  
and determining the named firm's eligibility.

I agree to submit to government audit, examination and review  
of books, records, documents and files, in whatever form they  
exist, of the named firm and its affiliates, inspection of its  
places(s) of business and equipment, and to permit interviews  
of its principals, agents, and employees. I understand that  
refusal to permit such inquiries shall be grounds for denial of  
certification.

If awarded a contract, subcontract, concession lease or  
sublease, I agree to promptly and directly provide the prime  
contractor, if any, and the Department, recipient agency, or  
federal funding agency on an ongoing basis, current, complete  
and accurate information regarding (1) work performed on the  
project; (2) payments; and (3) proposed changes, if any, to the  
foregoing arrangements.

I agree to provide written notice to the recipient agency or  
Unified Certification Program of any material change in the  
information contained in the original application within 30  
calendar days of such change (e.g., ownership changes,  
address/telephone number, personal net worth exceeding \$1.32  
million, etc.).

I acknowledge and agree that any misrepresentations in this  
application or in records pertaining to a contract or subcontract  
will be grounds for terminating any contract or subcontract  
which may be awarded; denial or revocation of certification;  
suspension and debarment; and for initiating action under  
federal and/or state law concerning false statement, fraud or  
other applicable offenses.

I certify that I am a socially and economically disadvantaged  
individual who is an owner of the above-referenced firm seeking  
certification as a Disadvantaged Business Enterprise or Airport  
Concession Disadvantaged Business Enterprise. In support of my  
application, I certify that I am a member of one or more of the  
following groups, and that I have held myself out as a member of  
the group(s): (Check all that apply):

- Female  Black American  Hispanic American
- Native American  Asian-Pacific American
- Subcontinent Asian American  Other (specify)

I certify that I am socially disadvantaged because I have been  
subjected to racial or ethnic prejudice or cultural bias, or have  
suffered the effects of discrimination, because of my identity  
as a member of one or more of the groups identified above,  
without regard to my individual qualities.

I further certify that my personal net worth does not exceed  
\$1.32 million, and that I am economically disadvantaged  
because my ability to compete in the free enterprise system has  
been impaired due to diminished capital and credit  
opportunities as compared to others in the same or similar line  
of business who are not socially and economically  
disadvantaged.

I declare under penalty of perjury that the information  
provided in this application and supporting documents is true  
and correct.

Signature \_\_\_\_\_ (DBE/ACDBE Applicant) \_\_\_\_\_ (Date)

#### NOTARY CERTIFICATE

## UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST



In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following **REQUIRED** documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.

### Required Documents for All Applicants

- Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- Personal Net Worth Statement for each socially and economically disadvantaged owners who the applicant firm relies upon to satisfy the Regulation's 51% ownership requirement.
- Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
- Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 3 years.
- Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks)
- Signed loan and security agreements, and bonding forms
- List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.
- Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- Licenses, license renewal forms, permits, and haul authority forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
- DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertification's, if applicable; and any U.S. DOT appeal decisions on these actions.
- Bank authorization and signatory cards
- Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- List of all employees, job titles, and dates of employment.
- Proof of warehouse/storage facility ownership or lease arrangements

### Partnership or Joint Venture

- Original and any amended Partnership or Joint Venture Agreements

### Corporation or LLC

- Official Articles of Incorporation (signed by the state official)
- Both sides of all corporate stock certificates and your firm's stock transfer ledger
- Shareholders' Agreement(s)
- Minutes of all stockholders and board of director's meetings

- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

### Optional Documents to Be Provided on Request

*The certifying agency to which you are applying may require the submission of the following documents. If requested to provide these document, you must supply them with your application or at the on-site visit.*

- Proof of citizenship
- Insurance agreements for each truck owned or operated by your firm
- Audited financial statements (if available)
- Trust agreements held by any owner claiming disadvantaged status
- Year-end balance sheets and income statements for the past 3 years (or life of firm, if less than three years)

### Suppliers

- List of product lines carried and list of distribution equipment owned and/or leased