



*Expires – Upon Issuance of LPP*

## **Race Conscious Measures to include all DBEs**

### **I. BACKGROUND**

Under a waiver granted by the United States Department of Transportation (US DOT) dated August 7, 2008, the California Department of Transportation (Caltrans) Disadvantaged Business Enterprise (DBE) Program set contract goals for only Underutilized DBEs (UDBEs) which included exclusively those firms owned by Black Americans, Native Americans, Asian-Pacific Americans and Women.

Recently, the US DOT rescinded this waiver. With this rescission, contract goals for federally funded projects authorized on and after July 1, 2012, must include ALL DBE groups (i.e. African Americans, Asian Pacific Americans, Native Americans, Women, Hispanic Americans, Subcontinent Asian Americans, and any other groups whose members are certified as socially and economically disadvantaged). This is referred to as the “New RC DBE Program.” To assist with the implementation of this new program, Caltrans Division of Local Assistance (DLA) has outlined policies and procedures regarding Federal-aid highway projects administered by local agencies.

### **II. POLICY**

It is the policy of Caltrans Division of Local Assistance (DLA) that all federal-aid highway projects administered by local agencies comply with the latest requirements with regards to the utilization of disadvantaged business enterprises.

To ensure compliance with federal DBE requirements and, at the same time, to facilitate the timely delivery of local agency federal-aid projects, DLA will consider the following three scenarios of project authorizations.

#### **Projects Authorized by FHWA prior to July 1, 2012**

1. Local agencies should take all possible actions to use contract goals for all DBEs in contracts advertised after the date of this Office Bulletin when contract goals are used. Local agencies that adopt new race conscious measures must revise the contract goal, edit DBE contract language and proposal/bid documents and turn in a new PS&E Checklist, Exhibit 12-D, for their respective projects.
2. If it is not practical to do this, then these projects should be advertised as soon as possible under the Old RC DBE program applying contract goals only to UDBEs. However, Projects advertised after August 17, 2012 must use contract goals that include all certified DBEs. For projects advertised after August 17, 2012, contract goals cannot be limited to UDBEs.

#### **Projects Authorized by FHWA from July 1, 2012 to September 30, 2012**

1. At the request of a local agency, a conditional authorization to proceed may be granted to a project that was prepared using pre-July 2012 race conscious measures and corresponding exhibits from the Local Assistance Procedure Manual (LAPM), under the condition that, **PRIOR TO ADVERTISING**, bid documents must be revised to comply with the New RC DBE Program such that contract goals include all certified DBEs. Additionally, the local



agency will need to include in its authorization request a signed letter acknowledging receipt and understanding of this Office Bulletin. See attachments for sample letter. Local agencies that received such conditional authorizations must submit a revised Exhibit 12-D “PS&E Checklist” under the New DBE Program to be accepted by the District Local Assistance Engineer prior to advertising the contract.

- Projects that are prepared using the New DBE Program and corresponding exhibits from the LAPM, as contained in this Office Bulletin, will follow normal authorization procedures.

**Projects Authorized by FHWA after September 30, 2012**

All projects must be prepared using the post-July 2012 race conscious measures and corresponding exhibits from the LAPM, as contained in this Office Bulletin.

**III. PROCEDURE**

Along with the release of this Office Bulletin, the following LAPM Exhibits/forms have been modified to reflect the New DBE Program requirements:

- Chapter 3, “Project Authorization,” including Exhibits 3-A through 3-D and 3-Q.
- Chapter 10, “Consultant Selection,” including Exhibits 10-C, 10-D, 10-I, 10-J, 10-O1 and 10-O2.
- Chapter 12, “Plans, Specifications and Estimate,” including Exhibits 12-D and 12-E.
- Chapter 15, “Advertise and Award Project,” including Exhibits 15-A, 15-B, 15-G, 15-H, 15-I and 15-L.
- Chapter 17, “Project Completion,” including Exhibit 17-F.

These revised LAPM exhibits are available on the Local Assistance Website.

**IV. APPLICABILITY/IMPACTS**

This will impact all federal-aid projects administered by local agencies. Noncompliance will result in loss of federal funds.

Recommended: Original Signed By \_\_\_\_\_ 6/29/12  
Henry Wells, Committee Chair Date

Approved: Original Signed By \_\_\_\_\_ 6/29/12  
Ray Zhang, Chief Date  
Office of Policy Development and Quality Assurance

Attachments:

Attachment 1 – Sample Letter Acknowledging Receipt of Office Bulletin 12-04