



#26-02: Bidder's/Proposer's List Data Collection & Submission

Purpose

The implementation of the U.S. Department of Transportation (USDOT) Disadvantaged Business Enterprise (DBE) Final Rule released April 9, 2024, increased recipient reporting and data collection, including information of DBE and non-DBE contractors/subcontractors, et al. The requirement to maintain a bidders list has been in effect since 1999, however, the Final Rule increases the obligation to report this information on an annual basis to USDOT per 49 CFR 26.11.

Recipients (and subrecipients) must collect detailed data on bidders/proposers, including the owners' information for all firms, along with the applicable North American Industry Classification System (NAICS) code for each item of work receiving a proposed bid. This data must incorporate all DBE and non-DBE bidders and proposers, including prime contractors/consultants, unsuccessful prime contractors/consultants, subcontractors/subconsultants, suppliers, and truckers, and must be submitted with bids or proposals.

To comply with federal regulations outlined in 49 CFR 26.11, the Local Assistance Procedures Manual (LAPM) is being updated to reflect the updated policy in collection and submission of bidder/proposer data for both construction and consultant contracts.

Policy Update

Caltrans is implementing Exhibit 9-L: Bidder's/Proposer's List to satisfy data collection in accordance with 49 CFR 26.11. Bidders/proposers are now required to submit Exhibit 9-L with their bids or proposals.

Effective October 1, 2026, Local Public Agencies (LPAs) must collect and submit Exhibit 9-L: Bidder's/Proposer's List for all contracts advertised on or after this date. Contracts advertised/awarded prior to October 1, 2026, must continue to collect Exhibit 12-B. It is requested to submit Exhibit 12-B to your DLAE within 60 days of award until the implementation date of the new Exhibit 9-L on October 1, 2026.

Exhibit 12-B: Bidder's List of Subcontractors is retiring. Exhibit 12-B and the new Exhibit 9-L: Bidder's/Proposer's list cannot be used as the list of subcontractors as required by Public Contract Code §4104.

Caltrans must collect and report specific information for *all* firms, DBE and non-DBE, that submit bids or proposals on federal-aid contracts. Caltrans is required to enter all collected information into the Federal Highway Administration (FHWA) designated reporting system no later than December 1 of the fiscal year following contract award.



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Compliance with these requirements is necessary to support federal reporting, ensure transparency in the DBE program, and maintain eligibility for federal funding.

For questions regarding OB #26-02, please contact your District Local Assistance Engineer (DLAE) or District DBE Coordinator. A current list of contacts is available at: <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/risk-assessment/dlae-dbe-coordinators-current-list.pdf>.

Procedure for Bidder's/Proposer's List Submittal

LPAs must collect bidder data as specified in 49 CFR 26.11, by the Prime Contractor, for each bid received.

- Construction contracts – Utilize Exhibit 9-L: Bidder's / Proposer's List in compliance with 49 CFR 26.11

LPAs must collect proposer data as specified in 49 CFR 26.11 by the Prime Consultant for each proposal received.

- Consultant contracts – Utilize Exhibit 9-L: Bidder's / Proposer's List in compliance with 49 CFR 26.11

LPAs are required to submit all collected materials to their DLAE **within 60 days of contract award**.

Publication Changes

The table below outlines specific LAPM changes relevant to updated DBE policies.

Chapter Section / Exhibit	Changes that Supersede Current Publication
Exhibit 9-L Bidder's/Proposer's List	Exhibit 9-L replaces Exhibit 12-B with the following modifications to the original Exhibit 12-B; data collection now includes information on consultant contracts: Sections added: • General Project Information • Prime Contractor / Prime Consultant Information Fields added: • Year firm established (Age of Firm) • Annual Gross Receipts • Firm Address (including ZIP code) • DBE / Non-DBE Status • NAICS Code for each item of work



Chapter Section / Exhibit	Changes that Supersede Current Publication
	Fields removed: • Line Item & Description • Subcontract amount • Percentage of Bid Item Subcontracted • Contractor License Number • DIR Registration Number
Exhibit 12-B Bidder's List of Subcontractors (DBE and Non-DBE)	Exhibit 12-B is retiring on October 1, 2026.
Exhibit 12-D & 12-E PS&E Checklist & Instructions	Exhibit 12-B checklist item replaced with Exhibit 9-L.
Chapter 12.8.2 Disadvantaged Business Enterprise (DBE)	Individual DBE contract goals will be established. Complete evaluation documentation is required and must be retained for each contract (see DBE references in LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprises). For contracts that contain a specific DBE goal, Caltrans' Standard Specifications are required to describe the DBE policy, the DBE contract goal, eligibility criteria, good faith effort requirements, sanctions on failure to comply, procedures for counting DBE participation, award documentation procedures, post-award compliance procedures, and required records and reporting. Exhibit 12-G includes requirements for DBE subcontractor listing, Federal Lobbying Restrictions, DBE, and other requirements. All Federal aid projects are subject to the legislative and regulatory DBE requirements. All federal-aid projects are subject to the legislative and regulatory DBE requirements set forth in 49 CFR 26, the Caltrans DBE Program Plan and LAPM Chapter 9. The main objective is to ensure that DBE firms have an opportunity to participate in federally-funded projects. If there is a DBE goal placed on the contract, the contractor must meet the goal or document a good faith effort to meet the contract goal. by using DBEs (see LAPM Chapter 9: Civil Rights and Disadvantaged Business Enterprises). Good faith efforts must be documented and verified (see Exhibit 15-H: Proposer/Contractor Good Faith Effort). If a DBE subcontractor is unable to perform, the contractor must make a good faith effort to replace him or her with another DBE subcontractor if the goal is not otherwise met.



Chapter Section / Exhibit	Changes that Supersede Current Publication
	Contracts must contain special provisions stating that it is the LPA's policy to comply with 49 CFR 26 and specify the contractor's obligation under these regulations. In accordance with LAPM Chapter 9, Section 9.6: Local Public Agency Responsibilities under Caltrans DBE Program Plan, each LPA is required to create and maintain a bidders list containing information about all DBE and non-DBE firms that bid or quote on the LPA's Federal aid construction contracts. The required bidders list is to include the name, address, DBE/non-DBE status, date established, and annual gross receipts of the firms. Exhibit 12-B: Bidder's List of Subcontractors (DBE and Non-DBE) provides a sample form that LPAs may choose to use in their solicitations to compile a bidders list. If an agency makes their own form, required information must be included to satisfy 49 CFR 26.11 and Section 4104 of the Public Contract Code of the State of California.
Exhibit 15-A Local Agency Construction Contract Administration Checklist	Replace Bidder's List checklist item with Exhibit 9-L (Section B. Contract Bid Opening).
Exhibit 15-L Contract Award Checklist	Replace Exhibit 12-B checklist item #13 with Exhibit 9-L.
Chapter 16.7.1 Approval of Subcontractors Prior to Starting Subcontracted Work	... Upon receipt of the form, and before approving the contractor's request, complete the following: 1. Compare the Subcontracting Request to Exhibit 12-B: Bidder's List of Subcontractors (DBE & Non-DBE). 1. Compare the Subcontracting Request to the List of Subcontractors. 2. Compare the Subcontracting Request to Exhibit 15-G: Construction Contract DBE Commitment. 3. Confirm the prime contractor has not subcontracted work they are required to do with their own forces. 4. Verify the subcontractors are not on the Department of Industrial Relation's (DIR) debarred contractors list available at: http://www.dir.ca.gov/dlse/debar.html. ...



Chapter Section / Exhibit	Changes that Supersede Current Publication
	STEP 1: Compare Subcontracting Request to the Bidder's List of Subcontractors <u>Requirements of the Fair Practices Act in the Bidding Process</u> Sections 4100 through 4114 of the Public Contract Code are called the Subletting and Subcontracting Fair Practices Act (Act) and applies to California's construction projects. The Act is designed to prevent prime contractors from bid shopping for subcontractors after bids are opened and the low bidder is known. The Act requires that subcontracted work in excess of one-half of one percent (0.5%) of the contractor's total bid amount or \$10,000, whichever is greater, must be listed in the prime contractor's bid proposal. This is accomplished when the contractor submits Exhibit 12-B. <u>Reviewing the Forms</u> Compare the Subcontractor Request submitted by the contractor with the Bidder's List of Subcontractors, looking for potential violations. Confirm that the subcontractors and the work percentages are correct. Verify the following: - Any subcontractor listed on the request to perform more than one-half of one percent (0.5%) of the contract or \$10,000, whichever is greater, is also shown on the List of Subcontractors. No Any subcontractor is listed on the request to perform work that is shown on the list of subcontractors is not to be performed by another company.

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