

## **DISADVANTAGED BUSINESS ENTERPRISE AND SMALL BUSINESS ENTERPRISE PROGRAM**

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**Santa Maria Area Transit (SMAT), Operated by  
the City of Santa Maria, CA  
Recipient #: 1870**

**Effective: February 24, 2017  
Revision: 1.0**

Prepared by:  
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## Policy Statement

### Section 26.1, 26.23 Objectives/Policy Statement

The City of Santa Maria (referred to as "City" herein) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City to ensure that DBEs that are defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT - assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Director of Public Works has been delegated as the DBE Liaison Officer. In that capacity, the Director of Public Works 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 incurred by the City of Santa Maria in its financial assistance agreements with the Department of Transportation.

The City of Santa Maria has disseminated this policy statement to the City Council and all of the components of our organization. The City has disseminated this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts, on its website, and hosted workshops, to inform the City's commitment to DBE and opportunities for contracting.

Richard Haydon, City Manager

Date

## **SUBPART A - General Requirements**

### **Section 26.1 Objectives**

The objectives are found in the policy statement on the first page of this program.

### **Section 26.3 Applicability**

The City 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.

California Department of Transportation (Caltrans) is the primary 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, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21, Pub. L. 105-178, 112 Stat. 107. The City is a subrecipient of Caltrans for federal highway funds and complies with Caltrans' DBE Program.

This DBE Program document pertains to funds from the Federal Transit Administration only. The City will conform to the DBE requirements for funds from the Federal Highway Administration (FHWA) in accordance to the terms and conditions to Caltrans, the primary recipient of FHWA funds. Caltrans prepares and administers their own DBE Program for FHWA funds.

### **Section 26.5 Definitions**

The City has adopted the definitions contained in Section 26.5 for this program.

### **Section 26.7 Non-discrimination Requirements**

The City does not 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 its DBE program, the City does 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.

### **Section 26.11 Record Keeping Requirements**

Reporting to DOT: 26.11(b)

The City reports DBE participation to DOT as follows:

For projects funded by the Federal Transit Administration, the City reports DBE participation on a semi-annual basis, using TrAMS. These reports reflect payments actually made to DBEs on DOT-assisted contracts.

For projects funded by the Federal Highway Administration, the City complies with the terms and conditions for Caltrans DBE Program.

### **Bidders List: 26.11(c)**

The City maintains a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculate overall goals. The bidder list will include the name, address, DBE or non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

1. Submission of Bidders/Proposers Information Form
2. Annual outreach workshops
3. Prime Contractors providing contact information of subcontractors

### **Section 26.13 Federal Financial Assistance Agreement**

City has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

### **Assurance: 26.13(a)**

City 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 and 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 City of its failure to carry out its approved program, the Department may impose sanction 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.).

The above paragraph appears verbatim in financial assistance agreements with sub-recipients.

**Contract Assurance: 26.13b**

City uses includes that the following clause is placed in every DOT-assisted contract and subcontract:

*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 DOT 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 this contract or such other remedy as the recipient deems appropriate.*

The above paragraph is used verbatim, as it is stated in 26.13(b).

**SUBPART B - ADMINISTRATIVE REQUIREMENTS**

**Section 26.21 DBE Program Updates**

Since the City receives funds from the Federal Transit Administration (FTA) in the amount of \$250,000 or more for operating, capital, and/or planning assistance in a federal fiscal year(49 CFR 26.21(a)(2)), the City will perform the program requirements until all funds from DOT financial assistance have been expended.

## Section 26.23 Policy Statement

The City has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City has signed an assurance that it will comply with 49 CFR Part 26. Refer to Attachment 6.

It is the policy of the City to ensure non-discrimination in the award and administration of U.S. DOT Federally assisted contracts in accord with applicable requirements of 49 CFR Part 26. The City's objectives are to:

- a. Promote and maintain a level playing field on which all small businesses meeting the requisite size standards, including DBEs, can compete fairly for U.S. DOT Federally assisted contracts awarded and administered by CITY;
- b. Ensure only firms meeting the eligibility standards set forth in 49 CFR Part 26 are permitted to participate as DBEs;
- c. Ensure the DBE Program is narrowly tailored in accordance with applicable law;
- d. Identify and remove barriers to the participation of all small businesses meeting the requisite size standards, including DBEs, in the bidding, award, and administration of U.S. DOT Federally-assisted contracts;
- e. Assist the development of DBEs so they may compete successfully outside of the DBE Program;
- f. Increase the participation of all small businesses meeting the requisite size standards, including DBEs, in the Department's procurement of materials, equipment and supplies;
- g. Provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs; and
- h. Successfully facilitate the implementation of the DBE Program using race neutral measures to the maximum extent.

### **Section 26.25 DBE Liaison Officer (DBELO)**

The following Department Director has been designated as the City's DBE Liaison Officer:

Steven Kahn  
Director of Public Works  
110 S. Pine Street, Suite 101  
Santa Maria, CA 93458  
Office: 805.925.0951 x2225  
skahn@cityofsantamaria.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Richard Haydon, City Manager, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment A to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of one to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) attainment and identifies ways to improve progress.
6. Analyzes City of Santa Maria's progress toward attainment and identifies ways to improve progress.
7. Advises the City Manager on DBE matters and achievement.
8. DBELO, or his/her designee, participates in pre-bid meetings or other meetings relating to DBE matters. If designee attends any meetings on the DBELO's behalf, the designee will review the discussions from the meetings with the DBELO.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.
12. Maintains the City's updated directory on certified DBEs.

The following individuals are also responsible for the DBE Program implementation:

- **David Beas, Development Engineer:** Administrative reconsideration.
- **Rodger Olds, Capital Engineer:** Caltrans program compliance and updates. Monitoring and annual DBE participation for non-transit projects, and monitoring of all transit construction projects. Enforcement and monitoring of DBE requirement for non-transit projects and transit projects.
- **Austin O'Dell, Transit Services Manager:** Goal setting, program updates, monitoring and annual DBE participation reporting for transit projects.

### Section 26.27 DBE Financial Institutions

It is the policy of the City 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 contract to make use of these institutions.

The City utilized the following website to identify minority-owned financial institutions: [www.federalreserve.gov/releases/mob/](http://www.federalreserve.gov/releases/mob/).

To date we have identified the following such institutions:

COMMUNITY CMRC BANK  
AMERICAS UNITED BANK  
EVERTRUST BANK

EASTERN INTL  
CATHAY BANK  
ROYAL BUSINESS BANK

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

### Section 26.29 Prompt Payment Mechanisms

The City will include the following clause in each prime contract, and prime contractors shall include in their subcontracts:

#### **Prompt Progress Payment to Subcontractors**

The City shall require contractors and subcontractors to be timely paid as set forth in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 7-day is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with the agency's prior written approval. Any violation of Section

7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

**Prompt Payment of Withheld Funds to Subcontractors**

The City shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including; either (1), (2), or (3) of the following provisions the City has in their federal-aid contracts to ensure prompt and full payment of retainage (withheld funds) to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the City from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the City's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
2. No retainage will be held by the City from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the City's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient

subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the City of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the City. Any delay or postponement of payment may take place only for good cause and with the City's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors

### Section 26.31 Directory

Attachment 2 is a DBE Directory for interested persons locating certified Disadvantaged Business Enterprises. For the most current DBE Directory, the City encourages interested persons to visit the Unified Certification Program DBE Directory available from the Caltrans Disadvantaged Enterprise Program's website at [www.doc.ca.gov/hq/bep](http://www.doc.ca.gov/hq/bep). For interested persons locating certified Small Business Enterprises, the City refers interested persons to the State of California General Services Directory available at [www.dgs.ca.gov/pd/Programs/OSDS.aspx](http://www.dgs.ca.gov/pd/Programs/OSDS.aspx).

Field Code Changed

Field Code Changed

### Section 26.33 Overconcentration

City has not identified that overconcentration exists in the types of work that DBEs perform.

### Section 26.35 Business Development Programs

The basic requirement is that the City may establish a DBE Business Development Program to assist firms in gaining the ability to compete in the market place outside the DBE program. The City chooses not to implement a Business Development Program nor a Mentor-Protégé Program.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

The City will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. Report to the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. City monitors and verifies that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by utilizing construction managers, city inspectors, and certified payroll.
3. City maintains a running tally of actual payments to DBE firms for work committed to them at the time of contract award.
4. City will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
5. Enforcement mechanisms in Attachment 3.

### **Section 26.39 Small Business Participation**

As part of this City's annual outreach to DBE firms, the City will also encourage participation of small businesses to attend the annual workshops. The purpose is to educate the small business community of the upcoming opportunities to participate in City contracts, how to find opportunities, review basic requirements, and resources to assist their participation in contract opportunities.

## **SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

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

### **Section 26.45 Overall Goals**

The overall triennial goals shall be submitted/uploaded in TrAMS August 1 for each mandatory year. The preparation of the draft goals shall include the methodology, City will consult with the small business annually, disadvantaged business enterprise and non-disadvantaged business enterprise communities are to explain the purpose of the meetings, the business opportunities, requirements, methodologies and goals, learn how

the City can reach small businesses and learn availability of disadvantaged and non-disadvantaged businesses, and the City's efforts to establish a level playing field for the participation of DBEs.

After consulting with the business community, the City publishes its overall goals, informing the public of the established goals and it's rational on the City's website.

The City will develop separate overall goals for funds for the Federal Transit Administration (FTA) and the Federal Highways Administration (FHWA). The City will also submit its annual goal achievement to Federal Transit Administration. The City will submit its goal achievement for projects using funds from Federal Highways Administration to Caltrans since Caltrans is the recipient of FHWA funds. The City's overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses. The City will publish its overall goals for federally funded projects and it annual DBE goals on the City's website.

#### **Section 26.49 Transit Vehicle Manufacturers Goals**

City 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.

Bids and proposals will be accepted from Transit Vehicle Manufacturers that are on the Federal Transit Administration's (FTA) Eligible Transit Vehicle Manufacturer's List at the time of solicitation. This list is located at the following website:

[www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-tvms-list](http://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-tvms-list).

### **Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation**

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 7 to this program. The breakout of the estimated race-neutral and race-conscious participation will be included in the annual goal update.

### **Section 26.51(d-g) Contract Goals**

The City will use contract goals to meet any portion of the overall goal the City does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The City will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The City does not need to establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

The City will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

### **Section 26.53 Good Faith Efforts Procedures**

#### **Demonstration of good faith efforts (26.53(a) & (c))**

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The Project Manager and/or his/her designee is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. The Project Manager will submit his/her determination to the DBELO for concurrence in writing.

The City will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

### **Information to be submitted (26.53(b))**

City treats bidder/offeror's compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

### **Administrative reconsideration (26.53(d))**

Within seven (7) days of being informed by the City that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: David Beas, 110 S. Pine Street, #101, Santa Maria, CA 93458, ph. 805-925-0951 x2225, dbeas@cityofsantamaria.org. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror 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 to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The City will 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. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

### **Good Faith Efforts when a DBE is replace on a contract (26.53(f))**

City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The City will require the prime contractor to notify in writing the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the City will: 1) require the prime contractor to obtain written approval from the DBELO of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts and/or 2) select one of the administrative remedies for noncompliance in 26.53(f)(3). Refer to the regulations in Attachment 6.

Below is sample contract language to include in procurement documents:

#### ***DBE Requirements***

*The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the City to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of \_\_\_\_ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.*

*The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.*

The City shall establish the goal pursuant to this program. The above sample contract language for DBE Requirements can be used to notify bidders/offerors of the requirements to make good faith efforts. The forms found at Attachment 5 can

be used to collect information necessary to determine whether the bidder/offeror has satisfied these requirements. The sample specification is intended for use in both non-construction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.

### **Section 26.55 Counting DBE Participation**

The City will count DBE participation toward overall and contract goals in accordance to 49 CFR 26.55.

## **SUBPART D - CERTIFICATION STANDARDS**

### **Section 26.61 - 26.73 Certification Process**

The City uses the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards and must be certified as a DBE Firm.

For information about the certification process or to apply for certification, firms should contact: Caltrans, Office of Business & Economic Opportunity, Attn: Certification Unit 1823 14th Street, Sacramento, CA 95811 or visit the following website:

[http://www.dot.ca.gov/hq/bep/business\\_forms.htm](http://www.dot.ca.gov/hq/bep/business_forms.htm).

Certification application forms and documentation requirements are available at the following website:

[http://www.dot.ca.gov/hq/bep/business\\_forms.htm](http://www.dot.ca.gov/hq/bep/business_forms.htm)

## **SUBPART E - CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

City utilizes the Unified Certification Program (UCP) administered by the State of California Department of Transportation (Caltrans). The UCP meets all of the

requirements of this section. Caltrans maintains the UCP and updates the DBE firms daily. The UCP utilizes a database that is available on the Caltrans website for anyone to access to search for DBE firms. The website is located at:

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

## **Section 26.83 Procedures for Certification Decisions**

### **Re-certifications 26.83**

City will refer all requests for recertification of DBEs to California's Unified Certification Program.

### **"No Change" Affidavits and Notices of Change (26.83(j))**

DBE's are required to inform the City, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26, or of any material changes in the information provided with the application for certification.

City also requires all owners of all DBEs that California's Unified Certification Program has certified to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The following paragraphs serve as the affidavit:

*I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the City under 26.83(j). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million.*

### **Section 26.85 Denials of Initial Requests for Certification**

Application denial or decertification is subject to Caltrans Unified Certification Program requirements. For information, interested persons should contact the Analyst of the Day, Monday through Friday, 8:00 a.m. to 5:00 p.m., PST at (916) 324-1700.

### **Section 26.87 Removal of a DBE's Eligibility**

For questions regarding removal or suspension of DBE certifications, firms should contact Analyst of the Day, Monday through Friday, 8:00 a.m. to 5:00 p.m., PST at (916) 324-1700 or email to:

[DBE.Certification@dot.ca.gov](mailto:DBE.Certification@dot.ca.gov).

### **Section 26.89 Certification Appeals**

Any firm or complainant may appeal California's Unified Certification Program's decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation  
Departmental Office of Civil Rights  
External Civil Rights Programs Division (S-33)  
1200 New Jersey Ave., S.E.  
Washington, DC 20590  
Phone: (202) 366-4754  
TTY: (202) 366-9696  
Fax: (202) 366-5575

The City will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that California's Unified Certification Program's denial of its application was erroneous).

## **SUBPART F - COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

The City will create a bidder list, consisting of information about all DBE, SBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculate overall goals. The bidder list will include the name, address, DBE, SBE and non-DBE status, age, and annual gross receipts of firms.

The City will collect this information through the use of California's Uniform Certification Program certification information and also a contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

### **Monitoring Payments to DBEs**

The City will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The City will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award. The City may perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

## ATTACHMENTS

- Attachment 1 Organizational Chart
- Attachment 2 DBE Directory
- Attachment 3 Monitoring and Enforcement Mechanisms
- Attachment 4 Demonstration of Good Faith Efforts
- Attachment 5 DBE Bidder's List Form
- Attachment 6 Regulations: 49 CFR part 26
- Attachment 7 Breakout of Estimate

**Attachment 1  
Organization Chart**

(Refer to following pages)

**Attachment 2**  
**DBE Directory**

(Refer to following pages)

### **Attachment 3 Monitoring and Enforcement Mechanisms**

The City utilizes several remedies available to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Suspension or debarment proceedings pursuant to 49 CFR part 26;
3. Enforcement action pursuant to 49 CFR part 31; and
4. Prosecution pursuant to 18 USC 1001.

**Attachment 4**  
**Forms 1 & 2 for Demonstration of Good Faith Efforts**

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract.

\_\_\_\_\_ The bidder/offeror (if unable to meet the DBE goal of \_\_\_\_\_%) is committed to a minimum of \_\_\_\_\_% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature)

Title \_\_\_\_\_

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_

(Signature) (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void. Submit this page for each DBE subcontractor.

**Attachment 5  
Bidders List Form**

(Refer to following pages)

**Attachment 6**  
**Regulations: 49 CFR Part 26**

(Refer to following pages)

## **Attachment 7 Breakout of Estimated**

### Race-Neutral & Race Conscious Participation

City will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The City uses the following race-neutral means to increase DBE participation:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses, and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part;
- Providing technical assistance and other services;
- Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

We estimate that, in meeting our overall goal of 0%, we will obtain 0% from race-neutral participation and 0% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

DBE Opportunity is zero for operating and maintenance assistance. The annual DBE outreach and DBE participation will update the basis of the breakout estimate.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE

obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.