

## INTERIM EXHIBIT 9-B LOCAL AGENCY DBE ANNUAL SUBMITTAL FORM

TO: CALTRANS DISTRICT \_\_\_\_08\_\_\_\_  
District Local Assistance Engineer Sean Yeung

The information for exhibit 9-B presented herein, in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan.

The San Bernardino Associated Governments submits our annual 9-B information for the Federal Fiscal Year 2013-2014, beginning on October 1 and ending on September 30.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Duane A. Baker  
Director of Management Services  
SAN BERNARDINO ASSOCIATED GOVERNMENTS  
1170 W. Third Street, 2<sup>nd</sup> Floor  
San Bernardino, CA 92410  
(909) 884-8276 phone  
(909) 885-4407 fax  
dbaker@sanbag.ca.gov

Planned Race Neutral Measures

SANBAG plans to implement the following race-neutral measures to comply with 49 CFR Part 26.51 and Section V of the California Department of Transportation Race-Conscious DBE Program Implementation Agreement for Local Agencies.

SANBAG will arrange 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); and other Planned Race-Neutral Measures; will also include holding pre-bid conferences for SANBAG's federally-aided projects, which include a networking component to promote teaming opportunities between prospective Primes and the DBE and Small Business contracting community.

- 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); Planned Race-Neutral Measures: SANBAG will, through its website, refer the DBE and Small Business Contracting Community to the SBA bonding assistance program, via the California Construction Contracting Program (CCCP) and its technical counselors.

- Providing technical assistance and other services;
- 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;); Planned Race-Neutral Measures: SANBAG will solicit DBEs and Small Businesses within the SANBAG's defined market area utilizing any or all of the following means: Issue solicitation flyers/letters to promote upcoming bid opportunities through email blasts, postcards, website posting, fax blasts, etc.
- 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; Planned Race-Neutral Measures; SANBAG will actively promote the Caltrans sponsored California Construction Program (CCCP) to its market place contractors, consultants, and vendors through the SANBAG's website by directing them to [www.buildcalifornia.org](http://www.buildcalifornia.org).
- Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency; Planned Race-Neutral Measures: SANBAG will hold pre-bid conferences that will include a networking component to promote teaming opportunities between prospective primes and the DBE and Small Business contracting community.
- Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; Planned Race-Neutral Measures: SANBAG will advise its Contracting Community of the availability of the California Unified Certification Program (CUCP) database (directory of Certified DBEs) website at [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).
- Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media. Planned Race-Neutral Measures: SANBAG will advise the DBE and Small Business community to participate and attend Caltrans' sponsored free courses specifically offered through the CCCP. Specifically, firms will be referred to "Navigating the Caltrans Procurement Website" course to assess bid opportunities as this course includes tips on accessing local agencies websites as well.
- SANBAG staff will participate in training sessions as available, to keep current on regulatory update/directives.

Prompt Pay

Federal regulation (49 CFR 26.29) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor. Attachment A contains the prompt pay language.

Prompt Pay Enforcement Mechanism

49 CFR, Part 26.29(d) requires providing appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause with the local agency's prior written approval. A brief description of SANBAG's monitoring and enforcement mechanisms in place to ensure that all subcontractors, including DBEs, are promptly paid is provided below:

During the course of contract construction, contractor is required to provide Subcontracting Request Form that lists and details all subcontractors that will be performing work worth more than \$10,000 and/or 1% of the total bid. This submittal is tallied with the listed subcontractors (including DBEs) in the bid document to verify that the subcontractors (including DBEs) are getting their portion of the work. The monthly labor compliance documentation is collected by each project's construction management firm to verify the names of employers (DBE and non-DBE) performing the work for materials and workmanship provided for the contract. Through review and management of labor compliance documentation, San Bernardino Associates Governments will know who performed specific services provided during the course of construction. At the completion of the construction contract, the contractor is required to submit the Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors form, Exhibit 17-F, which is reviewed and approved prior to closeout.

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

\_\_\_\_\_  
Date

Duane A. Baker, Director of Management Services  
San Bernardino Associated Governments  
ADMINISTERING AGENCY

(909)884-8276 X107

\_\_\_\_\_  
(Signature of Caltrans District Local Assistance Engineer [DLAE])

\_\_\_\_\_  
Date

**Distribution:** (1) Original - DLAE  
(2) Signed copy by the DLAE – Local Agency

DBE Annual Submittal Form (07/ 1/10)

Attachment A

**Prompt Payment of Withheld Funds to  
Subcontractors**

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

**Method 1:** No retainage will be held by the agency 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 agency'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.

**Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 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 agency'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.

**Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency 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 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency'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.

**SAN BERNARDINO ASSOCIATED GOVERNMENTS  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM  
ORGANIZATIONAL CHART**

