



RESOLUTION NO. 085-2014
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

COUNTY OF EL DORADO LOCAL AGENCY DISADVANTAGED BUSINESS ENTERPRISE (DBE) ANNUAL SUBMITTAL FORM (EXHIBIT 9B) FOR FEDERAL FISCAL YEAR 2014-2015

WHEREAS, on May 5, 2009, per Resolution 088-2009, the Board approved the County of El Dorado's new Disadvantaged Business Enterprise (DBE) Program and authorized the Board Chair to sign the new DBE Implementation Agreement (AGMT 09-52635). The State of California Department of Transportation (Caltrans) provided its approval on May 8, 2009. The County of El Dorado Department of Transportation, now the County of El Dorado, Community Development Agency, adopted Caltrans' Program in accordance with regulations of the United States Department of Transportation (US DOT) Title 49, Part 26, of the Code of Federal Regulations; and

WHEREAS, on June 29, 2012, Caltrans informed all local agencies that all contract goals for US DOT funded projects authorized after July 1, 2012 or advertised after August 17, 2012 must include all DBE groups; and otherwise, the contract goals apply to the four Underutilized DBE (UDBE) groups authorized by the Federal Highway Administration (FHWA) in 2008; and

WHEREAS, the DBE Program includes both Race-Neutral and Race-Conscious portions; and

WHEREAS, AGMT 09-52635 requires that local agencies provide to the Caltrans District Local Assistance Engineer a completed Local Agency DBE Annual Submittal Form (Exhibit 9B) for the Federal Fiscal Year (FFY) 2014-2015, which includes the name, phone number, and electronic mailing address of the designated DBE Liaison Officer; the Race Neutral measures that the local agency intends to implement in that year; and the choice of the Prompt Payment Provision to be used by the County of El Dorado for FFY 2014-2015; and

NOW, THEREFORE, BE IT RESOLVED that the County of El Dorado Board of Supervisors authorizes the Board Chair to sign the Local Agency DBE Annual Submittal Form (Exhibit 9B) (CDA 14-53943).

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 24 day of June, 2014, by the following vote of said Board:

Attest:
James S. Mitrisin
Clerk of the Board of Supervisors

Ayes: Veerkamp, Briggs, Mikulaco, Santiago
Noes: none
Absent: none

By: 
Deputy Clerk


Chair, Board of Supervisors
Norma Santiago

Local Agency DBE Annual Submittal Form (Exhibit 9B)

TO: CALTRANS DISTRICT 3
District Local Assistance Engineer

The information for exhibit 9-B presented herein, is 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 County of El Dorado submits its annual 9-B information for the Federal Fiscal Year 2014/2015, beginning on October 1, 2014 and ending on September 30, 2015.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Katy Sampson, 2850 Fairlane Court, Placerville, CA 95667, Phone (530) 621-5306; Fax (530) 626-0387, kate.sampson@edcgov.us, is designated as the DBELO for the coming Federal Fiscal Year.

Planned Race Neutral Measures

Attachment A attached hereto provides the list of the Race Neutral measures the County of El Dorado plans to implement for the upcoming Federal Fiscal Year.

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. (Attached hereto as Attachment B is a listing of the three methods with the selected provision designated with an "x".)

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. The following monitoring and enforcement mechanism is in place to ensure that all subcontractors, including DBEs, are promptly paid:

In addition to the penalties, sanctions, and other remedies specified in Section 7108.5 of the Business and Profession Code, the County of El Dorado has included a contract clause in the special provisions that requires the prime contractors include in their subcontracts language that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.

Attachment A

County of El Dorado

Disadvantaged Business Enterprise (DBE) Program

Race Neutral Measures

County of El Dorado plans to implement the following Race Neutral measures for the upcoming Federal Fiscal Year 2014-2015:

1. 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);
2. Through the Good Faith Effort requirements included in the County's contracts, provide 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. Ensure compliance with prompt payment specifications by requiring prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes, and by enforcing the provisions of Section 7108.5 of the Business and Professions Code;
4. Track all DBE participation on federally-assisted contracts, including monitoring the Commercially Useful Function of DBEs;
5. Host construction pre-bid meetings, encourage all businesses to attend, and facilitate networking among potential bidders;
6. Maintain County website describing projects advertised for bids; and
7. Unbundle large consultant contracts into smaller contracts.

Attachment B

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.

Local Agency DBE Annual Submittal Form (Exhibit 9B)

TO: CALTRANS DISTRICT 3
District Local Assistance Engineer

The information for exhibit 9-B presented herein, is 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.

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County of El Dorado

Disadvantaged Business Enterprise (DBE) Program

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