

Local Agency DBE Annual Submittal Form

TO: CALTRANS DISTRICT 3
District Local Assistance Engineer

The amount of the Annual Anticipated DBE Participation Level (AADPL) and methodology are 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 County of El Dorado submits our AADPL information. We have established an AADPL of 15% (6% Race Neutral; 9% Race Conscious) for the Federal Fiscal Year 2010/2011, beginning on October 1, 2010 and ending on September 30, 2011.

Methodology

See Attachment A attached hereto.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Janel Gifford, 2441 Headington Road, Placerville, CA 95667, Phone (530) 642-4988, Fax (530) 295-2655. Janel.Gifford@edcgov.us is designated as the DBELO for the coming Federal Fiscal Year.

Planned Race-Neutral Measures

Attachment B attached hereto provides the list of the Race Neutral measures El Dorado County 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 C is a listing of the three methods with the selected provision designated with a "x".)

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.

Submitted by:
COUNTY OF EL DORADO

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:
Suzanne Allen de Sanchez
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

CALIFORNIA DEPARTMENT OF TRANSPORTATION

Reviewed by Caltrans:

By: _____
John Hoole, Chief, DLAE

Dated: _____

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

DBE Annual Submittal Form (04/01/08)

Attachment "A"

El Dorado County

Disadvantaged Business Enterprise (DBE) Program Methodology and Calculations Used to Determine Annual Anticipated DBE Level (AADPL) for Federal Fiscal Year 2010/2011 (FFY 10/11)

- I. First, determine the projects that El Dorado County anticipates awarding in the upcoming federal fiscal year (FFY). List these projects, including both construction and consultant contracts. Next, determine the various work types and amounts of work that will be involved, using the work categories and codes that can be found on the California Unified Certification Program (CUCP) website. For each Work Category, calculate the percentage (Weight) of the total contract work to be performed. Table 1 provides this information.

TABLE 1

| Projects | Work Category | NAICS Code | Estimated Contracts FFY 09/10 | % of Federal Funding by Work Category (Weight) |
|--|--|-------------------|--------------------------------------|---|
| Northside School Class 1 Bike Path – Phase 1 | Highway, Street, & Bridge Construction | 237310 | \$1,716,154 | 77.8% |
| Northside School Class 1 Bike Path – Phase 2 | | | | |
| Bucks Bar Road at the N. Fork Cosumnes River – Bridge Rehabilitation | Engineering Services-Geotechnical | 541330 | \$30,000 | 1.4% |

| Projects | Work Category | NAICS Code | Estimated Contracts FFY 09/10 | % of Federal Funding by Work Category (Weight) |
|--|---|------------|-------------------------------|--|
| Green Valley Road at Weber Creek – Bridge Replacement | Environmental Consulting Services- Right of Way | 541620 | \$174,000 | 7.9% |
| Sly Park Road at Clear Creek Crossing – Bridge Replacement | | | | |
| Cold Springs Road at Mt. Shasta Lane – Realignment | | | | |
| Salmon Falls Road at Glenesk Lane - Realignment | | | | |
| Newtown Road/ Weber Creek Bridge | | | | |
| Bucks Bar Road at N. Fork Consumnes River- Bridge Rehabilitation | Environmental Consulting Services | | \$285,000 | 12.9% |
| Cold Springs Road at Mt. Shasta Lane – Realignment | | | | |
| Salmon Falls Road at Glenesk Lane - Realignment | | | | |
| Newtown Road/ Weber Creek Bridge | | | | |
| | | | | |
| | TOTALS: | | \$2,205,154 | 100% |

II. In order to determine the AADPL base figure, first compute the AADPL formula for each Work Category:

$$\text{AADPL (per Work Category)} = \left[\sum \frac{\text{No. of DBEs in a Work Category}}{\text{No. of All Firms in same Work Category}} \times \text{Weight} \right] \times 100$$

Each Work Category AADPL is then multiplied by its percentage (Weight) of the total work to be performed. The resulting numbers are then added up to obtain the overall AADPL Base Figure:

FORMULA AADPL (Base Figure) =

$$\left[\frac{\text{\# of DBEs in 237310}}{\text{\# of all firms in 237310}} \times 0.778 + \frac{\text{\# of DBEs in 541330 (GEO)}}{\text{\# of all firms in 541330 (GEO)}} \times 0.014 \right] \times 100 + \left[\frac{\text{\# of DBEs in 541620(RW)}}{\text{\# of all firms in 541620(RW)}} \times 0.079 + \frac{\text{\# of DBEs in 541620(ENV)}}{\text{\# of all firms in 541620(ENV)}} \times 0.129 \right] \times 100$$

To determine the number of DBE firms (for the numerator in the calculation):

1. For each NAICS Work Category listed above, determine total number of DBEs in El Dorado County’s Market Area¹ that can perform that type of work. To do this, use the CUCP website, which can be accessed by going to

http://www.dot.ca.gov/hq/bep/find_certified.htm

and clicking on the “Click here to Access the DBE Query Form” link.

2. On the resulting page, go to the “County” box and highlight all the counties in the agency’s Market Area.

3. Click on the appropriate 2-digit code in the “NAICS Categories” box. This will automatically bring up the more detailed 6-digit NAICS Work Category codes in a new box. Highlight the appropriate 6-digit code. Finally, click the “Start Search” button at the bottom of the page. This will give the number of DBE firms available to do work in that NAICS Work Category, followed by a list of individual firms.

4. To narrow it down to El Dorado County’s Market Area, print out the list and cross off any firms that are not located within the Market Area counties. This will result in a list of DBE firms that are in El Dorado

¹ The Market Area for the NAICS Category, 237310 was determined by using the bidders’ list containing all prime and subcontractors that bid on El Dorado County Department of Transportation construction projects over the past three Federal Fiscal Years. For those counties in which five or more bidders were located in that county, the county was considered to be within the Market Area. This approach resulted in nine counties being in the Market Area: Alameda, Contra Costa, El Dorado, Placer, Sacramento, San Joaquin, Shasta, Solano, and Yolo.

The Market Areas for the NAICS Categories 541330 and 541620 were determined by compiling a list of all ongoing consultant contracts within the El Dorado County Department of Transportation and sorting the list by type of service (e.g. Civil Engineering, Geotechnical, Right of Way, and Environmental Consulting Services) and location. The resulting Market Areas are as follows: Civil Engineering and Geotechnical- Contra Costa, El Dorado, Nevada, Sacramento, and Yolo; Right of Way – Sacramento and Placer; and Environmental – Sacramento.

County’s Market Area. The number of firms remaining on the list becomes the numerator for that Work Category.

5. Repeat this process for each Work Category.

To determine the total number of firms (for the denominator in the calculation):

1. For each NAICS Work Category, determine the total number of firms in El Dorado County’s Market Area that are willing to perform that type of work. To do this, go to the following website:

<http://censtats.census.gov/cbpnaic/cbpnaic.shtml>

2. At the top of the page, select “California” and click on the “Go” button.

3. On the next page, use the drop-down menu to select one of the counties in El Dorado County’s Market Area, and click the “Select” button. The “Industry Codes” listed are the same as the NAICS codes. For each 2-digit category that is being used, click on the “Detail” button. This will bring up a list of all of the 6-digit Work Category codes contained within that category.

4. For each 6-digit Work Category to be used, click the “Detail” button to get a county-by-county list of the total number of establishments. Add the numbers for each county in the Market Area to get the total number of firms for this type of work, which becomes the denominator for that Work Category.

5. Repeat this process for each Work Category.

After completing the above tasks, Table 2 results:

TABLE 2

| NAICS Category | # of DBE Firms (Numerator) | Total # of Firms (denominator) | % of total contract funding (Weight) |
|---------------------------|---------------------------------------|---|---|
| 237310 | 36 | 202 | 77.8% |
| 541330 (Geotechnical) | 1 | 741 | 1.4% |
| 541620 (Right of Way) | 2 | 100 | 7.9% |
| 541620 (Environmental) | 5 | 80 | 12.9% |

Entering the values shown in Table 2 into the Formula AADPL (Base Figure) yields an **AADPL (Base Figure) of 14.84% (15% rounded)**.

III. Race-Conscious (RC) Portion of AADPL (Using UDBEs):

To obtain the **RC AADPL**, use the same method shown above, except substitute UDBEs for DBEs in the formula.

To get the number of UDBE firms (UDBE firms = male-owned UDBE firms + all female-owned firms), eliminate all firms on the DBE lists from the CUCP database that are not designated as either female-owned or male-owned with the UDBE-designated ethnicities (Asian Pacific, Native American, African American).

Table 3 shows the number of UDBE firms, number of total firms, and Work Category Weights results.

TABLE 3

| NAICS Category | # of UDBE Firms (Numerator) | Total # of Firms (denominator) | % of total contract funding (Weight) |
|---------------------------|------------------------------------|---------------------------------------|---|
| 237310 | 21 | 202 | 77.8% |
| 541330 (Geotechnical) | 0 | 741 | 1.4% |
| 541620 (Right of Way) | 2 | 100 | 7.9% |
| 541620 (Environmental) | 4 | 80 | 12.9% |

Inserting the Table values as appropriate in the formula

$$RC\ AADPL = \left[\sum \frac{No.\ of\ UDBEs\ in\ a\ Work\ Category}{No.\ of\ All\ Firms\ in\ same\ Work\ Category} \times Weight \right] \times 100$$

results in a **RC AADPL = 8.89% (rounded to 9%)**.

IV. Race-Neutral (RN) Portion of AADPL:

The Race-Neutral portion of the AADPL is the overall AADPL minus the Race-Conscious portion.

$$RN\ AADPL = AADPL - RC\ AADPL = 14.84 - 8.89 = 5.94\% \text{ (rounded to 6\%)}$$

Attachment “B”

El Dorado County

Disadvantaged Business Enterprise (DBE) Program

Race Neutral Measures

El Dorado County plans to implement the following Race Neutral measures for the upcoming Federal Fiscal Year 2010-2011:

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 "C"

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.