

Exhibit 9-B: Local Agency DBE Annual Submittal Form

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 (Caltrans) Disadvantaged Business Enterprise (DBE) Program Plan.

The County of El Dorado submits our annual 9-B information for the Federal Fiscal Year 2021 /2022 , beginning on October 1 and ending on September 30.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Brian Franklin, P.E., 2850 Fairlane Court, Placerville, CA 95667, Phone (530) 621-5311, Fax (530) 626-0387, brian.franklin@edcgov.us, is designated as the DBELO for the coming Federal Fiscal Year.

Planned Race-neutral Measures

In accordance with 49 CFR 26.51 and Section V of the Caltrans DBE Program Implementation Agreement for Local Agencies, 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 and Section 10262 of the California Public Contract 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:

C O U N T Y O F E L D O R A D O

By: _____

Dated: _____

**Board of Supervisors
"County"**

**Attest:
Kim Dawson
Clerk of the Board of Supervisors**

By: _____
Deputy Clerk

Dated: _____

C A L I F O R N I A D E P A R T M E N T O F T R A N S P O R T A T I O N

Reviewed by Caltrans:

By: _____
District Local Assistance Engineer, District 3

Dated: _____

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

(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 2021-2022:

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 and Section 10262 of the California Public Contract 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; and
6. Maintain County website describing projects advertised for bids.

(Attachment B)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29(b)) 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 and Section 10262 of the California Public Contract Code [for construction contracts](#), and [Section 3321 of the California Civil Code for consultant contracts](#). 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 to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in seven (7) days [for construction contracts](#) and [fifteen \(15\) days for consultant contracts](#) 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 and Section 10262 of the California Public Contract Code [for construction contracts](#), and [Section 3321 of the California Civil Code for consultant contracts](#). 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 seven (7) days [for construction contracts](#) and [fifteen \(15\) days for consultant contracts](#) 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 or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code [for construction contracts](#), and [Section 3321 of the California Civil Code for consultant contracts](#). 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.