



## Legislation Text

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**File #:** 13-0780, **Version:** 1

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Community Development Agency, Administration and Finance Division, recommending the Board consider the following pertaining to the Disadvantaged Business Enterprise Program:

- 1) Adopt Resolution **093-2013** authorizing the Chair to sign the Local Agency DBE Annual Submittal Form (Exhibit 9B) (AGMT 13-53690) for Federal Fiscal Year 2013-2014, subject to review, approval, and minor modifications by County Counsel; and
- 2) Authorize the Chair to sign the Local Agency DBE Annual Submittal Form (Exhibit 9B) (AGMT 13-53690) for Federal Fiscal Year 2013-2014, subject to review, approval, and minor modifications by County Counsel.

### **Fiscal Impact/Change to Net County Cost**

There is no fiscal impact or net County cost associated with this agenda item.

### **Background**

In order to receive federal transportation funds, the County of El Dorado (County) must follow the State of California Department of Transportation's (Caltrans) Disadvantaged Business Enterprise (DBE) Program for implementation into projects funded with United States Department of Transportation (USDOT) funds. The DBE Program does not apply to projects without USDOT funding. The Federal Highway Administration (FHWA) is an Operating Administration for USDOT funding of transportation projects.

On March 5, 2009 Caltrans notified the County that it had just received conditional approval from FHWA to immediately implement Caltrans' Federal Fiscal Year (FFY) 2009-2010 DBE goal and methodology. That approval required the immediate implementation of a new DBE Program, which included a Race Conscious component.

On May 5, 2009 the Board approved the County's adoption of Caltrans' new DBE Program and authorized the Board Chair to sign the new DBE Implementation Agreement (AGMT 09-52635, reference Attachment E). Caltrans provided its approval on May 8, 2009 on behalf of FHWA. In accordance with 49 Code of Federal Regulations (CFR) Part 26.21, this approval of the Program counts for all of the County's USDOT-assisted programs.

On June 29, 2012 Caltrans informed all local agencies that all contract goals for USDOT 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 FHWA in 2008.

### **Reason for Recommendation**

The DBE Implementation Agreement (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 FFY 2013-2014, 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 for FFY 2013-2014.

The Local Agency DBE Annual Submittal Form (Exhibit 9B) (AGMT 13-53690) for FFY 2013-2014 includes the Form and two attachments:

Attachment A of AGMT 13-53690 lists the Race Neutral Measures that the Community Development Agency (CDA) believes it can reasonably implement in FFY 2013-2014.

Attachment B of AGMT 13-53690 indicates that, in accordance with Section 9203 of the Public Contract Code, the CDA elects to retain funds from the prime contractor. The selected method describes the conditions for release of retained funds and the requirements and timelines prime contractors must abide by for the release of retention withheld from their subcontractors.

**Action(s) to be taken following Board approval**

1. Upon review and approval by County Counsel, the Clerk of the Board will obtain the Chair's signature on the Resolution and the two originals of AGMT 13-53690.
2. The Clerk of the Board will forward a copy of the Resolution to the CDA.
3. The Clerk of the Board will forward the two originals of the partially executed AGMT 13-53690 to the CDA.

**Action(s) to be taken by the CDA following Board approval**

1. The CDA will send a copy of the Resolution to Caltrans for its files.
2. The CDA will send the two originals of the partially executed AGMT 13-53690 to Caltrans for its review, approval, and signature.
3. Upon receipt from Caltrans, the CDA will return one original of the fully executed AGMT 13-53690 to the Clerk of the Board.

**Contact**

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**Concurrence**

Pending