

JULY 6, 2016

SAMTRANS BOARD MEETING

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BOARD OF DIRECTORS 2016

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JIM HARTNETT
GENERAL MANAGER/CEO

AGENDA

COMMUNITY RELATIONS COMMITTEE COMMITTEE OF THE WHOLE (Accessibility, Senior Services, and Community Issues)

**San Mateo County Transit District
Bacciocco Auditorium - Second Floor
1250 San Carlos Ave., San Carlos, CA**

WEDNESDAY, JULY 6, 2016 – 2:00 p.m.

1. Pledge of Allegiance
2. Call to Order (Committee of the Whole)

ACTION

3. Approval of Minutes of Community Relations Committee Meeting of June 1, 2016

INFORMATIONAL

4. Accessibility Update – Tina Dubost
5. Paratransit Coordinating Council Update – Mike Levinson
6. Citizens Advisory Committee Liaison Report
7. Mobility Management Report – Caltrain
8. Multimodal Ridership Report – May 2016

Committee Members: Jeff Gee, Carole Groom, Adrienne Tissier

NOTE:

- This Committee meeting may be attended by Board Members who do not sit on this Committee. In the event that a quorum of the entire Board is present, this Committee shall act as a Committee of the Whole. In either case, any item acted upon by the Committee or the Committee of the Whole will require consideration and action by the full Board of Directors as a prerequisite to its legal enactment.
- All items appearing on the agenda are subject to action by the Board. Staff recommendations are subject to change by the Board.

**SAN MATEO COUNTY TRANSIT DISTRICT (DISTRICT)
1250 SAN CARLOS AVENUE, SAN CARLOS, CALIFORNIA**

Draft

**MINUTES OF COMMUNITY RELATIONS COMMITTEE (CRC) MEETING
COMMITTEE OF THE WHOLE
JUNE 1, 2016**

Committee Members Present: J. Gee (Committee Chair), C. Groom, A. Tissier

Other Board Members Present, Constituting Committee of the Whole: S. Harris, R. Guilbault, K. Matsumoto, P. Ratto, C. Stone

Other Board Members Absent, Constituting Committee of the Whole: Z. Kersteen-Tucker (Chair)

Staff Present: J. Averill, J. Cassman, A. Chan, T. Dubost, G. Harrington, J. Hartnett, C. Harvey, E. Kay, M. Martinez, N. McKenna, S. Murphy, D. Olmeda, M. Simon, S. van Hoften

Committee Chair Jeff Gee called the meeting to order at 2:24 p.m.

Approval of Minutes of May 4, 2016

Motion/Second: Stone/Matsumoto

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Accessibility Update

Tina Dubost, Manager, Accessible Transit Services, said the paratransit eligibility contractor, Care Evaluators, has hired a person to do additional in-person interviews.

Paratransit Coordinating Council (PCC) Update – Mike Levinson

Mike Levinson, Chair, PCC, said the PCC had a couple of tabling events in Pacifica and Belmont.

Citizens Advisory Committee Liaison Report

A report from Juslyn Manalo, CAC Chair, was provided in the Board's reading file (attached).

Mobility Management Report – Shuttles

David Olmeda, Chief Operating Officer, Bus, reported:

- By mode
 - Caltrain has 22 routes serving 13 stations in three counties
 - SamTrans has eight routes serving five stations
- Shuttles are open to the public.
- 1.1 million annual trips are providing 22.5 million passenger "last-mile" trips.
- More than 400 businesses participate in the "last-mile" shuttle program. Business partners include Oracle, Intel, Google and Walmart Stores.

- Public partners include the Bay Area Air Quality Management District, City/County Association of Governments, the Peninsula Traffic Congestion Relief Alliance, the Peninsula Corridor Joint Powers Board (JPB) and the San Mateo County Transportation Authority.
- In Fiscal Year (FY) 2017 the District will contribute approximately \$200,000 for the SamTrans shuttles while employers contribute \$1.4 million.
- In FY2017 the JPB will contribute \$960,000 for the Caltrain shuttles while employers contribute \$2.5 million.
- Funding for Caltrain and SamTrans shuttles depends on partnerships.
- Average Weekday Ridership (AWR) is almost 13,000.
- Contractors can adjust service rapidly to meet specific and/or changing needs and are prepared to respond to emergencies and unplanned operations.
- Fleet features
 - 2015 model year with updated branding
 - Reduced fleet emissions
 - Three types of vehicles – 20, 28, and 42 seat shuttles
 - All are Americans with Disabilities Act compliant
 - Two-bike capacity racks
 - Head and curbside electronic designation signs

Multimodal Ridership Report – April 2016

Mr. Olmeda reported:

- April 2016 Compared to April 2015
 - AWR
 - Bus ridership was 41,640, a decrease of 5.2 percent.
 - Paratransit ridership was 1,280, an increase of 10.3 percent.
 - Caltrain ridership was 61,550, an increase of 5.4 percent.
 - Shuttle ridership was 12,720, an increase of 13.8 percent.
 - Total weekday ridership was 166,930, an increase of 2.1 percent.
 - Total Monthly Ridership
 - Bus ridership was 1,048,820, a decrease of 6.5 percent.
 - Paratransit ridership was 30,560, an increase of 6.9 percent.
 - Caltrain ridership was 1,620,440, an increase of 4.1 percent.
 - Shuttle ridership was 271,430, an increase of 10 percent.
 - Total weekday ridership was 4,208,340, an increase of 0.1 percent.
 - Total Year-to-Date Ridership
 - Bus ridership was 10,748,640, a decrease of 2.4 percent.

Mr. Olmeda said the SamTrans Service Plan (SSP) included 15 new routes. Those 15 routes have yielded 1.75 million new rides since the launch of the SSP in 2014. The overall system has grown 2.5 percent since the SSP. The six strongest routes are producing 65 percent of the ridership. Over a 12-month period, 17 of the 76 routes produced 85 percent of the ridership. School runs only produce about 5.5 percent of the ridership.

Director Karyl Matsumoto said the increase is because of Route ECR and she is concerned about the local city routes and asked if this is being looked at.

Jim Hartnett, General Manager/CEO, said staff is constantly analyzing ridership and route data. The data points are important, but cost per passenger mile is looked at too. The SSP was able to grow ridership and stabilize it. Mr. Hartnett said the Santa Clara Valley Transportation Authority has had a multi-year decline in ridership.

Committee Chair Gee asked if the SSP ad hoc committee exists, if not can reconsider it for when staff does the deep dive into route ridership.

Mr. Olmeda said staff has made a number of adjustments to the August runbook.

Adjourned: 2:43 p.m.

SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT

TO: Community Relations Committee

THROUGH: Jim Hartnett
General Manager/CEO

FROM: David Olmeda
Chief Operating Officer, Bus

SUBJECT: **ACCESSIBILITY REPORT**

ACTION

This item is for information only. No action is required.

SIGNIFICANCE

Several groups advise SamTrans on accessible service issues. The Paratransit Coordinating Council (PCC) provides a forum for consumer input on paratransit issues. The Advocacy and Legislative Committee (AL-Com) is the advocacy arm of the PCC. The SamTrans Accessibility Advisory Committee is a SamTrans committee that advises on accessibility issues, particularly related to fixed-route service. Each group has requested that the Board be informed of the issues discussed at meetings.

The PCC and the PAL (PCC AL-Com) meet monthly (except for August). The SamTrans Accessibility Advisory Committee meets every two months.

The draft minutes of the April 12, 2016 PCC and PAL meetings are attached to this report.

BUDGET IMPACT

There is no impact on the budget.

BACKGROUND

No Additional Information.

Prepared By: John Sanderson, Accessibility Coordinator 650-508-6475
Project Manager: Tina Dubost, Manager, Accessible Transit Services 650-508-6247

**SAN MATEO COUNTY
PARATRANSIT COORDINATING COUNCIL (PCC)**

**MEETING MINUTES
May 10, 2016**

ATTENDANCE: Members Present: Mike Levinson, Chair; Vincent Merola, Vice-Chair; Tina Dubost, SamTrans; Dinae Cruise, Consumer; Maureen Dunn, Senior Focus; Sandra Lang, COA; Ka'ili Crabbe, DOR; Dale Edwards, Consumer; Sammi (Wilhelmina) Riley, Consumer; and Judy Garcia, Consumer.

GUESTS: David Koffman, Nelson-Nygaard Consulting Associates; Erin Swartz, PCC Staff; Dave Daley, First Transit; John Sanderson, SamTrans; and Ashish John, SamTrans.

ABSENTEES: Maria Kozak, Consumer; Marie Violet, Sequoia Hospital; Aki Eejima, Consumer; Barbara Kalt, Rosener House; Michal Settles, Coastsides; and Patty Clement-Cihak, Catholic Charities.

(Member Attendance 10; Quorum—NO.)

WELCOME/INTRODUCTION

Chair Mike Levinson called the meeting to order at 1:30 p.m. and welcomed all to the May PCC meeting.

APPROVAL OF THE APRIL PCC MINUTES

After taking attendance, Mike said that the vote to approve the PCC meeting minutes from April should be postponed because a quorum of PCC members was not yet present.

COMMITTEE REPORTS

A. POLICY ADVOCACY- LEGISLATIVE COMMITTEE (PAL)

Vincent reported that the PAL Committee met earlier today. Jean Conger from SamTrans gave a presentation about the Mobility Management Program and the planned Mobility Management Center that will be available online and by phone. The 2006 Senior Mobility Action Plan is going to be updated. The process will include outreach to stakeholders. The Hospital Discharge Program discussion will be carried into the June meeting. Sandra commented that she will follow up with Jean to get an update on the work done with San Mateo County, since she was unable to attend today's PAL meeting.

B. GRANT/BUDGET REVIEW

Barbara absent, no report available.

C. EDUCATION COMMITTEE

Maureen and Erin reported on several upcoming outreach events that are scheduled for the Education Committee. On Wednesday, May 18, Erin is tabling for the Health Information Fair in Pacifica. On Wednesday, May 25, Erin will also be tabling during lunchtime activities at Twin Pines Senior Center in Belmont. On Wednesday, June 22, Dinae and Mike have volunteered to table during lunchtime activities at the San Bruno Senior Center. On Wednesday, July 13, Mike and Sammi are giving an outreach presentation at Lesley Terrace in Belmont.

D. EXECUTIVE COMMITTEE

Mike reported that the next meeting will be held as a conference call in late May or early June.

A. Operational Report

Tina provided information on the paratransit budget for July 2015 – March 2016. Tina said that the report does not fully reflect adjustments to the budget that were needed with a software update. For the Year to Date, Senior & Disabled / Redi-Wheels is 28% under budget. Other related costs, such as maintenance, are 21% under budget. ADA sedan / taxi service is 30% over budget for 2015-16. ADA accessibility support is also under budget. Coastside ADA support and Insurance costs are at budget. In total, the San Mateo County Transit District Budget Summary showed paratransit is 7% under budget for the fiscal year.

Vincent asked about the overall SamTrans budget structural deficit. Tina confirmed that it still exists and affects the entire transit district. Maureen asked about which category vehicle depreciation is placed into.

For next fiscal year, Ashish confirmed that double-digit increases in ridership are expected. In the last 4-6 months, 9-12% year-over-year increases in ridership each month.

Tina thanked the Commission on Disabilities for asking Jim Harnett and Carole Groom to speak at the most recent meeting.

Tina reported that the SamTrans lobby remodeling construction does not yet have a completion date.

B. Performance Measures Report

Tina reported that the total number of active Redi-Wheels riders is currently at 2,203. David asked about the increase in taxi trips. Ashish said that traditionally, taxi trips were given at the end of the day and for longer, out-of-the way trips. In newer shift bids, full and part-time drivers are being rescheduled in a way to maximize On-time performance and positive experiences for customers. The work done by the collective call centers is reviewed regularly and trip data is carefully scrutinized for trends.

Total trips served was 27,811 in March 2016, which is a significant increase from the same point in 2015 and reflects the overall trend in ridership. Average weekday ridership (compared with the same month the previous year) has also been increasing. Inter-County Transfer Trips are at 211. On-time performance, Productivity, and Average phone wait times all met the standard.

David Koffman asked about the increased use of taxis and increased productivity. Dave Daley noted that the OTP reported to the PCC is an aggregate, but includes taxi trips.

C. Monthly Redi-Wheels Comment Statistics Report

John reported that the number of compliments from customers continues to be high and seems to correlate with taxi trips. Rates of validated comments per 1,000 trips show a slight decrease in compliments. Average response time to customer in working days

increased for service-related complaints and compliments due to staff absences and leave taken by people in the Redi-Wheels office.

Mike asked about a breakdown of compliments in Redi-Wheels vehicles, as compared to taxis. John noted that the compliments and complaints for taxis and Redi-Wheels vehicles are combined for reporting to the PCC. John offered to provide disaggregated data in his next quarterly Comment Statistics Report to the PCC.

Sandra asked John about future plans to solicit and gather comments from Redi-Wheels/RediCoast customers. John noted that there are districtwide guidelines and a database to track customer comments that comply with state and federal regulations.

John added that customer comments can be given at the toll-free SamTrans customer service number (1-800-660-4287), which on the vehicles, comment cards, and on the front of the Redi-Wheels ID card. Customers can also send a letter to Redi-Wheels, email comments to rediwheels@samtrans.com, or click "contact us" on the SamTrans website. Erin added that customers who wish to submit comments about their Redi-Wheels experience can also use the link for comments that is available on the PCC's website.

Vincent and Maureen asked John about calculation of complaints and totals for the months of February and March. John said that the format of the report was selected by the Ad-hoc Committee members. Maureen suggested re-labeling the columns to simplify the compliments and complaints totaled. John said that dispatch and reservations calls are not feasible to include in this particular report. Maureen noted that comments about the group rides are usually brought forward following the director's group operational meetings at her center. Tina confirmed that comments submitted by the centers are included in the Comment Statistics Report.

D. Safety Report

Dave reported that in April, there were four vehicular accidents. One was preventable and the other three were non-preventable. None of the accidents were serious. Two involved taxi. Both taxi drivers involved were re-trained.

Maureen asked about an incident with one of her program participants. Dave agreed that sometimes day-center passengers get agitated and try to release their seat belts. Dave suggested that any reports to the center staff about incidents should be forwarded to him.

LIAISON REPORTS

A. COASTSIDE TRANSPORTATION COMMITTEE (CTC)

No Coastside representatives available today.

B. AGENCY

Barbara absent, no report available.

C. EFFICIENCY REVIEW COMMITTEE (ERC)

Mike reported that the next meeting is scheduled for Tuesday, May 17 from 1:00 to 2:00 p.m.

D. COMMISSION ON AGING (COA)

Sandra first reported that the COA Transportation Committee met yesterday. The Committee is working to review gaps in the Senior Mobility Plan to report to the COA. Two areas were suggested for the COA to review: 1.) Pedestrian Safety 2.) *The San Mateo County Senior Mobility Guide*. The Committee is working to encourage SamTrans to find new places for distribution of the *Guide*. Sandra reported that the Committee would like John to give another presentation to the Committee about how the On-time Performance statistics are calculated.

Sandra reported that Lisa Mancini from the COA is researching the expansion of federally-funded housing for seniors.

The COA is participating in the World Elder Abuse Awareness Event in Redwood City. The COA will also be participating in the San Mateo County Fair to raise awareness of the needs of the elderly in our community.

Dinae asked Sandra about new affordable housing that will be developed in San Mateo County.

Sandra also invited interested individuals to participate in an upcoming Commission on Aging meeting.

E. COMMISSION ON DISABILITIES (COD)

Vincent reported from the COD that a signature gathering effort is underway for proposed November ballot measures addressing rent stabilization and just cause eviction in Burlingame and San Mateo. The last COD Meeting focused on transportation. Pre-prepared questions were discussed with SamTrans Staff, along with SamTrans CEO Jim Hartnett and Supervisor Carole Groom.

F. CENTER FOR THE INDEPENDENCE OF INDIVIDUALS WITH DISABILITIES (CiD)

Vincent reported that CiD will be attending the Pacifica Health Fair on Wednesday, May 18, in addition to the DOR Job Placement Circle and another event in Sacramento. The whole CiD staff will be participating in the NAMI (National Alliance on Mental Illness) training. CiD is hiring a NAMI consultant to determine where the gaps in service are in San Mateo County and also advocate for additional support for mental health services. Vincent and Erin also discussed upcoming FAST training opportunities. Judy asked Vincent about resources for evacuating a building in an emergency. Judy explained that in an emergency, elevators in her building could be inaccessible and the stairs are not an option for her to use. Vincent suggested that Judy contact her property managers to draft an emergency evacuation plan.

G. DEPARTMENT OF REHABILITATION (DOR)

Ka'ili reported on the job placement circle that is taking place on May 31 at College of San Mateo. She said that more DOR clients are needed to interview with employers who will be tabling the event.

OTHER BUSINESS

Dinae asked John about the status of the newest edition of the *San Mateo County Paratransit Rider's Guide*. John noted that the SamTrans Marketing Team is currently reviewing the *Guide* and John will have hard copies available soon. John noted that

the newest version will be formatted as a PDF on the SamTrans website and he encouraged individuals using screen reader software to provide feedback about navigating the document.

Mike announced that a Meals on Wheels Dine Out event will be taking place on Tuesday, May 17. More information can be found at Peninsula Volunteers website (www.penvol.org/dineout) with a list of restaurants that are participating. Some of the PCC members will be going out to eat after the ERC meeting.

Mike reminded everyone that the next PCC meeting is scheduled for Tuesday, June 14, 2016 from 1:30-3:30 p.m.

MEETING ADJOURNED 3:10 p.m.

**SAN MATEO COUNTY
PCC POLICY-ADVOCACY-LEGISLATIVE (PAL)**

**MEETING MINUTES
11:30 a.m. - 12:30 p.m.
May 10, 2016**

MEMBERS PRESENT: Vincent Merola, PAL Co-Chair; Mike Levinson, PAL Co-Chair; Dinae Cruise, Consumer; Dale Edwards, Consumer; Sammi (Wilhelmina) Riley, Consumer; Tina Dubost, SamTrans; Maureen Dunn, Senior Focus; and Sandra Lang, COA.

GUESTS: John Sanderson, SamTrans; Jean Conger, SamTrans; Erin Swartz, PCC Staff; and Dave Daley, First Transit.

ABSENT: Maria Kozak, Consumer; Marie Violet, Sequoia Hospital; and Dr. Aki Eejima, Consumer.

APPROVAL OF APRIL PAL MINUTES

Mike motioned and Sammi seconded the motion, voting to approve the April PAL meeting minutes. None of the PAL Committee members abstained from voting and no corrections to the April meeting minutes were noted.

LEGISLATIVE UPDATES

Vincent reported that Shweta Bhatnagar gave the quarterly legislative update from SamTrans at the April PAL Committee meeting.

LOCAL ADVOCACY ISSUES—OPEN DISCUSSION

Hospital Discharge Same-Day Service – Health Plan of San Mateo County update

Tina said that the Rides to Wellness Program grant application deadline for this year was not a good fit for the Hospital Discharge Same-Day Service proposal that had been discussed by the PAL Committee for the past few months. This topic will be placed on the meeting agenda for June for further discussion.

POLICY ISSUES

Jean Conger gave a presentation about Mobility Management and SamTrans Programs. Jean described the function of the SamTrans mobility management as a way to provide coordination of transportation resources for San Mateo County's older adults, persons with disabilities, veterans and low-income residents, along with others who cannot or choose not to drive. The focus is on the needs of the individual, with planning to make the programs sustainable.

The *Senior Mobility Guide* that will form the basis for the Mobility Management Center can be found online at www.peninsularides.com. The *Guide* is updated annually and is printed in English, Spanish and Mandarin. Since 2006, SamTrans has documented all of the transportation services available for seniors and persons with disabilities through its Countywide Inventory.

In 2009, the Mobility Ambassador Program was developed to provide travel training to older adults and individuals with moderate disabilities who wanted to learn to ride public transportation.

The Veterans Mobility Corps was implemented in 2015 for veterans returning from service who were wounded and are no longer able to drive. This program works in conjunction with the VA, County Veterans Services Office, and non-profits serving veterans. It is a Vet-to-Vet training program, where veteran volunteers are recruited and trained to provide public transit travel training to veterans of any age who are not familiar with public transit.

Travel Training is provided by Richard Lesser in Accessible Services and available for all individuals who apply for paratransit services through SamTrans. Travel Training serves the general public (people with disabilities) and is based on challenges and goals, with referral to the appropriate travel training agency. Riders eligible for Redi-Wheels/RediCoast are also offered Travel Training through the Vista Center, Janet Pomeroy Center, and Caminar.

An enhanced Mobility Management Center will be online and based on the *Senior Mobility Guide*. Individuals will be able to access the website or call a toll-free number to receive assistance and get information about meeting their transportation needs.

The Mobility Ambassador and Veterans Mobility Corps Programs are staffed by Jean Conger, Mobility Project Coordinator, and Jackie Watkins, Mobility Project Program Assistant. The programs recruit, interview, and train volunteers. All prospective volunteers are given a criminal background check and work with Ambassadors and Veteran Volunteers before working on their own. Monthly time sheets track each volunteer's work hours, contacts, and activities. A Pre-Travel Interview is conducted with each customer before connecting with a volunteer. At the end of the customer's training, the Mobility Ambassador Program follows up to determine if the customer needs more training or has any other needs. Group Training is offered to groups at resident communities, senior centers, and social clubs. Field training can be chosen by the group to a particular destination.

Dinae suggested adding a listing for Senior Mobility Guides available in the other Bay Area counties.

Vincent and Jean discussed the timeline for implementing the online Mobility Management Center and toll-free number.

Vincent asked when the Mobility Action Plan would next be updated. Jean estimated that it would take 12-18 months to complete this project. Once the San Mateo County Health System and SamTrans have structured the plan, the PCC and other agencies serving older adults, veterans and low-income resident community members will have an opportunity to provide input.

Jean provided several handouts about the Mobility Management Program and an outline of today's presentation.

OTHER BUSINESS

The next PAL meeting is scheduled for Tuesday, June 14, 2016 from 11:30 a.m. to 12:30 p.m.

SAMTRANS ACCESSIBILITY ADVISORY COMMITTEE
MEETING SUMMARY
March 9th, 2016

PRESENT Fernanda Castelo (Chair), Jim Engvall, Giovanni Guadagnini, Donald Jacobberger (Vice-Chair), Vincent Merola

ABSENT Judy McKie

GUEST Violeta Cunanan

SAMTRANS STAFF Tina Dubost, Richard Lesser, John Sanderson, Michael Stevenson, Shuttles Contract Administrator

I. Introductions

II. Agenda

III. Approval of Minutes

Minutes approved for the previous meeting on 1/13/16

IV. Fixed Route Bus and Caltrain

a. Shuttles Program – Michael Stevenson

Michael Stevenson administers the shuttles program for SamTrans and Caltrain. They are public/private partnerships, primarily an employer service, with some community shuttles. On most shuttles the employer runs the shuttle and SamTrans contributes to pay the cost. On others, SamTrans/Caltrain operates under contract for a reimbursement from the city served. The reimbursement amount varies from 25% to 100% of the cost depending on the shuttle.

There are 27 Caltrain and SamTrans shuttles administered by Mr. Stevenson, and the Transportation Authority (TA) runs another 11. Almost 90% of the shuttles have grant funding. They transport about 2.8 million riders.

All the shuttles are listed on the SamTrans website - <http://www.samtrans.com/schedulesandmaps/shuttles.html>

To be a part of the shuttle program, vehicles in service are required to be fully ADA-compliant and accessible. They are spot-checked to ensure compliance. Vehicles in use range from 28 foot to 40 foot buses.

In response to a question from Vincent Merola, Mike Stevenson discussed the funding sources for shuttles. Funding is complex and sources include the Bay Area Air Quality Management District, the San Mateo County Transportation Authority, City/County Association of Governments, the members of the Caltrain Joint Powers Board (San Francisco Muni, SamTrans and Santa Clara Valley Transportation Authority) and SamTrans local sales tax revenues.

In response to a question from Fernanda Castelo, Mr. Stevenson stated that SamTrans is prohibited by law from providing special event services, per the Charter Fleet Rule, which was enacted after private charter companies lobbied to get rid of what they presented as unfair competition from public transportation agencies in this arena.

V. Election of New Chair and Vice-Chair of this Committee

Accessible Services Manager Tina Dubost nominated Fernanda Castelo for Chair, and Donald Jacobberger for Vice-Chair. They were both unanimously approved by the Committee. Congratulations! And thank you to these members and this committee for their help with the provision of high quality accessible public transportation in San Mateo County.

VI. Paratransit Update – John Sanderson

Month over month record-breaking trip counts continue, as paratransit usage in the County booms. The use of sub-contracted taxi service by SamTrans' paratransit contractor has been increasing, to pick up the slack.

Ever-increasing passenger volume will require an expansion of the vehicle fleet. Vehicle acquisitions take about two years through the 5310 grant process – often done through a procurement bundling process where agencies pool resources to put in their orders together. This process has been irregular in recent years.

Ford discontinued their E-series chassis, so newer paratransit vehicles are different. They are now built on the F-series pick-up truck chassis.

Until more vehicles can be procured, increased demand must be met by using existing resources as efficiently as possible.

Donald Jacobberger asked whether there was a vehicle replacement program. John Sanderson replied that capital funding for vehicles is separate from operational funding. A given vehicle has a projected service life, such as seven years for a paratransit vehicle, but the replacement mechanism is not automatic. New and replacement vehicles are included in the same process. An individual request must be submitted for each vehicle to be purchased. Tina Dubost added that there are funding issues as well.

Regarding sub-contracted taxi service with Serra Cab, Fernanda Castelo pointed out that the taxis do not kneel, nor do the mini-vans, which means that the slope on the ramp is high. She goes up backwards because the incline is so steep. Giovanni Guadagnini stated that he can't make the turn at the doorway, in his large wheelchair, to get to the securement area in a minivan; he can board a rear-loader, where no turning is required. Vincent Merola asked whether, much as we tested the slope for boarding SamTrans buses in wheelchairs, we might do the same for Serra cabs. Tina Dubost said that we would get the details and follow up. John Sanderson said that he is not aware of any minivans with kneelers on the market; accessible vehicles encompass a wide variety with varying features; it would make sense to study the accessibility of the various vehicles in use.

Giovanni Guadagnini said that the VPG vehicle used by Serra Cab works well for him. It uses a Ford frame, transmission and engine, with an AMC body. John Sanderson said that vehicle's company sold their stake and it has switched manufacturers. He is interested in looking into this vehicle further.

Vincent Merola said his organization, the Center for Independence of Individuals with Disabilities (CID), has filed a lawsuit against Serra Cab, in association with the Disability Rights Advocates (DRA) related to equitable fares. John Sanderson stated that, although SamTrans is not a party to the lawsuit, it is referred to, and we cannot comment on the pending legal processes. Fernanda Castelo expressed concern as to whether this would affect Serra Cab's use in sub-contracting some Redi-Wheels paratransit service.

VII. Citizens Advisory Committee Update

No update because Judy McKie was not present.

VIII. Announcements and Other Business

Giovanni Guadagnini asked about his request for an additional safety belt for the open end of the paratransit lift, because the roll-stop would not stop his wheelchair from tumbling off if it tipped backwards, and the lift tilts when his chair is on it. He also wants the lifts to have a higher weight capacity. Tina Dubost responded that after consulting with Maintenance at SamTrans, they found that an additional belt on the lifts currently in service is not an option.

Fernanda Castelo suggested taking a video of the safety issues, as a more forceful way to advocate for safety and function.

Giovanni Guadagnini brought up the issue of buses that pass in front of his house that he observes to speed and to fail to come to a full stop at the stop sign. He says this is unsafe and unacceptable. Tina Dubost said that each report that he makes is investigated and appropriate action is taken.

Fernanda Castelo experienced another bus bridge coordinated by SamTrans and Caltrain from Hayward to Burlingame stations, and said it worked very well! Instead of a 45 minute delay, as experienced on her last bus bridge, this one caused only a half hour delay – an excellent improvement. They efficiently coordinated buses by station – San Mateo passengers to one bus, San Francisco ones to another. Signage was clear and helpful. Announcements on Caltrain throughout the week did a good job of informing passengers of the impending bus bridge on this day. Kudos to Caltrain and SamTrans on a well-executed bus bridge.

The group discussed issues related to priority seating on SamTrans buses and the accessibility of bus stops. SamTrans Bus Operators are trained to ask that non-disabled passengers yield priority seats to passengers with disabilities or to vacate fold-up seats so that a passenger's mobility device can be secured. However, Operators do not force anyone to give up a seat.

Some SamTrans bus stops are located in places where it is simply not possible to implement all of the guidelines for an accessible bus stop. Where that is the case SamTrans comes as close as possible to ADA guidelines for that stop.

IX. Date for Next Meeting

The next meeting will be Wednesday, May 11th.

**SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT**

TO: Community Relations Committee

THROUGH: Jim Hartnett
General Manager/CEO

FROM: David Olmeda
Chief Operating Officer, Bus

SUBJECT: **MOBILITY MANAGEMENT REPORT: CALTRAIN**

ACTION

This report is for information only. No policy action is required.

SIGNIFICANCE

This presentation is part of this fiscal year's series of detailed mobility management reports presented to the Board. The District's four transportation modes – SamTrans motor bus, Paratransit, Caltrain and Shuttles – are featured individually each month. This month features a report on the Caltrain service.

This month's presentation will be presented via PowerPoint. A handout will be provided at the meeting.

BUDGET IMPACT

There is no impact on the budget.

BACKGROUND

Staff will report on the major indices involving the Caltrain operations, on-time performance, ridership, fare collection, and project updates.

**SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT**

TO: Community Relations Committee

THROUGH: Jim Hartnett
General Manager/CEO

FROM: David Olmeda
Chief Operating Officer, Bus

SUBJECT: **MULTIMODAL RIDERSHIP REPORT – MAY 2016**

ACTION

This report is for information only. No action is required.

SIGNIFICANCE

Table "A" summarizes the average weekday ridership (AWR) statistics for all modes of transportation for which SamTrans is responsible and Table "B" summarizes the total monthly ridership figures for all SamTrans transportation modes. Chart "A" features year-to-date comparisons of AWR for Fiscal Year (FY) 2014, FY2015, and FY2016. Chart "B" has figures for total ridership year-to-date for FY2014, FY2015, and FY2016.

Tables "A" and "B" also provide the corresponding data for the Bay Area Rapid Transit San Francisco International Airport Extension as a separate line.

AVERAGE WEEKDAY RIDERSHIP – MAY 2016 COMPARED TO MAY 2015

Grand Total All District Modes – 169,970, an increase of 1.2 percent.

Bus – 42,870, a decrease of 5.2 percent.

Paratransit – 1,270, an increase of 6.7 percent.

Caltrain – 62,390, an increase of 2.2 percent.

Shuttles – 12,360, an increase of 11.7 percent.

**Table A
Average Weekday Ridership**

May 2016 Average Weekday Ridership				Percent Change FY2015/2016
Mode	FY2014	FY2015	FY2016	
Bus	44,560	45,210	42,870	-5.2%
Paratransit	1,140	1,190	1,270	6.7%
Caltrain	57,170	61,050	62,390	2.2%
Shuttles	12,310	11,070**	12,360	11.7%
Total	115,180	118,520	118,890	0.3%
BART Extension (No Daly City)	48,460	49,410	51,080	3.4%
Grand Total	163,650	167,930	169,970	1.2%
Weekdays	22	20	21	

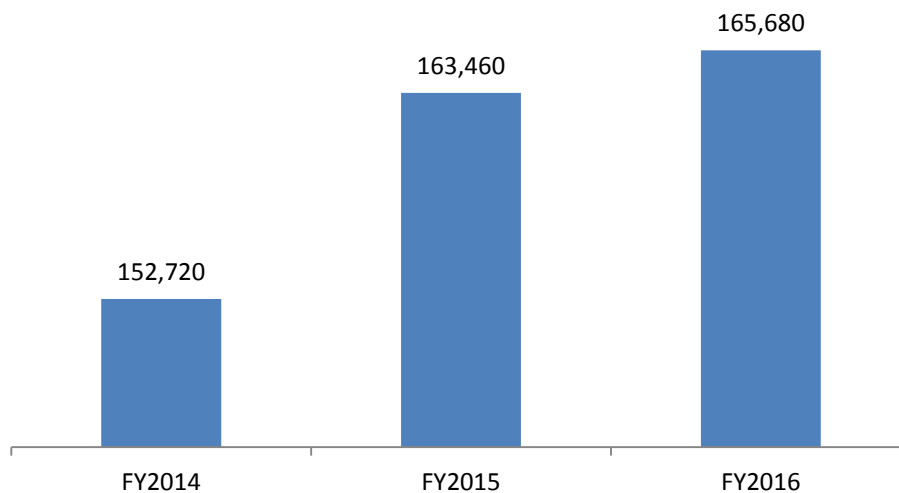
May 2016 Year-to-date				Percent Change FY2015/2016
Mode	FY2014	FY2015	FY2016	
Bus	42,080	43,340	42,120	-2.8%
Paratransit	1,080	1,120	1,230	9.8%
Caltrain	52,880	57,840	59,780	3.4%
Shuttles	11,320	11,680**	11,790***	0.9%
Total	107,360	113,980	114,920	0.8%
BART Extension (No Daly City)	45,370*	49,480	50,750	2.6%
Grand Total	152,720	163,460	165,680	1.4%

*BART experienced eight total days of strikes in FY2014, during which time no trains operated.

**The Genentech Glen Park shuttle has been removed from reporting because SamTrans is no longer providing a subsidy for this service.

***Shuttle year-to-date numbers were not reported for July due to inaccuracy with the month's ridership reporting. Year to date data for FY2016 contains July 2015 data that is an estimate based on the percentage delta change observed in August 2014 versus July 2014.

**Chart A
Average Weekday Ridership (FYTD)**



The following summary and figures include total ridership for all modes of transportation for which SamTrans is responsible. These numbers are a gross count of each boarding across all modes and all service days for the month of May for the past three fiscal years.

MONTHLY TOTAL RIDERSHIP – MAY 2016 COMPARED TO MAY 2015

Grand Total All District Modes – 4,367,990, an increase of 3.2 percent.

Bus – 1,087,000, a decrease of 3 percent.

Paratransit – 30,620, an increase of 9.2 percent.

Caltrain – 1,671,090, an increase of 4.3 percent.

Shuttles – 270,480, an increase of 18 percent.

**Table B
Total Monthly Ridership**

May 2016 Total Monthly Ridership				Percent Change FY2015/2016
Mode	FY2014	FY2015	FY2016	
Bus	1,138,750	1,120,450	1,087,000	-3.0%
Paratransit	27,690	28,050	30,620	9.2%
Caltrain	1,530,960	1,601,890	1,671,090	4.3%
Shuttles	267,640	229,130**	270,480	18.0%
Total	2,965,030	2,979,520	3,059,190	2.7%
BART Extension (No Daly City)	1,258,170	1,253,920	1,308,790	4.4%
Grand Total	4,223,200	4,233,440	4,367,990	3.2%
Weekdays	22	20	21	

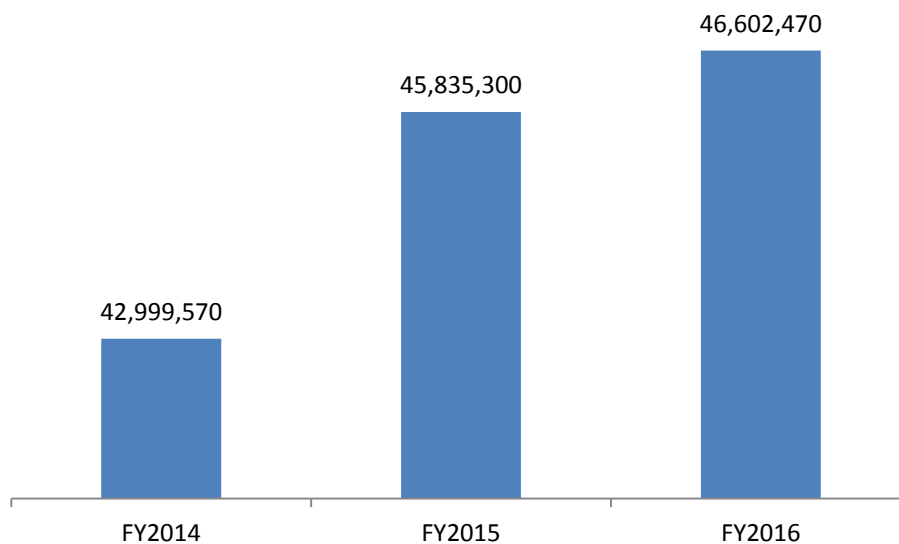
May 2016 Year-to-date				Percent Change FY2015/2016
Mode	FY2014	FY2015	FY2016	
Bus	11,781,070	12,134,460	11,835,630	-2.5%
Paratransit	287,810	299,650	329,010	9.8%
Caltrain	15,462,250	16,835,490	17,498,920	3.9%
Shuttles	2,696,490	2,757,890**	2,798,340***	1.5%
Total	30,227,610	32,027,490	32,461,910	1.4%
BART Extension (No Daly City)	12,771,960*	13,807,810	14,140,560	2.4%
Grand Total	42,999,570	45,835,300	46,602,470	1.7%

*BART experienced eight total days of strikes in FY2014, during which time no trains operated.

**The Genentech Glen Park shuttle has been removed from reporting because SamTrans is no longer providing a subsidy for this service.

***Shuttle year-to-date numbers were not reported for July due to inaccuracy with the month's ridership reporting. Year to date data for FY2016 contains July 2015 data that is an estimate based on the percentage delta change observed in August 2014 versus July 2014.

**Chart B
Total Ridership (FYTD)**



The following summary illustrates the number of riders by fare category for the month of May 2016. SamTrans carried 1,084,260 passengers on its fixed-route service in May, and 5,267,560 for the 2016 calendar year-to-date. These numbers do not include Dumbarton ridership.

Table C
Riders by Fare Category

	May 2016	2016 Calendar Year-to-Date
Adult Cash	200,020	1,022,750
Adult Pass	521,880	2,540,580
Youth Cash	151,920	702,630
Youth Pass	62,910	300,800
Eligible Discount	147,530	700,790
Total	1,084,260	5,267,560

SamTrans Promotions – May 2016

Summer Youth Pass – The SamTrans Summer Youth Pass is back and went on sale May 21. The pass is one of the best deals of the summer for kids (18 and younger) looking to travel on any SamTrans route, all summer long. New for the first time ever of fare media sales, customers have the ability to purchase the Summer Youth Pass online through a third party e-commerce website and powered by PayPal. This added convenience was a vast improvement over last year by giving customers an easier option to buy over paying by mail, fax or walking in to Central. Sales are still ongoing through June and will be reported in next month's recap. The promotional campaign included: 30 second Comcast Spotlight TV commercials, outreach to schools, printed collateral material onboard buses, community events, and libraries and youth centers on the Peninsula. Also included were digital display/mobile ads, e-mail blasts, sponsored Facebook ads and Google keyword search/search engine marketing as part of the overall strategy. Internal communications included a news release, a blog, organic paid social media posts, onboard electronic messaging and a customer service 800 number message.

Bike to Work Day – Thursday, May 12, marked the 22nd Annual Bike to Work Day in the Bay Area. Energizer tables were staffed at a large number of Caltrain stations and other locations throughout the Peninsula. A "We Share the Road" message was displayed on all SamTrans bus head signs. The day was promoted through participating agencies' internal communications channels, news releases, blog posts and social media.

Partnership - Market Research and Development staff work with a number of event organizers to co-promote events that generate train ridership and provide added value for current SamTrans customers. In May, SamTrans partnered with Makers Faire. The event was promoted in the Transit Fun Guide, through social media, news releases, and ad cards.

SamTrans May Social Media Report - SamTrans launched a paid social media campaign to accompany the kick-off of Summer Youth Pass sales and the new online sales portal. The commercial Comcast produced to promote the pass product doubled the number of monthly video views for SamTrans social video accounts to more than 4,000 for May 2016. The paid campaign is driving inbound traffic to the SamTrans website at more than double the typical rate of inbound clicks from social media with more than 500 viewers following the links to see Summer Youth Pass content on the website.

SamTrans total followers is up, adding more than 140 new followers to reach a new total of 6,113 followers – the first time SamTrans has broken the 6,000 mark since launching its social platforms several years ago. SamTrans total monthly impressions are also up more than double the average month to 149,123. This is also attributable to the paid campaign. The Summer Youth Pass campaign continued through June. We will have more complete analytics on the campaign's reach once it has concluded later this summer.



Total Follower Growth



Prepared by: James Namba, Acting Marketing Manager
Jayme Ackemann, Communications Manager
Tracey Lin, Acting Senior Scheduler/Planner

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BOARD OF DIRECTORS 2016

ZOE KERSTEEN-TUCKER, CHAIR
ROSE GUILBAULT, VICE CHAIR
JEFF GEE
CAROLE GROOM
SHIRLEY HARRIS
KARYL MATSUMOTO
PETER RATTO
CHARLES STONE
ADRIENNE TISSIER

JIM HARTNETT
GENERAL MANAGER/CEO

A G E N D A
FINANCE COMMITTEE
COMMITTEE OF THE WHOLE

San Mateo County Transit District
Bacciocco Auditorium - Second Floor
1250 San Carlos Ave., San Carlos, CA

WEDNESDAY, JULY 6, 2016 – 2:15 p.m.

or immediately following previous Committee meeting

ACTION

1. Approval of Minutes of Finance Committee Meeting of June 1, 2016
2. Acceptance of Statement of Revenues and Expenses for May 2016
3. Authorize Adoption of the Revised Disadvantaged Business Enterprise Program

CONTRACTS

4. Authorize Award of Contract to Carl Warren and Company for Public Liability Claims Administration for a Total Estimated Amount of \$1,968,601 for a Five-Year Term
5. Authorize Rejection of All Bids for the Provision of California Air Resources Board Ultra Low Sulfur Diesel Fuel and Fueling Services

Committee Members: Charles Stone, Carole Groom, Peter Ratto

NOTE:

- This Committee meeting may be attended by Board Members who do not sit on this Committee. In the event that a quorum of the entire Board is present, this Committee shall act as a Committee of the Whole. In either case, any item acted upon by the Committee or the Committee of the Whole will require consideration and action by the full Board of Directors as a prerequisite to its legal enactment.
- All items appearing on the agenda are subject to action by the Board. Staff recommendations are subject to change by the Board.

**SAN MATEO COUNTY TRANSIT DISTRICT (DISTRICT)
1250 SAN CARLOS AVENUE, SAN CARLOS, CALIFORNIA**

**MINUTES OF FINANCE COMMITTEE MEETING
COMMITTEE OF THE WHOLE
JUNE 1, 2016**

Committee Members Present: C. Stone (Committee Chair), C. Groom, P. Ratto

Other Board Members Present, Constituting Committee of the Whole: J. Gee, R. Guilbault, S. Harris, K. Matsumoto, Tissier

Other Board Members Absent, Constituting Committee of the Whole: Z. Kersteen-Tucker (Chair)

Staff Present: J. Averill, J. Barker, B. Carson, J. Cassman, A. Chan, G. Harrington, J. Hartnett, C. Harvey, E. Kay, M. Martinez, N. McKenna, S. Murphy, J. Nogales-DeGuzman, D. Olmeda, M. Simon, S. van Hoften, N. Vigil

Committee Chair Charles Stone called the meeting to order at 2:43 p.m.

Approval of Minutes of May 4, 2016

Motion/Second: Harris/Guilbault

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Acceptance of Statement of Revenues and Expenses for April 2016

Eli Kay, Chief Financial Officer, said April revenue is slightly under budget due to farebox revenue. Expenses are \$7 million better than budget due to savings in the fuel. Year-to-date there is a \$22 million surplus.

Director Karyl Matsumoto said Americans with Disabilities Act (ADA) expenses are trending up and asked if this is an anomaly.

Director Jeff Gee asked if a year-end forecast number could be added to the report.

Motion/Second: Tissier/Harris

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Approval of Fiscal Year (FY) 2017 Operating Budget in the Amount of \$145,054,100

Mr. Kay said no changes have been made since this was presented at the May meeting. The fund balance remains steady and there is about \$100 million in unrestricted funds. Mr. Kay said ADA costs are proposed to increase 8.6 percent, while ridership is estimated to increase 19 percent. The FY2017 budget is appropriate because of the variable cost component of ridership grows incrementally and there will be significant fuel savings in the next year.

Director Gee said the infrastructure for paratransit is at a certain threshold and ridership increases can be accepted up to a certain point before costs increase. He asked

what that threshold is before additional costs are taken on. Mr. Kay he will have to do additional analysis on this and report back.

Mr. Kay reiterated the budget is balanced maintaining the current level of service while trying new initiatives.

Director Carole Groom said paratransit is a service that is essential to the community and as the county ages there will be an even larger ridership leading to a deficit in spending.

Motion/Second: Tissier/Gee

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Approval of FY2017 Capital Budget in the Amount of \$16,327,874

Mr. Kay said there are no changes since the May meeting.

Committee Chair Stone said he was very excited to see the express bus study on Highway 101 included in the budget.

Motion/Second: Gee/Stone

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Approval of Salary Ordinance No. 99

Bill Carson, Director, Human Resources, said the Salary Ordinance has 15 new positions and three restored positions for a total of 768 positions. The Ordinance includes a 3.5 percent increase to salary ranges and a 3.5 percent increase to employees.

Committee Chair Stone confirmed that the Peninsula Corridor Joint Powers Board and the San Mateo County Transportation Authority reimburses the District for expenses and positions associated with those agencies. Mr. Carson said that is correct.

Motion/Second: Tissier/Gee

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Authorize Reduction of Employer Paid Member Contributions to the California Public Employees' Retirement System (CalPERS) (Classic Members) Effective June 26, 2016

Juliet Nogales-DeGuzman, Manager, Employee Services, said this is authorizing the District to reduce the employer paid contribution to CalPERS from 2 percent to 1 percent. The annual savings of \$611,000 is included in the FY2017 Operating Budget.

Motion/Second: Gee/Guilbault

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Authorize Approval of Proposed Disadvantaged Business Enterprise Goal of Zero Percent for Federal Fiscal Years 2017 Through 2019 for Federal Transit Administration-Assisted Contracts

John Barker, Manager, Civil Rights Program, said this was an informational item at the May meeting and there have been no changes since last month.

Director Shirley Harris said it bothers her that the goal is 0 percent, but understands why.

Motion/Second: Tissier/Harris

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Authorize Executing Contracts Over \$100,000 for Technology Related Products and Services to Vendors Under Cooperative Purchasing Agreements for Fiscal Year 2017 for an Aggregate Not-to-Exceed Amount of \$1.5 Million

Authorize Executing Contracts Over \$100,000 for Information Technology License Renewals, Maintenance Services and Professional Services for Fiscal Year 2017 for an Aggregate Not-to-Exceed Amount of \$850,000

Gigi Harrington, Deputy CEO, said these two items are done on an annual basis. Staff provides a report on a quarterly basis showing contracts executed during the quarter.

Director Matsumoto asked how this information is shared on a quarterly basis and that it be put on the consent calendar for transparency. Ms. Harrington said the report is provided to the Board in their reading file and put on the back table for the public.

The Board requested the quarterly report be posted on the SamTrans website.

Motion/Second: Harris/Ratto

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Rejection of All Bids for Electrical Maintenance Services

Nita Vigil, Acting Director, Contracts and Procurement, said the two bids received had several irregularities including the forms they were to include in their Invitation for Bids (IFB) package. Staff is going back out in mid-June to procure these services.

Director Gee asked why only two bids were received. Ms. Vigil said one vendor could not do the bonding requirement and one bidder was too busy to produce the package.

Director Gee asked what the bonding requirement is. Ms. Vigil said she is not sure but will get that information to the Board.

Director Matsumoto asked what the difference is between an IFB and a Request for Proposal (RFP). Ms. Vigil said an IFB is a sealed bid process and a RFP is a negotiated process for price.

Joan Cassman, Legal Counsel, said a sealed bid process is required for public works bids and the lowest bidder is the winner.

Motion/Second: Tissier/Guilbault

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Adjourned: 3:15 p.m.

**SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT**

TO: Finance Committee

THROUGH: Jim Hartnett
General Manager/CEO

FROM: Eli Kay
Chief Financial Officer

SUBJECT: **STATEMENT OF REVENUES AND EXPENSES FOR THE PERIOD ENDING
MAY 31, 2016 AND SUPPLEMENTAL INFORMATION**

ACTION

Staff proposes the Committee recommend the Board accept and enter into the record the Statement of Revenues and Expenses for the month of May 2016 and supplemental information.

SIGNIFICANCE

Revenues: *Total Revenues* (page 1, line 14) are \$865,107 or 0.6 percent **worse** than revised budget. *Passenger Fares* (page 1, line 1) are **worse** than budget by \$540,728 or 3.1 percent, *Local TDA & STA* (page 1, line 2) is **worse** than budget by \$63,250 or 0.2 percent, *AB434 Funds* (page 1, line 6) is **worse** than budget by \$52,534 or 9.5 percent, *Sales Tax* (page 1, line 9) is **worse** than budget by \$1,183,186 or 1.6 percent and *Other Interest, Rent & Other Income* (page 1, line 12) are **worse** than budget by \$939,256 or 13.1 percent, offset by *Operating Grant* (page 1, line 3) which is **better** than budget by \$1,642,652 or 26.8 percent, *SMCTA Measure A* (page 1, line 4) is **better** than budget by \$32,673 or 0.4 percent and *Investment Interest* (page 1, line 10) is **better** than budget by \$238,522 or 28.6 percent.

Expenses: *Total Expenses* (page 4, line 72) are \$6,272,761 or 5 percent **better** than revised budget. Within Total Expenses, *Total Motor Bus* (page 3, line 46) is **better** than budget by \$4,113,258 or 4 percent, *Total ADA Programs* (page 4, line 55) are **better** than budget by \$296,692 or 1.9 percent and *Total Multi-Modal Programs* (page 4, line 70) are **better** than budget by \$1,862,810 or 20.1 percent.

BUDGET IMPACT

There are no budget revisions for the month of May 2016.

Prepared By: Melanie Hartanto, Accountant 650-508-6478
Sheila Tioyao, Manager, General Ledger 650-508-7752

**SAN MATEO COUNTY TRANSIT DISTRICT
SUMMARY OF REVENUES AND EXPENSES
FISCAL YEAR 2016
MAY 2016**

% OF YEAR ELAPSED: **91.7%**

	MONTH	YEAR-TO-DATE				ANNUAL		
	CURRENT ACTUAL	PRIOR ACTUAL	CURRENT ACTUAL	REVISED BUDGET	% REV BUDGET	APPROVED BUDGET	REVISED BUDGET	% REV BUDGET
SOURCES OF FUNDS								
Operating Revenues								
1 Passenger Fares	2,068,110	17,284,354	17,310,235	17,365,769	99.7	18,945,000	18,945,000	91.4
	1,582,915		16,825,041		96.9			
2 Local TDA and STA Funds	2,838,896	36,537,578	34,091,977	34,155,227	99.8	38,448,081	36,999,873	92.1
3 Operating Grants	670,158	6,979,536	7,774,464	6,131,812	126.8	6,131,812	6,131,812	126.8
4 SMCTA Measure A	606,553	7,998,009	8,614,906	8,582,233	100.4	9,240,000	9,240,000 (B)	93.2
5 SM County Measure A	416,667	4,625,872	4,583,335	4,583,335	100.0	5,000,000	5,000,000	91.7
6 AB434 Funds	0	442,283	498,383	550,917	90.5	601,000	601,000	82.9
7 Subtotal - Operating Revenues	6,600,383	73,867,633	72,873,301	71,369,293	102.1	78,365,893	76,917,685	94.7
	6,115,189		72,388,107		101.4			
Other Revenue Sources								
8 District 1/2 Cent Sales Tax	6,165,840	73,042,410	72,369,374	73,552,560	98.4	77,000,000	81,000,000	89.3
9 Investment Interest	119,661	839,512	1,073,016	834,494	128.6	910,357	910,357	117.9
10 Pass through to Other Agencies	(7,378)	343,871	105,761	105,761	100.0	121,000	121,000	87.4
11 Other Interest, Rent & Other Income	519,593	5,955,132	6,231,271	7,170,527	86.9	7,985,257	7,985,257	78.0
12 Subtotal - Other Revenues	6,797,716	80,180,925	79,779,421	81,663,342	97.7	86,016,614	90,016,614	88.6
13 Total Revenues	13,398,098	154,048,558	152,652,722	153,032,635	99.8	164,382,508	166,934,299	91.4
	12,912,904		152,167,528		99.4			
15 Capital Assistance	294,979	19,415,158	4,133,004	4,133,004	100.0	36,906,869	102,901,693 (A)	4.0
16 Reserves Programmed for Capital	3,726,054	18,633,067	6,788,431	6,788,431	100.0	0	5,403,959 (A)	125.6
17 Total Sources of Funds	17,419,131	192,096,783	163,574,157	163,954,070	99.8	201,289,377	275,239,951	59.4
	16,933,937		163,088,963		99.5			
USES OF FUNDS								
Operations								
21 Motor Bus	9,739,517	91,601,249	97,834,212	101,947,470	96.0	112,252,704	111,411,158	87.8
22 A. D. A. Programs	1,453,120	12,846,340	15,029,370	15,326,062	98.1	16,741,588	16,720,634	89.9
23 Caltrain	359,919	5,738,333	5,720,087	5,720,087	100.0	6,080,000	6,080,000	94.1
24 Other Multi-modal Programs	38,688	1,781,142	1,667,949	3,530,759	47.2	3,830,170	3,898,270	42.8
25 Subtotal - Operating Costs	11,591,244	111,967,065	120,251,618	126,524,379	95.0	138,904,462	138,110,062	87.1
Other Uses of Funds								
26 Pass through to Other Agencies	(7,378)	343,871	105,761	105,761	100.0	141,780	141,780	74.6
27 Debt Service	836,304	21,157,240	9,122,552	9,199,342	99.2	21,645,646	21,645,646	42.1
28 Fiscal Agent Fees	1,541	29,002	10,701	26,032	41.1	28,399	28,399	37.7
29 Land Transfer Interest Expense	0	0	0	0	0	45,716	45,716	0.0
30 Subtotal - Other Uses of Funds	830,467	21,530,113	9,239,013	9,331,136	99.0	21,861,541	21,861,541	42.3
31 Capital Programs	4,067,374	39,201,984	11,242,541	11,242,541	100.0	42,403,029	117,751,812 (A)	9.5
32 Total Uses of Funds	16,489,085	172,699,162	140,733,172	147,098,055	95.7	203,169,032	277,723,415	50.7
33 NET SURPLUS / (DEFICIT)	930,046	19,397,621	22,840,985	16,856,014	135.5	(1,879,656)	(2,483,464)	(919.7)
	444,853		22,355,791		132.6			

% OF YEAR ELAPSED" provides a general measure for evaluating overall progress against the annual budget. When comparing it to the amounts shown in the "% REV BUDGET" column, please note that individual line items reflect variations due to seasonal activities during the year.

(A) - The Revised Budget includes the year end rollover of existing capital projects (Audited).

(B) - The Budget includes \$500K TA funds from prior year.

**SAN MATEO COUNTY TRANSIT DISTRICT
STATEMENT OF REVENUES
FISCAL YEAR 2016
MAY 2016**

% OF YEAR ELAPSED: **91.7%**

	MONTH	YEAR-TO-DATE				ANNUAL		
	CURRENT ACTUAL	PRIOR ACTUAL	CURRENT ACTUAL	REVISED BUDGET	% REV BUDGET	APPROVED BUDGET	REVISED BUDGET	% REV BUDGET
OPERATING REVENUES - MOTOR BUS								
1 TOTAL MOTOR BUS FARES	1,991,863	16,565,748	16,500,997	16,629,563	99.2	18,130,000	18,130,000	91.0
	1,506,669		16,015,803		96.3			
2 LOCAL (TDA) TRANSIT FUND:								
3 General Operating Assistance	2,678,644	31,587,064	29,465,079	29,465,079	100.0	32,143,723	32,143,723	91.7
4 STATE TRANSIT ASSISTANCE:								
5 Local STA Operating Assistance	0	2,960,541	2,715,313	2,715,313	100.0	4,061,556	2,715,313	100.0
6 OPERATING GRANTS								
7 TOTAL OPERATING GRANTS	608,384	6,506,216	7,162,944	6,131,812	116.8	6,131,812	6,131,812	116.8
8 DISTRICT 1/2 CENT SALES TAX:								
9 General Operating Assistance	3,925,139	28,490,329	36,018,363	41,813,788	86.1	46,135,529	46,626,600	77.2
	4,410,333		36,503,557		87.3			
10 Accessibility Fixed Route	47,787	1,061,360	921,858	1,029,220	89.6	1,124,750	1,122,588	82.1
11 TOTAL 1/2 CENT SALES TAX	3,972,926	29,551,689	36,940,221	42,843,008	86.2	47,260,279	47,749,188	77.4
	4,458,120		37,425,415		87.4			
12 INVESTMENT INTEREST INCOME:								
13 Investment Interest Income	92,492	605,023	854,657	593,519	144.0	647,475	647,475	132.0
14 OTHER REVENUE SOURCES:								
15 Overnight Deposits Interest Income	18	163	196	0	0.0	0	0	0.0
16 Rental Income	125,285	1,424,901	1,288,560	1,177,456	109.4	1,284,497	1,284,497	100.3
17 Advertising Income	60,417	916,943	863,117	1,053,250	81.9	1,149,000	1,149,000	75.1
18 Other Income	209,489	1,482,961	2,043,129	1,338,471	152.6	1,460,150	1,460,150	135.7
19 TOTAL OTHER REVENUES	395,209	3,824,968	4,195,003	3,569,176	117.5	3,893,647	3,893,647	107.7
20								
21 TOTAL MOTOR BUS	9,739,517	91,601,249	97,834,213	101,947,470	96.0	112,268,492	111,411,158	87.8
22								
23 AMERICAN DISABILITIES ACT:								
24 Passenger Fares Redi-Wheels	76,246	718,606	809,238	736,206	109.9	815,000	815,000	99.3
25 Local TDA 4.5 Redi-Wheels	141,880	1,589,146	1,560,675	1,623,925	96.1	1,771,554	1,771,554	88.1
26 Local STA - Paratransit	18,373	400,827	350,910	350,910	100.0	471,248	369,283	95.0
27 Operating Grants	61,774	473,320	611,520	0	0.0	0	0	0.0
28 Sales Tax - District ADA Programs	226,507	0	1,479,572	2,408,202	61.4	2,412,766	2,509,565	59.0
29 Sales Tax - Paratransit Suppl. Coastside	134,028	1,325,653	1,386,899	1,386,320	100.0	1,512,350	1,512,350	91.7
30 Interest Income - Paratransit Fund	27,168	234,490	218,359	240,975	90.6	262,882	262,882	83.1
31 SMCTA Measure A Redi-Wheels	246,634	2,259,675	2,894,819	2,862,146	101.1	3,080,000	3,080,000	94.0
32 SM County Measure A	416,667	4,625,872	4,583,335	4,583,335	100.0	5,000,000	5,000,000	91.7
33 Measure M Paratransit	103,843	1,218,750	1,134,043	1,134,043	100.0	1,400,000	1,400,000	81.0
34 TOTAL ADA PROGRAMS	1,453,120	12,846,340	15,029,370	15,326,062	98.1	16,725,800	16,720,634	89.9
35								
36 MULTI-MODAL TRANSIT PROGRAMS:								
37 Transfer from SMCTA for Caltrain	359,919	5,738,334	5,720,087	5,720,087	100.0	6,160,000	6,160,000	92.9
38 AB434 Funds - SamTrans Shuttle	0	442,283	498,383	550,917	90.5	601,000	601,000	82.9
39 Employer SamTrans Shuttle Funds	20,540	911,414	902,225	2,467,307	36.6	2,691,610	2,691,610	33.5
40 Sales Tax - SamTrans Shuttle Program	10,964	296,778	133,229	358,182	37.2	340,560	371,307	35.9
41 Sales Tax - Gen. Operating Asst.	7,183	130,668	134,111	154,353	86.9	117,000	154,353	86.9
42								
43 TOTAL MULTIMODAL	398,607	7,519,476	7,388,036	9,250,846	79.9	9,910,170	9,978,270	74.0
44								
45 TOTAL REVENUES	11,591,244	111,967,065	120,251,618	126,524,379	95.0	138,904,462	138,110,062	87.1

"% OF YEAR ELAPSED" provides a general measure for evaluating overall progress against the annual budget. When comparing it to the amounts shown in the "% REV BUDGET" column, please note that individual line items reflect variations due to seasonal activities during the year.

**SAN MATEO COUNTY TRANSIT DISTRICT
OPERATING EXPENSES
FISCAL YEAR 2016
MAY 2016**

% OF YEAR ELAPSED: **91.7%**

EXPENSES	MONTH	YEAR-TO-DATE				ANNUAL		
	CURRENT ACTUAL	PRIOR ACTUAL	CURRENT ACTUAL	REVISED BUDGET	% REV BUDGET	APPROVED BUDGET	REVISED BUDGET	% REV BUDGET
DISTRICT OPERATED BUSES								
1 Wages & Benefits	4,507,673	48,026,790	52,701,694	50,903,340	103.5	55,439,968	55,779,474	94.5
2								
3 Services:								
4 Board of Directors	11,949	185,045	49,008	50,188	97.7	54,750	54,750	89.5
5 Contracted Vehicle Maintenance	94,780	1,019,038	1,164,416	1,338,900	87.0	1,476,960	1,458,235	79.9
6 Property Maintenance	274,337	922,069	1,348,180	1,363,911	98.8	1,242,000	1,487,696	90.6
7 Professional Services	367,072	2,796,913	3,633,146	4,716,635	77.0	4,366,600	5,745,766	63.2
8 Technical Services	914,903	5,236,952	5,259,345	5,644,366	93.2	6,001,765	6,144,634	85.6
9 Other Services	773,530	1,208,016	2,735,345	2,696,307	101.4	2,954,115	3,174,174	86.2
10								
11 Materials & Supply:								
12 Fuel & Lubricants	185,590	3,923,121	2,478,241	4,167,160	59.5	6,332,557	4,187,614	59.2
13 Bus Parts & Materials	143,194	1,804,827	1,944,281	1,729,123	112.4	1,898,250	1,873,573	103.8
14 Uniforms & Driver Expense	57,283	343,759	318,177	412,514	77.1	457,490	459,290	69.3
15 Timetables & Tickets	13,061	106,899	143,115	181,133	79.0	197,600	197,600	72.4
16 Office Supplies / Printing	24,213	300,387	277,124	345,662	80.2	357,497	387,821	71.5
17 Other Materials & Supply	12,698	129,350	111,243	146,100	76.1	159,500	170,363	65.3
18								
19 Utilities:								
20 Telecommunications	35,227	419,267	456,812	627,768	72.8	697,134	683,047	66.9
21 Other Utilities	161,365	992,240	989,217	1,045,000	94.7	1,140,000	1,140,000	86.8
22 Insurance Costs	20,516	1,908,890	1,600,403	2,300,417	69.6	2,676,250	2,501,250	64.0
23 Workers' Compensation	301,438	3,298,788	3,087,761	3,356,980	92.0	3,662,160	3,662,160	84.3
24 Taxes & License Fees	34,239	439,930	453,710	709,160	64.0	773,629	773,629	58.6
25 Fixed Route Accessibility	47,787	1,061,360	921,858	1,029,221	89.6	1,124,750	1,122,588	82.1
26 Leases & Rentals	12,643	121,606	145,167	127,505	113.9	139,096	139,096	104.4
27 Promotional & Legal Advertising	21,116	188,192	103,498	290,492	35.6	316,900	316,900	32.7
28 Training & Business Travel	22,003	313,936	223,970	355,492	63.0	363,145	392,311	57.1
29 Dues & Membership	6,760	81,595	89,281	81,848	109.1	89,289	89,289	100.0
30 Postage & Other	16,021	62,060	90,692	121,008	74.9	98,013	132,013	68.7
31								
32 Total District Operated Buses	8,059,397	74,891,031	80,325,686	83,740,229	95.9	92,019,419	92,073,273	87.2
33								
34 CONTRACTED BUS SERVICES								
35 Contracted Urban Bus Service	1,309,335	13,875,890	13,811,673	14,690,908	94.0	16,571,900	15,501,400	89.1
36 Other Related Costs	31,339	337,721	422,585	375,633	112.5	410,130	410,230	103.0
37 Insurance Costs	157,960	466,140	1,117,477	760,800	146.9	655,000	830,000	134.6
38 Coastside Services	148,408	1,537,622	1,618,806	1,838,650	88.0	2,005,800	1,970,800	82.1
39 Redi Coast Non-ADA	20,119	210,928	245,123	220,642	111.1	240,700	275,700	88.9
40 Other Related Costs	8,696	61,375	80,951	112,448	72.0	122,670	122,670	66.0
41 La Honda - Pescadero	(5,775)	50,525	46,725	50,536	92.5	55,130	55,130	84.8
42 SamCoast - Pescadero	8,712	165,145	149,967	151,401	99.1	165,165	165,165	90.8
43 Other Related Cost - SamCoast	1,326	4,873	15,220	6,224	244.5	6,790	6,790	224.1
44 Total Contracted Bus Service	1,680,120	16,710,218	17,508,526	18,207,241	96.2	20,233,285	19,337,885	90.5
45								
46 TOTAL MOTOR BUS	9,739,517	91,601,249	97,834,212	101,947,470	96.0	112,252,704	111,411,158	87.8

"% OF YEAR ELAPSED" provides a general measure for evaluating overall progress against the annual budget. When comparing it to the amounts shown in the "% REV BUDGET" column, please note that individual line items reflect variations due to seasonal activities during the year.

**SAN MATEO COUNTY TRANSIT DISTRICT
OPERATING EXPENSES
FISCAL YEAR 2016
MAY 2016**

% OF YEAR ELAPSED: **91.7%**

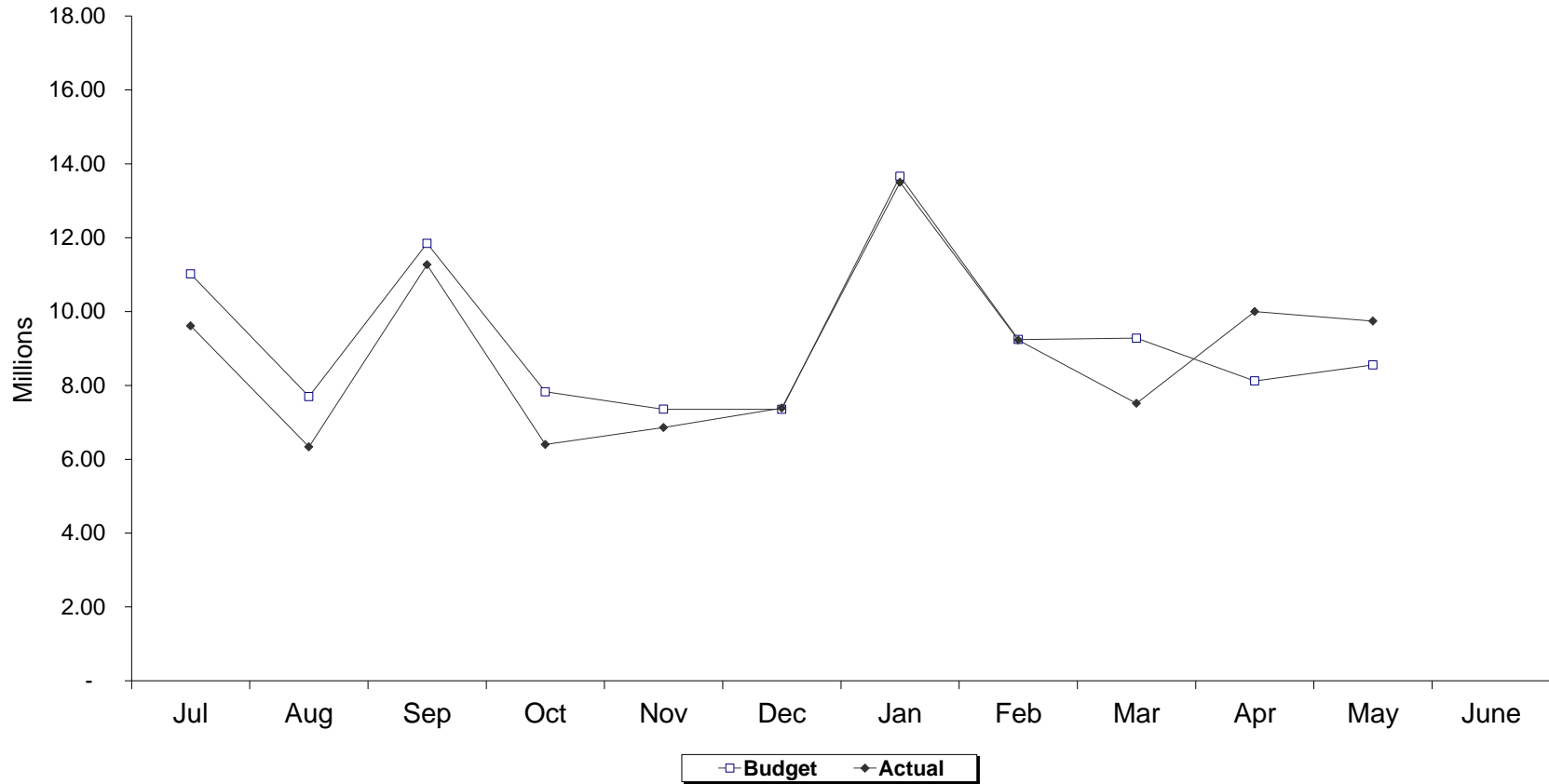
EXPENSES	MONTH	YEAR-TO-DATE				ANNUAL			
	CURRENT ACTUAL	PRIOR ACTUAL	CURRENT ACTUAL	REVISED BUDGET	% REV BUDGET	APPROVED BUDGET	REVISED BUDGET	% REV BUDGET	
47 AMERICAN DISABILITY ACT PROGRAMS									47
48									48
49 Elderly & Disabled/Redi-Wheels	443,478	5,327,230	4,851,793	6,239,933	77.8	6,807,200	6,807,200	71.3	49
50 Other Related Costs	215,906	2,249,480	2,976,574	2,954,338	100.8	3,238,194	3,221,128	92.4	50
51 ADA Sedan/Taxi Service	445,322	2,932,814	4,253,328	2,888,233	147.3	3,150,800	3,150,800	135.0	51
52 ADA Accessibility Support	147,387	880,821	1,077,753	1,385,155	77.8	1,518,044	1,514,156	71.2	52
53 Coastside ADA Support	134,028	1,325,653	1,386,899	1,386,320	100.0	1,512,350	1,512,350	91.7	53
54 Insurance Costs	66,998	130,343	483,024	472,083	102.3	515,000	515,000	93.8	54
55 TOTAL ADA PROGRAMS	1,453,120	12,846,340	15,029,370	15,326,062	98.1	16,741,588	16,720,634	89.9	55
56									56
57									57
58 MULTIMODAL TRANSIT PROGRAMS									58
59									59
60 CALTRAIN SERVICE									60
61 Peninsula Rail Service	359,919	5,738,333	5,720,087	5,720,087	100.0	6,080,000	6,080,000	94.1	61
62 Total Caltrain Service	359,919	5,738,333	5,720,087	5,720,087	100.0	6,080,000	6,080,000	94.1	62
63									63
64 OTHER SUPPORT									64
65 SamTrans Shuttle Service	31,505	1,650,475	1,533,838	3,376,406	45.4	3,633,170	3,663,917	41.9	65
66 Bicycle Coordinating Activities	0	0	0	0	0.0	25,000	25,000	0.0	66
67 Maintenance Multimodal Facilities	7,183	130,667	134,111	154,353	86.9	172,000	209,353	64.1	67
68 Total Other Support	38,688	1,781,142	1,667,949	3,530,759	47.2	3,830,170	3,898,270	42.8	68
69									69
70 TOTAL MULTI-MODAL PROGRAM	398,607	7,519,476	7,388,036	9,250,846	79.9	9,910,170	9,978,270	74.0	70
71									71
72 TOTAL EXPENSES	11,591,244	111,967,065	120,251,618	126,524,379	95.0	138,904,462	138,110,062	87.1	72

% OF YEAR ELAPSED" provides a general measure for evaluating overall progress against the annual budget. When comparing it to the amounts shown in the "% REV BUDGET" column, please note that individual line items reflect variations due to seasonal activities during the year.

SAN MATEO COUNTY TRANSIT DISTRICT

MOTOR BUS MONTHLY EXPENSES - BUDGET VS ACTUAL

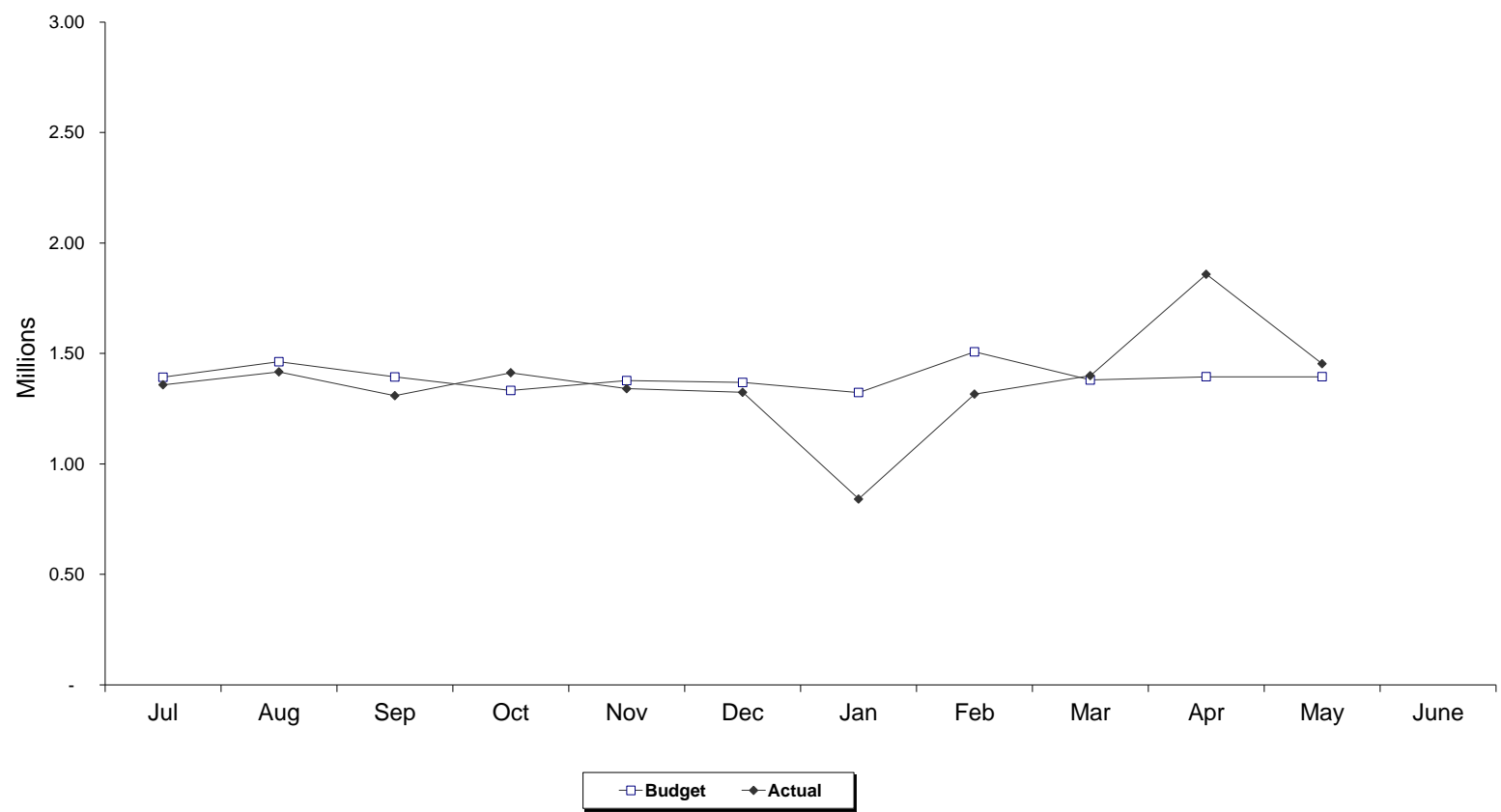
FISCAL YEAR 2016



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	
MONTHLY EXPENSES													
Budget	11,017,327	7,696,670	11,846,126	7,824,156	7,355,204	7,349,505	13,662,654	9,242,281	9,278,302	8,121,047	8,554,199		
Actual	9,610,508	6,333,213	11,269,159	6,398,834	6,857,755	7,386,503	13,497,850	9,227,912	7,515,497	9,997,465	9,739,517		
CUMULATIVE EXPENSES													
Budget	11,017,327	18,713,997	30,560,123	38,384,279	45,739,483	53,088,987	66,751,641	75,993,922	85,272,225	93,393,272	101,947,470		
Actual	9,610,508	15,943,720	27,212,879	33,611,713	40,469,468	47,855,971	61,353,821	70,581,733	78,097,230	88,094,695	97,834,212		
Variance - F(U)	1,406,820	2,770,276	3,347,243	4,772,566	5,270,015	5,233,017	5,397,820	5,412,190	7,174,995	5,298,577	4,113,258		
Variance %	12.77%	14.80%	10.95%	12.43%	11.52%	9.86%	8.09%	7.12%	8.41%	5.67%	4.03%		

NOTE: January actuals reflect expenses from October, November and December that were booked only in January due to PeopleSoft data cleanup.

SAN MATEO COUNTY TRANSIT DISTRICT ADA PROGRAM MONTHLY EXPENSES - BUDGET VS ACTUAL FISCAL YEAR 2016



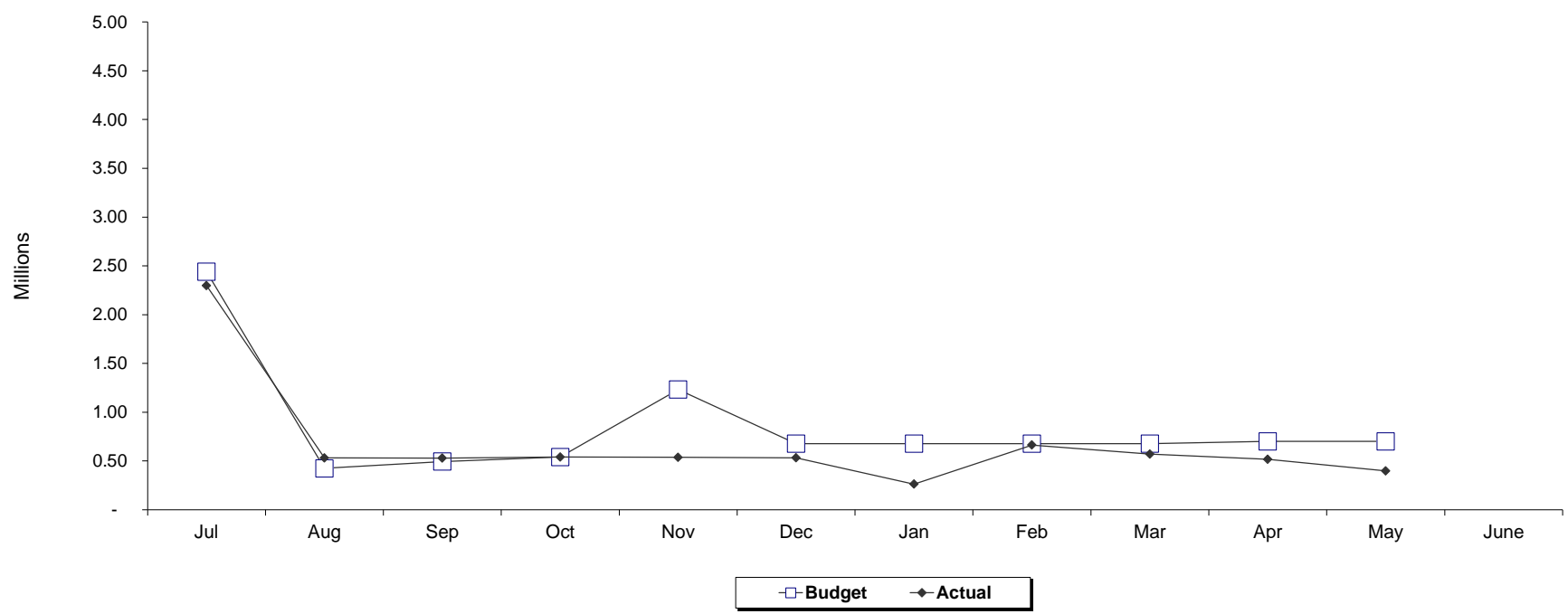
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
MONTHLY EXPENSES												
Budget	1,392,064	1,462,328	1,393,823	1,332,333	1,377,222	1,368,326	1,323,448	1,507,592	1,379,707	1,394,610	1,394,610	
Actual	1,358,433	1,416,915	1,309,048	1,412,582	1,340,576	1,324,018	841,055	1,316,279	1,399,254	1,858,090	1,453,120	
CUMULATIVE EXPENSES												
Budget	1,392,064	2,854,392	4,248,214	5,580,547	6,957,769	8,326,094	9,649,543	11,157,135	12,536,841	13,931,452	15,326,062	
Actual	1,358,433	2,775,348	4,084,396	5,496,978	6,837,554	8,161,573	9,002,628	10,318,907	11,718,161	13,576,251	15,029,370	
Variance - F(U)	33,631	79,043	163,819	83,569	120,215	164,522	646,915	838,228	818,681	355,201	296,692	
Variance %	2.42%	2.77%	3.86%	1.50%	1.73%	1.98%	6.70%	7.51%	6.53%	2.55%	1.94%	

NOTE: January actuals reflect expenses from October, November and December that were booked only in January due to PeopleSoft data cleanup.

SAN MATEO COUNTY TRANSIT DISTRICT

MULTIMODAL MONTHLY EXPENSES - BUDGET VS ACTUAL

FISCAL YEAR 2016



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
MONTHLY EXPENSES												
Budget	2,440,078	424,821	495,316	540,760	1,232,844	678,507	678,810	678,428	678,428	701,428	701,428	
Actual	2,298,095	531,510	530,609	540,760	537,739	533,707	263,050	664,293	571,092	518,573	398,607	
CUMULATIVE EXPENSES												
Budget	2,440,078	2,864,899	3,360,214	3,900,974	5,133,818	5,812,325	6,491,135	7,169,563	7,847,990	8,549,418	9,250,846	
Actual	2,298,095	2,829,605	3,360,214	3,900,974	4,438,713	4,972,420	5,235,471	5,899,764	6,470,856	6,989,429	7,388,036	
Variance - F(U)	141,983	35,294	0	0	695,105	839,905	1,255,664	1,269,798	1,377,134	1,559,989	1,862,810	
Variance %	5.82%	1.23%	0.00%	0.00%	13.54%	14.45%	19.34%	17.71%	17.55%	18.25%	20.14%	

NOTE: January actuals reflect expenses from October, November and December that were booked only in January due to PeopleSoft data cleanup.

SAN MATEO COUNTY TRANSIT DISTRICT

INTEREST ON INVESTMENTS

May 31, 2016

DESCRIPTION	TOTAL INVESTMENT 5-31-16	INTEREST RECEIVABLE 4-30-16	PREPAID INT RECEIVABLE 5-31-16	INTEREST EARNED 5-31-16	INTEREST RECEIVED 5-31-16	ADJ.	INTEREST RECEIVABLE 5-31-16
RESERVE FOR CAPITAL PROJ	7,970,979.50	16,282.37	0.00	3,878.07	0.00	(71.14)	20,089.30
LAIF -- CAPITAL PROJ	76,858.72	33.15	0.00	36.03	0.00	0.00	69.18
REIMB SECURITIES -- L76R	88,829,694.15	116,916.63	49,846.15	76,657.47	77,682.29	(1,241.39)	164,496.58
LAIF -- REIMB FUNDS L76R	19,895,969.83	11,772.10	0.00	9,327.67	0.00	0.00	21,099.77
PARATRANSIT FUNDS	25,116,827.18	41,955.26	14,835.16	22,090.11	27,131.76	(357.86)	51,390.91
LAIF -- PARATRANSIT	5,089,439.98	2,195.15	0.00	2,386.04	0.00	0.00	4,581.19
BANK OF AMERICA	29,229,966.25	0.00	0.00	2,775.28	2,775.28	0.00	0.00
WELLS FARGO	0.00	0.00	0.00	0.00	0.00	0.00	0.00
US Bank - Custodian account	305,363.49	0.00	0.00	0.00	0.00	0.00	0.00
Debt Service Reserves							
Held by Trustee:	16,628,156.29	0.00	0.00	0.00	0.00	0.00	0.00
	<u>193,143,255.39</u>	<u>189,154.66</u>	<u>64,681.31</u>	<u>117,150.67</u>	<u>107,589.33</u>	<u>(1,670.39)</u>	<u>261,726.93</u>

MAY 2016 -- SUMMARY OF INTEREST & CAPITAL GAIN

Interest Earned 5/31/16	115,480.28
Add:	
CEO Interest	0.00
Less:	
Trust Fees	(541.11)
Capital Gain(Loss)	<u>6,955.61</u>
Total Interest & Capital Gain(Loss)	<u><u>121,894.78</u></u>

YEAR TO DATE -- SUMMARY

Interest Earned	1,066,593.47
Add:	
CEO Interest	
Less:	
Trust Fees	(6,905.15)
Capital Gain(Loss)	<u>18,026.99</u>
Total Interest & Capital Gain(Loss)	<u><u>1,077,715.31</u></u>
Balance Per Ledger as of 5/31/16	
Deferred Int Acct. 210852/3	16,151.20
Interest Acct. 409101	1,050,442.27
Less Trust Fees 530045	(6,905.15)
Gain(Loss) Acct. 405210	<u>18,026.99</u>
	<u><u>1,077,715.31</u></u>

**SAN MATEO COUNTY TRANSIT DISTRICT
BOND REIMBURSED FUNDS -- INTEREST ON SECURITIES -- L76R
May 31, 2016**

TYPE OF SECURITY	CUSIP #	SETTLE DATE	ORIGINAL PURCHASE PRICE	GASB 31 ADJUSTED 06-30-15	MARKET VALUE 5-31-16	MATURITY/CALL DATE	INT RATE	RATE/DAY	APPL. DAYS	INTEREST REC'VBLE 4-30-16	PREPAID INT REC'VBLE 5-31-16	INTEREST EARNED 5-31-16	INTEREST RECEIVED 5-31-16	PP INTEREST RECEIVED DATE	ADJ.	INTEREST REC'VBLE 5-31-16	INT REC'VBLE LESS PREPAID 5-31-16	PAR VALUE
U.S. TREASURY NOTES AND BONDS																		
US TREASURY NOTE	912828WX4	08-27-14	1,599,875.00	1,594,120.17	1,600,625.00	05-18-16	0.500%	22.2222	17	2,000.00		377.78	2,373.63		(4.15)	0.00	0.00	1,600,000
US TREASURY NOTE	912828VR8	12-11-14	1,102,492.19	1,103,093.20	1,100,666.60	08-15-16	0.625%	19.0972	31	1,435.44		592.01			(6.50)	2,020.95	2,020.95	1,100,000
US TREASURY NOTE	912828VR8	12-11-14	6,915,632.81	6,919,402.80	6,905,121.09	05-18-16	0.625%	119.7917	17	9,004.12		2,036.46	11,018.20		(22.38)	0.00	0.00	6,900,000
US TREASURY NOTE	912828WA4	03-21-14	8,480,410.16	8,522,576.00	8,503,238.50	10-15-16	0.625%	147.5694	31	2,322.40		4,574.65			(74.99)	6,822.06	6,822.06	8,500,000
US TREASURY NOTE	912828WF3	03-28-14	9,971,093.75	10,025,780.00	10,003,410.00	11-15-16	0.625%	173.6111	31	28,846.15		5,381.94	31,250.00		(90.86)	2,887.23	2,887.23	10,000,000
US TREASURY NOTE	912828SM3	03-23-15	4,569,898.24	4,569,720.00	4,546,165.17	3-31-17	1.000%	125.9722	31	3,841.12		3,905.14			(64.02)	7,682.24	7,682.24	4,535,000
US TREASURY NOTE	912828UZ1	3-31-16	9,319,685.55	9,319,685.55	9,306,905.85	4-30-18	0.625%	162.3264	31	158.80		5,032.12			(109.40)	5,081.52	5,081.52	9,350,000
US TREASURY NOTE	912828WD8	10-13-15	7,761,960.94	7,761,960.94	7,755,039.60	10-31-18	1.250%	267.3611	31	261.55		8,288.19			(180.17)	8,369.57	8,369.57	7,700,000
US TREASURY NOTE	912828ST8	03-25-15	7,848,466.80	7,832,211.90	7,904,887.20	4-30-19	1.250%	272.5694	31	266.64		8,449.65			(183.68)	8,532.61	8,532.61	7,850,000
US TREASURY NOTE	912828F62	09-08-15	6,124,542.97	6,167,276.90	6,178,153.20	10-31-19	1.500%	254.1667	31	248.64		7,879.17			(171.29)	7,956.52	7,956.52	6,100,000
US TREASURY NOTE	912828UQ1	11-09-15	4,342,078.13	4,343,279.60	4,410,313.60	02-29-20	1.250%	152.7778	31	9,266.30		4,736.11			(102.95)	13,899.46	13,899.46	4,400,000
US TREASURY NOTE	912828VF4	12-7-15	4,343,109.38	4,336,750.00	4,423,201.20	05-31-20	1.375%	168.0556	31	25,290.98	0.00	5,209.72	30,250.00		(85.40)	165.30	165.30	4,400,000
US TREASURY NOTE	912828VP2	3-2-16	4,018,675.78	4,018,675.78	4,014,106.20	07-31-20	2.000%	216.6667	31	19,500.00		6,716.67			(73.81)	26,142.86	26,142.86	3,900,000
US TREASURY NOTE	912828VP2	5-18-16	8,683,171.88	8,683,171.88	8,645,767.20	07-31-20	2.000%	466.6667	14		49,846.15	6,533.33			(71.79)	56,307.69	6,461.54	8,400,000
																		87.56%
GOVERNMENT BONDS																		
FNMA	3135G0XP3	12-10-13	4,979,900.00	4,998,765.00	5,000,165.00	07-05-16	0.375%	52.0833	30	6,041.67		1,562.50			-	7,604.17	7,604.17	5,000,000
FNMA	3135G0YE7	03-07-14	5,009,800.00	5,012,055.00	5,001,765.00	08-26-16	0.625%	86.8056	30	5,642.36		2,604.17				8,246.53	8,246.53	5,000,000
																		10.33%
FEDERAL AGENCY COLLATERALIZED MORTGAGE OBLIGATION																		
FNMA	3136ANJY4	4-30-15	616,097.80	614,551.21	612,350.27	04-01-18	1.550%	26.2639	30	787.92		787.92	787.92			787.92	787.92	610,000
FHLMC	3137BNMZ4	4-28-16	622,456.24	622,471.69	620,023.16	03-01-19	1.738%	29.7535	30	905.21		892.61	905.21			892.61	892.61	616,298
FHLMC	3137BNMZ4	4-28-16	8,788.76	8,774.30	8,701.81	05-18-16	1.738%	0.4201								0.00	0.00	8,702
FANNIE MEA	3136AQDQ0	10-30-15	808,011.12	808,011.12	803,536.40	09-01-19	1.646%	36.5778	30	1,097.33		1,097.33	1,097.33			1,097.33	1,097.33	800,000
																		2.10%
CASH AND CASH EQUIVALENTS																		
			127,287.79		127,287.79							0.00				0.00	0.00	0
LAIF			19,895,969.83	19,895,969.83	19,895,969.83							11,772.10	9,327.67			21,099.77	21,099.77	19,895,969.83
MATURED/CALLED																		
US TREASURY NOTE	912828WX4	08-27-14	(1,599,875.00)	(1,594,120.17)	(1,600,625.00)													(1,600,000.00)
US TREASURY NOTE	912828VR8	12-11-14	(6,915,632.81)	(6,919,402.80)	(6,905,121.09)													(6,900,000.00)
FHLMC	3137BNMZ4	4-28-16	(8,788.76)	(8,774.30)	(8,701.81)													(8,701.81)
TOTAL LAIF			19,895,969.83	19,895,969.83	19,895,969.83													
TOTAL A/C 121100 & 112010			88,601,850.93	88,740,035.77	88,829,694.15													88,261,298.19
TOTAL (EXCLUDE LAIF AND CASH/CASH EQUIVALENTS)			88,601,850.93	88,740,035.77	88,829,694.15					116,916.62	49,846.15	76,657.47	77,682.29		(1,241.39)	164,496.57	114,650.42	88,261,298.21

SAN MATEO COUNTY TRANSIT DISTRICT
RESERVE FOR CAPITAL PROJECTS -- INTEREST ON SECURITIES
May 31, 2016

TYPE OF SECURITY	CUSIP #	SETTLE DATE	ORIGINAL PURCHASE PRICE	GASB 31 ADJUSTED 06-30-15	MARKET VALUE 5-31-16	MATURITY DATE	INT RATE	RATE/DAY	APPL DAYS	INTEREST REC'VBLE 4-30-16	PREPAID INT REC'VBLE 5-31-16	INTEREST EARNED 5-31-16	INTEREST RECEIVED 5-31-16	ADJ.	INTEREST REC'VBLE 5-31-16	INT REC'VBLE LESS PREPAID 5-31-16	PAR VALUE
<u>U.S. TREASURY NOTES AND BONDS</u>																	
US TREASURY NOTE	912828VG2	12-30-13	7,889,816.35	7,914,852.00	7,900,948.00	06-15-16	0.500%	109.7222	31	14,898.47		3,401.39	0.00	(55.76)	18,244.10	18,244.10	7,900,000
<u>GOVERNMENT BONDS</u>																	
HOUSING URBAN DEVEL	911759EB0	12-23-08	72,572.73	70,007.00	70,031.50	08-01-17	7.908%	15.3767	31	1,383.90		476.68		(15.38)	1,845.20	1,845.20	70,000
<u>CASH AND CASH EQUIVALENTS</u>																	
FIRST AMER US TREASURY MM	31846V534		128,198.80	128,198.80	128,198.80							0.00				0.00	0.00
LAIF			76,858.72	76,858.72	76,858.72					33.15		36.03			69.18	69.18	76,859
TOTAL LAIF			76,858.72	76,858.72	76,858.72												
TOTAL A/C 121100 & 112010			7,962,389.08	7,984,859.00	7,970,979.50												
TOTAL (EXCLUDE LAIF AND CASH/CASH EQUIVALENTS)			<u>7,962,389.08</u>	<u>7,984,859.00</u>	<u>7,970,979.50</u>					<u>16,282.37</u>	<u>0.00</u>	<u>3,878.07</u>	<u>0.00</u>	<u>(71.14)</u>	<u>20,089.30</u>	<u>20,089.30</u>	<u>7,970,000</u>

SAN MATEO COUNTY TRANSIT DISTRICT
PARATRANSIT FUNDS -- INTEREST ON SECURITIES
May 31, 2016

TYPE OF SECURITY	CUSIP #	SETTLE DATE	ORIGINAL	GASB 31	MARKET	Maturity/Call	INT RATE	APPL. DAYS	INTEREST REC'VBLE 4-30-16	PP INTEREST REC'VBLE 5-31-16	INTEREST EARNED 5-31-16	INTEREST RECEIVED 5-31-16	PP INTEREST RECEIVED DATE	INTEREST	INT REC'VBLE	PAR VALUE		
			PURCHASE PRICE	ADJUSTED 06-30-15	VALUE 5-31-16									REC'VBLE 5-31-16	LESS PREPAID 5-31-16			
U.S. TREASURY NOTES AND BONDS																		
US TREASURY NOTE	912828WA4	03-21-14	867,994.92	1,169,283.29	870,331.47	10-15-16	0.625%	15.1042	31	318.64		468.23		(88.61)	698.26	698.26	870,000	
US TREASURY NOTE	912828WA4	03-21-14	2,544,123.05	2,259,699.96	2,552,291.02	5-18-16	0.625%	44.2708	17	615.79		752.60	1,436.99	68.60	0.00	0.00	2,550,000	
US TREASURY NOTE	912828WF3	03-28-14	4,985,546.88	5,012,890.00	5,001,705.00	11-15-16	0.625%	86.8056	31	14,423.08		2,690.97	15,625.00	(45.44)	1,443.61	1,443.61	5,000,000	
US TREASURY NOTE	912828SC5	03-19-14	4,218,225.00	4,223,297.40	4,206,564.60	01-31-17	0.875%	102.0833	31	9,187.50		3,164.58		(34.77)	12,317.31	12,317.31	4,200,000	
US TREASURY NOTE	912828UZ1	03-31-16	3,304,252.14	3,305,008.21	3,299,721.17	04-30-18	0.625%	57.5521	31	56.30		1,784.12		(38.79)	1,801.63	1,801.63	3,315,000	
US TREASURY NOTE	912828WD8	10-13-15	2,721,726.56	2,721,726.56	2,719,299.60	10-31-18	1.250%	93.7500	31	91.71		2,906.25		(63.18)	2,934.78	2,934.78	2,700,000	
US TREASURY NOTE	912828F62	09-09-15	2,008,046.88	2,022,058.00	2,025,624.00	10-31-19	1.500%	83.3333	31	81.52		2,583.33		(56.15)	2,608.70	2,608.70	2,000,000	
US TREASURY NOTE	912828UQ1	11-09-15	1,233,544.92	1,233,886.25	1,252,930.00	02-29-20	1.250%	43.4028	31	2,632.47		1,345.49		(29.25)	3,948.71	3,948.71	1,250,000	
US TREASURY NOTE	912828VF4	12-7-15	1,332,544.92	1,330,593.75	1,357,118.55	5-31-20	1.375%	51.5625	31	7,759.73		1,598.44	9,281.25	(26.20)	50.72	50.72	1,350,000	
US TREASURY NOTE	912828VP2	3-2-16	1,236,515.63	1,236,515.63	1,235,109.60	7-31-20	2.000%	66.6667	31	6,000.00		2,066.67		(22.71)	8,043.96	8,043.96	1,200,000	
US TREASURY NOTE	912828VP2	5-18-16	2,584,277.34	2,584,277.34	2,573,145.00	7-31-20	2.000%	138.8889	14	0.00	14,835.16	1,944.44		(21.36)	16,758.24	1,923.08	2,500,000	
																	97.91%	
FEDERAL AGENCY COLLETERALIZED MORTGAGE OBLIGATION																		
FNMA	3136ANJY4	4-30-15	171,699.39	171,268.37	170,654.99	04-01-18	1.550%	7.3194	30	219.58		219.58	219.58		219.58	219.58	170,000	
FHLMC	3137BNMZ4	4-28-15	174,287.74	174,291.79	173,606.48	03-01-19	1.738%	8.3310	30	253.46		249.93	253.46		249.93	249.93	172,563	
FHLMC	3137BNMZ4	4-28-15	2,460.86	2,456.81	2,436.51	05-25-16	1.738%					0.00			0.00	0.00	2,437	
FANIE MAE	3136AQDQ0	10-30-15	232,303.20	232,303.20	231,016.72	09-01-19	1.646%	10.5161	30	315.48		315.48	315.48		315.48	315.48	230,000	
																	2.09%	
CASH AND CASH EQUIVALENTS																		
			49,876.90	49,876.90	49,876.90							0.00			0.00	0.00	0	
CASH INVESTMENT																		
LAIF			5,089,439.98	5,084,598.76	5,089,439.98							2,195.15	0.00		2,386.04	4,581.19	4,581.19	5,089,440
MATURED/CALLED																		
US TREASURY NOTE	912828WA4	03-21-14	(2,544,123.05)	(2,259,699.96)	(2,552,291.02)	5-18-16	0.625%										(2,550,000.00)	
FHLMC	3137BNMZ4	4-28-15	(2,460.86)	(2,456.81)	(2,436.51)	05-25-16	1.738%										(2,436.51)	
TOTAL LAIF			5,089,439.98	5,084,598.76	5,089,439.98													
TOTAL A/C 122010			25,070,965.52	25,417,399.79	25,116,827.18													
TOTAL (EXCLUDE LAIF AND CASH/CASH EQUIVALENTS)			<u>25,070,965.52</u>	<u>25,417,399.79</u>	<u>25,116,827.18</u>					<u>41,955.26</u>	<u>14,835.16</u>	<u>22,090.11</u>	<u>27,131.76</u>	<u>0.00</u>	<u>(357.86)</u>	<u>51,390.91</u>	<u>36,555.75</u>	<u>24,957,563.49</u>

SAN MATEO COUNTY TRANSIT DISTRICT
SUMMARY OF BUDGET ACTIVITY FOR MAY 2016

BUDGET AMENDMENTS

	Amount	Line Item	Description
May-16			No Budget Revisions in May 2016.
	<u>\$ -</u>	Total	<u>\$ -</u> Total

BUDGET REVISIONS

	Amount	Line Item	Description
May-16			No Budget Revisions in May 2016.
	<u>\$ -</u>	Total	<u>\$ -</u> Total

SAN MATEO COUNTY TRANSIT DISTRICT
1/2 CENT SALES TAX RECEIPTS AND PROJECTIONS
FY 2016
May 2016

8/24/15 4:42 PM

Approved Budget			Receipts		Over/(Under)	Current
Date	Amount	Revised	Date	Amount	Budget/Projection	Projection
FY2015:						
1st Quarter	17,150,000	18,235,600		19,885,600	1,650,000	19,885,600
2nd Quarter	18,405,000	20,319,400		22,628,025	2,308,625	22,628,025
3rd Quarter	17,500,000	17,500,000		18,198,785	698,785	18,198,785
4th Quarter	18,945,000	18,945,000	4th Quarter	20,262,315	1,317,315	20,262,315
FY2015 Total	72,000,000	75,000,000	FY2015 Total	80,974,725	5,974,725	80,974,725
FY2016						
Jul. 15	5,390,000	5,390,000	Sep. 15	5,856,200	466,200	5,390,000
Aug. 15	5,390,000	5,390,000	Oct. 15	5,856,200	466,200	5,390,000
Sep. 15	6,827,333	6,827,333	Nov. 15	7,808,200	980,867	6,827,333
3 Months Total	17,607,333	17,607,333		19,520,600	1,913,267	17,607,333
Oct. 15	5,877,667	5,877,667	Dec. 15	6,636,477	758,810	5,877,667
Nov. 15	5,877,667	5,877,667	Jan. 16	6,064,300	186,633	5,877,667
Dec. 15	7,140,467	7,140,467	Feb. 16	8,085,700	945,233	7,140,467
6 Months Total	36,503,134	36,503,134		40,307,077	3,803,943	36,503,134
Jan. 16	5,544,000	5,544,000	Mar. 16	6,435,511	891,511	5,544,000
Feb. 16	6,079,920	6,079,920	Apr. 16	5,033,200	(1,046,720)	6,079,920
Mar. 16	7,542,920	11,542,920	May 16	6,711,000	(831,920)	11,542,920
9 Months Total	55,669,974	59,669,974		58,486,788	2,816,814	59,669,974
Apr. 16	6,884,826	6,884,826	Jun. 16			6,884,826
May 16	6,997,760	6,997,760	Jul. 16			6,997,760
Jun. 16	7,447,440	7,447,440	Aug. 16			7,447,440
FY2016 Total	77,000,000	81,000,000	FY2016 Total	58,486,788	2,816,814	81,000,000
	18,073,533		1st Quarter			
	21,101,678		2nd Quarter			
	21,190,217		3rd Quarter			
	12,003,946		4th Quarter			
	<u>72,369,374</u>		YTD Actual Per Statement of Revenues & Expenses			

**SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT**

TO: Finance Committee

THROUGH: Jim Hartnett
General Manager/CEO

FROM: Gigi Harrington
Deputy CEO/Chief Administrative Officer

SUBJECT: **DISADVANTAGED BUSINESS ENTERPRISE PROGRAM REVISIONS**

ACTION

The General Manager/CEO proposes the Committee recommend the Board of Directors (Board):

1. Adopt the revised Disadvantaged Business Enterprise (DBE) Program, which includes changes to policies and procedures consistent with recent guidance from the U.S. Department of Transportation (DOT) and recommendations from the recent Federal Transit Administration (FTA) Triennial Audit.
2. Authorize the General Manager/CEO to submit the revised DBE program to the FTA by the designated deadline of July 26, 2016.

SIGNIFICANCE

DOT regulations 49 Code of Federal Regulations Part 26.21 require DOT grantees to establish a DBE Program and require grantees to send significant changes to the program for approval by the FTA.

BUDGET IMPACT

The proposed DBE Program revisions should have no impact on the budget.

BACKGROUND

The DBE Program was last revised in 2012 (Resolution No. 2012-02) with approval from the Board. The District's recent FTA Triennial Review resulted in recommendations to revise the DBE program to reflect the most current policies and procedures in use and to incorporate the most recent changes in DOT guidance. The District must submit DBE Program revisions to the FTA before July 26, 2016. Proposed revisions include the following:

- A new Policy Statement by current General Manager/CEO, Jim Hartnett.
- Revise delegation of duties and responsibilities for DBE Program implementation consistent with District reorganization.

- Revise the Certification Standards of Size for DBE firms to comply with new DOT requirements.
 - The cap on statutory gross receipts (i.e., the average annual gross receipts over the previous three fiscal years) applicable to small businesses eligible to participate in the program is increased from \$22.41 million to \$23.98 million.

- Adopt FTA guidance that DBE contract-specific goal attainment and good faith efforts are a matter of contract bidder or proposer “responsibility” instead of “responsiveness.”
 - Current District practice is to allow three days after bid submittals for bidders to compile good faith efforts submittals. The current program identifies this as a matter of “responsiveness,” this is correctly identified as a matter of “responsibility.”

- Add a section for Summary of Suspension of Certification to comply with new DOT requirements.
 - A DBE’s certification will be suspended without a hearing for 30 days if the District has evidence that the disadvantaged owner(s) has died or is incarcerated. The District has 30 days to determine whether to reinstate certification or initiate removal proceedings.

- Include revisions to policies and procedures in the small business enterprise (SBE) element of the DBE program.
 - Update the SBE element to reflect multiple online DBE and SBE databases and options available to buyers for sourcing.
 - Update the SBE element to reflect that the JPB has now updated and modified its purchasing platform and that DBE staff will facilitate SBE identification and partnering during Pre-Bid and Pre-Proposal meetings.

- Changes in processes for monitoring DBE participation and communicating with DBEs.
 - Previous data collection and payment verification regarding DBEs on on-going contracts has been through manual forms. Staff has procured online database software to manage and report on new contracts and interact directly with DBEs to ensure that they are being utilized and paid.

Prepared By: John Barker, Manager, Civil Rights Programs
 Elke Campbell, DBE Officer

650-508-7940
 650-508-7939

San Mateo County
TRANSIT DISTRICT

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

49 CFR PART 26

Adopted: May 6, 2004; Resolution No. 2004-19

Revised: June 10, 2009; Resolution No. 2009-03

February 28, 2012; Resolution No. 2012-02

July 26, 2016; Resolution No. 2016-??

SAN MATEO COUNTY TRANSIT DISTRICT
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

The San Mateo County Transit (District) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26 ("Regulation"). The District has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the District has signed an assurance that it will comply with the Regulation.

It is the policy of the District to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also District policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet the 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients; and
7. To assist the development of firms that can compete successfully in the marketplace outside the DBE program.

I, the General Manager / Chief Executive Officer (GM/CEO) of the District, am responsible for adherence to this policy and the Manager, Civil Rights Programs has been delegated as the DBE Liaison Officer. The Manager, Civil Rights Programs and the DBE Officer, in cooperation with the Chief Executives of the District, are responsible for the development, implementation, and monitoring of the Disadvantaged Business Enterprise Program in furtherance of the District's nondiscrimination policy. It is the expectation of the Board of Directors and the GM/CEO that all agency personnel shall adhere to the provisions and the spirit of this program.

The District has disseminated this policy statement to the Board of Directors and all of the components of our organization. We have distributed this statement via our agency website to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

This policy is available to all agency personnel and to members of the community that perform or are interested in performing work on District contracts upon request and via the District's website. The complete DBE Program and overall goal analysis are available for review at:

DBE Officer, Office of Small and Disadvantaged Businesses
San Mateo County Transit District
1250 San Carlos Avenue
PO Box 3006
San Carlos, CA 94070

If you have any questions or would like further information regarding this program, please call the Office of Small and Disadvantaged Businesses at (650) 508-7939.

Jim Hartnett, GM/CEO

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement on the first page of this program.

Section 26.3 Applicability

The District is the recipient of federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405, and the Fixing America's Surface Transportation (FAST) Act, Pub.L. 114-94

In the event of any conflicts or inconsistencies between the Regulation and this DBE Program with respect to DOT-assisted contracts, the Regulation shall govern.

Section 26.5 Definitions

The District will adopt the definitions contained in 49 CFR Part 26.5 for this program. A copy of 49 CFR Part 26 is attached hereto as Attachment 1 of this program.

Section 26.7 Non-discrimination Requirements

The District will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the District will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

The District will report DBE participation to the FTA on a semi-annual basis via Transit Award Management System (TrAMS). These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List: 26.11(c)

The District will create and maintain a bidders list, consisting of information about all firms bidding on prime contracts and all firms that bid or quote on subcontracts on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidders list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

The District will collect this information through notification in all solicitations and a contract clause requiring prime bidders to report information regarding all firms that quote to them on subcontracts.

Application Package and Other Certification and Compliance Related Records: 26.11(d)

The District will maintain records documenting a firm's compliance with the requirements of this part. At a minimum, the District will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records will be retained in accordance with applicable record retention requirements of the District's financial assistance agreement. Other

certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements of the District's financial assistance agreement, whichever is longer.

State Certified Firms: 26.11(e)

As the administrator for the California Unified Certification Program (CUCP), the California Department of Transportation (Caltrans) will report to the Department of Transportation's Office of Civil Rights, by January 1, 2015, and each year thereafter, the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following:

- 1) Women;
- 2) Socially and economically disadvantaged individuals (other than women); and
- 3) Individuals who are women and are otherwise socially and economically disadvantaged individuals.

Section 26.13 Assurances

The District has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance: 26.13(a)

The District shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The District shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The District's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the District of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipient(s) that the District might have.

Contract Assurance: 26.13b

The District will require that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the District deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the contractor from future bidding as non-responsible.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the District has received a grant of \$250,000 or more in FTA planning, capital, and/or operating assistance in a federal fiscal year, the District will continue to carry out this program until all funds from DOT financial assistance have been expended. The District will provide to DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

The District has designated the following individual as the DBE Liaison Officer:

Manager, Civil Rights Programs
San Mateo County Transit District
1250 San Carlos Avenue
San Carlos, CA 94070
Phone: (650) 508-7940

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the District complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the GM/CEO, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has staff that performs the day-to-day administration of the program.

DBE Officer Responsibilities

The DBE Officer is the primary person responsible for implementing the day-to-day aspects of the DBE Program and will work closely with operating divisions and other departments and consultants of the District, including legal, procurement, engineering, insurance and others who are responsible for making decisions relative to the District's construction, procurement and professional service contracts. The DBE Officer will also consult with the DBE representatives from the District member agencies on a regular basis concerning all aspects of the District DBE Program.

The DBE Officer's specific duties and responsibilities are attached as Attachment 3 and are incorporated herein.

Section 26.27 DBE Financial Institutions

It is the policy of the District to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the San Francisco Bay Area and to determine areas in which the District may reasonably utilize their services. The District will encourage its prime contractors on DOT-assisted contracts to use the services of DBE financial institutions.

The District has searched the Federal Reserve Bank (FRB) Minority Owned Depository Institutions and their Branches listing at www.federalreserve.gov/releases/mob/current/min_bnk_lst.pdf and has such institutions listed in Attachment 4. This listing will be periodically shared with the Chief Financial Officer to encourage use of these institutions.

The District will re-evaluate the availability of DBE Financial institutions on an annual basis. Information on the availability of such institutions can be obtained from the DBE Officer.

Section 26.29 Prompt Payment Mechanisms

The District will include a clause that is substantially similar to the following in each DOT-assisted prime contract:

Prompt Payment: 26.29(a)

The prime contractor shall pay each subcontractor under this prime contract for satisfactory performance of the subcontractor's contract no later than seven (7) days from the receipt of each payment the prime contractor receives from the District.

Retainage: 26.29 (b)

The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the District. When the District has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by the acceptance is deemed to be satisfactorily completed.

Monitoring and Enforcement: 26.29(d)

Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the District; otherwise, the prime contractor will be subject to a charge of two percent (2%) per month on the untimely or improperly withheld payment. This clause applies to both DBE and non-DBE subcontracts.

The District reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, imposition of liquidated damages, and termination of the contract in whole or in part, if it is determined that the contractor has failed to comply with the requirements of DBE Program.

Section 26.31 Directory

The District participates in the California Unified Certification Program (CUCP) reciprocal DBE certification program pursuant to 49 CFR Part 26, managed by the California Department of Transportation (Caltrans) in Sacramento, California. As a certifying member of the CUCP, the District manages its own DBE certification applications and meets monthly with the certifying members in the Northern California Cluster of the CUCP to contribute to and maintain the CUCP database of certified DBE firms.

The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. A link to the CUCP's online DBE Directory may be found in Attachment 5 to this program document.

The Directory is available by contacting the DBE Officer at 1250 San Carlos Avenue, San Carlos, Ca 94070 or accessing the California Unified Certification Program (CUCP) website at <http://www.dot.ca.gov/hq/bep/ucp.htm>.

Section 26.33 Overconcentration

The District has not identified that overconcentration exists in the types of work that DBEs perform.

Pursuant to this part, if the DBE Officer determines that DBE participation is so over-concentrated in certain types of work or contracting opportunities that it unduly burdens the participation of non-DBEs in that type of work, the DBE Officer will develop appropriate measures to address the over-concentration. The DBE Officer will seek approval of such measures from the FTA and, at that time, the measures will become a part of this Program.

Currently, the District is unaware of any types of work that have a burdensome overconcentration of DBE participation.

Section 26.35 Business Development Programs

The District has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The District will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. The District will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. The District will consider similar action under its own legal authorities, including responsibility determinations in future contracts. Attachment 6 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in District procurement activities.
3. The District will provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by regular monitoring of worksites and reviewing of contracting records. The DBE Officer will provide written verification that work committed to DBEs at contract award is actually performed by the DBEs.
4. The District will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award. The District will utilize the web-based system B2GNow Compliance Monitoring System (Diversity Management and Compliance System) to accomplish this task. B2GNow is designed to capture payments made by the District to the contractor and actual payments made by the contractor to the subcontractor(s). This system provides the District a means of comparing attainments to commitments for reporting purpose.

The District will monitor payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in any DBE commitment and that payments are being made in a timely manner.

5. The District will require prime contractors to provide copies of any agreements or executed contracts, upon request, to verify that required clauses are included in all contracts with subcontractors.
6. The District will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the District or DOT. This reporting requirement also extends to any certified DBE subcontractor.

Section 26.39 Fostering Small Business Participation

The District will actively implement the following small business enterprise program elements to encourage participation among small business enterprises in District contracting activities:

1. When feasible and practicable, obtain at least one of three price quotations from an SBE for informal competitive procurements (i.e., other than Invitation for Bids (IFBs) and Request for Proposals (RFPs)).
2. The DBELO and DBE Officer will identify and disseminate online DBE/SBE databases that will assist buyers in sourcing and obtaining competitive quotes.
3. Identify SBEs during pre-bid or pre-proposal conferences and posting pre-bid and pre-proposal sign-in sheets to facilitate easier interactions between prime contractors and subcontractors, including DBEs and SBEs.
4. Apply a 5 percent SBE bid or point preference in the evaluation of bids or proposals that utilize small business enterprises.

- a. For non-construction contracts (i.e., those NOT awarded based on lowest responsive and responsible bid), the 5 percent preference will be granted in the form of points, up to 5 points as part of the evaluation process. The point preference will be calculated on a relative basis, depending on the level of small business participation proposed by each proposer.
- b. For construction and other contracts awarded based on the lowest responsive and responsible bid, the 5 percent preference will be granted in the form of a bid preference. The bid preference will be computed at 5 percent of the lowest bid up to a maximum cap of \$50,000 and will be used, for evaluation purposes only, to adjust the bids of those bidders who either meet or exceed a small business participation goal established by the District.

Because the District's SBE program is race-neutral, the District will seek to implement one or more appropriate SBE elements on all District contracting activity, regardless of funding source. However, when a race-conscious measure (such as imposing a contract-specific DBE goal) is sought on a particular contract, the District will not simultaneously implement the SBE program requirement on the affected contract in order to avoid confusion and misinterpretation of the District's DBE goal by the business community.

The District will accept all DBEs certified by all Unified Certification Programs recognized by U.S. DOT as eligible to participate in the District's SBE program. In addition, the District will accept the certification of small businesses performed by other agencies (including the U.S. Small Business Administration 8(a) BD program and California Department of General Services, among others) as long as the size standards and definition of "small business concern" are met pursuant to 49 CFR Part 26.5.

The District will verify the eligibility of a small business certified by another agency by either (1) obtaining sufficient information from the certifying agency to evidence that the small business meets the standard pursuant to 49 CFR Part 26.5; or (2) obtaining a declaration, and supporting documentation, from a small business attesting under penalty of perjury that it is eligible to participate in the District's SBE program. Supporting documentation may include the cover page of a firm's most recent federal income tax return showing gross receipts.

If a firm seeking to participate in the District's SBE program has not been certified as a small business by another agency, the District will verify the eligibility of this firm by requiring it to submit a declaration under penalty of perjury that it meets the standards of 49 CFR Part 26.5, support its declaration with copies of the firm's federal tax returns for the previous three years, and provide any additional information that the District may require.

The DBE Officer will actively implement and monitor the SBE program elements to determine their effectiveness and will make recommendations when necessary to the DBELO, DBE Review Committee, and GM/CEO to modify the program elements in order to increase their effectiveness in engaging small business enterprises, including DBEs.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The District will not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

A description of the current methodology used to calculate the overall goal and the current goal calculations can be found in Attachment 7 to this program. This section of the program will be updated every three years.

In accordance with Section 26.45(f) the District will submit its overall goal to DOT in three year intervals on August 1. In establishing overall DBE goals, the District will provide for public participation. This will include:

- A. Prior to finalizing the Overall Goal Analysis Report, the District will consult with DOT agencies, other DOT grantees, minority, women and general contractor groups, community organizations, or other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the District's efforts to establish a level playing field for the participation of DBEs.
- B. In conjunction with the District's activities to meet its overall DBE goals, the District will implement various public participation and outreach activities designed to broaden awareness of the District's Disadvantaged Business Enterprise Program. The measure described in 49 CFR Part 26.51, focusing on race-neutral means will be actively pursued, and the District will also encourage its contractors to make similar outreach efforts to include DBE participation in subcontracting opportunities. In conjunction with the Business Outreach Committee (BOC) and the CUCP, the District will continue to organize and offer informational programs for meeting DBE eligibility requirements, familiarize potential contractors with District procurement procedures and requirements, and to otherwise develop effective programs to further the inclusion of DBEs in the District's contracting activities.

The District will publish a notice announcing its proposed overall goals and rational prior to submitting it to FTA on August 1. The notice will be posted on the District's website. The notice will inform the public that the District's Overall Goal Analysis Report is available for inspection during normal business hours at the Office of Small and Disadvantaged Businesses for a 30-day period.

The District's overall goal submission to DOT will include a summary of information and comments received during this public participation process and its responses.

The District will begin using its overall goal on October 1 of each year, unless the District receives other instructions from DOT. If the District establishes a goal on a project basis, the District will begin using the project goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturers Goals

The District will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. The District will not include FTA assistance used in transit vehicle procurements in the base amount from which its overall goal was calculated.

Only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation will be eligible to bid.

The District will submit to FTA, within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement.

The District may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the procedures of this section.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

The District will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making

contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.

2. 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);
3. Providing technical assistance and other services;
4. Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. 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;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

When applicable, the District will pursue the above stated means.

Each time the District submits its overall goal for review to the FTA, the District will also submit a projection of the portion of the goal that the District expects to meet through race-neutral means and the basis for that projection. This projection is subject to approval by FTA, in conjunction with its review of the District's overall goal.

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 8 to this program document. This section of the program will be updated triennially when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The District will establish contract goals to meet any portion of its overall goal that the District does not project being able to meet using race-neutral means.

The District may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The District is not required to set a contract goal on every DOT-assisted contract nor is the District required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts 26.53(a) & (c)

When a DBE contract goal has been established, the District will award the contract only to a bidder/offeror that makes good faith efforts to meet it. The District will determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things:

1. Documents that it has obtained enough DBE participation to meet the goal; or
2. Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

The DBE Officer is responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible. Guidance on good faith efforts can be found in Attachment 9 of this Program document.

The District will ensure that all information is complete, accurate and adequately documents the good faith efforts committing to the performance of the contract by the bidder/offer.

Information to be submitted 26.53(b)

In solicitations for DOT-assisted contracts for which a contract goal has been established, the District will ensure the following:

- Award of the contract will be conditioned on meeting the requirements of this section;
- All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
 - The names and addresses of DBE firms that will participate in the contract;
 - A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - The dollar amount of the participation of each DBE firm participating;
 - Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
 - If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- At the District's discretion, the bidder/offeror must present the information required no later than three (3) days after bid opening as a matter of responsibility.
- Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required before the final selection for the contract is made by the recipient.

Administrative Reconsideration 26.53 (d)

Within (2) working days of being informed by the District that it is not responsible because it has not documented sufficient good faith efforts, a bidder/proposer may request administrative reconsideration. Bidders/proposers should make this request in writing to the Manager, Civil Rights Programs at 1250 San Carlos Avenue, San Carlos, CA 94070, who will forward the request to the DBE Review Committee. The DBE Review Committee will not have played any role in the original determination that the bidder/proposer did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/proposer will have the opportunity to meet in-person with the DBE Review Committee to discuss the issue of whether it met the goal or made adequate good faith efforts to do.

The District will send the bidder/proposer a written decision on reconsideration, explaining the basis for finding that the bidder/proposer did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when terminating, releasing, or substituting a DBE subcontractor on a contract 26.53 (f)

A prime contractor cannot terminate a DBE subcontractor listed in its Utilization Plan (or an approved substitute DBE firm) without prior written consent from the District. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

Contract Provision: 26.53 (f)(1)(ii)

The District will include in each prime contract the following provision:

“The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent. Without prior consent, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.”

The District will provide written consent only if the prime contractor has good cause to terminate the DBE firm.

Good cause includes the following circumstances:

- The listed DBE subcontractor fails or refuses to execute a written contract;
- The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;
- The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- You have determined that the listed DBE subcontractor is not a responsible contractor;
- The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;
- The listed DBE is ineligible to receive DBE credit for the type of work required;
- A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- Other documented good cause that you determine compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Prior to requesting to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the District, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the District and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the District should not approve the prime contractor's action.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offers in negotiated procurements.

When a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the prime contractor is required to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal established for the procurement.

If a contractor fails or refuses to comply, the District will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the District may issue a termination for default proceeding. The good faith efforts should be documented by the contractor. If the District requests documentation, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days, if necessary, at the request of the contractor, and the District shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

The District will ensure that the following clause is placed in every DOT-assisted contract:

Failure by the contractor to carry out these requirements is a material breach of the contract and may result in the termination of the contract or such other remedies, as set forth in 49 CFR Part 26.13(b), if the prime contractor fails to comply with the requirements of this section.

The requirements of this section apply to DBE bidders/offerors for prime contracts also. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, the District will count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

The District will require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with provisions set for in this section.

Section 26.55 Counting DBE Participation Toward Goals

Pursuant to 49 CFR Part 26.55, DBE participation includes that portion of the contract work actually performed by a certified DBE with its own forces. A DBE may participate as a prime contractor, subcontractor, joint venture partner, consultant, sub-consultant, vendor or supplier of materials or services required by the contract.

The Bidder shall determine the amount of DBE participation for each DBE performing work on the contract in terms of both the total value of the work in dollars and the percentage of the total contract bid amount. The Bidder shall also determine the total amount of DBE participation for the entire contract. The Bidder shall count DBE participation according to the following guidelines and in accordance with 49 CFR Part 26.55:

1. DBE Prime Contractor
 - Count the entire dollar amount of the work performed or services provided by the DBE's own forces, including the cost of materials and supplies obtained for the work and the reasonable fees and commissions charged for the services. Do not count any work subcontracted to another firm as DBE participation by the DBE Prime Contractor.
2. DBE Subcontractor
 - Count the entire amount of the work performed or services provided by the DBE's own forces, including the cost of materials and supplies obtained for the work, except for materials and supplies purchased or leased from the Prime Contractor, and reasonable fees and commissions charged for the services. Do not count any work subcontracted by a DBE to another firm as DBE participation by said DBE. If the work has been subcontracted to another DBE, it will be counted as DBE participation for that other DBE.
3. DBE Joint Venture Partner

- Count the portion of the work that is performed solely by the DBE's forces or, if the work is not clearly delineated between the DBE and the joint venture partner, count the portion of the work equal to the DBE's percentage of ownership interest in the joint venture.
4. DBE Manufacturer
 - Count 100% of the costs of materials and supplies obtained from a DBE manufacturer that operates or maintains a factory that produces the materials and supplies on the premises. This applies whether the DBE is a prime contractor or subcontractor.
 5. DBE Regular Dealer
 - Count 60% of the costs of materials and supplies obtained from a DBE regular dealer that owns, operates or maintains a store or warehouse in which the materials and supplies are regularly brought, kept in stock and sold or leased to the public in the usual course of business, except regular dealers of bulk items such as petroleum, cement and gravel who own and operate distribution equipment in lieu of maintaining a place of business. This applies whether a DBE is a prime contractor or subcontractor.
 6. Other DBEs
 - Count the entire amount of fees or commissions charged for assistance in procuring or delivering materials and supplies when purchased from a DBE that is not a manufacturer or regular dealer. Do not count the cost of the materials and supplies.

The District will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Commercially Useful Function

A DBE's participation can only be counted if the DBE performs a commercially useful function on the contract as defined in 49 CFR Part 26.55(c)

- A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, **with respect to materials and supplies used on the contract**, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.
- A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.
- If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.
- When a DBE is presumed not to be performing a commercially useful function as provided in this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

The District will use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If the District chooses this approach, it must obtain written consent from FTA.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
- For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The District will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The District will make its certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

DBE Officer
Office of Small and Disadvantaged Business Enterprises
1250 San Carlos Avenue
San Carlos, CA 94070
(650) 508-7939

Our certification application forms and documentation requirements are found in Attachment 10 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The District is a member of the California Unified Certification Program (CUCP) administered by the California Department of Transportation (Caltrans). The CUCP is a reciprocal statewide DBE certification program. It is the intent of the District to cooperate and participate fully in the facilitation and implementation of a statewide unified DBE certification program. The CUCP will meet all of the requirements of this section. The following is a description of the UCP:

The UCP shall consist of all U.S. DOT RECIPIENTS in the State of California as defined in Section 2.01 of the Memorandum of Agreement (MOA). Each RECIPIENT shall choose to become either a Certifying Member (CM) agency or a Non-Certifying Member (NCM) agency. As long as the District elects to be a certifying member agency of the CUCP, Sections VIII B through VIII G of the MOA, will apply. If the District elects to be a non-certifying member agency for any period of time pursuant to the CUCP, the District will defer the following procedures pertaining to certification activities to the certifying member agencies of the CUCP.

The MOA can be found in Attachment 11 of this program document.

Section 26.83 Procedures for Certification Decisions

The District will ensure that only firms certified as eligible DBEs participate as DBEs in the DBE program. The District will review the eligibility of DBEs consistent with 49 CFR Part 26.83.

The District shall utilize the U. S. DOT-approved Uniform Certification Application form, which will be included in the “DBE Certification Application Package”, as amended from time to time. The District will safeguard from disclosure and unauthorized persons all information gathered as part of the certification process that may be regarded as proprietary or other confidential business information, consistent with the Regulations and applicable federal, state and local laws.

The District shall conduct a “site visit” to the principal place of business to interview the principal officers and review their resumes’ and/or work histories and visit job sites, if there are such sites on which the firm is working at the time of the eligibility investigation within the District’s local area prior to official DBE certification approval and submission to the certification database.

The DBE Officer will make a recommendation to the CUCP for its decision on each application for DBE certification within ninety (90) days of receiving all the information required of the applicant firm. The DBE Officer may extend this time period once, for no more than an additional sixty (60) days, upon written notice to the firm explaining the reasons for the extension. Failure to reach a decision by the applicable deadline under this section is deemed a constructive denial if no decision is made by the deadline, on the basis of which the firm may appeal to DOT under 49 CFR Part 26.89.

Once a firm has been certified as a DBE, it shall remain certified until and unless the District has removed its certification, in whole or in part, through the procedures of section 26.87. The District may not require DBEs to reapply for certification or undergo a certification program. However, the District may conduct a certification review of a certified DBE firm, including a new on-site review, if appropriate in light of changed circumstances, a complaint, or other information concerning the firm’s eligibility. If information comes to the District’s attention that leads us to question the firm’s eligibility, the District may conduct an on-site review on an unannounced basis, at the firm’s offices and job sites.

“No Change” Affidavits and Notices of Change: 26.83(j)

If the DBE fails to provide information in a timely manner, it will be deemed to have failed to cooperate and certification may be removed or denied as set forth in 49 CFR Part 26.109(c).

The District requires all DBEs to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with CUCP application for certification.

The District also requires all owners of DBEs the District has certified to submit, on the anniversary date of their certification, an affidavit sworn to by the firm’s owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. The test of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [*name of DBE firm*] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [*name of DBE*]’s application for certification form, except for any changes about which you have provided written notice to the [*Recipient*] under 26.83(i). [*Name of firm*] meets Small Business Administration (SBA) criteria for being a small

business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$23.98 million.

The District requires DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

The District will notify all currently certified DBE firms of these obligations in writing 30 days prior to the DBEs certification anniversary date. This notification will inform DBEs that to submit the "Annual Update Declaration, their owners must declare under penalty of perjury laws of the United States that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

Section 26.85 Interstate Certification

The District will not process an application for certification from a firm having its principal place of business outside the State of California if the firm is not certified in its "home state". Pursuant to 49 CFR 26.85, a DBE firm that holds a current, valid certification from its home state may request certification to the CUCP and its Certifying Members. The District will adhere to 49 CFR Part 26.85 and follow the procedures adopted by the CUCP regarding interstate certification.

Section 26.86 Denials of Initial Requests for Certification

If the District denies a firm's application or if a firm is decertified, the firm may not reapply until 12 months have passed. The time period for reapplication begins to run on the date the explanation for denial of certification is received by the applicant firm. The applicant's appeal of the District's decision to the U.S. Department of Transportation pursuant to 49 CFR Part 26.89 does not extend this period.

Section 26.87 Removal of a DBE's Eligibility

In the event the District proposes to remove a DBE's certification, the District will follow procedures consistent with 26.87. Attachment 12 to this program sets forth these procedures in detail.

Section 26.88 Summary of Suspension of Certification

The District shall immediately suspend a DBE's certification without adhering to the requirements in 49 CFR Part 26.81(d) when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

The District may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when (i) there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or (ii) when the DBE fails to notify the certifying agency or UCP in writing of any material change in circumstances as required by §26.83(i) or fails to timely file an affidavit of no change under §26.83G.

In determining the adequacy of the evidence to issue a suspension under this paragraph, the District shall consider all relevant factors, including how much information is available, the credibility of the information and allegations given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. The concerned operating administration may direct the District to take action if it determines that information available to it is sufficient to warrant immediate suspension.

When a firm is suspended pursuant to this paragraph the District shall immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE. Suspension is a temporary status of ineligibility pending an expedited show cause hearing/proceeding under 49 CFR Part 26.87 to determine whether the DBE is eligible to participate in the program and consequently should be removed. The suspension takes effect when the DBE receives, or is deemed to have received, the Notice of Suspension.

While suspended, the DBE may not be considered to meet a contract goal on a new contract, and any work it does on a contract received during the suspension shall not be counted toward a recipient's

overall goal. The DBE may continue to perform under an existing contract executed before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension as long as the DBE is performing a commercially useful function under the existing contract.

Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to the District information demonstrating that the firm is eligible notwithstanding its changed circumstances.

Within 30 days of receiving this information, the District must either lift the suspension and reinstate the firm's certification or commence a decertification action under 49 CFR Part 26.87. If the District commences a decertification proceeding, the suspension remains in effect during the proceeding.

The decision to immediately suspend a DBE under this paragraph is not appealable to the US Department of Transportation. The failure of the certifying agency to either lift the suspension and reinstate the firm or commence a decertification proceeding, as required by this paragraph, is appealable to the U.S. Department of Transportation under 49 CFR Part 26.8, as a constructive decertification.

Section 26.89 Certification Appeals

Any firm or complainant may appeal a CUCP decision in a certification matter to DOT. Such appeals may be sent to:

US Department of Transportation
Departmental Office of Civil Rights
External Civil Rights Programs Division
1200 New Jersey Ave., SE, W-76-101
Washington, DC 20590
Phone: (202) 366-4754
TTY: (202) 366-9696
Fax: (202) 366-5575

The District will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for its DOT-assisted contracting (e.g., certify a firm if DOT has determined that the District's denial of its application was erroneous).

Reconsideration/Informal Hearing: The District's DBE Review Committee shall provide an opportunity to a firm to hold an informal hearing so that the firm may respond to the reasons for a proposed removal of eligibility in person and provide any information or arguments concerning why it should remain certified. The firm also may provide written arguments and information in lieu of a hearing. In either case, the DBE Officer's determination must demonstrate, by a preponderance of the evidence, that the firm does not meet the certification standards. The DBE Review Committee will maintain a transcript and complete record of the hearing.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

Availability of records - In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

The District will safeguard from disclosure to third parties information that may reasonably be construed as confidential business information and will not disclose such information without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, the District will transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other State to which the individual's firm has applied for certification under §26.85 of this part.

Confidentiality of information on complainants - Notwithstanding the provisions of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing.

Cooperation - All participants in the Department's DBE program (including, but not limited to, the District, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

Intimidation and retaliation – As a participant in the Department's DBE program (including, but not limited to, the District, contractors, and DBE firms), you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

LIST OF ATTACHMENTS

Attachment 1	Code of Federal Regulation (49 CFR Part 26)
Attachment 2	Organizational Chart
Attachment 3	DBE Officer Responsibilities
Attachment 4	List of Minority Owned Banks
Attachment 5	DBE Directory
Attachment 6	Monitoring and Enforcement Mechanisms
Attachment 7	Overall Goal Calculation
Attachment 8	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 9	Guidance on Good Faith Efforts
Attachment 10	DBE Certification Application Forms
Attachment 11	California Unified Certification Program (CUCP) MOA
Attachment 12	Procedures for Removal of DBE's Eligibility

ATTACHMENT 1

49 CFR PART 26

Attached to this DBE Program document is a copy of the *Code of Federal Regulation* 49 CFR Part 26.

ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR data is current as of June 22, 2016**

Title 49 → Subtitle A → Part 26

Title 49: Transportation

PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

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- §26.61 How are burdens of proof allocated in the certification process?
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- §26.83 What procedures do recipients follow in making certification decisions?
- §26.85 Interstate certification.
- §26.86 What rules govern recipients' denials of initial requests for certification?

- §26.87 What procedures does a recipient use to remove a DBE's eligibility?
- §26.88 Summary suspension of certification.
- §26.89 What is the process for certification appeals to the Department of Transportation?
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Subpart F—Compliance and Enforcement

- §26.101 What compliance procedures apply to recipients?
- §26.103 What enforcement actions apply in FHWA and FTA programs?
- §26.105 What enforcement actions apply in FAA programs?
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- §26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?
- Appendix A to Part 26—Guidance Concerning Good Faith Efforts
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- Appendix C to Part 26—DBE Business Development Program Guidelines
- Appendix D to Part 26—Mentor-Protégé Program Guidelines
- Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage
- Appendix F to Part 26—Uniform Certification Application Form
- Appendix G to Part 26—Personal Net Worth Statement

AUTHORITY: 23 U.S.C. 304 and 324; 42 U.S.C. 2000d, *et seq.*; 49 U.S.C. 47107, 47113, 47123; Sec. 1101(b), Pub. L. 105-178, 112 Stat. 107, 113.

SOURCE: 64 FR 5126, Feb. 2, 1999, unless otherwise noted.

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Subpart A—General

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§26.1 What are the objectives of this part?

This part seeks to achieve several objectives:

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- (f) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.
- (g) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- (h) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59592, Oct. 2, 2014]

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§26.3 To whom does this part apply?

(a) If you are a recipient of any of the following types of funds, this part applies to you:

(1) Federal-aid highway funds authorized under Titles I (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

(2) Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable,

Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

(3) Airport funds authorized by 49 U.S.C. 47101, *et seq.*

(b) [Reserved]

(c) If you are letting a contract, and that contract is to be performed entirely outside the United States, its territories and possessions, Puerto Rico, Guam, or the Northern Marianas Islands, this part does not apply to the contract.

(d) If you are letting a contract in which DOT financial assistance does not participate, this part does not apply to the contract.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59592, Oct. 2, 2014]

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§26.5 What do the terms used in this part mean?

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

(1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

(i) One concern controls or has the power to control the other; or

(ii) A third party or parties controls or has the power to control both; or

(iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Alaska Native means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktila Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*).

Assets mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

Business, business concern or business enterprise means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

Compliance means that a recipient has correctly implemented the requirements of this part.

Contingent Liability means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

Days mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

Department or DOT means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged business enterprise or DBE means a for-profit small business concern—

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Good faith efforts means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Home state means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of "tribally-owned concern" in this section.

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Liabilities mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Operating Administration or OA means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The "Administrator" of an operating administration includes his or her designees.

Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Primary industry classification means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau Web site: <http://www.census.gov/eos/www/naics/>.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, *race-neutral* includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or *SBA* means the United States Small Business Administration.

SBA certified firm refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

(iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

Spouse means a married person, including a person in a domestic partnership or a civil union recognized under State law.

Transit vehicle manufacturer means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture,

mass-produce, or distribute vehicles solely for personal use and for sale “off the lot” are not considered transit vehicle manufacturers.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., ‘You must do XYZ’ means that recipients must do XYZ).

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011; 79 FR 59592, Oct. 2, 2014]

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§26.7 What discriminatory actions are forbidden?

(a) You must never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by this part on the basis of race, color, sex, or national origin.

(b) In administering your DBE program, you must not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

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§26.9 How does the Department issue guidance and interpretations under this part?

(a) Only guidance and interpretations (including interpretations set forth in certification appeal decisions) consistent with this part 26 and issued after March 4, 1999 express the official positions and views of the Department of Transportation or any of its operating administrations.

(b) The Secretary of Transportation, Office of the Secretary of Transportation, FHWA, FTA, and FAA may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance are valid, and express the official positions and views of the Department of Transportation or any of its operating administrations, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement:

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.

[72 FR 15617, Apr. 2, 2007]

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§26.11 What records do recipients keep and report?

(a) You must transmit the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to this part, at the intervals stated on the form.

(b) You must continue to provide data about your DBE program to the Department as directed by DOT operating administrations.

(c) You must create and maintain a bidders list.

(1) The purpose of this list is to provide you as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts for use in helping you set your overall goals.

(2) You must obtain the following information about DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts:

(i) Firm name;

(ii) Firm address;

(iii) Firm's status as a DBE or non-DBE;

(iv) Age of the firm; and

(v) The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (e.g., less than \$500,000; \$500,000-\$1 million; \$1-2 million; \$2-5 million; etc.) rather than requesting an exact figure from the firm.

(3) You may acquire the information for your bidders list in a variety of ways. For example, you can collect the data from all bidders, before or after the bid due date. You can conduct a survey that will result in statistically sound estimate of the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts. You may combine different data collection approaches (e.g., collect name and address information from all bidders, while conducting a survey with respect to age and gross receipts information).

(d) You must maintain records documenting a firm's compliance with the requirements of this part. At a minimum, you must keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records must be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance related records must be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

(e) The State department of transportation in each UCP established pursuant to §26.81 of this part must report to the Department of Transportation's Office of Civil Rights, by January 1, 2015, and each year thereafter, the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following:

- (1) Women;
- (2) Socially and economically disadvantaged individuals (other than women); and
- (3) Individuals who are women and are otherwise socially and economically disadvantaged individuals.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 76 FR 5096, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

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§26.13 What assurances must recipients and contractors make?

(a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance: The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

[79 FR 59593, Oct. 2, 2014]

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§26.15 How can recipients apply for exemptions or waivers?

(a) You can apply for an exemption from any provision of this part. To apply, you must request the exemption in writing from the Office of the Secretary of Transportation, FHWA, FTA, or FAA. The Secretary will grant the request only if it documents special or exceptional circumstances, not likely to be generally applicable, and not contemplated in connection with the rulemaking that established this part, that make your compliance with a specific provision of this part impractical. You must agree to take any steps that the Department specifies to comply with the intent of the provision from which an exemption is granted. The Secretary will issue a written response to all exemption requests.

(b) You can apply for a waiver of any provision of Subpart B or C of this part including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing you to operate a DBE program that achieves the objectives of this part by means that may

differ from one or more of the requirements of Subpart B or C of this part. To receive a program waiver, you must follow these procedures:

(1) You must apply through the concerned operating administration. The application must include a specific program proposal and address how you will meet the criteria of paragraph (b)(2) of this section. Before submitting your application, you must have had public participation in developing your proposal, including consultation with the DBE community and at least one public hearing. Your application must include a summary of the public participation process and the information gathered through it.

(2) Your application must show that—

(i) There is a reasonable basis to conclude that you could achieve a level of DBE participation consistent with the objectives of this part using different or innovative means other than those that are provided in subpart B or C of this part;

(ii) Conditions in your jurisdiction are appropriate for implementing the proposal;

(iii) Your proposal would prevent discrimination against any individual or group in access to contracting opportunities or other benefits of the program; and

(iv) Your proposal is consistent with applicable law and program requirements of the concerned operating administration's financial assistance program.

(3) The Secretary has the authority to approve your application. If the Secretary grants your application, you may administer your DBE program as provided in your proposal, subject to the following conditions:

(i) DBE eligibility is determined as provided in subparts D and E of this part, and DBE participation is counted as provided in §26.49;

(ii) Your level of DBE participation continues to be consistent with the objectives of this part;

(iii) There is a reasonable limitation on the duration of your modified program; and

(iv) Any other conditions the Secretary makes on the grant of the waiver.

(4) The Secretary may end a program waiver at any time and require you to comply with this part's provisions. The Secretary may also extend the waiver, if he or she determines that all requirements of paragraphs (b)(2) and (3) of this section continue to be met. Any such extension shall be for no longer than period originally set for the duration of the program.

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Subpart B—Administrative Requirements for DBE Programs for Federally-Assisted Contracting

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§26.21 Who must have a DBE program?

(a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

(1) All FHWA primary recipients receiving funds authorized by a statute to which this part applies;

(2) FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$250,000 in FTA funds in a Federal fiscal year;

(3) FAA recipients receiving grants for airport planning or development who will award prime contracts the cumulative total value of which exceeds \$250,000 in FAA funds in a Federal fiscal year.

(b)(1) You must submit a DBE program conforming to this part by August 31, 1999 to the concerned operating administration (OA). Once the OA has approved your program, the approval counts for all of your DOT-assisted programs (except that goals are reviewed by the particular operating administration that provides funding for your DOT-assisted contracts).

(2) You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.

(c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 79 FR 59593, Oct. 2, 2014]

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§26.23 What is the requirement for a policy statement?

You must issue a signed and dated policy statement that expresses your commitment to your DBE program, states its objectives, and outlines responsibilities for its implementation. You must circulate the statement throughout your organization and to the DBE and non-DBE business communities that perform work on your DOT-assisted contracts.

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§26.25 What is the requirement for a liaison officer?

You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

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§26.27 What efforts must recipients make concerning DBE financial institutions?

You must thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in your community and make reasonable efforts to use these institutions. You must also encourage prime contractors to use such institutions.

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§26.29 What prompt payment mechanisms must recipients have?

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires 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. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

[68 FR 35553, June 16, 2003]

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§26.31 What information must you include in your DBE directory?

(a) In the directory required under §26.81(g) of this Part, you must list all firms eligible to participate as DBEs in your program. In the listing for each firm, you must include its address, phone number, and the types of work the firm has been certified to perform as a DBE.

(b) You must list each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. You must make any changes to your current directory entries necessary to meet the requirement of this paragraph (a) by August 26, 2011.

[76 FR 5096, Jan. 28, 2011]

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§26.33 What steps must a recipient take to address overconcentration of DBEs in certain types of work?

(a) If you determine that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, you must devise appropriate measures to address this overconcentration.

(b) These measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which you have determined that non-DBEs are unduly burdened. You may also consider varying your use of contract goals, to the extent consistent with §26.51, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.

(c) You must obtain the approval of the concerned DOT operating administration for your determination of overconcentration and the measures you devise to address it. Once approved, the measures become part of your DBE program.

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§26.35 What role do business development and mentor-protégé programs have in the DBE program?

(a) You may or, if an operating administration directs you to, you must establish a DBE business development program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program. You may require a DBE firm, as a condition of receiving assistance through the BDP, to agree to terminate its participation in the DBE program after a certain time has passed or certain objectives have been reached. See Appendix C of this part for guidance on administering BDP programs.

(b) As part of a BDP or separately, you may establish a "mentor-protégé" program, in which another DBE or non-DBE firm is the principal source of business development assistance to a DBE firm.

(1) Only firms you have certified as DBEs before they are proposed for participation in a mentor-protégé program are eligible to participate in the mentor-protégé program.

(2) During the course of the mentor-protégé relationship, you must:

(i) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than one half of its goal on any contract let by the recipient; and

(ii) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé firm.

(3) For purposes of making determinations of business size under this part, you must not treat protégé firms as affiliates of mentor firms, when both firms are participating under an approved mentor-protégé program. See Appendix D of this part for guidance concerning the operation of mentor-protégé programs.

(c) Your BDPs and mentor-protégé programs must be approved by the concerned operating administration before you implement them. Once approved, they become part of your DBE program.

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§26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

(a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.

(b) Your DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism must include a written certification that you have reviewed contracting records and monitored work sites in your state for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).

(c) This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In your reports of DBE participation to the Department, you must display both commitments and attainments.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 76 FR 5097, Jan. 28, 2011]

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§26.39 Fostering small business participation.

(a) Your DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

(b) This element must be submitted to the appropriate DOT operating administration for approval as a part of your DBE program by February 28, 2012. As part of this program element you may include, but are not limited to, the following strategies:

(1) Establishing a race-neutral small business set-aside for prime contracts under a stated amount (e.g., \$1 million).

(2) In multi-year design-build contracts or other large contracts (e.g., for "megaprojects") requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

(3) On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

(4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

(5) To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

(c) You must actively implement your program elements to foster small business participation. Doing so is a requirement of good faith implementation of your DBE program.

[76 FR 5097, Jan. 28, 2011]

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Subpart C—Goals, Good Faith Efforts, and Counting

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§26.41 What is the role of the statutory 10 percent goal in this program?

(a) The statutes authorizing this program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.

(b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

(c) The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

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§26.43 Can recipients use set-asides or quotas as part of this program?

(a) You are not permitted to use quotas for DBEs on DOT-assisted contracts subject to this part.

(b) You may not set-aside contracts for DBEs on DOT-assisted contracts subject to this part, except that, in limited and extreme circumstances, you may use set-asides when no other method could be reasonably expected to redress egregious instances of discrimination.

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§26.45 How do recipients set overall goals?

(a)(1) Except as provided in paragraph (a)(2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts.

(2) If you are a FTA or FAA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or less in FTA or FAA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA respectively for that fiscal year. However, if you have an existing DBE program, it must remain in effect and you must seek to fulfill the objectives outlined in §26.1.

(b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) *Step 1.* You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.

(1) *Use DBE Directories and Census Bureau Data.* Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, www.census.gov/epcd/cbp/view/cbpview.html.) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

(2) *Use a bidders list.* Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market. When using this approach, you must establish a mechanism (documented in your goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on your DOT-assisted contracts.

(3) *Use data from a disparity study.* Use a percentage figure derived from data in a valid, applicable disparity study.

(4) *Use the goal of another DOT recipient.* If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

(5) *Alternative methods.* Except as otherwise provided in this paragraph, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market. The exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of paragraph (c)(2) of this section, is not an acceptable alternative means of determining the availability of DBEs.

(d) *Step 2.* Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at your overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

(3) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the "but for" factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming three fiscal years.

(2) If you are an FTA or FAA recipient, as a percentage of all FT or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the three forthcoming fiscal years.

(3) In appropriate cases, the FHWA, FTA or FAA Administrator may permit or require you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration.

(i) A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals.

(ii) A project goal covers the entire length of the project to which it applies.

(iii) The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal.

(iv) The funds for the project to which the project goal pertains are separated from the base from which your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

(f)(1)(i) If you set your overall goal on a fiscal year basis, you must submit it to the applicable DOT operating administration by August 1 at three-year intervals, based on a schedule established by the FHWA, FTA, or FAA, as applicable, and posted on that agency's Web site.

(ii) You may adjust your three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances. You must submit such an adjustment to the concerned operating administration for review and approval.

(iii) The operating administration may direct you to undertake a review of your goal if necessary to ensure that the goal continues to fit your circumstances appropriately.

(iv) While you are required to submit an overall goal to FHWA, FTA, or FAA only every three years, the overall goal and the provisions of Sec. 26.47(c) apply to each year during that three-year period.

(v) You may make, for informational purposes, projections of your expected DBE achievements during each of the three years covered by your overall goal. However, it is the overall goal itself, and not these informational projections, to which the provisions of section 26.47(c) of this part apply.

(2) If you are a recipient and set your overall goal on a project or grant basis as provided in paragraph (e)(3) of this section, you must submit the goal for review at a time determined by the FHWA, FTA or FAA Administrator, as applicable.

(3) You must include with your overall goal submission a description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence you relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust

your base figure. You must also include your projection of the portions of the overall goal you expect to meet through race-neutral and race-conscious measures, respectively (see 26.51(c)).

(4) You are not required to obtain prior operating administration concurrence with your overall goal. However, if the operating administration's review suggests that your overall goal has not been correctly calculated or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the operating administration will be guided by goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

(5) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the concerned operating administration for an interim goal and/or goal-setting mechanism. Such a mechanism must:

(i) Reflect the relative availability of DBEs in your local market to the maximum extent feasible given the data available to you; and

(ii) Avoid imposing undue burdens on non-DBEs.

(6) Timely submission and operating administration approval of your overall goal is a condition of eligibility for DOT financial assistance.

(7) If you fail to establish and implement goals as provided in this section, you are not in compliance with this part. If you establish and implement goals in a way different from that provided in this part, you are not in compliance with this part. If you fail to comply with this requirement, you are not eligible to receive DOT financial assistance.

(g)(1) In establishing an overall goal, you must provide for consultation and publication. This includes:

(i) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.

(ii) A published notice announcing your proposed overall goal before submission to the operating administration on August 1st. The notice must be posted on your official Internet Web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal must be posted on your official Internet Web site.

(2) At your discretion, you may inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at your principal office and for a 30-day comment period. Notice of the comment period must include addresses to which comments may be sent. The public comment period will not extend the August 1st deadline set in paragraph (f) of this section.

(h) Your overall goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 68 FR 35553, June 16, 2003; 75 FR 5536, Feb. 3, 2010; 76 FR 5097, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

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§26.47 Can recipients be penalized for failing to meet overall goals?

(a) You cannot be penalized, or treated by the Department as being in noncompliance with this rule, because your DBE participation falls short of your overall goal, unless you have failed to administer your program in good faith.

(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, you are in noncompliance with this part.

(c) If the awards and commitments shown on your Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, you must do the following in order to be regarded by the Department as implementing your DBE program in good faith:

(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;

(2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;

(3)(i) If you are a state highway agency; one of the 50 largest transit authorities as determined by the FTA; or an Operational Evolution Partnership Plan airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval. If the operating administration approves the report, you will be regarded as complying with the requirements of this section for the remainder of the fiscal year.

(ii) As a transit authority or airport not meeting the criteria of paragraph (c)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to FTA or FAA on request for their review.

(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

(5) You may be regarded as being in noncompliance with this Part, and therefore subject to the remedies in §26.103 or §26.105 of this part and other applicable regulations, for failing to implement your DBE program in good faith if any of the following things occur:

(i) You do not submit your analysis and corrective actions to FHWA, FTA, or FAA in a timely manner as required under paragraph (c)(3) of this section;

(ii) FHWA, FTA, or FAA disapproves your analysis or corrective actions; or

(iii) You do not fully implement the corrective actions to which you have committed or conditions that FHWA, FTA, or FAA has imposed following review of your analysis and corrective actions.

(d) If, as recipient, your Uniform Report of DBE Awards or Commitments and Payments or other information coming to the attention of FTA, FHWA, or FAA, demonstrates that current trends make it unlikely that you will achieve DBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FHWA, FTA, or FAA, as applicable, may require you to make further good faith efforts, such as by modifying your race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011]

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§26.49 How are overall goals established for transit vehicle manufacturers?

(a) If you are an FTA recipient, you must require in your DBE program that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of this section. You do not include FTA assistance used in transit vehicle procurements in the base amount from which your overall goal is calculated.

(1) Only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid.

(2) A TVM's failure to implement the DBE Program in the manner as prescribed in this section and throughout 49 CFR part 26 will be deemed as non-compliance, which will result in removal from FTA's certified TVMs list, resulting in that manufacturer becoming ineligible to bid.

(3) FTA recipient's failure to comply with the requirements set forth in paragraph (a) of this section may result in formal enforcement action or appropriate sanction as determined by FTA (e.g., FTA declining to participate in the vehicle procurement).

(4) FTA recipients are required to submit within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement.

(b) If you are a transit vehicle manufacturer, you must establish and submit for FTA's approval an annual overall percentage goal.

(1) In setting your overall goal, you should be guided, to the extent applicable, by the principles underlying §26.45. The base from which you calculate this goal is the amount of FTA financial assistance included in transit vehicle contracts you will bid on during the fiscal year in question, less the portion(s) attributable to the manufacturing process performed entirely by the transit vehicle manufacturer's own forces.

(i) You must consider and include in your base figure all domestic contracting opportunities made available to non-DBE firms; and

(ii) You must exclude from this base figure funds attributable to work performed outside the United States and its territories, possessions, and commonwealths.

(iii) In establishing an overall goal, the transit vehicle manufacturer must provide for public participation. This includes consultation with interested parties consistent with §26.45(g).

(2) The requirements of this part with respect to submission and approval of overall goals apply to you as they do to recipients.

(c) Transit vehicle manufacturers awarded must comply with the reporting requirements of §26.11 of this part including the requirement to submit the Uniform Report of Awards or Commitments and Payments, in order to remain eligible to bid on FTA assisted transit vehicle procurements.

(d) Transit vehicle manufacturers must implement all other applicable requirements of this part, except those relating to UCPs and DBE certification procedures.

(e) If you are an FHWA or FAA recipient, you may, with FHWA or FAA approval, use the procedures of this section with respect to procurements of vehicles or specialized equipment. If you choose to do so, then the manufacturers of this equipment must meet the same requirements (including goal approval by FHWA or FAA) as transit vehicle manufacturers must meet in FTA-assisted procurements.

(f) As a recipient you may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the procedures of this section.

[79 FR 59594, Oct. 2, 2014]

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§26.51 What means do recipients use to meet overall goals?

(a) You must meet the maximum feasible portion of your overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

(b) Race-neutral means include, but are not limited to, the following:

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.

(2) 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);

(3) Providing technical assistance and other services;

(4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

(5) 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;

(6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

(7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;

(8) Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and

(9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

(c) Each time you submit your overall goal for review by the concerned operating administration, you must also submit your projection of the portion of the goal that you expect to meet through race-neutral means and your basis for that projection. This projection is subject to approval by the concerned operating administration, in conjunction with its review of your overall goal.

(d) You must establish contract goals to meet any portion of your overall goal you do not project being able to meet using race-neutral means.

(e) The following provisions apply to the use of contract goals:

(1) You may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities.

(2) You are not required to set a contract goal on every DOT-assisted contract. You are not required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by your overall goal, you must set contract goals so that they will cumulatively result in meeting any portion of your overall goal you do not project being able to meet through the use of race-neutral means.

(3) Operating administration approval of each contract goal is not necessarily required. However, operating administrations may review and approve or disapprove any contract goal you establish.

(4) Your contract goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

(f) To ensure that your DBE program continues to be narrowly tailored to overcome the effects of discrimination, you must adjust your use of contract goals as follows:

(1) If your approved projection under paragraph (c) of this section estimates that you can meet your entire overall goal for a given year through race-neutral means, you must implement your program without setting contract goals during that year, unless it becomes necessary in order meet your overall goal.

Example to paragraph (f)(1): Your overall goal for Year 1 is 12 percent. You estimate that you can obtain 12 percent or more DBE participation through the use of race-neutral measures, without any use of contract goals. In this case, you do not set any contract goals for the contracts that will be performed in Year 1. However, if part way through Year 1, your DBE awards or commitments are not at a level that would permit you to achieve your overall goal for Year 1, you could begin setting race-conscious DBE contract goals during the remainder of the year as part of your obligation to implement your program in good faith.

(2) If, during the course of any year in which you are using contract goals, you determine that you will exceed your overall goal, you must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If you determine that you will fall short of your overall goal, then you must make appropriate modifications in your use of race-neutral and/or race-conscious measures to allow you to meet the overall goal.

Example to paragraph (f)(2): In Year II, your overall goal is 12 percent. You have estimated that you can obtain 5 percent DBE participation through use of race-neutral measures. You therefore plan to obtain the remaining 7 percent participation through use of DBE goals. By September, you have already obtained 11 percent DBE participation for the year. For contracts let during the remainder of the year, you use contract goals only to the extent necessary to obtain an additional one percent DBE participation. However, if you determine in September that your participation for the year is likely to be only 8 percent total, then you would increase your use of race-neutral and/or race-conscious means during the remainder of the year in order to achieve your overall goal.

(3) If the DBE participation you have obtained by race-neutral means alone meets or exceeds your overall goals for two consecutive years, you are not required to make a projection of the amount of your goal you can meet using such means in the next year. You do not set contract goals on any contracts in the next year. You continue using only race-neutral means to meet your overall goals unless and until you do not meet your overall goal for a year.

Example to paragraph (f)(3): Your overall goal for Years I and Year II is 10 percent. The DBE participation you obtain through race-neutral measures alone is 10 percent or more in each year. (For this purpose, it does not matter whether you obtained additional DBE participation through using contract goals in these years.) In Year III and following years, you do not need to make a projection under paragraph (c) of this section of the portion of your overall goal you expect to meet using race-neutral means. You simply use race-neutral means to achieve your overall goals. However, if in Year VI your DBE participation falls short of your overall goal, then you must make a paragraph (c) projection for Year VII and, if necessary, resume use of contract goals in that year.

(4) If you obtain DBE participation that exceeds your overall goal in two consecutive years through the use of contract goals (*i.e.*, not through the use of race-neutral means alone), you must reduce your use of contract goals proportionately in the following year.

Example to paragraph (f)(4): In Years I and II, your overall goal is 12 percent, and you obtain 14 and 16 percent DBE participation, respectively. You have exceeded your goals over the two-year period by an average of 25 percent. In Year III, your overall goal is again 12 percent, and your paragraph (c) projection estimates that you will obtain 4 percent DBE participation through

race-neutral means and 8 percent through contract goals. You then reduce the contract goal projection by 25 percent (*i.e.*, from 8 to 6 percent) and set contract goals accordingly during the year. If in Year III you obtain 11 percent participation, you do not use this contract goal adjustment mechanism for Year IV, because there have not been two *consecutive* years of exceeding overall goals.

(g) In any year in which you project meeting part of your goal through race-neutral means and the remainder through contract goals, you must maintain data separately on DBE achievements in those contracts with and without contract goals, respectively. You must report this data to the concerned operating administration as provided in §26.11.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

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§26.53 What are the good faith efforts procedures recipients follow in situations where there are contract goals?

(a) When you have established a DBE contract goal, you must award the contract only to a bidder/offeror who makes good faith efforts to meet it. You must determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things:

(1) Documents that it has obtained enough DBE participation to meet the goal; or

(2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeror's good faith efforts.

(b) In your solicitations for DOT-assisted contracts for which a contract goal has been established, you must require the following:

(1) Award of the contract will be conditioned on meeting the requirements of this section;

(2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:

(i) The names and addresses of DBE firms that will participate in the contract;

(ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;

(iii) The dollar amount of the participation of each DBE firm participating;

(iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and

(v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.

(vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and

(3)(i) At your discretion, the bidder/offeror must present the information required by paragraph (b)(2) of this section—

(A) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or

(B) No later than 7 days after bid opening as a matter of responsibility. The 7 days shall be reduced to 5 days beginning January 1, 2017.

(ii) Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.

(c) You must make sure all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing yourself to the performance of the contract by the bidder/offeror.

(d) If you determine that the apparent successful bidder/offeror has failed to meet the requirements of paragraph (a) of this section, you must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.

(1) As part of this reconsideration, the bidder/offeror must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

(2) Your decision on reconsideration must be made by an official who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.

(3) The bidder/offeror must have the opportunity to meet in person with your reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

(4) You must send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

(5) The result of the reconsideration process is not administratively appealable to the Department of Transportation.

(e) In a "design-build" or "turnkey" contracting situation, in which the recipient lets a master contract to a contractor, who in turn lets subsequent subcontracts for the work of the project, a recipient may establish a goal for the project. The master contractor then establishes contract goals, as appropriate, for the subcontracts it lets. Recipients must maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of this part.

(f)(1)(i) You must require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without your prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

(ii) You must include in each prime contract a provision stating:

(A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and

(B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

(2) You may provide such written consent only if you agree, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm.

(3) For purposes of this paragraph, good cause includes the following circumstances:

(i) The listed DBE subcontractor fails or refuses to execute a written contract;

(ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

(iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.

(iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;

(vi) You have determined that the listed DBE subcontractor is not a responsible contractor;

(vii) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;

(viii) The listed DBE is ineligible to receive DBE credit for the type of work required;

(ix) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;

(x) Other documented good cause that you determine compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

(4) Before transmitting to you its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to you, of its intent to request to terminate and/or substitute, and the reason for the request.

(5) The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise you and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why you should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), you may provide a response period shorter than five days.

(6) In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

(g) When a DBE subcontractor is terminated as provided in paragraph (f) of this section, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established for the procurement. The good faith efforts shall be documented by the contractor. If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

(h) You must include in each prime contract the contract clause required by §26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section you deem appropriate if the prime contractor fails to comply with the requirements of this section.

(i) You must apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

(j) You must require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

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§26.55 How is DBE participation counted toward goals?

(a) When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals.

(1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a) (2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

(2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

(b) When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

(c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

(1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

(3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

(4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

(5) Your decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to DOT.

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

(1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

(2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

(3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

(4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

(5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate DOT operating administration.

Example to paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks equipped with drivers from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. DBE credit could be awarded only for the fees or commissions pertaining to the remaining trucks Firm X receives as a result of the lease with Firm Z.

(6) The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

Example to paragraph (d)(6): DBE Firm X uses two of its own trucks on a contract. It leases two additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks.

(7) For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

(e) Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

(1)(i) If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this paragraph (e)(1), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

(2)(i) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

(A) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

(B) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph (e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

(C) Packers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph (e)(2).

(3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

(4) You must determine the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expeditor) on a contract-by-contract basis.

(f) If a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in §26.87 (i)).

(g) Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward your overall goal.

(h) Do not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 79 FR 59595, Oct. 2, 2014]

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Subpart D—Certification Standards

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§26.61 How are burdens of proof allocated in the certification process?

(a) In determining whether to certify a firm as eligible to participate as a DBE, you must apply the standards of this subpart.

(b) The firm seeking certification has the burden of demonstrating to you, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.

(c) You must rebuttably presume that members of the designated groups identified in §26.67(a) are socially and economically disadvantaged. This means they do not have the burden of proving to you that they are socially and economically disadvantaged. In order to obtain the benefit of the rebuttable presumption, individuals must submit a signed, notarized statement that they are a member of one of the groups in §26.67(a). Applicants do have the obligation to provide you information concerning their economic disadvantage (see §26.67).

(d) Individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to you, by a preponderance of the evidence, that they are socially and economically disadvantaged. (See Appendix E of this part.)

(e) You must make determinations concerning whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage (where disadvantage must be demonstrated on an individual basis) by considering all the facts in the record, viewed as a whole.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

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§26.63 What rules govern group membership determinations?

(a)(1) If, after reviewing the signed notarized statement of membership in a presumptively disadvantaged group (see §26.61(c)), you have a well founded reason to question the individual's claim of membership in that group, you must require the individual to present additional evidence that he or she is a member of the group.

(2) You must provide the individual a written explanation of your reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph (b) of this section.

(3) In implementing this section, you must take special care to ensure that you do not impose a disproportionate burden on members of any particular designated group. Imposing a disproportionate burden on members of a particular group could violate §26.7(b) and/or Title VI of the Civil Rights Act of 1964 and 49 CFR part 21.

(b) In making such a determination, you must consider whether the person has held himself out to be a member of the group over a long period of time prior to application for certification and whether the person is regarded as a member of the group by the relevant community. You may require the applicant to produce appropriate documentation of group membership.

(1) If you determine that an individual claiming to be a member of a group presumed to be disadvantaged is not a member of a designated disadvantaged group, the individual must demonstrate social and economic disadvantage on an individual basis.

(2) Your decisions concerning membership in a designated group are subject to the certification appeals procedure of §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

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§26.65 What rules govern business size determinations?

(a) To be an eligible DBE, a firm (including its affiliates) must be an existing small business, as defined by Small Business Administration (SBA) standards. As a recipient, you must apply current SBA business size standard(s) found in 13 CFR part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts, including the primary industry classification of the applicant.

(b) Even if it meets the requirements of paragraph (a) of this section, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.402), over the firm's previous three fiscal years, in excess of \$23.98 million.

(c) The Department adjusts the number in paragraph (b) of this section annually using the Department of Commerce price deflators for purchases by State and local governments as the basis for this adjustment.

[74 FR 15224, Apr. 3, 2009, as amended at 79 FR 59596, Oct. 2, 2014]

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§26.67 What rules determine social and economic disadvantage?

(a) *Presumption of disadvantage.* (1) You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

(2)(i) You must require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification, to certify that he or she has a personal net worth that does not exceed \$1.32 million.

(ii) You must require each individual who makes this certification to support it with a signed, notarized statement of personal net worth, with appropriate supporting documentation. To meet this requirement, you must use the DOT personal net worth form provided in appendix G to this part without change or revision. Where necessary to accurately determine an individual's personal net worth, you may, on a case-by-case basis, require additional financial information from the owner of an applicant firm (e.g., information concerning the assets of the owner's spouse, where needed to clarify whether assets have been transferred to the spouse or when the owner's spouse is involved in the operation of the company). Requests for additional information shall not be unduly burdensome or intrusive.

(iii) In determining an individual's net worth, you must observe the following requirements:

(A) Exclude an individual's ownership interest in the applicant firm;

(B) Exclude the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm). The equity is the market value of the residence less any mortgages and home equity loan balances. Recipients must ensure that home equity loan balances are included in the equity calculation and not as a separate liability on the individual's personal net worth form. Exclusions for net worth purposes are not exclusions for asset valuation or access to capital and credit purposes.

(C) Do not use a contingent liability to reduce an individual's net worth.

(D) With respect to assets held in vested pension plans, Individual Retirement Accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, include only the present value of such assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time.

(iv) Notwithstanding any provision of Federal or State law, you must not release an individual's personal net worth statement nor any documents pertaining to it to any third party without the written consent of the submitter. Provided, that you must transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other State to which the individual's firm has applied for certification under §26.85 of this part.

(b) *Rebuttal of presumption of disadvantage.* (1) An individual's presumption of economic disadvantage may be rebutted in two ways.

(i) If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a)(2) of this section shows that the individual's personal net worth exceeds \$1.32 million, the individual's presumption of economic disadvantage is rebutted. You are not required to have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

Example to paragraph (b)(1)(i): An individual with very high assets and significant liabilities may, in accounting terms, have a PNW of less than \$1.32 million. However, the person's assets collectively (e.g., high income level, a very expensive house, a yacht, extensive real or personal property holdings) may lead a reasonable person to conclude that he or she is not economically disadvantaged. The recipient may rebut the individual's presumption of economic disadvantage under these circumstances, as provided in this section, even though the individual's PNW is less than \$1.32 million.

(ii)(A) If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a)(2) of this section demonstrates that the individual is able to accumulate substantial wealth, the individual's presumption of economic disadvantage is rebutted. In making this determination, as a certifying agency, you may consider factors that include, but are not limited to, the following:

(1) Whether the average adjusted gross income of the owner over the most recent three year period exceeds \$350,000;

(2) Whether the income was unusual and not likely to occur in the future;

(3) Whether the earnings were offset by losses;

(4) Whether the income was reinvested in the firm or used to pay taxes arising in the normal course of operations by the firm;

(5) Other evidence that income is not indicative of lack of economic disadvantage; and

(6) Whether the total fair market value of the owner's assets exceed \$6 million.

(B) You must have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

(2) If you have a reasonable basis to believe that an individual who is a member of one of the designated groups is not, in fact, socially and/or economically disadvantaged you may, at any time, start a proceeding to determine whether the presumption should be regarded as rebutted with respect to that individual. Your proceeding must follow the procedures of §26.87.

(3) In such a proceeding, you have the burden of demonstrating, by a preponderance of the evidence, that the individual is not socially and economically disadvantaged. You may require the individual to produce information relevant to the determination of his or her disadvantage.

(4) When an individual's presumption of social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of DBE eligibility under this subpart unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting the presumption is a determination that the individual's personal net worth exceeds \$1.32 million, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage, so long as his or her PNW remains above that amount.

(c) *Transfers within two years.* (1) Except as set forth in paragraph (c)(2) of this section, recipients must attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, to a trust a beneficiary of which is an immediate family member, or to the applicant firm for less than fair market value, within two years prior to a concern's application for participation in the DBE program or within two years of recipient's review of the firm's annual affidavit, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients must not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(d) *Individual determinations of social and economic disadvantage.* Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged (including individuals whose presumed disadvantage has been rebutted) may apply for DBE certification. You must make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to you, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds \$1.32 million shall not be deemed to be economically disadvantaged. In making these determinations, use the guidance found in Appendix E of this part. You must require that applicants provide sufficient information to permit determinations under the guidance of appendix E of this part.

[79 FR 59596, Oct. 2, 2014]

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§26.69 What rules govern determinations of ownership?

(a) In determining whether the socially and economically disadvantaged participants in a firm own the firm, you must consider all the facts in the record viewed as a whole, including the origin of all assets and how and when they were used in obtaining the firm. All transactions for the establishment and ownership (or transfer of ownership) must be in the normal course of business, reflecting commercial and arms-length practices.

(b) To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals.

(1) In the case of a corporation, such individuals must own at least 51 percent of the each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding.

(2) In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals. Such ownership must be reflected in the firm's partnership agreement.

(3) In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals.

(c)(1) The firm's ownership by socially and economically disadvantaged individuals, including their contribution of capital or expertise to acquire their ownership interests, must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. Proof of contribution of capital should be submitted at the time of the application. When the contribution of capital is through a loan, there must be documentation of the value of assets used as collateral for the loan.

(2) Insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, mere participation in a firm's activities as an employee, or capitalization not commensurate with the value for the firm.

(3) The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and be entitled to the profits and loss commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements. Any terms or practices that give a non-disadvantaged individual or firm a priority or superior right to a firm's profits, compared to the disadvantaged owner(s), are grounds for denial.

(4) Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

Examples to paragraph (c): (i) An individual pays \$100 to acquire a majority interest in a firm worth \$1 million. The individual's contribution to capital would not be viewed as substantial.

(ii) A 51% disadvantaged owner and a non-disadvantaged 49% owner contribute \$100 and \$10,000, respectively, to acquire a firm grossing \$1 million. This may be indicative of a pro forma arrangement that does not meet the requirements of (c)(1).

(iii) The disadvantaged owner of a DBE applicant firm spends \$250 to file articles of incorporation and obtains a \$100,000 loan, but makes only nominal or sporadic payments to repay the loan. This type of contribution is not of a continuing nature.

(d) All securities that constitute ownership of a firm shall be held directly by disadvantaged persons. Except as provided in this paragraph (d), no securities or assets held in trust, or by any guardian for a minor, are considered as held by disadvantaged persons in determining the ownership of a firm. However, securities or assets held in trust are regarded as held by a disadvantaged individual for purposes of determining ownership of the firm, if—

(1) The beneficial owner of securities or assets held in trust is a disadvantaged individual, and the trustee is the same or another such individual; or

(2) The beneficial owner of a trust is a disadvantaged individual who, rather than the trustee, exercises effective control over the management, policy-making, and daily operational activities of the firm. Assets held in a revocable living trust may be counted only in the situation where the same disadvantaged individual is the sole grantor, beneficiary, and trustee.

(e) The contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

(f) The following requirements apply to situations in which expertise is relied upon as part of a disadvantaged owner's contribution to acquire ownership:

(1) The owner's expertise must be—

(i) In a specialized field;

(ii) Of outstanding quality;

(iii) In areas critical to the firm's operations;

(iv) Indispensable to the firm's potential success;

(v) Specific to the type of work the firm performs; and

(vi) Documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.

(2) The individual whose expertise is relied upon must have a significant financial investment in the firm.

(g) You must always deem as held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual—

(1) As the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or

(2) Through inheritance, or otherwise because of the death of the former owner.

(h)(1) You must presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual or non-DBE firm who is—

(i) Involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;

(ii) Involved in the same or a similar line of business; or

(iii) Engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.

(2) To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to you, by clear and convincing evidence, that—

(i) The gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(ii) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who provided the gift or transfer.

(i) You must apply the following rules in situations in which marital assets form a basis for ownership of a firm:

(1) When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, you must deem the ownership interest in the firm to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled. You do not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the socially and economically disadvantaged owner of the applicant firm.

(2) A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for DBE certification.

(j) You may consider the following factors in determining the ownership of a firm. However, you must not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because—

(1) A socially and economically disadvantaged individual acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in paragraph (h) of this section;

(2) There is a provision for the co-signature of a spouse who is not a socially and economically disadvantaged individual on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents; or

(3) Ownership of the firm in question or its assets is transferred for adequate consideration from a spouse who is not a socially and economically disadvantaged individual to a spouse who is such an individual. In this case, you must give particularly close and careful scrutiny to the ownership and control of a firm to ensure that it is owned and controlled, in substance as well as in form, by a socially and economically disadvantaged individual.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59597, Oct. 2, 2014]

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§26.71 What rules govern determinations concerning control?

(a) In determining whether socially and economically disadvantaged owners control a firm, you must consider all the facts in the record, viewed as a whole.

(b) Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.

(1) In determining whether a potential DBE is an independent business, you must scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

(2) You must consider whether present or recent employer/employee relationships between the disadvantaged owner (s) of the potential DBE and non-DBE firms or persons associated with non-DBE firms compromise the independence of the potential DBE firm.

(3) You must examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential DBE firm.

(4) In considering factors related to the independence of a potential DBE firm, you must consider the consistency of relationships between the potential DBE and non-DBE firms with normal industry practice.

(c) A DBE firm must not be subject to any formal or informal restrictions which limit the customary discretion of the socially and economically disadvantaged owners. There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices (e.g., cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by non-disadvantaged partners, conditions precedent or subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights) that prevent the socially and economically disadvantaged owners, without the cooperation or vote of any non-disadvantaged individual, from making any business decision of the firm. This paragraph does not preclude a spousal co-signature on documents as provided for in §26.69(j)(2).

(d) The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy and operations.

(1) A disadvantaged owner must hold the highest officer position in the company (e.g., chief executive officer or president).

(2) In a corporation, disadvantaged owners must control the board of directors.

(3) In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

(e) Individuals who are not socially and economically disadvantaged or immediate family members may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

(f) The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

(g) The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially and economically disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially and economically disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.

(h) If state or local law requires the persons to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially and economically disadvantaged persons who own and control a potential DBE firm of that type must possess the required license or credential. If state or local law does not require such a person to have such a license or credential to own and/or control a firm, you must not deny certification solely on the ground that the person lacks the license or credential. However, you may take into account the absence of the license or credential as one factor in determining whether the socially and economically disadvantaged owners actually control the firm.

(i)(1) You may consider differences in remuneration between the socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. You may determine that a firm is controlled by its socially and economically disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

(2) In a case where a non-disadvantaged individual formerly controlled the firm, and a socially and economically disadvantaged individual now controls it, you may consider a difference between the remuneration of the former and current controller of the firm as a factor in determining who controls the firm, particularly when the non-disadvantaged individual remains involved with the firm and continues to receive greater compensation than the disadvantaged individual.

(j) In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.

(k)(1) A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this paragraph, you must make a judgment about the control the socially and economically disadvantaged owner exercises vis-a-vis other persons involved in the business as you do in other situations, without regard to whether or not the other persons are immediate family members.

(2) If you cannot determine that the socially and economically disadvantaged owners—as distinct from the family as a whole—control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

(l) Where a firm was formerly owned and/or controlled by a non-disadvantaged individual (whether or not an immediate family member), ownership and/or control were transferred to a socially and economically disadvantaged individual, and the nondisadvantaged individual remains involved with the firm in any capacity, there is a rebuttable presumption of control by the non-disadvantaged individual unless the disadvantaged individual now owning the firm demonstrates to you, by clear and convincing evidence, that:

(1) The transfer of ownership and/or control to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(2) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a nondisadvantaged individual who formerly owned and/or controlled the firm.

(m) In determining whether a firm is controlled by its socially and economically disadvantaged owners, you may consider whether the firm owns equipment necessary to perform its work. However, you must not determine that a firm is not controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

(n) You must grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to you only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. You must not require that the firm be recertified or submit a new application for certification, but you must verify the disadvantaged owner's control of the firm in the additional type of work.

(1) The types of work a firm can perform (whether on initial certification or when a new type of work is added) must be described in terms of the most specific available NAICS code for that type of work. If you choose, you may also, in addition to applying the appropriate NAICS code, apply a descriptor from a classification scheme of equivalent detail and specificity. A correct NAICS code is one that describes, as specifically as possible, the principal goods or services which the firm would provide to DOT recipients. Multiple NAICS codes may be assigned where appropriate. Program participants must rely on, and not depart from, the plain meaning of NAICS code descriptions in determining the scope of a firm's certification. If your Directory does not list types of work for any firm in a manner consistent with this paragraph (a)(1), you must update the Directory entry for that firm to meet the requirements of this paragraph (a)(1) by August 28, 2011.

(2) Firms and recipients must check carefully to make sure that the NAICS codes cited in a certification are kept up-to-date and accurately reflect work which the UCP has determined the firm's owners can control. The firm bears the burden of providing detailed company information the certifying agency needs to make an appropriate NAICS code designation.

(3) If a firm believes that there is not a NAICS code that fully or clearly describes the type(s) of work in which it is seeking to be certified as a DBE, the firm may request that the certifying agency, in its certification documentation, supplement the assigned NAICS code(s) with a clear, specific, and detailed narrative description of the type of work in which the firm is certified. A vague, general, or confusing description is not sufficient for this purpose, and recipients should not rely on such a description in determining whether a firm's participation can be counted toward DBE goals.

(4) A certifier is not precluded from changing a certification classification or description if there is a factual basis in the record. However, certifiers must not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.

(o) A business operating under a franchise or license agreement may be certified if it meets the standards in this subpart and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, you should generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

(p) In order for a partnership to be controlled by socially and economically disadvantaged individuals, any non-disadvantaged partners must not have the power, without the specific written concurrence of the socially and economically disadvantaged partner(s), to contractually bind the partnership or subject the partnership to contract or tort liability.

(q) The socially and economically disadvantaged individuals controlling a firm may use an employee leasing company. The use of such a company does not preclude the socially and economically disadvantaged individuals from controlling their firm if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5099, Jan. 28, 2011; 79 FR 59597, Oct. 2, 2014]

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§26.73 What are other rules affecting certification?

(a)(1) Consideration of whether a firm performs a commercially useful function or is a regular dealer pertains solely to counting toward DBE goals the participation of firms that have already been certified as DBEs. Except as provided in

paragraph (a)(2) of this section, you must not consider commercially useful function issues in any way in making decisions about whether to certify a firm as a DBE.

(2) You may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program.

(b)(1) You must evaluate the eligibility of a firm on the basis of present circumstances. You must not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part.

(2) You must not refuse to certify a firm solely on the basis that it is a newly formed firm, has not completed projects or contracts at the time of its application, has not yet realized profits from its activities, or has not demonstrated a potential for success. If the firm meets disadvantaged, size, ownership, and control requirements of this Part, the firm is eligible for certification.

(c) DBE firms and firms seeking DBE certification shall cooperate fully with your requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification.

(d) Only firms organized for profit may be eligible DBEs. Not-for-profit organizations, even though controlled by socially and economically disadvantaged individuals, are not eligible to be certified as DBEs.

(e) An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this paragraph, a firm that is not owned by such individuals, but instead is owned by another firm—even a DBE firm—cannot be an eligible DBE.

(1) If socially and economically disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, you may certify the subsidiary if it otherwise meets all requirements of this subpart. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

(2) You may certify such a subsidiary only if there is cumulatively 51 percent ownership of the subsidiary by socially and economically disadvantaged individuals. The following examples illustrate how this cumulative ownership provision works:

Example 1: Socially and economically disadvantaged individuals own 100 percent of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified, if it meets all other requirements.

Example 2: Disadvantaged individuals own 100 percent of the holding company, which owns 51 percent of a subsidiary. The subsidiary may be certified, if all other requirements are met.

Example 3: Disadvantaged individuals own 80 percent of the holding company, which in turn owns 70 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is 56 percent (80 percent of the 70 percent). This is more than 51 percent, so you may certify the subsidiary, if all other requirements are met.

Example 4: Same as Example 2 or 3, but someone other than the socially and economically disadvantaged owners of the parent or holding company controls the subsidiary. Even though the subsidiary is owned by disadvantaged individuals, through the holding or parent company, you cannot certify it because it fails to meet control requirements.

Example 5: Disadvantaged individuals own 60 percent of the holding company, which in turn owns 51 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is about 31 percent. This is less than 51 percent, so you cannot certify the subsidiary.

Example 6: The holding company, in addition to the subsidiary seeking certification, owns several other companies. The combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification and/or the gross receipts cap of §26.65(b). Under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

(f) Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is an independent business, owned and controlled by socially and economically disadvantaged individuals.

(g) You must not require a DBE firm to be prequalified as a condition for certification.

(h) A firm that is owned by an Indian tribe or Native Hawaiian organization, rather than by Indians or Native Hawaiians as individuals, may be eligible for certification. Such a firm must meet the size standards of §26.65. Such a firm must be controlled by socially and economically disadvantaged individuals, as provided in §26.71.

(i) The following special rules apply to the certification of firms related to Alaska Native Corporations (ANCs).

(1) Notwithstanding any other provisions of this subpart, a direct or indirect subsidiary corporation, joint venture, or partnership entity of an ANC is eligible for certification as a DBE if it meets all of the following requirements:

(i) The Settlement Common Stock of the underlying ANC and other stock of the ANC held by holders of the Settlement Common Stock and by Natives and descendants of Natives represents a majority of both the total equity of the ANC and the total voting power of the corporation for purposes of electing directors;

(ii) The shares of stock or other units of common ownership interest in the subsidiary, joint venture, or partnership entity held by the ANC and by holders of its Settlement Common Stock represent a majority of both the total equity of the entity and the total voting power of the entity for the purpose of electing directors, the general partner, or principal officers; and

(iii) The subsidiary, joint venture, or partnership entity has been certified by the Small Business Administration under the 8(a) or small disadvantaged business program.

(2) As a recipient to whom an ANC-related entity applies for certification, you do not use the DOT uniform application form (see Appendix F of this part). You must obtain from the firm documentation sufficient to demonstrate that entity meets the requirements of paragraph (i)(1) of this section. You must also obtain sufficient information about the firm to allow you to administer your program (e.g., information that would appear in your DBE Directory).

(3) If an ANC-related firm does not meet all the conditions of paragraph (i)(1) of this section, then it must meet the requirements of paragraph (h) of this section in order to be certified, on the same basis as firms owned by Indian Tribes or Native Hawaiian Organizations.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5099, Jan. 28, 2011; 79 FR 59598, Oct. 2, 2014]

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Subpart E—Certification Procedures

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§26.81 What are the requirements for Unified Certification Programs?

(a) You and all other DOT recipients in your state must participate in a Unified Certification Program (UCP).

(1) Within three years of March 4, 1999, you and the other recipients in your state must sign an agreement establishing the UCP for that state and submit the agreement to the Secretary for approval. The Secretary may, on the basis of extenuating circumstances shown by the recipients in the state, extend this deadline for no more than one additional year.

(2) The agreement must provide for the establishment of a UCP meeting all the requirements of this section. The agreement must specify that the UCP will follow all certification procedures and standards of this part, on the same basis as recipients; that the UCP shall cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations; and that the UCP shall implement DOT directives and guidance concerning certification matters. The agreement shall also commit recipients to ensuring that the UCP has sufficient resources and expertise to carry out the requirements of this part. The agreement shall include an implementation schedule ensuring that the UCP is fully operational no later than 18 months following the approval of the agreement by the Secretary.

(3) Subject to approval by the Secretary, the UCP in each state may take any form acceptable to the recipients in that state.

(4) The Secretary shall review the UCP and approve it, disapprove it, or remand it to the recipients in the state for revisions. A complete agreement which is not disapproved or remanded within 180 days of its receipt is deemed to be accepted.

(5) If you and the other recipients in your state fail to meet the deadlines set forth in this paragraph (a), you shall have the opportunity to make an explanation to the Secretary why a deadline could not be met and why meeting the deadline was beyond your control. If you fail to make such an explanation, or the explanation does not justify the failure to meet the deadline, the Secretary shall direct you to complete the required action by a date certain. If you and the other recipients fail to carry out this direction in a timely manner, you are collectively in noncompliance with this part.

(b) The UCP shall make all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE Program.

(1) Certification decisions by the UCP shall be binding on all DOT recipients within the state.

(2) The UCP shall provide “one-stop shopping” to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

(3) All obligations of recipients with respect to certification and nondiscrimination must be carried out by UCPs, and recipients may use only UCPs that comply with the certification and nondiscrimination requirements of this part.

(c) All certifications by UCPs shall be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

(d) A UCP is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The "home state" UCP shall share its information and documents concerning the firm with other UCPs that are considering the firm's application.

(e) Subject to DOT approval as provided in this section, the recipients in two or more states may form a regional UCP. UCPs may also enter into written reciprocity agreements with other UCPs. Such an agreement shall outline the specific responsibilities of each participant. A UCP may accept the certification of any other UCP or DOT recipient.

(f) Pending the establishment of UCPs meeting the requirements of this section, you may enter into agreements with other recipients, on a regional or inter-jurisdictional basis, to perform certification functions required by this part. You may also grant reciprocity to other recipient's certification decisions.

(g) Each UCP shall maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this part), the information required by §26.31. The UCP shall make the directory available to the public electronically, on the internet, as well as in print. The UCP shall update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made and shall revise the print version of the Directory at least once a year.

(h) Except as otherwise specified in this section, all provisions of this subpart and subpart D of this part pertaining to recipients also apply to UCPs.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5100, Jan. 28, 2011]

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§26.83 What procedures do recipients follow in making certification decisions?

(a) You must ensure that only firms certified as eligible DBEs under this section participate as DBEs in your program.

(b) You must determine the eligibility of firms as DBEs consistent with the standards of subpart D of this part. When a UCP is formed, the UCP must meet all the requirements of subpart D of this part and this subpart that recipients are required to meet.

(c)(1) You must take all the following steps in determining whether a DBE firm meets the standards of subpart D of this part:

(i) Perform an on-site visit to the firm's principal place of business. You must interview the principal officers and review their résumés and/or work histories. You may interview key personnel of the firm if necessary. You must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in your jurisdiction or local area. You may rely upon the site visit report of any other recipient with respect to a firm applying for certification;

(ii) Analyze documentation related to the legal structure, ownership, and control of the applicant firm. This includes, but is not limited to, Articles of Incorporation/Organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; and State-issued Certificates of Good Standing

(iii) Analyze the bonding and financial capacity of the firm; lease and loan agreements; bank account signature cards;

(iv) Determine the work history of the firm, including contracts it has received, work it has completed; and payroll records;

(v) Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any.

(vi) Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;

(vii) Obtain complete Federal income tax returns (or requests for extensions) filed by the firm, its affiliates, and the socially and economically disadvantaged owners for the last 3 years. A complete return includes all forms, schedules, and statements filed with the Internal Revenue Service.

(viii) Require potential DBEs to complete and submit an appropriate application form, except as otherwise provided in §26.85 of this part.

(2) You must use the application form provided in Appendix F to this part without change or revision. However, you may provide in your DBE program, with the written approval of the concerned operating administration, for supplementing the form by requesting specified additional information not inconsistent with this part.

(3) You must make sure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by State law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

(4) You must review all information on the form prior to making a decision about the eligibility of the firm. You may request clarification of information contained in the application at any time in the application process.

(d) When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information you have obtained about that firm (e.g., including application materials or the report of a site visit, if you have made one to the firm), you must promptly make the information available to the other recipient.

(e) [Reserved]

(f) Subject to the approval of the concerned operating administration as part of your DBE program, you may impose a reasonable application fee for certification. Fee waivers shall be made in appropriate cases.

(g) You must safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law.

(h)(1) Once you have certified a DBE, it shall remain certified until and unless you have removed its certification, in whole or in part, through the procedures of §26.87 of this part, except as provided in §26.67(b)(1) of this part.

(2) You may not require DBEs to reapply for certification or undergo a recertification process. However, you may conduct a certification review of a certified DBE firm, including a new on-site review, if appropriate in light of changed circumstances (e.g., of the kind requiring notice under paragraph (i) of this section or relating to suspension of certification under §26.88), a complaint, or other information concerning the firm's eligibility. If information comes to your attention that leads you to question the firm's eligibility, you may conduct an on-site review on an unannounced basis, at the firm's offices and job sites.

(i) If you are a DBE, you must inform the recipient or UCP in writing of any change in circumstances affecting your ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in your application form.

(1) Changes in management responsibility among members of a limited liability company are covered by this requirement.

(2) You must attach supporting documentation describing in detail the nature of such changes.

(3) The notice must take the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. You must provide the written notification within 30 days of the occurrence of the change. If you fail to make timely notification of such a change, you will be deemed to have failed to cooperate under §26.109(c).

(j) If you are a DBE, you must provide to the recipient, every year on the anniversary of the date of your certification, an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which you have notified the recipient under paragraph (i) of this section. The affidavit shall specifically affirm that your firm continues to meet SBA business size criteria and the overall gross receipts cap of this part, documenting this affirmation with supporting documentation of your firm's size and gross receipts (e.g., submission of Federal tax returns). If you fail to provide this affidavit in a timely manner, you will be deemed to have failed to cooperate under §26.109(c).

(k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. You may establish a different time frame in your DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. Your failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under §26.89.

(l) As a recipient or UCP, you must advise each applicant within 30 days from your receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

(m) Except as otherwise provided in this paragraph, if an applicant for DBE certification withdraws its application before you have issued a decision on the application, the applicant can resubmit the application at any time. As a recipient or UCP, you may not apply the waiting period provided under §26.86(c) of this part before allowing the applicant to resubmit its application. However, you may place the reapplication at the “end of the line,” behind other applications that have been made since the firm’s previous application was withdrawn. You may also apply the waiting period provided under §26.86(c) of this part to a firm that has established a pattern of frequently withdrawing applications before you make a decision.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5100, Jan. 28, 2011; 79 FR 59598, Oct. 2, 2014]

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§26.85 Interstate certification.

(a) This section applies with respect to any firm that is currently certified in its home state.

(b) When a firm currently certified in its home state (“State A”) applies to another State (“State B”) for DBE certification, State B may, at its discretion, accept State A’s certification and certify the firm, without further procedures.

(1) To obtain certification in this manner, the firm must provide to State B a copy of its certification notice from State A.

(2) Before certifying the firm, State B must confirm that the firm has a current valid certification from State A. State B can do so by reviewing State A’s electronic directory or obtaining written confirmation from State A.

(c) In any situation in which State B chooses not to accept State A’s certification of a firm as provided in paragraph (b) of this section, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of this section to State B.

(1) You must provide to State B a complete copy of the application form, all supporting documents, and any other information you have submitted to State A or any other state related to your firm’s certification. This includes affidavits of no change (see §26.83(j)) and any notices of changes (see §26.83(i)) that you have submitted to State A, as well as any correspondence you have had with State A’s UCP or any other recipient concerning your application or status as a DBE firm.

(2) You must also provide to State B any notices or correspondence from states other than State A relating to your status as an applicant or certified DBE in those states. For example, if you have been denied certification or decertified in State C, or subject to a decertification action there, you must inform State B of this fact and provide all documentation concerning this action to State B.

(3) If you have filed a certification appeal with DOT (see §26.89), you must inform State B of the fact and provide your letter of appeal and DOT’s response to State B.

(4) You must submit an affidavit sworn to by the firm’s owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.

(i) This affidavit must affirm that you have submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by §26.85(c)(1), is an identical copy of the information submitted to State A.

(ii) If the on-site report from State A supporting your certification in State A is more than three years old, as of the date of your application to State B, State B may require that your affidavit also affirm that the facts in the on-site report remain true and correct.

(d) As State B, when you receive from an applicant firm all the information required by paragraph (c) of this section, you must take the following actions:

(1) Within seven days contact State A and request a copy of the site visit review report for the firm (see §26.83(c)(1)), any updates to the site visit review, and any evaluation of the firm based on the site visit. As State A, you must transmit this information to State B within seven days of receiving the request. A pattern by State B of not making such requests in a timely manner or by “State A” or any other State of not complying with such requests in a timely manner is noncompliance with this Part.

(2) Determine whether there is good cause to believe that State A’s certification of the firm is erroneous or should not apply in your State. Reasons for making such a determination may include the following:

(i) Evidence that State A’s certification was obtained by fraud;

(ii) New information, not available to State A at the time of its certification, showing that the firm does not meet all eligibility criteria;

(iii) State A’s certification was factually erroneous or was inconsistent with the requirements of this part;

(iv) The State law of State B requires a result different from that of the State law of State A.

(v) The information provided by the applicant firm did not meet the requirements of paragraph (c) of this section.

(3) If, as State B, unless you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice that it is certified and place the firm on your directory of certified firms.

(4) If, as State B, you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice stating the reasons for your determination.

(i) This notice must state with particularity the specific reasons why State B believes that the firm does not meet the requirements of this Part for DBE eligibility and must offer the firm an opportunity to respond to State B with respect to these reasons.

(ii) The firm may elect to respond in writing, to request an in-person meeting with State B's decision maker to discuss State B's objections to the firm's eligibility, or both. If the firm requests a meeting, as State B you must schedule the meeting to take place within 30 days of receiving the firm's request.

(iii) The firm bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements of this Part with respect to the particularized issues raised by State B's notice. The firm is not otherwise responsible for further demonstrating its eligibility to State B.

(iv) The decision maker for State B must be an individual who is thoroughly familiar with the provisions of this Part concerning certification.

(v) State B must issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with the decision maker, whichever is later.

(vi) The firm's application for certification is stayed pending the outcome of this process.

(vii) A decision under this paragraph (d)(4) may be appealed to the Departmental Office of Civil Rights under s§26.89 of this part.

(e) As State B, if you have not received from State A a copy of the site visit review report by a date 14 days after you have made a timely request for it, you may hold action required by paragraphs (d)(2) through (4) of this section in abeyance pending receipt of the site visit review report. In this event, you must, no later than 30 days from the date on which you received from an applicant firm all the information required by paragraph (c) of this section, notify the firm in writing of the delay in the process and the reason for it.

(f)(1) As a UCP, when you deny a firm's application, reject the application of a firm certified in State A or any other State in which the firm is certified, through the procedures of paragraph (d)(4) of this section, or decertify a firm, in whole or in part, you must make an entry in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database. You must enter the following information:

(i) The name of the firm;

(ii) The name(s) of the firm's owner(s);

(iii) The type and date of the action;

(iv) The reason for the action.

(2) As a UCP, you must check the DOCR Web site at least once every month to determine whether any firm that is applying to you for certification or that you have already certified is on the list.

(3) For any such firm that is on the list, you must promptly request a copy of the listed decision from the UCP that made it. As the UCP receiving such a request, you must provide a copy of the decision to the requesting UCP within 7 days of receiving the request. As the UCP receiving the decision, you must then consider the information in the decision in determining what, if any, action to take with respect to the certified DBE firm or applicant.

(g) You must implement the requirements of this section beginning January 1, 2012.

[76 FR 5100, Jan. 28, 2011]

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§26.86 What rules govern recipients' denials of initial requests for certification?

(a) When you deny a request by a firm, which is not currently certified with you, to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.

(b) [Reserved]

(c) When a firm is denied certification, you must establish a time period of no more than twelve months that must elapse before the firm may reapply to the recipient for certification. You may provide, in your DBE program, subject to approval by the concerned operating administration, a shorter waiting period for reapplication. The time period for reapplication begins to run on the date the explanation required by paragraph (a) of this section is received by the firm. An applicant's appeal of your decision to the Department pursuant to §26.89 does not extend this period.

(d) When you make an administratively final denial of certification concerning a firm, the firm may appeal the denial to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999. Redesignated and amended at 68 FR 35555, June 16, 2003; 79 FR 59598, Oct. 2, 2014]

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§26.87 What procedures does a recipient use to remove a DBE's eligibility?

(a) *Ineligibility complaints.* (1) Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in §26.109(b).

(2) You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.

(3) If you determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(b) *Recipient-initiated proceedings.* If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) *DOT directive to initiate proceeding.* (1) If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.

(2) The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

(3) You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) *Hearing.* When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under §26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, you bear the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as you would during a hearing.

(e) *Separation of functions.* You must ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(1) Your method of implementing this requirement must be made part of your DBE program.

(2) The decisionmaker must be an individual who is knowledgeable about the certification requirements of your DBE program and this part.

(3) Before a UCP is operational in its state, a small airport or small transit authority (*i.e.*, an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.

(f) *Grounds for decision.* You may base a decision to remove a firm's eligibility only on one or more of the following grounds:

(1) Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to you at the time the firm was certified;

(3) Information relevant to eligibility that has been concealed or misrepresented by the firm;

(4) A change in the certification standards or requirements of the Department since you certified the firm;

(5) Your decision to certify the firm was clearly erroneous;

(6) The firm has failed to cooperate with you (see §26.109(c));

(7) The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program (see §26.73(a)(2)); or

(8) The firm has been suspended or debarred for conduct related to the DBE program. The notice required by paragraph (g) of this section must include a copy of the suspension or debarment action. A decision to remove a firm for this reason shall not be subject to the hearing procedures in paragraph (d) of this section.

(g) *Notice of decision.* Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under §26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding. Provided that, when sending such a notice to a complainant other than a DOT operating administration, you must not include information reasonably construed as confidential business information without the written consent of the firm that submitted the information.

(h) [Reserved]

(i) *Status of firm during proceeding.* (1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) *Effects of removal of eligibility.* When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3) *Exception:* If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.

(k) *Availability of appeal.* When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011; 79 FR 59599, Oct. 2, 2014]

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§26.88 Summary suspension of certification.

(a) A recipient shall immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) of this part when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

(b)(1) A recipient may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the recipient or UCP in writing of any material change in circumstances as required by §26.83(i) of this part or fails to timely file an affidavit of no change under §26.83(j).

(2) In determining the adequacy of the evidence to issue a suspension under paragraph (b)(1) of this section, the recipient shall consider all relevant factors, including how much information is available, the credibility of the information and allegations given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.

(c) The concerned operating administration may direct the recipient to take action pursuant to paragraph (a) or (b) this section if it determines that information available to it is sufficient to warrant immediate suspension.

(d) When a firm is suspended pursuant to paragraph (a) or (b) of this section, the recipient shall immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE.

(e) Suspension is a temporary status of ineligibility pending an expedited show cause hearing/proceeding under §26.87 of this part to determine whether the DBE is eligible to participate in the program and consequently should be removed. The suspension takes effect when the DBE receives, or is deemed to have received, the Notice of Suspension.

(f) While suspended, the DBE may not be considered to meet a contract goal on a new contract, and any work it does on a contract received during the suspension shall not be counted toward a recipient's overall goal. The DBE may continue to perform under an existing contract executed before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension as long as the DBE is performing a commercially useful function under the existing contract.

(g) Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to the recipient information demonstrating that the firm is eligible notwithstanding its changed circumstances. Within 30 days of receiving this information, the recipient must either lift the suspension and reinstate the firm's certification or commence a decertification action under §26.87 of this part. If the recipient commences a decertification proceeding, the suspension remains in effect during the proceeding.

(h) The decision to immediately suspend a DBE under paragraph (a) or (b) of this section is not appealable to the US Department of Transportation. The failure of a recipient to either lift the suspension and reinstate the firm or commence a decertification proceeding, as required by paragraph (g) of this section, is appealable to the U.S. Department of Transportation under §26.89 of this part, as a constructive decertification.

[79 FR 59599, Oct. 2, 2014]

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§26.89 What is the process for certification appeals to the Department of Transportation?

(a)(1) If you are a firm that is denied certification or whose eligibility is removed by a recipient, including SBA-certified firms, you may make an administrative appeal to the Department.

(2) If you are a complainant in an ineligibility complaint to a recipient (including the concerned operating administration in the circumstances provided in §26.87(c)), you may appeal to the Department if the recipient does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

(3) Send appeals to the following address: U.S. Department of Transportation, Departmental Office of Civil Rights, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(b) Pending the Department's decision in the matter, the recipient's decision remains in effect. The Department does not stay the effect of the recipient's decision while it is considering an appeal.

(c) If you want to file an appeal, you must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and setting forth a full and specific statement as to why the decision is erroneous, what significant fact that the recipient failed to consider, or what provisions of this Part the recipient did not properly apply. The Department may accept an appeal filed later than 90 days after the date of the decision if the Department determines that there was good cause for the late filing of the appeal or in the interest of justice.

(d) When it receives an appeal, the Department requests a copy of the recipient's complete administrative record in the matter. If you are the recipient, you must provide the administrative record, including a hearing transcript, within 20 days of the Department's request. The Department may extend this time period on the basis of a recipient's showing of good cause. To facilitate the Department's review of a recipient's decision, you must ensure that such administrative records are well organized, indexed, and paginated. Records that do not comport with these requirements are not acceptable and will be returned to you to be corrected immediately. If an appeal is brought concerning one recipient's certification decision concerning a firm, and that recipient relied on the decision and/or administrative record of another recipient, this requirement applies to both recipients involved.

(e) The Department makes its decision based solely on the entire administrative record as supplemented by the appeal. The Department does not make a de novo review of the matter and does not conduct a hearing. The Department may also supplement the administrative record by adding relevant information made available by the DOT Office of Inspector General; Federal, State, or local law enforcement authorities; officials of a DOT operating administration or other appropriate DOT office; a recipient; or a firm or other private party.

(f) As a recipient, when you provide supplementary information to the Department, you shall also make this information available to the firm and any third-party complainant involved, consistent with Federal or applicable state laws concerning freedom of information and privacy. The Department makes available, on request by the firm and any third-party complainant involved, any supplementary information it receives from any source.

(1) The Department affirms your decision unless it determines, based on the entire administrative record, that your decision is unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification.

(2) If the Department determines, after reviewing the entire administrative record, that your decision was unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification, the Department reverses your decision and directs you to certify the firm or remove its eligibility, as appropriate. You must take the action directed by the Department's decision immediately upon receiving written notice of it.

(3) The Department is not required to reverse your decision if the Department determines that a procedural error did not result in fundamental unfairness to the appellant or substantially prejudice the opportunity of the appellant to present its case.

(4) If it appears that the record is incomplete or unclear with respect to matters likely to have a significant impact on the outcome of the case, the Department may remand the record to you with instructions seeking clarification or augmentation of the record before making a finding. The Department may also remand a case to you for further proceedings consistent with Department instructions concerning the proper application of the provisions of this part.

(5) The Department does not uphold your decision based on grounds not specified in your decision.

(6) The Department's decision is based on the status and circumstances of the firm as of the date of the decision being appealed.

(7) The Department provides written notice of its decision to you, the firm, and the complainant in an ineligibility complaint. A copy of the notice is also sent to any other recipient whose administrative record or decision has been involved in the proceeding (see paragraph (d) of this section). The Department will also notify the SBA in writing when DOT takes an action on an appeal that results in or confirms a loss of eligibility to any SBA-certified firm. The notice includes the reasons for the Department's decision, including specific references to the evidence in the record that supports each reason for the decision.

(8) The Department's policy is to make its decision within 180 days of receiving the complete administrative record. If the Department does not make its decision within this period, the Department provides written notice to concerned parties, including a statement of the reason for the delay and a date by which the appeal decision will be made.

(g) All decisions under this section are administratively final, and are not subject to petitions for reconsideration.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35556, June 16, 2003; 73 FR 33329, June 12, 2008; 79 FR 59599, Oct. 2, 2014]

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§26.91 What actions do recipients take following DOT certification appeal decisions?

(a) If you are the recipient from whose action an appeal under §26.89 is taken, the decision is binding. It is not binding on other recipients.

(b) If you are a recipient to which a DOT determination under §26.89 is applicable, you must take the following action:

(1) If the Department determines that you erroneously certified a firm, you must remove the firm's eligibility on receipt of the determination, without further proceedings on your part. Effective on the date of your receipt of the Department's determination, the consequences of a removal of eligibility set forth in §26.87(i) take effect.

(2) If the Department determines that you erroneously failed to find reasonable cause to remove the firm's eligibility, you must expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in §26.87.

(3) If the Department determines that you erroneously declined to certify or removed the eligibility of the firm, you must certify the firm, effective on the date of your receipt of the written notice of Department's determination.

(4) If the Department determines that you erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, you must take appropriate corrective action as determined by the Department.

(5) If the Department affirms your determination, no further action is necessary.

(c) Where DOT has upheld your denial of certification to or removal of eligibility from a firm, or directed the removal of a firm's eligibility, other recipients with whom the firm is certified may commence a proceeding to remove the firm's eligibility under §26.87. Such recipients must not remove the firm's eligibility absent such a proceeding. Where DOT has reversed your denial of certification to or removal of eligibility from a firm, other recipients must take the DOT action into account in any certification action involving the firm. However, other recipients are not required to certify the firm based on the DOT decision.

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Subpart F—Compliance and Enforcement

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§26.101 What compliance procedures apply to recipients?

(a) If you fail to comply with any requirement of this part, you may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

(b) As provided in statute, you will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because you have been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

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§26.103 What enforcement actions apply in FHWA and FTA programs?

The provisions of this section apply to enforcement actions under FHWA and FTA programs:

(a) *Noncompliance complaints.* Any person who believes that a recipient has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights. If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in §26.109(b). Complaints under this part are limited to allegations of violation of the provisions of this part.

(b) *Compliance reviews.* The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

(c) *Reasonable cause notice.* If it appears, from the investigation of a complaint or the results of a compliance review, that you, as a recipient, are in noncompliance with this part, the appropriate DOT office promptly sends you, return receipt requested, a written notice advising you that there is reasonable cause to find you in noncompliance. The notice states the reasons for this finding and directs you to reply within 30 days concerning whether you wish to begin conciliation.

(d) *Conciliation.* (1) If you request conciliation, the appropriate DOT office shall pursue conciliation for at least 30, but not more than 120, days from the date of your request. The appropriate DOT office may extend the conciliation period for up to 30 days for good cause, consistent with applicable statutes.

(2) If you and the appropriate DOT office sign a conciliation agreement, then the matter is regarded as closed and you are regarded as being in compliance. The conciliation agreement sets forth the measures you have taken or will take to ensure compliance. While a conciliation agreement is in effect, you remain eligible for FHWA or FTA financial assistance.

(3) The concerned operating administration shall monitor your implementation of the conciliation agreement and ensure that its terms are complied with. If you fail to carry out the terms of a conciliation agreement, you are in noncompliance.

(4) If you do not request conciliation, or a conciliation agreement is not signed within the time provided in paragraph (d)(1) of this section, then enforcement proceedings begin.

(e) *Enforcement actions.* (1) Enforcement actions are taken as provided in this subpart.

(2) Applicable findings in enforcement proceedings are binding on all DOT offices.

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§26.105 What enforcement actions apply in FAA programs?

(a) Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

(b) The provisions of §26.103(b) and this section apply to enforcement actions in FAA programs.

(c) Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

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§26.107 What enforcement actions apply to firms participating in the DBE program?

(a) If you are a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

(d) The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

(e) The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5101, Jan. 28, 2011]

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§26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?

(a) *Availability of records.* (1) In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

(2) Notwithstanding any provision of Federal or state law, you must not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted

the information. This includes applications for DBE certification and supporting information. However, you must transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other state to which the individual's firm has applied for certification under §26.85 of this part.

(b) *Confidentiality of information on complainants.* Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.

(c) *Cooperation.* All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

(d) *Intimidation and retaliation.* If you are a recipient, contractor, or any other participant in the program, you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011]

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Appendix A to Part 26—Guidance Concerning Good Faith Efforts

I. When, as a recipient, you establish a contract goal on a DOT-assisted contract for procuring construction, equipment, services, or any other purpose, a bidder must, in order to be responsible and/or responsive, make sufficient good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, you have the responsibility to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made, based on the regulations and the guidance in this Appendix.

The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call. Determinations should not be made using quantitative formulas.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (*i.e.*, obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. (1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. (1) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

(2) A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, you must review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. As provided in §26.53(b)(2)(vi), you must also require the contractor to submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract to review whether DBE prices were substantially higher; and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

VI. A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.

[79 FR 59600, Oct. 2, 2014]

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Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form

INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS/COMMITMENTS AND PAYMENTS

Recipients of Department of Transportation (DOT) funds are expected to keep accurate data regarding the contracting opportunities available to firms paid for with DOT dollars. Failure to submit contracting data relative to the DBE program will result in noncompliance with Part 26. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or Federal Transit Administration (FTA) to which this report will be submitted.

1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.

2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than ten attach a separate sheet.

3. Specify the Federal fiscal year (*i.e.*, October 1-September 30) in which the covered reporting period falls.

4. State the date of submission of this report.

5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1-March 31. If this report is due December 1, data should cover April 1-September 30. If the report is due to the FAA, data should cover the entire year.

6. Provide the name and address of the recipient.

7. State your overall DBE goal(s) established for the Federal fiscal year of the report being submitted to and approved by the relevant OA. Your overall goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral projections (both of which include gender-conscious/neutral projections). The Race Conscious projection should be based on measures that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a race conscious measure. The Race Neutral projection should include measures that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.

Section A: Awards and Commitments Made During This Period

The amounts in items 8(A)-10(I) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

Line 8: Prime contracts awarded this period: The items on this line should correspond to the contracts directly between the recipient and a supply or service contractor, with no intermediaries between the two.

8(A). Provide the *total dollar amount* for all prime contracts assisted with DOT funds and awarded during this reporting period. This value should include the entire Federal share of the contracts without removing any amounts associated with resulting subcontracts.

8(B). Provide the *total number* of all prime contracts assisted with DOT funds and awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the *dollar amount* awarded in prime contracts to certified DBE firms during this reporting period. This amount should not include the amounts sub contracted to other firms.

8(D). From the total number of prime contracts awarded in item 8(B), specify the *number* of prime contracts awarded to certified DBE firms during this reporting period.

8(E&F). This field is closed for data entry. Except for the very rare case of DBE-set asides permitted under 49 CFR part 26, all prime contracts awarded to DBES are regarded as race-neutral.

8(G). From the total dollar amount awarded in item 8(C), provide the *dollar amount* awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral in item 7 and the explanation in item 8 of project types to include.

8(H). From the total number of prime contracts awarded in 8(D), specify the *number* awarded to DBEs through Race Neutral methods.

8(I). Of all prime contracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Line 9: Subcontracts awarded/committed this period: Items 9(A)-9(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

9(A). If filling out the form for general reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded in prime contracts in 8(A), and therefore should never be greater than the amount awarded in prime contracts. If filling out the form for project reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded or previously in prime contracts in 8(A). The sum of all subcontract amounts in consecutive periods should never exceed the sum of all prime contract amounts awarded in those periods.

9(B). Provide the total number of all sub contracts assisted with DOT funds that were awarded or committed during this reporting period.

9(C). From the total dollar amount of sub contracts awarded/committed this period in item 9(A), provide the total dollar amount awarded in sub contracts to DBEs.

9(D). From the total number of sub contracts awarded or committed in item 9(B), specify the number of sub contracts awarded or committed to DBEs.

9(E). From the total dollar amount of sub contracts awarded or committed to DBEs this period, provide the amount in dollars to DBEs using Race Conscious measures.

9(F). From the total number of sub contracts awarded or committed to DBEs this period, provide the number of sub contracts awarded or committed to DBEs using Race Conscious measures.

9(G). From the total dollar amount of sub contracts awarded/committed to DBEs this period, provide the amount in dollars to DBEs using Race Neutral measures.

9(H). From the total number of sub contracts awarded/committed to DBEs this period, provide the number of sub contracts awarded to DBEs using Race Neutral measures.

9(I). Of all subcontracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the dollar amount in item 9(C) by the dollar amount in item 9(A) to derive this percentage. Round percentage to the nearest tenth.

Line 10: Total contracts awarded or committed this period. These fields should be used to show the total dollar value and number of contracts awarded to DBEs and to calculate the overall percentage of dollars awarded to DBEs.

10(A)-10(B). These fields are unavailable for data entry.

10(C-H). Combine the total values listed on the prime contracts line (Line 8) with the corresponding values on the subcontracts line (Line 9).

10(I). Of all contracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the total dollars awarded to DBEs in item 10(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Section B: Breakdown by Ethnicity & Gender of Contracts Awarded to DBEs This Period

11-17. Further breakdown the contracting activity with DBE involvement. The Total Dollar Amount to DBEs in 17(C) should equal the Total Dollar Amount to DBEs in 10(C). Likewise the total number of contracts to DBEs in 17(F) should equal the Total Number of Contracts to DBEs in 10(D).

Line 16: The "Non-Minority" category is reserved for any firms whose owners are not members of the presumptively disadvantaged groups already listed, but who are either "women" OR eligible for the DBE program on an individual basis. All DBE firms must be certified by the Unified Certification Program to be counted in this report.

Section C: Payments on Ongoing Contracts

Line 18(A-E). Submit information on contracts that are currently in progress. All dollar amounts are to reflect only the Federal share of such contracts, and should be rounded to the nearest dollar.

18(A). Provide the total dollar amount paid to all firms performing work on contracts.

18(B). Provide the total number of contracts where work was performed during the reporting period.

18(C). From the total number of contracts provided in 18(A) provide the total number of contracts that are currently being performed by DBE firms for which payments have been made.

18(D). From the total dollar amount paid to all firms in 18(A), provide the total dollar value paid to DBE firms currently performing work during this period.

18(E). Provide the total number of DBE firms that received payment during this reporting period. For example, while 3 contracts may be active during this period, one DBE firm may be providing supplies or services on all three contracts. This field should only list the number of DBE firms performing work.

18(F). Of all payments made during this period, calculate the percentage going to DBEs. Divide the total dollar value to DBEs in item 18(D) by the total dollars of all payments in 18(B). Round percentage to the nearest tenth.

Section D: Actual Payments on Contracts Completed This Reporting Period

This section should provide information only on contracts that are closed during this period. All dollar amounts are to reflect the entire Federal share of such contracts, and should be rounded to the nearest dollar.

19(A). Provide the total number of contracts completed during this reporting period that used Race Conscious measures. Race Conscious contracts are those with contract goals or another race conscious measure.

19(B). Provide the total dollar value of prime contracts completed this reporting period that had race conscious measures.

19(C). From the total dollar value of prime contracts completed this period in 19(B), provide the total dollar amount of dollars awarded or committed to DBE firms in order to meet the contract goals. This applies only to Race Conscious contracts.

19(D). Provide the actual total DBE participation in dollars on the race conscious contracts completed this reporting period.

19(E). Of all the contracts completed this reporting period using Race Conscious measures, calculate the percentage of DBE participation. Divide the total dollar amount to DBEs in item 19(D) by the total dollar value provided in 19(B) to derive this percentage. Round to the nearest tenth.

20(A)-20(E). Items 21(A)-21(E) are derived in the same manner as items 19(A)-19(E), except these figures should be based on contracts completed using Race Neutral measures.

20(C). This field is closed.

21(A)-21(D). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above.

21(C). This field is closed.

21(E). Calculate the overall percentage of dollars to DBEs on completed contracts. Divide the Total DBE participation dollar value in 21(D) by the Total Dollar Value of Contracts Completed in 21(B) to derive this percentage. Round to the nearest tenth.

23. Name of the Authorized Representative preparing this form.

24. Signature of the Authorized Representative.

25. Phone number of the Authorized Representative.

**Submit your completed report to your Regional or Division Office.

BUSINESS REPORT OF THE CONTRACTING AGENCY AND PAYMENTS	
BUSINESS REPORT OF THE CONTRACTING AGENCY AND PAYMENTS	
1. CONTRACT NUMBER	
2. CONTRACT TITLE	
3. CONTRACT DATE	
4. CONTRACT VALUE	
5. CONTRACT TYPE	
6. CONTRACT STATUS	
7. CONTRACTING AGENCY	
8. CONTRACTING AGENCY ADDRESS	
9. CONTRACTING AGENCY PHONE	
10. CONTRACTING AGENCY FAX	
11. CONTRACTING AGENCY EMAIL	
12. CONTRACTING AGENCY WEBSITE	
13. CONTRACTING AGENCY CONTACT PERSON	
14. CONTRACTING AGENCY CONTACT TITLE	
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[79 FR 59601, Oct. 2, 2014]

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Appendix C to Part 26—DBE Business Development Program Guidelines

The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from the recipient.

(A) Each firm that participates in a recipient's business development program (BDP) program is subject to a program term determined by the recipient. The term should consist of two stages; a developmental stage and a transitional stage.

(B) In order for a firm to remain eligible for program participation, it must continue to meet all eligibility criteria contained in part 26.

(C) By no later than 6 months of program entry, the participant should develop and submit to the recipient a comprehensive business plan setting forth the participant's business targets, objectives and goals. The participant will not be eligible for program benefits until such business plan is submitted and approved by the recipient. The approved business plan will constitute the participant's short and long term goals and the strategy for developmental growth to the point of economic viability in non-traditional areas of work and/or work outside the DBE program.

(D) The business plan should contain at least the following:

(1) An analysis of market potential, competitive environment and other business analyses estimating the program participant's prospects for profitable operation during the term of program participation and after graduation from the program.

(2) An analysis of the firm's strengths and weaknesses, with particular attention paid to the means of correcting any financial, managerial, technical, or labor conditions which could impede the participant from receiving contracts other than those in traditional areas of DBE participation.

(3) Specific targets, objectives, and goals for the business development of the participant during the next two years, utilizing the results of the analysis conducted pursuant to paragraphs (C) and (D)(1) of this appendix;

(4) Estimates of contract awards from the DBE program and from other sources which are needed to meet the objectives and goals for the years covered by the business plan; and

(5) Such other information as the recipient may require.

(E) Each participant should annually review its currently approved business plan with the recipient and modify the plan as may be appropriate to account for any changes in the firm's structure and redefined needs. The currently approved plan should be considered the applicable plan for all program purposes until the recipient approves in writing a modified

plan. The recipient should establish an anniversary date for review of the participant's business plan and contract forecasts.

(F) Each participant should annually forecast in writing its need for contract awards for the next program year and the succeeding program year during the review of its business plan conducted under paragraph (E) of this appendix. Such forecast should be included in the participant's business plan. The forecast should include:

- (1) The aggregate dollar value of contracts to be sought under the DBE program, reflecting compliance with the business plan;
- (2) The aggregate dollar value of contracts to be sought in areas other than traditional areas of DBE participation;
- (3) The types of contract opportunities being sought, based on the firm's primary line of business; and
- (4) Such other information as may be requested by the recipient to aid in providing effective business development assistance to the participant.

(G) Program participation is divided into two stages; (1) a developmental stage and (2) a transitional stage. The developmental stage is designed to assist participants to overcome their social and economic disadvantage by providing such assistance as may be necessary and appropriate to enable them to access relevant markets and strengthen their financial and managerial skills. The transitional stage of program participation follows the developmental stage and is designed to assist participants to overcome, insofar as practical, their social and economic disadvantage and to prepare the participant for leaving the program.

(H) The length of service in the program term should not be a pre-set time frame for either the developmental or transitional stages but should be figured on the number of years considered necessary in normal progression of achieving the firm's established goals and objectives. The setting of such time could be factored on such items as, but not limited to, the number of contracts, aggregate amount of the contract received, years in business, growth potential, etc.

(I) Beginning in the first year of the transitional stage of program participation, each participant should annually submit for inclusion in its business plan a transition management plan outlining specific steps to promote profitable business operations in areas other than traditional areas of DBE participation after graduation from the program. The transition management plan should be submitted to the recipient at the same time other modifications are submitted pursuant to the annual review under paragraph (E) of this section. The plan should set forth the same information as required under paragraph (F) of steps the participant will take to continue its business development after the expiration of its program term.

(J) When a participant is recognized as successfully completing the program by substantially achieving the targets, objectives and goals set forth in its program term, and has demonstrated the ability to compete in the marketplace, its further participation within the program may be determined by the recipient.

(K) In determining whether a concern has substantially achieved the goals and objectives of its business plan, the following factors, among others, should be considered by the recipient:

- (1) Profitability;
- (2) Sales, including improved ratio of non-traditional contracts to traditional-type contracts;
- (3) Net worth, financial ratios, working capital, capitalization, access to credit and capital;
- (4) Ability to obtain bonding;
- (5) A positive comparison of the DBE's business and financial profile with profiles of non-DBE businesses in the same area or similar business category; and
- (6) Good management capacity and capability.

(L) Upon determination by the recipient that the participant should be graduated from the developmental program, the recipient should notify the participant in writing of its intent to graduate the firm in a letter of notification. The letter of notification should set forth findings, based on the facts, for every material issue relating to the basis of the program graduation with specific reasons for each finding. The letter of notification should also provide the participant 45 days from the date of service of the letter to submit in writing information that would explain why the proposed basis of graduation is not warranted.

(M) Participation of a DBE firm in the program may be discontinued by the recipient prior to expiration of the firm's program term for good cause due to the failure of the firm to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of inadequate performance or unjustified delinquent performance. Also, the recipient can discontinue the participation of a firm that does not actively pursue and bid on contracts, and a firm that, without justification, regularly fails to respond to solicitations in

the type of work it is qualified for and in the geographical areas where it has indicated availability under its approved business plan. The recipient should take such action if over a 2-year period a DBE firm exhibits such a pattern.

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Appendix D to Part 26—Mentor-Protégé Program Guidelines

(A) The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from other firms. To operate a mentor-protégé program, a recipient must obtain the approval of the concerned operating administration.

(B)(1) Any mentor-protégé relationship shall be based on a written development plan, approved by the recipient, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the protégé. The formal mentor-protégé agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement. Services provided by the mentor may be reimbursable under the FTA, FHWA, and FAA programs.

(2) To be eligible for reimbursement, the mentor's services provided and associated costs must be directly attributable and properly allowable to specific individual contracts. The recipient may establish a line item for the mentor to quote the portion of the fee schedule expected to be provided during the life of the contract. The amount claimed shall be verified by the recipient and paid on an incremental basis representing the time the protégé is working on the contract. The total individual contract figures accumulated over the life of the agreement shall not exceed the amount stipulated in the original mentor/protégé agreement.

(C) DBEs involved in a mentor-protégé agreement must be independent business entities which meet the requirements for certification as defined in subpart D of this part. A protégé firm must be certified *before* it begins participation in a mentor-protégé arrangement. If the recipient chooses to recognize mentor/protégé agreements, it should establish formal general program guidelines. These guidelines must be submitted to the operating administration for approval prior to the recipient executing an individual contractor/ subcontractor mentor-protégé agreement.

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Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage

The following guidance is adapted, with minor modifications, from SBA regulations concerning social and economic disadvantage determinations (see 13 CFR 124.103(c) and 124.104).

SOCIAL DISADVANTAGE

I. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. Social disadvantage must stem from circumstances beyond their control. Evidence of individual social disadvantage must include the following elements:

(A) At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, disability, long-term residence in an environment isolated from the mainstream of American society, or other similar causes not common to individuals who are not socially disadvantaged;

(B) Personal experiences of substantial and chronic social disadvantage in American society, not in other countries; and

(C) Negative impact on entry into or advancement in the business world because of the disadvantage. Recipients will consider any relevant evidence in assessing this element. In every case, however, recipients will consider education, employment and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering into or advancing in the business world.

(1) *Education.* Recipients will consider such factors as denial of equal access to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures which discouraged the individual from pursuing a professional or business education.

(2) *Employment.* Recipients will consider such factors as unequal treatment in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory or discriminatory behavior by an employer or labor union; and social patterns or pressures which have channeled the individual into non-professional or non-business fields.

(3) *Business history.* The recipient will consider such factors as unequal access to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government

contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

II. With respect to paragraph I.(A) of this appendix, the Department notes that people with disabilities have disproportionately low incomes and high rates of unemployment. Many physical and attitudinal barriers remain to their full participation in education, employment, and business opportunities available to the general public. The Americans with Disabilities Act (ADA) was passed in recognition of the discrimination faced by people with disabilities. It is plausible that many individuals with disabilities—especially persons with severe disabilities (e.g., significant mobility, vision, or hearing impairments)—may be socially and economically disadvantaged.

III. Under the laws concerning social and economic disadvantage, people with disabilities are not a group presumed to be disadvantaged. Nevertheless, recipients should look carefully at individual showings of disadvantage by individuals with disabilities, making a case-by-case judgment about whether such an individual meets the criteria of this appendix. As public entities subject to Title II of the ADA, recipients must also ensure their DBE programs are accessible to individuals with disabilities. For example, physical barriers or the lack of application and information materials in accessible formats cannot be permitted to thwart the access of potential applicants to the certification process or other services made available to DBEs and applicants.

ECONOMIC DISADVANTAGE

(A) *General.* Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

(B) *Submission of narrative and financial information.* (1) Each individual claiming economic disadvantage must describe the conditions which are the basis for the claim in a narrative statement, and must submit personal financial information.

(2) [Reserved]

(C) *Factors to be considered.* In considering diminished capital and credit opportunities, recipients will examine factors relating to the personal financial condition of any individual claiming disadvantaged status, including personal income for the past two years (including bonuses and the value of company stock given in lieu of cash), personal net worth, and the fair market value of all assets, whether encumbered or not. Recipients will also consider the financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by socially and economically disadvantaged individuals in evaluating the individual's access to credit and capital. The financial profiles that recipients will compare include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.

(D) *Transfers within two years.* (1) Except as set forth in paragraph (D)(2) of this appendix, recipients will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.


(2) Recipients will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(3) In determining an individual's access to capital and credit, recipients may consider any assets that the individual transferred within such two-year period described by paragraph (D)(1) of this appendix that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35559, June 16, 2003]

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Appendix F to Part 26—Uniform Certification Application Form



UNIFORM CERTIFICATION APPLICATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE) /
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
49 C.F.R. Parts 23 and 26

Appendix F

Roadmap for Applicants

1. Should I apply?
 You may be eligible to participate in the DBE/ACDBE program if:

- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
- The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
- The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
- The firm meets the Small Business Administration's size standard and does not exceed \$23.96 million in gross annual receipts for DBE (\$52.47 million for ACDBE). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)

2. How do I apply?
 First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application form, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.

3. Where can I send my application? **INSERT UCP PARTICIPATING MEMBER CONTACT INFORMATION**

4. Who will contact me about my application and what are the eligibility standards?
 The DBE and ACDBE Programs require that all U.S. Department of Transportation (DOT) recipients of federal assistance participate in a statewide Unified Certification Program (UCP). The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs for DOT grantees, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.

5. Where can I find more information?
 U.S. DOT—<https://www.eivilrights.dot.gov/> (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)

SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS): <http://www.sba.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

In collecting the information requested by this form, the Department of Transportation (Department) complies with the provisions of the Federal Freedom of Information and Privacy Act (5 U.S.C. 552 and 552a). The Privacy Act provides comprehensive protections for your personal information. The information you are asked to provide is not collected, used, disclosed, transmitted, or disseminated to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Department's Disadvantaged Business Enterprise Program as defined in 49 CFR 23.7 and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 CFR 23.13. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Under 49 C.F.R. §26.107, dated February 7, 1999 and January 28, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 C.F.R. Parts 180 and 1200. Suspension or debarment proceedings may be initiated under 49 C.F.R. Part 23, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

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INSTRUCTIONS FOR COMPLETING THE
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
UNIFORM CERTIFICATION APPLICATION

NOTE: All participating firms must be for-profit enterprises. If your firm is not for-profit, then you do NOT qualify for the DBE/ACDBE program and should not complete this application. If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

Section 1: CERTIFICATION INFORMATION

A. Basic Contact Information

- (1) Enter the contact name and title of the person completing this application and the person who will serve as your firm's contact for this application.
- (2) Enter the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
- (3) Enter the primary phone number of your firm.
- (4) Enter a secondary phone number, if any.
- (5) Enter your firm's fax number, if any.
- (6) Enter the contact person's email address.
- (7) Enter your firm's website addresses, if any.
- (8) Enter the street address of the firm where its offices are physically located (not a P.O. Box).
- (9) Enter the mailing address of your firm, if it is different from your firm's street address.

B. Prior/Other Certifications and Applications

- (10) Check the appropriate box indicating whether your firm is currently certified to the DBE/ACDBE program, and provide the name of the certifying agency that certified your firm. List the dates of any site visits conducted by your home state and any other states or UCP members. Also provide the names of any UCP members that conducted the review.
- (11) Indicate whether your firm or any of the persons listed has ever been denied certification as a DBE, 8(a), or Small Disadvantaged Business (SDB) firm, or state and local MBE/WBE firm. Indicate if the firm has ever been de-certified from one of these programs. Indicate if the application was withdrawn or whether the firm was delisted, suspended, or otherwise had its bidding privileges denied or restricted by any state or local agency, or Federal entity. If your answer is yes, identify the name of the agency, and explain fully the nature of the action in the space provided. Indicate if you have ever appealed this decision to the Department and if so, attach a copy of USDOT's final agency decision(s).

Section 2: GENERAL INFORMATION

A. Business profile:

- (1) Give a concise description of the firm's primary activities, the product(s) or services the company provides, or type of construction. If your company offers more than one product/service, list primary product or service first (attach additional sheets if necessary). This description may be used in our UCP online directory if you are certified as a DBE.

(2) If you know the appropriate NAICS Code for the line(s) of work you identified in your business profile, enter the codes in the space provided.

(3) State the date on which your firm was established as stated in your firm's Articles of Incorporation or charter.

(4) State the date each person became a firm owner.

(5) Check the appropriate box describing the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.

(6) Check the appropriate box that indicates whether your firm is "for-profit." If you checked "No," then you do NOT qualify for the DBE/ACDBE program and should not complete this application. All participating firms must be for-profit enterprises. If the firm is a for-profit enterprise, provide the Federal Tax ID number as stated on your firm's Federal tax return.

(7) Check the appropriate box that describes the type of legal business structure of your firm, as indicated in your firm's Articles of Incorporation or similar document. Identify all joint venture partners if applicable. If you checked "Other," briefly explain in the space provided.

(8) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time, part-time, and seasonal basis. Attach a list of employees, their job titles, and dates of employment, to your application.

(9) Specify the firm's gross receipts for each of the past three years, as stated in your firm's filed Federal tax returns. You must submit complete copies of the firm's Federal tax returns for each year. If there are any affiliates or subsidiaries of the applicant firm or owners, you must provide these firms' gross receipts and submit complete copies of these firms' Federal tax returns. Affiliation is defined in 49 C.F.R. §26.5 and 13 C.F.R. Part 121.

B. Relationships and Dealings with Other Businesses

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or

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oral agreement. Provide an explanation of any items shared with other firms in the space provided.

(2) Check the appropriate box indicating whether any other firm currently has or had an ownership interest in your firm at present or at any time in the past. If you checked yes, please explain.

(3) Check the appropriate box that indicates whether at present or at any time in the past your firm:

- ever existed under different ownership, a different type of ownership, or a different name;
- existed as a subsidiary of any other firm;
- existed as a partnership in which one or more of the partners were other firms;
- owned any percentage of any other firm; and
- had any subsidiaries of its own.

(4) served as a subcontractor with another firm constituting more than 25% of your firm's receipts.

If you answered "Yes" to any of the questions in (3)(a)-(4), you may be asked to explain the arrangement in detail.

Section 3: MAJORITY OWNER INFORMATION

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each owner):

A. Identify the majority owner of the firm holding 51% or more ownership interest

- Enter the full name of the owner.
- Enter his/her title or position within your firm.
- Give his/her home phone number.
- Enter his/her home (street) address.
- Indicate this owner's gender.
- Identify the owner's ethnic group membership. If you checked "Other," specify this owner's ethnic group identity not otherwise listed.
- Check the appropriate box to indicate whether this owner is a U.S. citizen or a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner.
- Enter the number of years during which this owner has been an owner of your firm.
- Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate) the class of stock owned.
- Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment. Describe how you acquired your business and attach documentation substantiating this investment.

B. Additional Owner Information

- Describe the familial relationship of this owner to each other owner of your firm and employees.
- Indicate whether this owner performs a management or supervisory function for any other business. If you checked "Yes," state the name of the other business and his/her function performed in that other business.

checked "Yes," state the name of the other business and his owner's function/title held in that business.

(4) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business, the nature of the business relationship, and the owner's function at the firm.

(5) If the owner works for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week, please identify this activity.

(6) Provide the person's net worth of the owner applying for certification in the space provided. Complete and attach the accompanying "Personal Net Worth Statement for DBE/ACDBE Program Eligibility" with your application. Note, complete this section and accompanying statement only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged).

(7) Check the appropriate box that indicates whether any asset has been created for the benefit of the disadvantaged owner(s). If you answered "Yes," you may be asked to provide a copy of the trust instrument.

(8) Check the appropriate to indicate whether any of your immediate family members, managers, or employees, own, manage, or are associated with another company. Immediate family member is defined in 49 C.F.R. §26.5. If you answered "Yes," provide the name of each person, your relationship to them, the name of the company, the type of business, and whether they own or manage the company.

Section 4: CONTROL

A. Identify the firm's Officers and Board of Directors

- In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer.
- In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.
- Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above performs a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which she is involved, and his/her function performed in that other business.
- Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm (e.g., ownership interest, shared office space, financial investments, equipment leases, personnel sharing, etc.) If you answered "Yes," identify the name of the firm, the individual's name, and the nature of his/her business relationship with that other firm.

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B. Duties of Owners, Officers, Directors, Managers and Key Personnel

(1), (2) Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who control the functions listed for the business. Submit resumes for each owner and non-owner identified below. State the name of the individual, title, race and gender and percentage ownership, if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

Indicate whether any of the persons listed in this section performs a management or supervisory function for any other business. Identify the person, business, and their title/function. Identify if any of the persons listed above own or work for any other firm(s) that has a relationship with this firm (e.g. ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) If you answered "Yes," describe the nature of his/her business relationship with that other firm.

C. Inventory: Indicate firm inventory in these categories:

- Equipment and Vehicles**
State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.
- Office Space**
State the street address of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.
- Storage Space**
State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

D. Does your firm rely on any other firm for management functions or employee payroll?

Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," you may be asked to explain the nature of that reliance and the extent to which the other firm carries out such functions.

E. Financial / Banking Information

Banking Information: State the name, City and State of your firm's bank. In the space provided, identify the person able to sign checks on this account. Provide bank authorization and signature card.

Bonding Information: State your firm's bonding limits (in dollars), specifying both the aggregate and project limits.

F. Sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms guaranteeing the loan.

State the name and address of each source, the name of person securing the loan, original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm. Provide copies of signed loan agreements and security agreements.

G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years:

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

H. Current licenses/permits held by any owner or employee of your firm.

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and issuing State of the license or permit. Attach copies of licenses, license renewal forms, permits, and last authority forms.

I. Largest contracts completed by your firm in the past three years, if any.

List the name of each owner or contractor for each contract, the name and location of the project under each contract, the type of work performed on each contract, and the dollar value of each contract.

J. Largest active jobs on which your firm is currently working.

For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

AIRPORT CONCESSION (ACDBE) APPLICANTS

Identify the concession space, address and location at the airport, the value of the property or lease, and fee/lease program paid to the airport. Provide information concerning any other airport concession businesses that applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of the concession enterprise.

AFFIDAVIT & SIGNATURE

The Affidavit of Certification must accompany your application for certification. Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

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Section 1: CERTIFICATION INFORMATION

A. Basic Contact Information

(1) Contact person and Title: _____ (2) Legal name of firm: _____

(3) Phone #: () _____ - _____ (4) Other Phone #: () _____ - _____ (5) Fax #: () _____ - _____

(6) E-mail: _____ (7) Firm Websites: _____

(8) Street address of firm (No P.O. Box): City: _____ County/Parish: _____ State: _____ Zip: _____

(9) Mailing address of firm (if different): City: _____ County/Parish: _____ State: _____ Zip: _____

B. Prior/Other Certifications and Applications

(10) Is your firm currently certified for any of the following U.S. DOT programs?
 DBE ACDBE Names of certifying agencies: _____

Ⓢ If you are certified in your home state as a DBE/ACDBE, you do not have to complete this application for other states. Ask your state UCP about the interstate certification process.

List the dates of any site visits conducted by your home state and any other states or UCP members:
 Date ____/____/____ State/UCP Member: _____ Date ____/____/____ State/UCP Member: _____

(11) Indicate whether the firm or any persons listed in this application have ever been:
 (a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm? Yes No
 (b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity? Yes No

If yes, explain the nature of the action. (If you appealed the decision to DOT or another agency, attach a copy of the decision.)

Section 2: GENERAL INFORMATION

A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.

(2) Applicable NAICS Codes for this line of work include: _____

(3) This firm was established on ____/____/____ (4) I/We have owned this firm since: ____/____/____

(5) Method of acquisition (Check all that apply):
 Started new business Bought existing business Inherited business Secured concession
 Merger or consolidation Other (explain) _____

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(6) Is your firm "for profit"? Yes No— **Ⓢ STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application.

(7) Type of Legal Business Structure: (check all that apply):
 Sole Proprietorship Limited Liability Partnership
 Partnership Corporation
 Limited Liability Company Joint Venture (Identify all JV partners _____)
 Applying as an ACDBE Other, Describe _____

(8) Number of employees: Full-time _____ Part-time _____ Seasonal _____ Total _____
(Provide a list of employees, their job titles, and dates of employment, to your application.)

(9) Specify the firm's gross receipts for the last 3 years. (Submit complete copies of the firm's Federal tax returns for each year. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of those firms' Federal tax returns.)

Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____

B. Relationships and Dealings with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity? Yes No
If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared.

(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?
 Yes No If Yes, explain _____

(3) At present, or at any time in the past, has your firm:
 (a) Ever existed under different ownership, a different type of ownership, or a different name? Yes No
 (b) Existed as a subsidiary of any other firm? Yes No
 (c) Existed as a partnership in which one or more of the partners are/were other firms? Yes No
 (d) Owned any percentage of any other firm? Yes No
 (e) Had any subsidiaries? Yes No
 (f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts? Yes No

If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues.

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Section 3: MAJORITY OWNER INFORMATION

A. Identify the majority owner of the firm holding 51% or more ownership interest.

(1) Full Name: _____ (2) Title: _____ (3) Home Phone #: _____
 () - _____

(4) Home Address (Street and Number): _____ City: _____ State: _____ Zip: _____

(5) Gender: Male Female

(6) Ethnic group membership (Check all that apply):
 Black Hispanic
 Asian Pacific Native American
 Subcontinent Asian
 Other (specify) _____

(7) U.S. Citizenship:
 U.S. Citizen
 Lawfully Admitted Permanent Resident

(8) Number of years as owner: _____
 (9) Percentage owned: _____ %
 Class of stock owned: _____
 Date acquired: _____

(10) Initial investment to acquire ownership: _____

Type	Dollar Value
Cash	\$ _____
Real Estate	\$ _____
Equipment	\$ _____
Other	\$ _____

 Interest in firm: _____
 Other _____

Describe how you acquired your business:
 Started business myself
 It was a gift from: _____
 I bought it from: _____
 I inherited it from: _____
 Other _____
(Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees: _____

(2) Does this owner perform a management or supervisory function for any other business? Yes No
 If Yes, identify: Name of Business: _____ Function/Title: _____

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personal sharing, etc.) Yes No
 Identify the name of the business, and the nature of the relationship, and the owner's function at the firm: _____

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? Yes No
(If Yes, you may be asked to provide a copy of the trust instrument)

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? Yes No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: *(Please attach extra sheets, if needed):* _____

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Section 3: OWNER INFORMATION, Cont'd.

A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm (Attach separate sheets for each additional owner)

(1) Full Name: _____ (2) Title: _____ (3) Home Phone #: _____
 () - _____

(4) Home Address (Street and Number): _____ City: _____ State: _____ Zip: _____

(5) Gender: Male Female

(6) Ethnic group membership (Check all that apply):
 Black Hispanic
 Asian Pacific Native American
 Subcontinent Asian
 Other (specify) _____

(7) U.S. Citizenship:
 U.S. Citizen
 Lawfully Admitted Permanent Resident

(8) Number of years as owner: _____
 (9) Percentage owned: _____ %
 Class of stock owned: _____
 Date acquired: _____

(10) Initial investment to acquire ownership: _____

Type	Dollar Value
Cash	\$ _____
Real Estate	\$ _____
Equipment	\$ _____
Other	\$ _____

 Interest in firm: _____
 Other _____

Describe how you acquired your business:
 Started business myself
 It was a gift from: _____
 I bought it from: _____
 I inherited it from: _____
 Other _____
(Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees: _____

(2) Does this owner perform a management or supervisory function for any other business? Yes No
 If Yes, identify: Name of Business: _____ Function/Title: _____

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personal sharing, etc.) Yes No
 Identify the name of the business, and the nature of the relationship, and the owner's function at the firm: _____

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? Yes No
(If Yes, you may be asked to provide a copy of the trust instrument)

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? Yes No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: *(Please attach extra sheets, if needed):* _____

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Section 4: CONTROL

A. Identify your firm's Officers and Board of Directors (If additional space is required, attach a separate sheet).

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				

(3) Do any of the persons listed above perform a management or supervisory function for any other business?
 Yes No If Yes, identify for each:
 Person: _____ Title: _____
 Business: _____ Function: _____
 Person: _____ Title: _____
 Business: _____ Function: _____

(4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.)
 Yes No If Yes, identify for each:
 Firm Name: _____ Person: _____
 Nature of Business Relationship: _____

B. Duties of Owners, Officers, Directors, Managers, and Key Personnel
 1. Identify your firm's management personnel who control your firm in the following areas (Attach separate sheets as needed).

	Majority Owner (51% or more)				Minority Owner (49% or less)			
	Name: _____				Name: _____			
	Title: _____				Title: _____			
	Percent Owned: _____				Percent Owned: _____			
	A	F	S	N	A	F	S	N
Sets policy for company direction/scope of operations	A	F	S	N	A	F	S	N
Bidding and estimating	A	F	S	N	A	F	S	N
Major purchasing decisions	A	F	S	N	A	F	S	N
Marketing and sales	A	F	S	N	A	F	S	N
Supervises field operations	A	F	S	N	A	F	S	N
Attend bid opening and hearings	A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)	A	F	S	N	A	F	S	N
Hires and fires management staff	A	F	S	N	A	F	S	N
Hires and fires field staff or crew	A	F	S	N	A	F	S	N
Designates profits spending or investment	A	F	S	N	A	F	S	N
Obligates business by contract/credit	A	F	S	N	A	F	S	N
Purchase equipment	A	F	S	N	A	F	S	N
Signs business checks	A	F	S	N	A	F	S	N

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2. Complete for all Officers, Directors, Managers, and Key Personnel who control the following functions for the firm. (Attach separate sheets as needed).

	Officer/Director/Manager/Key Personnel				Officer/Director/Manager/Key Personnel			
	Name: _____				Name: _____			
	Title: _____				Title: _____			
	Race and Gender: _____				Race and Gender: _____			
	Percent Owned: _____				Percent Owned: _____			
	A	F	S	N	A	F	S	N
Sets policy for company direction/scope of operations	A	F	S	N	A	F	S	N
Bidding and estimating	A	F	S	N	A	F	S	N
Major purchasing decisions	A	F	S	N	A	F	S	N
Marketing and sales	A	F	S	N	A	F	S	N
Supervises field operations	A	F	S	N	A	F	S	N
Attend bid opening and hearings	A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)	A	F	S	N	A	F	S	N
Hires and fires management staff	A	F	S	N	A	F	S	N
Hires and fires field staff or crew	A	F	S	N	A	F	S	N
Designates profits spending or investment	A	F	S	N	A	F	S	N
Obligates business by contract/credit	A	F	S	N	A	F	S	N
Purchase equipment	A	F	S	N	A	F	S	N
Signs business checks	A	F	S	N	A	F	S	N

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, the business, and their title/function: _____

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If Yes, describe the nature of the business relationship: _____

C. Inventory: Indicate your firm's inventory in the following categories (Please attach additional sheets if needed):

1. Equipment and Vehicles

Make and Model	Current Value	Owned or Leased by Firm or Owner?	Used as collateral?	Where is item stored?
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				

2. Office Space

Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease

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3. Storage Space *(Provide signed lease agreements for the properties listed)*

Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease
_____	_____	_____

D. Does your firm rely on any other firm for management functions or employee payroll? Yes No

E. Financial/Banking Information *(Provide bank authorization and signature cards)*

Name of bank: _____ City and State: _____
 The following individuals are able to sign checks on this account: _____

Name of bank: _____ City and State: _____
 The following individuals are able to sign checks on this account: _____

Bonding Information. If you have bonding capacity, identify the firm's bonding aggregate and project limits:
 Aggregate limit: \$ _____ Project limit: \$ _____

F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you the owner and any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner. *(Provide copies of signed loan agreements and security agreements.)*

Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years. *(Attach additional sheets if needed.)*

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

H. List current licenses/permits held by any owner and/or employee of your firm *(e.g. contractor, engineer, architect, etc.) (Attach additional sheets if needed.)*

Name of License/Permit Holder	Type of License/Permit	Expiration Date	State
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

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I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

J. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

AIRPORT CONCESSION (ACDBE) APPLICANTS ONLY MUST COMPLETE THIS SECTION

Identify the following information concerning the ACDBE applicant firm:

Concession State	Address: Location at Airport	Value of Property or Lease	Fees/Lease Payments Paid to the Airport
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of concession

Name of Concession	Location	Type of Concession	Start Date of Concession
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

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AFFIDAVIT OF CERTIFICATION
This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I, _____ (fill name printed),
swear or affirm under penalty of law that I am _____ (title) of the applicant firm
and that I
have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its place(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract, subcontract, concession lease or sublease, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project, (2) payments, and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership changes, address/telephone number, personal net worth exceeding \$1.32 million, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise or Airport Concession Disadvantaged Business Enterprise. In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s): (Check all that apply):

Female Black American Hispanic American
 Native American Asian-Pacific American
 Subcontinent Asian American Other (specify) _____

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed \$1.32 million, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Signature _____ (DBE/ACDBE Applicant) (Date) _____

NOTARY CERTIFICATE

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UNIFORM CERTIFICATION APPLICATION
SUPPORTING DOCUMENTS CHECKLIST

In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following REQUIRED documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.

Required Documents for All Applicants

- Resumes (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- Personal Net Worth Statement for each socially and economically disadvantaged owners comprising 51% or more of the ownership percentage of the applicant firm.
- Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
- Federal tax returns (and requests for extension) filed by the firm and its affiliates with related schedules, for the past 3 years.
- Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks)
- Signed loan and security agreements, and bonding forms
 - List of equipment and/or vehicles owned and leased, including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle
- Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- Licenses, license renewal forms, permits, and land authority forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership-signed leases
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
- DBE/ACDBE and SBA (a), SDB, MBE/WBE certifications, denials, and/or decertifications, if applicable, and any U.S. DOT appeal decisions on these actions.
- Bank authorization and signature cards
- Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- List of all employees, job titles, and dates of employment
- Proof of warehouse/storage facility ownership or lease arrangements

Partnership or Joint Venture

- Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

- Official Articles of Incorporation (signed by the state official)
- Both sides of all corporate stock certificates and your firm's stock transfer ledger
- Shareholders' Agreement(s)
- Minutes of all stockholders and board of directors meetings

Optional Documents to Be Provided on Request

- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

The UCP to which you are applying may require the submission of the following documents. If requested to provide these documents, you must supply them with your application or at the on-site visit.

- Proof of citizenship
- Insurance agreements for each truck owned or operated by your firm
- Audited financial statements (if available)
- Personal Federal Tax returns for the past 3 years, if applicable, for other disadvantaged owners of the firm
- Trust agreements held by any owner claiming disadvantaged status
- Year-end balance sheets and income statements for the past 3 years (or life of firm, if less than three years)

Suppliers

- List of product lines carried and list of distribution equipment owned and/or leased

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[79 FR 59603, Oct. 2, 2014]

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Appendix G to Part 26—Personal Net Worth Statement

U.S. Department of Transportation
Personal Net Worth Statement
For DBE/ACDBE Program Eligibility
 As of _____

OMB APPROVAL NO. _____
 EXPIRATION DATE _____

This form is used by all participants in the U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) Program. Each individual owner of a firm applying to participate as a DBE or ACDBE, whose ownership and control are listed upon the DBE certification must complete this form. Each person signing this form authorizes the United Certification Program (UCP) recipient to make inquiries as necessary to verify the accuracy of the statements made. The agency you apply to will use the information provided to determine whether an owner is economically disadvantaged as defined in the DBE program regulations 49 C.F.R. Parts 23 and 26. Return form to appropriate UCP certifying member, not U.S. DOT.

Name		Business Phone
Residence Address (As reported to the IRS) City, State and Zip Code		Residence Phone
Business Name of Applicant Firm		
Spouse's Full Name (Marital Status: Single, Married, Divorced, Union)		

ASSETS		LIABILITIES	
(Omit Cents)		(Omit Cents)	
Cash and Cash Equivalents	\$	Loan on Life Insurance (Complete Section 5)	\$
Retirement Accounts (IRAs, 401(k), 403(b), Pensions, etc.) (Report full value minus tax and interest penalties that would apply if assets were distributed today) (Complete Section 3)	\$	Mortgages on Real Estate Excluding Primary Residence (debt) (Complete Section 4)	\$
Brokerage, Investment Accounts	\$	Notes, Obligations on Personal Property (Complete Section 6)	\$
Assets Held in Trust	\$	Notes & Accounts Payable to Banks and Others (Complete Section 2)	\$
Loans to Shareholders & Other Receivables (Complete Section 6)	\$	Other Liabilities (Complete Section 8)	\$
Real Estate Excluding Primary Residence (Complete Section 4)	\$	Unpaid Taxes (Complete Section 8)	\$
Life Insurance (Cash Surrender Value Only) (Complete Section 5)	\$		
Other Personal Property and Assets (Complete Section 6)	\$		
Business Interests Other Than the Applicant Firm (Complete Section 7)	\$		
Total Assets	\$	Total Liabilities	\$
NET WORTH			

Section 2: Notes Payable to Banks and Others

Name of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Enclosed Type of Collateral

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Section 3: Brokerage and custodial accounts, stocks, bonds, retirement accounts. (Full Value) (Use attachments if necessary)

Name of Security / Brokerage Account / Retirement Account	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

Section 4: Real Estate Owned (Including Primary Residence, Investment Properties, Personal Property Leased or Rented for Business Purposes, Farm Properties, or any Other Income Producing property). (List each parcel separately. Add additional sheets if necessary)

Type of Property	Primary Residence	Property B	Property C
	Address		
Date Acquired and Method of Acquisition (purchase, inherit, divorce, gift, etc.)			
Names on Deed			
Purchase Price			
Present Market Value			
Source of Market Valuation			
Name of all Mortgage Holders			
Mortgage Acc. # and balance (as of date of form)			
Equity line of credit balance			
Amount of Payment Per Month/Year (Specify)			

Section 5: Life Insurance Held (Give face amount and cash surrender value of policies, name of insurance company and beneficiaries)

Insurance Company	Face Value	Cash Surrender Amount	Beneficiaries	Loan on Policy Information

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Section 6. Other Personal Property and Assets (Use attachments as necessary)				
Type of Property or Asset	Total Present Value	Amount of Liability (Balance)	Is this asset insured?	Lien or Note amount and Terms of Payment
Automobiles and Vehicles (including recreation vehicles, motorcycles, boats, etc.) (Include personally owned vehicles that are leased or rented to businesses or other individuals.)				
Household Goods / Jewelry				
Other (List)				
Accounts and Notes Receivable				

Section 7. Value of Other Business Investments, Other Businesses Owned (excluding applicant firm)
 Sole Proprietorships, General Partners, Joint Ventures, Limited Liability Companies, Closely Held and Public Traded Corporations

Section 8. Other Liabilities and Unpaid Taxes (Describe)

Section 9. Transfer of Assets: Have you within 2 years of this personal net worth statement, transferred assets to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust? Yes: No: If yes, describe.

I declare under penalty of perjury that the information provided in this personal net worth statement and supporting documents is complete, true and correct. I certify that no assets have been transferred to any beneficiary for less than fair market value in the last two years. I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application and this personal net worth statement, and I authorize such agency to contact any entity named in the application or this personal financial statement, including the names (banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility. I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded, denial or revocation of certification, suspension and debarment, and for initiating action under federal and/or state law concerning false statements, fraud or other applicable offenses.

NOTARY CERTIFICATE
 (Insert applicable state acknowledgment, affirmation, or oath)

Signature (DBE/ACDBE Owner) _____ Date _____

In collecting the information requested by this form, the Department of Transportation complies with Federal Freedom of Information and Privacy Act (5 U.S.C. 552 and 502a) provisions. The Privacy Act provides comprehensive provisions for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Disadvantaged Business Enterprise (DBE) Program or Airport Concessions/DBE Programs as defined in 49 C.F.R. Parts 23 and 25. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

U.S. DOT Personal Net Worth Statement for DBE/ACDBE Program Eligibility • Page 3 of 5

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General Instructions for Completing the Personal Net Worth Statement for DBE/ACDBE Program Eligibility

Please do not make adjustments to your figures pursuant to U.S. DOT regulations 49 C.F.R. Parts 23 and 26. The agency that you apply to will use the information provided on your completed Personal Net Worth (PNW) Statement to determine whether you meet the economic disadvantage requirements of 49 C.F.R. Parts 23 and 26. If there are discrepancies or questions regarding your form, it may be returned to you to correct and complete again.

An individual's personal net worth according to 49 C.F.R. Parts 23 and 26 includes only his or her own share of assets held separately, jointly, or as community property with the individual's spouse and excludes the following:

- Individual's ownership interest in the applicant firm.
- Individual's equity in his or her primary residence;
- Tax and interest penalties that would accrue if retirement savings or investments (e.g., pension plans, Individual Retirement Accounts, 401(k) accounts, etc.) were distributed at the present time.

Indicate on the form, if any items are jointly owned. If the personal net worth of the majority owner(s) of the firm exceeds \$1.32 million, as defined by 49 C.F.R. Parts 23 and 26, the firm is not eligible for DBE or ACDBE certification. If the personal net worth of the majority owner(s) exceeds the \$1.32 million cap at any time after your firm is certified, the firm is no longer eligible for certification. Should that occur, it is your responsibility to contact your certifying agency in writing to advise that your firm no longer qualifies as a DBE or ACDBE. You must fill out all line items on the Personal Net Worth Statement.

If necessary, use additional sheets of paper to report all information and details. If you have any questions about completing this form, please contact one of the UCP certifying agencies.

Assets

All assets must be reported at their current fair market values as of the date of your statement. *Assessor's assessed value for real estate, for example, is not acceptable.* Assets held in a trust should be included.

Cash and Cash Equivalents: On page 1, enter the total amount of cash or cash equivalents in bank accounts, including checking, savings, money market, certificates of deposit held domestic or foreign. Provide copies of the bank statement.

Retirement Accounts, IRA, 401(K), 403(b), Pensions: On page 1, enter the full value minus tax and interest penalties that would apply if assets were distributed as of the date of the form. Describe the number of shares, name of securities, cost market value, date of quotation, and total value in section 3 on page 2.

Brokerage and Custodial Accounts, Stocks, Bonds, Retirement Accounts: Report total value on page 1, and on page 2, section 3, enter the name of the security, brokerage account, retirement account, etc.; the cost, market value of the asset; the date of quotation; and total value as of the date of the PNW statement.

Assets Held in Trust: Enter the total value of the assets held in trust on page 1, and provide the names of beneficiaries and trustees, and other information in Section 6 on page 3.

Loans to Shareholders and Other Receivables not listed: Enter amounts loaned to you from your firm from any other business entity in which you hold an ownership interest, and other receivables not listed above. Complete Section 6 on page 3.

Real Estate: The total value of real estate excluding your primary residence should be listed on page 1. In section 4 on page 2, please list your primary residence in column 1, including the address, method of acquisition, date of acquired, names of deed, purchase price, present fair market value, source of market valuation, names of all mortgage holders, mortgage account number and balance, equity line of credit balance, and amount of payment. List this information for all real estate held. Please ensure that this section contains all real estate owned, including rental properties, vacation properties, commercial properties, personal property leased or rented for business purposes, farm properties and any other income producing properties, etc. Attach additional sheets if needed.

Life Insurance: On page 1, enter the cash surrender value of this asset. In section 5 on page 2, enter the name of the insurance company, the face value of the policy, cash surrender value, beneficiary names, and loans on the policy.

Other Personal Property and Assets: Enter the total value of personal property and assets you own on page 1. Personal property includes motor vehicles, boats, trailers, jewelry, furniture, household goods, collectibles, clothing, and personally owned vehicles that are leased or rented to businesses or other individuals. In section 6 on page 3, list these assets and enter the present value, the balance of any liabilities, whether the asset is insured, and lien or note amount and terms of payments. For accounts and notes receivable, enter the total value of all monies owed to you personally, if any. This should include shareholder loans to the applicant firm, if those exist. If the asset is insured, you may be asked to provide a copy of the policy. You may also be asked to provide a copy of any liens or notes on the property.

Other Business Interests Other than Applicant Firm: On page 1, enter the total value of your other business investments (excluding the applicant firm). In section 7 on page 3, enter information concerning the businesses you

U.S. DOT Personal Net Worth Statement for DBE/ACDBE Program Eligibility • Page 4 of 5

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hold an ownership interest in, such as sole proprietorships, partnerships, joint ventures, corporations, or limited liability corporations (other than the applicant firm). Do not reduce the value of these entries by any loans from the outside firm to the DBE/ACDBE applicant business.

Liabilities

Mortgages on Real Estate: Enter the total balance on all mortgages payable on real estate on page 1.

Loans on Life Insurance: Enter the total value of all loans due on life insurance policies on page 1, and complete section 5 on page 2.

Notes & Accounts Payable to Bank and Others: On page 1, section 2, enter details concerning any liability, including name of noteholders, original and current balances, payment terms, and security/collateral information. The entries should include automobile installment accounts. This should not, however, include any mortgage balances as this information is captured in section 4. Do not include loans for your business or mortgages for your properties in this section. You may be asked to submit copy of note security agreement, and the most recent account statement.

Other Liabilities: On page 1, enter the total value due on all other liabilities not listed in the previous entries. In section 5, page 3, report the name of the individual obligated, names of co-signers, description of the liability, the nature of the equity owed, the date of the obligation, payment amounts and terms. Note: Do not include contingent liabilities in this section. Contingent liabilities are liabilities that belong to you only if an event(s) should occur. For example, if you

have co-signed on a relative's loan, but you are not responsible for the debt until your relative defaults, that is a contingent liability. Contingent liabilities do not count toward your net worth until they become actual liabilities.

Unpaid Taxes: Enter the total amount of all taxes that are currently due, but are unpaid on page 1, and complete section 5 on page 3. Contingent tax liabilities or anticipated taxes for current year should not be included. Describe in detail the name of the individual obligated, names of co-signers, the type of unpaid tax, to whom the tax is payable, due date, amount, and to what property, if any, the tax lien attaches. If none, state "NONE." You must include documentation, such as tax liens, to support the amounts.

Transfers of Assets

Transfers of Assets: If you checked the box indicating yes on page 3 in this category, provide details on all asset transfers (within 2 years of the date of this personal net worth statement) to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust. Include a description of the asset; names of individuals on the deed, title, note or other instrument indicating ownership rights; the names of individuals receiving the assets and their relation to the transferor; the date of the transfer; and the value or consideration received. Submit documentation requested on the form related to the transfer.

Affidavit

Be sure to sign and date the statement. The Personal Net Worth Statement must be notarized.

U.S. DOT Personal Net Worth Statement for DBE/ACDBE Program Eligibility • Page 5 of 5

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[79 FR 59617, Oct. 2, 2014]

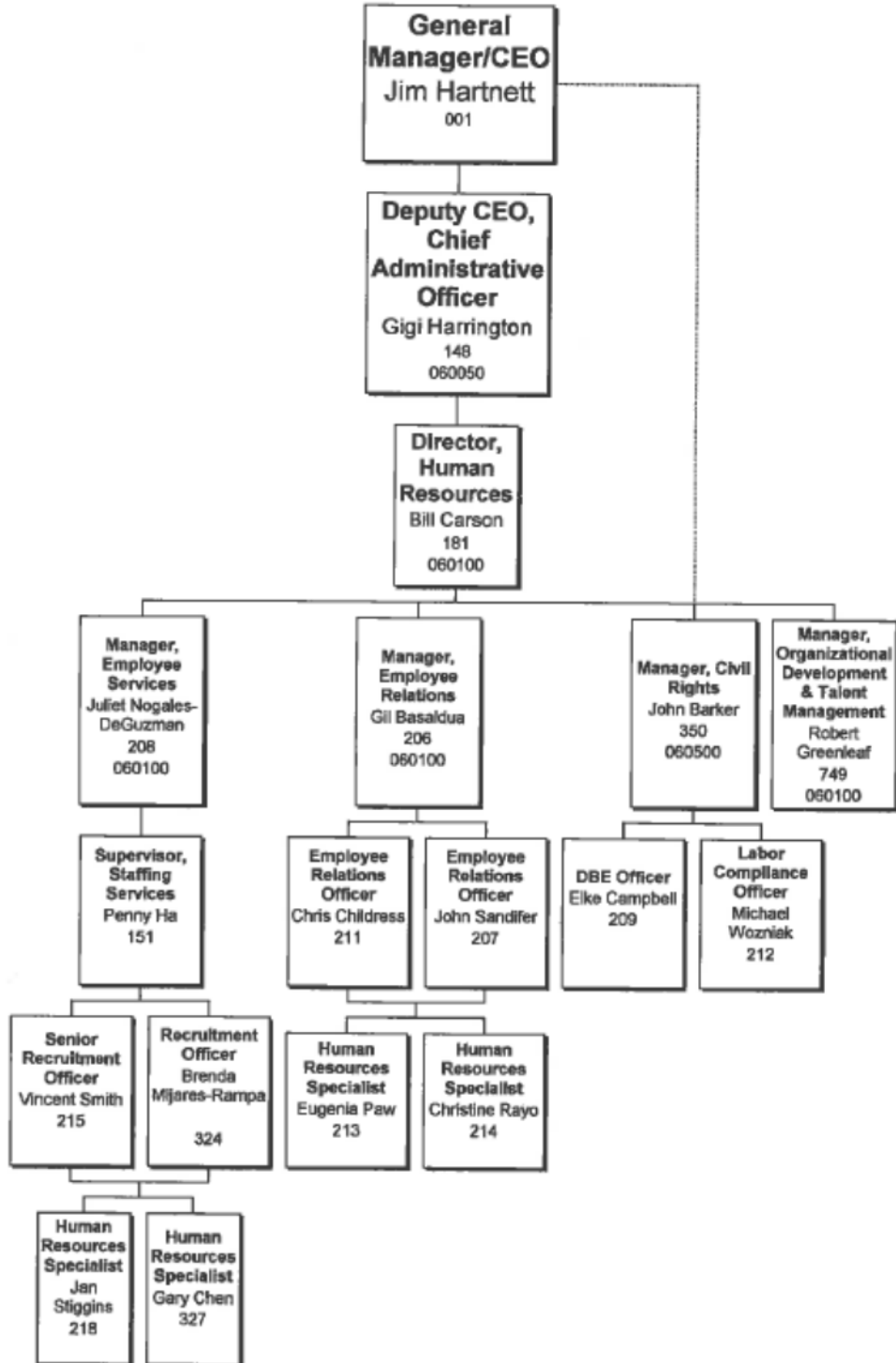
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ATTACHMENT 2

Organizational Chart

ADMINISTRATIVE DIVISION Human Resources



ATTACHMENT 3

DBE Officer Duties/Responsibilities

The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress).
6. Analyzes the District's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO and board of directors on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in California.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the District's updated directory on certified DBEs.

ATTACHMENT 4

Minority Owned Banks

As of 1/28/16, we have identified the following such institutions:

1. Asian Pacific National Bank
2. BBCN Bank
3. California Pacific Bank
4. Commonwealth Business Bank
5. East West Bank
6. Gateway Bank FSB
7. Metropolitan Bank
8. Mission Nation Bank
9. Pan Pacific Bank
10. Preferred Bank
11. State Bank of India (California)
12. Bank of Guam San Francisco Branch

ATTACHMENT 5

DBE Directory

A link to the CUCP online DBE Directory can be found at http://www.dot.ca.gov/hq/bep/find_certified.htm.

ATTACHMENT 6

Monitoring and Enforcement Mechanisms

The District has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Withholding of progress payments and contract retentions
2. Imposition of liquidated damages
3. Termination of the contract, in whole or in part

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 2 CFR 180 and 1200
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001.

ATTACHMENT 7

Overall DBE Goal Calculation

Amount of Goal

The only relevant contracting opportunities projected for FFY2017-2019 are non-revenue vehicle purchases. The District found no certified DBEs in its market area who are available to as dealers or wholesalers for those vehicles. In fact, only one such DBE firm exists in the CUCP database but they are located in Alabama. The lack of available DBE firms for the projected contracting opportunities results in a zero (0) percent base figure.

The District examined all evidence in its jurisdiction to determine which sources would be relevant to its DBE goal-setting methodology:

California Unified Certification Program (CUCP) Database

In accordance with DOT regulations, the participating agencies of the California Unified Certification Program, which includes the California Department of Transportation (“Caltrans”) as the repository agency for CUCP data, have assembled a complete central directory of DBE firms in California. The data from the CUCP database was used in Step One of the goal-setting process. As of March 28, 2016 there is a total of 4,765 DBEs certified by the California Unified Certification Program, of which 1,190 DBEs reside in the nine San Francisco Bay Area counties along with San Joaquin and Sacramento counties, areas that are relevant to the geographical contracting marketplace for the District.

Census Bureau’s County Business Pattern (CBP) Database

The District used the most recent 2013 U.S. Census Bureau’s County Business Pattern (CBP) database to obtain the number of all firms (DBEs and non-DBEs) ready, willing and able to bid for the FTA-assisted contracts. Business data was considered for the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma, San Joaquin, and Sacramento. This data was used in Step One of the goal-setting process.

Actual DBE Participation in Race/Gender-Conscious District Contracts

There are no contracts issued by the District on a race/gender-conscious basis over the past three years; therefore, DBE experience in a race-conscious environment was not considered in this goal analysis.

Actual DBE Participation in Race/Gender-Neutral District Contracts

The District did not have any DBE participation on vehicle procurement contracts within the last three years. This information supports the Step 1 findings of no DBE availability in this area.

Disparity Study

The District completed a minority- and women-owned business availability and utilization study in December 2008. The findings from this study conclude that there are statistically significant findings of disparity among disadvantaged groups, indicating that there remain effects of discrimination in the transportation contracting marketplace. These findings support the use of race-conscious remedies, when necessary, to ensure DBE inclusion on federally assisted contracts.

The District's study concluded that the local contracting marketplace for the District included not only the nine San Francisco Bay Area counties, but also the counties of San Joaquin and Sacramento. The District considered all eleven counties as its geographical market area.

Bidder's List

The District maintains a bidder's list as required under 49 CFR § 26.11 of all bidders (DBEs and non-DBEs). CRAI analyzed the District's bidder's list data in its disparity study. The Disparity set the market area used in Step 1.

Goal of Another DOT Recipient

The District did not consider the goal of another recipient because specific nature of the District's contracting opportunities would make adopting another recipient's goal would not be narrowly tailored to the District's contracting marketplace. The District is an active participant in the California Unified Certification Program, however, and it shares information and resources on the DBE program between similar transit agencies and other DOT recipients.

Sources from Organizations and Institutions

The District commissioned a disparity study and obtained additional information about past discrimination in public contracting; discrimination in private contracting; discrimination in credit, bonding and insurance; data on employment, and self-employment; and data on firm formation that was considered in the goal-setting process. In particular, the District recognizes the findings from its disparity study as well as those from the California Department of Transportation, that the number of disadvantaged firms that are actually certified in the DBE program is low. The District continues to encourage eligible firms to seek DBE certification and it remains committed as a certifying member of the California UCP. As a certifying member, the District performs DBE certification evaluations on behalf of the California UCP. Attempts to increase the level of DBE participation, however, has been challenging due to the lack of interest and incentive among disadvantaged firms because of perceived paperwork burden.

As part of this process, the District consulted with DBEs, and organizations to discuss the District's goal-setting process. The District did not receive any comments that altered the overall DBE goal.

RACE NEUTRAL VS. RACE CONSCIOUS MEANS TO ACHIEVE THE DBE OVERALL GOAL

The overall goal is zero percent. The District will not utilize race/gender-conscious means.

PUBLIC PARTICIPATION

1. Consultation for Goal-Setting

In collaboration with other U.S. DOT recipients, the District held two public sessions on April 12, 2016 to solicit public comment about its goal setting process. The first session was targeted to a smaller, focused group of trade associations while the second session was broader and included the general public. The purpose of these public informational meetings was to inform the public about our agencies' upcoming contracting opportunities and invite public input about the DBE program. The public also was asked to comment on the goal-setting process, specifically on the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to compete for U.S. DOT-assisted contracts. Invitations to the meeting were posted on the CaliforniaUCP.org website and sent to over 800 DBEs, trade associations, and other organizations to invite their participation. Mailings were targeted to organizations that are

knowledgeable about the availability of disadvantaged and non-disadvantaged businesses and the effects of discrimination on contracting opportunities for DBEs. Staff from the District attended the meeting and provided a presentation about its contracts and DBE participation.

The first session, the consultation session with various trade associations, was attended by representatives from the San Francisco Bay Area Small Business Council and VSCE. Input was solicited from the attendees during a roundtable discussion. Topics for discussion included:

- What has been your experience with the DBE certification program (or other certifications programs)?
- Are any of your constituents DBEs?
- Does the program meet the needs of your constituents?
- Do you have any race-neutral contracting practices to suggest?
- What areas would you like to see the BOC focus on?

Questions/comments from the participants during the discussion are as follows:

- How do you calculate contract goals? Do you use the same method as you do for setting the overall goal?
- How can you be sure that the database you are using to collect DBE info is correct?
- Is there any way to have a base minimum goal?
- What's the geographic pool and why are some goals so low?
- High Speed Rail (HSR) has a program with DBE, SBE, and DVBE goals; is it possible for you all to consider the same?
- What are the consequences of prime contractors not meeting the goals?
- Agencies need to unbundle projects and make sure prime contractors send decision makers to outreach events.
- Agencies should set aside projects for DBE's and make DBE utilization transparent.

In response to these comments, the District will continue its dialogue with trade groups and make the DBE Program as transparent as possible. To address the concern about of primes not meeting DBE goal, the various agencies noted that there are legal remedies in place to address a prime contractor DBE shortfall. On the subject of publicizing DBE utilization, the District along with the other transportation agencies that attended the meeting have outreached and provided the information to the group that requested the information. In the area of unbundling, the District will continue to look for ways to unbundle trades from contracts, such as separating fencing and landscaping work from other civil construction work so that small contractors can bid directly for the separated work. Regarding the comments on setting a high race-conscious goal and establishing separate goals, the District will continue to follow prescribed Federal methodology to establish its goals.

The second session was attended by trade group representatives, DBE firms, non-DBE firms, and the general public. District staff made a presentation about the expectation and process of goal setting and spoke of the challenges of obtaining DBE participation in certain trades that have had historically low DBE participation.

Attendees from the second session made very few comments about the agencies' DBE goal setting process and most comments centered on inquiries about how to do business with our agencies and whether there are contracting opportunities in specific areas of work.

The agencies responded by explaining our individual processes of doing business. For the District, attendees were advised and encouraged to register on the District website as a vendor so that they will receive email notices of contract opportunities when such contracts are formally

advertised; download bid specifications free-of-charge from our website; and obtain lists of plan holders and contact information for potential teaming and subcontracting opportunities.

Other public comments included the following:

- How long does it take to become certified?
- Can the certification process be expedited if there is an upcoming contract?
- We are currently certified as a DBE. The NAICS code assigned to my firm is a broker, but we are a wholesaler. Decision-makers should consider changing the regulations to match current practices in 2016 - no one has a warehouse and it increases costs for smaller business.
- We are a business of seven minority women who just incorporated seven months ago, so we don't have three years' worth of tax returns or financial documents - can we apply for DBE certification?
- How does it work as a broker? I am a printing broker, can I apply for DBE certification?
- When we submit a capability statement, do you also want a business card attached?
- We are a woman-owned small business, but do not qualify as a DBE - do these other certifications (i.e. SBE) apply?

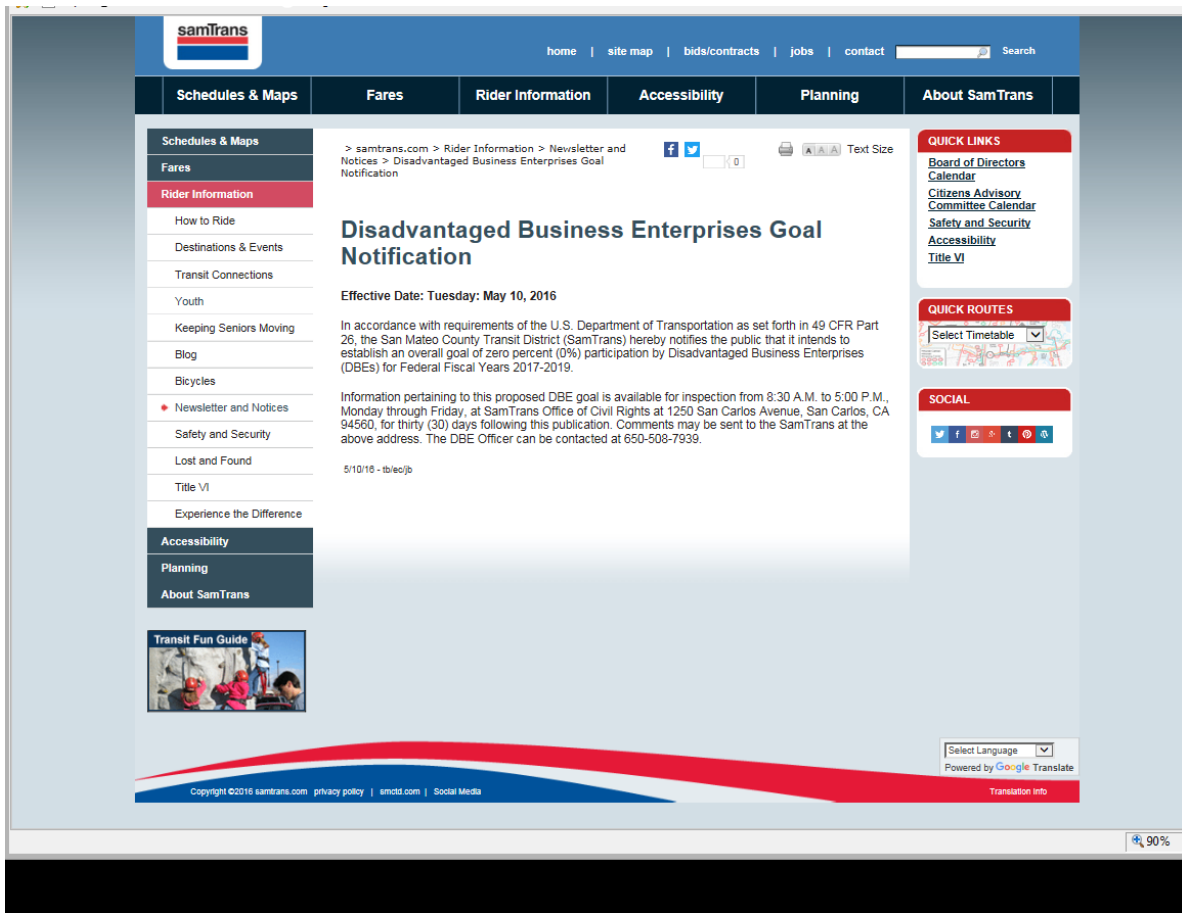
In response to these comments, the District will continue to promote nondiscrimination in its non-federalized contracts and include DBE provisions in these contracts to the extent that such provisions are race-neutral. In addition, the small business program elements of the District's DBE program have been extended to all contracts regardless of funding source. Regarding the public's comments about various certification programs, the District has made efforts to establish a regional small business verification program and will first accept another agency's certification program (as long as a business meets the USDOT's definition of "small business concern") before subjecting a small business to another certification program. Additionally, the District will continue to participate on the Business Outreach Committee (BOC) to host DBE Certification workshops and promote the importance of DBE Certification.

As with past public meetings, the District understands the desire among those in the DBE community to set agency goals as high as possible. While the District would like to establish a higher overall DBE goal than is proposed, the District nevertheless followed the prescribed Federal methodology to establish its proposed goal and believes the zero percent goal is appropriate. The District also intends to utilize race-conscious means when necessary to achieve its goals to address past community concerns about the ineffectiveness of the DBE program on a race-neutral basis.

Prior to formal adoption of the proposed goal, the District will consider all public comment that it receives, including those that may result from its publication of the proposed goal, as explained below.

Publication of Proposed Goal

The District elected to publish the proposed goal on the District's website on May 10, 2016, at http://www.samtrans.com/riderinformation/newsletterandnotices/Disadvantaged_Business_Enterprises_Goal_Notification.html. A copy of that posting is provided below:



The District accepted comments for a thirty day period, ending on June 10, 2016. No comments were received.

RECOMMENDATION

The DBE Office proposes an overall Disadvantaged Business Enterprise goal of zero percent for FTA-assisted contracting opportunities in FFY2017-2019. The DBE Office recommends that the General Manager/CEO formally adopt the proposed overall DBE goal and authorize the DBE Office to transmit the goal and goal setting methodology to the FTA before August 1, 2016.

ATTACHMENT 8

Section 26.51: Breakout of Estimated Race-Neutral & Race Conscious Participation

The District will only utilize race-neutral methods since the overall DBE goal is zero (0).

ATTACHMENT 9

GUIDANCE ON GOOD FAITH EFFORTS

The following is a list of types of actions that are considered as part of the bidder's good faith efforts to obtain DBE participation. **It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.**

(1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

(2) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

(3) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.

(4) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work

of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

(5) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

(6) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

(7) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

(8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

ATTACHMENT 10
Certification Application Forms

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

CERTIFICATION APPLICATION



UNIFIED CERTIFICATION PROGRAM

To access the statewide CUCP DBE database, please log onto:

WWW.DOT.CA.GOV/HQ/BEP/FIND_CERTIFIED.HTM

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



Dear Business Owner:

Thank you for your interest in participating in the California Unified Certification Program (CUCP) for Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE). As mandated by the United States Department of Transportation (U.S. DOT), 49 Code of Federal Regulations (CFR), Part 23 and 26, all U.S. DOT recipients of federal financial assistance must participate in a statewide UCP by March 2002. The UCP is a "One-Stop Shopping" certification procedure that eliminates the need for DBE/ACDBE firms to obtain certifications from multiple agencies within the State.

The CUCP is charged with the responsibility of certifying firms and compiling and maintaining the Database of certified DBE/ACDBEs for U.S. DOT grantees in California, pursuant to 49 CFR Part 23 and 26. The Database is intended to expand the use of DBE/ACDBE firms by maintaining complete and current information on those businesses and the products and services they can provide to all grantees of California.

Please complete the attached application and supplemental questionnaire if you wish to be considered for DBE/ACDBE certification and your business meets the following general guidelines:

- a) The firm must be at least 51% owned by one or more socially and economically disadvantaged individuals.
- b) The firm must be an independent business, and one or more of the socially and economically disadvantaged owners must control its management and daily operations.
- c) Only existing for-profit "Small Business Concerns," as defined by the Small Business Act and Small Business Administration (SBA) regulations may be certified.

DBE Applicants are first subject to the applicable small business size standards of the SBA. Second, the average annual gross receipts for the firm (including its affiliates) over the previous three fiscal years must not exceed U.S. DOT's cap of \$23.98 million.

ACDBE Applicants are considered a small business if its gross receipts (including its affiliates), averaged over the firm's previous three fiscal years, do not exceed \$56.42 million, with the following exceptions:

- (1) *Banks and financial institutions*: \$1 billion in assets;
- (2) *Car rental companies*: \$75.23 million average annual gross receipts over the firm's three previous fiscal years.
- (3) *Pay telephones*: 1,500 employees;
- (4) *Automobile dealers*: 350 employees

- d) The Personal Net Worth (PNW) of each socially and economically disadvantaged owner must not exceed \$1.32 million, excluding the individual's ownership interest in the applicant firm and the equity in his/her primary residence.

Socially and economically disadvantaged individual means any individual who is a citizen of the United States (or lawfully admitted permanent resident) and who is a member of the following groups: Black American, Hispanic American, Native American, Asian-Pacific American, Subcontinent Asian American, or Women,
or

Any individual found to be socially and economically disadvantaged on a case-by-case basis by a certifying agency pursuant to the standards of the U.S. DOT 49 CFR Part 26, Appendix E

In order to avoid unnecessary delays, please complete all portions of the application and supplemental questionnaire, placing "N/A" next to items that are not applicable. Include all copies of documents requested on the application, and have the *Affidavit of Certification* notarized. Additional documentation may be requested if it is considered necessary to make a certification determination. Incomplete applications/supplemental questionnaires or applications/supplemental questionnaires without all the required documents will not be evaluated until such documents are submitted. We recommend keeping a copy of all submitted documents for your records.

REMEMBER: It is no longer necessary to apply at more than one agency. If your firm meets the criteria for certification, it will be entered into the Database of DBE/ACDBEs for all U.S. DOT grantees in California. Only firms currently certified as eligible DBE/ACDBEs may participate in the DBE programs of U.S. DOT grantees of California.

The CUCP has Certifying agencies throughout the State to effectively facilitate statewide DBE/ACDBE certification activities. Please forward your completed certification packet to **one** of the agencies serving the county where your firm has its principal place of business (see enclosed Roster of Certifying Agencies).

For Out-of-State Firms: The CUCP cannot process a new application for DBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state. If your firm is located outside of California and is certified as a DBE in your home state, please forward the following pursuant to *49 CFR Part 26.85*, CUCP Out of State Declaration form, a copy of the approval letter, a complete copy of the application form, all supporting documents and any other information you have submitted (to-date) to your home state or any other state related to your firm's certification to the California Department of Transportation. ACDBE applicants submit the same information to the appropriate ACDBE Certifying Agency (see enclosed Roster of Certifying Agencies).

Notwithstanding any provision of Federal or state information disclosure law, the CUCP shall not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm. However, if a USDOT recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information from the CUCP, the information will be made available to the other recipient.

CALIFORNIA UNIFIED
CERTIFICATION PROGRAM

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



Supplemental Document Checklist

Firm Name: _____

In order to complete your application for DBE certification, you must also attach copies of all of the following documents:

- Documentation of Group Membership. Please comply with one of the following: (1) For each owner seeking social disadvantaged status on the basis of Ethnic membership, please provide a document (e.g., birth certificate, U.S. Passport, Green Card, parents' birth certificate, etc.) evidencing Ethnic heritage or similar document evidencing Ethnic community affiliation. (2) For each owner seeking social disadvantaged status on the basis of Gender, please provide a document evidencing gender (e.g., birth certificate, driver's license, etc.). (3) For each owner seeking an individual showing of social disadvantage, please provide documents you deem appropriate for consideration.
- Documentation of U.S. citizenship or lawful permanent residence, e.g., U.S. birth certificate, Green Card, etc.

Supplemental Questionnaire

1. Is the firm's principal place of business in California? Yes _____ No _____

If no, instead of this application please forward the following, pursuant to *49 CFR Part 26.85*: CUCP Out of State Declaration form, a copy of the approval letter, a complete copy of the application form, all supporting documents and any other information you have submitted (to-date) to your home state or any other state related to your firm's certification. The CUCP cannot process a new application for DBE/ACDBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state.

2. Is the firm authorized to do business in the State of California? Yes _____ No _____

3. List all office locations in California: _____

4. Has the firm ever done business with any U.S. DOT Grantees of California? Yes _____ No _____

If yes, please indicate the agency name(s) and latest year(s):

Agency	Latest Year

Agency	Latest Year

5. Is there an upcoming project in which the firm is interested and therefore, would need to be certified prior to a specific date in order to be counted toward DBE participation? Yes _____ No _____

If yes, please provide the following information:

Agency letting contract: _____

Contract Number and Name: _____ Bid Opening date or Request for Proposal due date: _____

6. Indicate areas where you prefer to do your work.

- | | | | | | |
|--|---|---------------------------------------|---|---|--------------------------------------|
| <input type="checkbox"/> 01 Alameda | <input type="checkbox"/> 11 Glenn | <input type="checkbox"/> 21 Marin | <input type="checkbox"/> 31 Placer | <input type="checkbox"/> 41 San Mateo | <input type="checkbox"/> 51 Sutter |
| <input type="checkbox"/> 02 Alpine | <input type="checkbox"/> 12 Humboldt | <input type="checkbox"/> 22 Mariposa | <input type="checkbox"/> 32 Plumas | <input type="checkbox"/> 42 Santa Barbara | <input type="checkbox"/> 52 Tehama |
| <input type="checkbox"/> 03 Amador | <input type="checkbox"/> 13 Imperial | <input type="checkbox"/> 23 Mendocino | <input type="checkbox"/> 33 Riverside | <input type="checkbox"/> 43 Santa Clara | <input type="checkbox"/> 53 Trinity |
| <input type="checkbox"/> 04 Butte | <input type="checkbox"/> 14 Inyo | <input type="checkbox"/> 24 Merced | <input type="checkbox"/> 34 Sacramento | <input type="checkbox"/> 44 Santa Cruz | <input type="checkbox"/> 54 Tulare |
| <input type="checkbox"/> 05 Calaveras | <input type="checkbox"/> 15 Kern | <input type="checkbox"/> 25 Modoc | <input type="checkbox"/> 35 San Benito | <input type="checkbox"/> 45 Shasta | <input type="checkbox"/> 55 Tuolumne |
| <input type="checkbox"/> 06 Colusa | <input type="checkbox"/> 16 Kings | <input type="checkbox"/> 26 Mono | <input type="checkbox"/> 36 San Bernardino | <input type="checkbox"/> 46 Sierra | <input type="checkbox"/> 56 Ventura |
| <input type="checkbox"/> 07 Contra Costa | <input type="checkbox"/> 17 Lake | <input type="checkbox"/> 27 Monterey | <input type="checkbox"/> 37 San Diego | <input type="checkbox"/> 47 Siskiyou | <input type="checkbox"/> 57 Yolo |
| <input type="checkbox"/> 08 Del Norte | <input type="checkbox"/> 18 Lassen | <input type="checkbox"/> 28 Napa | <input type="checkbox"/> 38 San Francisco | <input type="checkbox"/> 48 Solano | <input type="checkbox"/> 58 Yuba |
| <input type="checkbox"/> 09 El Dorado | <input type="checkbox"/> 19 Los Angeles | <input type="checkbox"/> 29 Nevada | <input type="checkbox"/> 39 San Joaquin | <input type="checkbox"/> 49 Sonoma | |
| <input type="checkbox"/> 10 Fresno | <input type="checkbox"/> 20 Madera | <input type="checkbox"/> 30 Orange | <input type="checkbox"/> 40 San Luis Obispo | <input type="checkbox"/> 50 Stanislaus | |

ATTACHMENT 11

California Unified Certification Program (CUCP) Memorandum of Agreement

MEMORANDUM OF AGREEMENT
With United States Department of Transportation
California RECIPIENTS

for a

Unified Certification Program

Pursuant to 49 CFR Parts 23 & 26

Submitted to Secretary, U.S. Department of Transportation
May 1, 2001

Approved by Secretary, U.S. Department of Transportation
March 13, 2002

Effective: January 1, 2002

Amended: March 24, 2003
November 16, 2004
March 21, 2006
January 2016 (Draft)

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**MEMORANDUM OF AGREEMENT
WITH U.S. DOT RECIPIENTS IN CALIFORNIA
FOR THE ESTABLISHMENT OF A
UNIFIED CERTIFICATION PROGRAM**

This Memorandum of Agreement (“Agreement”) was made, entered into and effective as of January 1, 2002, by and between all United States Department of Transportation (U.S. DOT) RECIPIENTS in the State of California which are listed on Exhibit “A” attached, or as determined by U.S. DOT and its operating administrators (herein called “RECIPIENTS”), as amended from time to time.

RECITALS

WHEREAS, RECIPIENTS have established Disadvantaged Business Enterprise (DBE) Programs and/or Airport Concession DBE (ACDBE) Programs in accordance with regulations of the U.S. DOT, 49 CFR Part 26 or Part 23 as applicable, (copy attached as Exhibits “B” and “C”, respectively); and

WHEREAS, RECIPIENTS receive Federal financial assistance from U.S. DOT and, as a condition of receiving this assistance, RECIPIENTS have signed an assurance that they will comply with 49 CFR Part 26; and

WHEREAS, RECIPIENTS recognize that under 49 CFR Part 26 Subpart E – Certification Procedures Section 26.81, all RECIPIENTS in California must participate in a statewide Unified Certification Program (UCP); and

WHEREAS, RECIPIENTS desire to establish a California UCP that will follow all certification procedures and standards of 49 CFR Part 26 or Part 23, as applicable; and

WHEREAS, RECIPIENTS desire that the UCP shall cooperate fully with the requirements of U.S. DOT and its operating administrations; and

WHEREAS, RECIPIENTS desire that the UCP shall implement U.S. DOT directives and guidance concerning certification matters; and

WHEREAS, RECIPIENTS desire that the RECIPIENTS, as members of the UCP, shall make all DBE and ACDBE certification decisions on behalf of all U.S. DOT

RECIPIENTS in the State of California with respect to participation in the U.S. DOT DBE Program; and

WHEREAS, RECIPIENTS desire that the UCP shall provide “one-stop shopping” to all firms applying for DBE or ACDBE certification located in the State of California, such that an applicant is required to apply only once for a DBE or ACDBE certification that will be honored by all U.S. DOT RECIPIENTS in California; and

WHEREAS, RECIPIENTS desire that the UCP develop and maintain an electronic certification database (and/or printed DBE Directory) of all firms certified by the UCP, which will be available to the public on the internet and in print and continuously updated with additions, deletions, and other changes; and

WHEREAS, RECIPIENTS desire and agree that the UCP shall have sufficient resources and expertise to carry out the requirements of 49 CFR Part 26 Subpart E – Certification Procedures Section 26.81; and

WHEREAS, RECIPIENTS desire that the UCP is fully operational no later than eighteen (18) months from the date of approval of this Agreement by the Secretary of U.S. DOT.

NOW, THEREFORE, in consideration of the foregoing, all U.S. DOT RECIPIENTS in the State of California agree to the following terms and conditions; amended from time to time in accordance with the Federal certification requirements for UCPs.

ARTICLE 1 - VISION

It is recognized that the RECIPIENTS share the common goals of creating a level playing field on which DBE and ACDBE firms can compete fairly for U.S. DOT-assisted contracts awarded by the respective agencies, while enhancing the administration of the DBE Programs through the exchange of information and coordination of activities. In order to achieve these common goals, RECIPIENTS will establish the California UCP in a timely manner, in accordance with U.S. DOT requirements and as set forth in the “Implementation Plan and Schedule” attached hereto as Exhibit “C”.

ARTICLE 2 - DEFINITIONS

- 2.01 RECIPIENT: Any entity, public or private, to which U.S. DOT financial assistance is extended from programs of the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA), whether directly as the primary RECIPIENT or indirectly as a sub-RECIPIENT through a primary RECIPIENT, or which entity has applied for such assistance.**
- 2.02 Sub-RECIPIENT: Any entity, public or private, to which U.S. DOT financial assistance is extended through a primary RECIPIENT.**
- 2.03 (a) Disadvantaged Business Enterprise (“DBE”): A for-profit small business concern, at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, at least 51 percent of the stock of which is owned by one or more such individuals; and the management and daily business operations of such businesses are controlled by one or more of the socially and economically disadvantaged individuals who own it.**
- (b) Airport Concession Disadvantaged Business Enterprise (“ACDBE”): A concession that is a for-profit small business concern, at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and the management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.**
- 2.04 Socially and Economically Disadvantaged Individuals: Any individual who is a citizen or lawfully admitted permanent resident of the United States and who is:**
- (a) Any individual who a RECIPIENT finds to be a socially and economically disadvantaged individual on a case-by-case basis.**
- (b) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:**

- (i) **“Black Americans”** which includes persons having origins in any of the Black racial groups of Africa;
- (ii) **“Hispanic Americans”** which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- (iii) **“Native Americans”** which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
- (iv) **“Asian-Pacific Americans”** which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- (v) **“Subcontinent Asian Americans”** which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) **Women;**
- (vii) Any additional groups whose members are designated as both socially and economically disadvantaged by the Small Business Administration (SBA) at such time as the SBA designation becomes effective.

2.05 Small Business Concern: With respect to firms seeking to participate as DBEs in U.S. DOT-assisted contracts, a small business concern is as defined in Section 3 of the Small Business Act and in the Small Business Administration (SBA) regulations 13 CFR Part 121; which business does not exceed the cap on average annual gross receipts specified in U.S. DOT regulation 49 CFR Section 26.65(b).

2.06 Personal Net Worth (PNW): Means the net value of an individual’s assets remaining after total liabilities are deducted. As used herein, the PNW of each individual owner of a DBE applicant firm must not exceed \$1,320,000, or as adjusted for

inflation by U.S. DOT, excluding the individual's ownership interest in the applicant firm and the individual's primary residence. For an ACDBE applicant firm, each individual owner must not exceed a PNW of \$1,320,000, or as adjusted for inflation by U.S. DOT. An individual's PNW does not include the following: 1) the individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification; and 2) the individual's primary residence. For an ACDBE firm that was certified on or prior to June 20, 2012, an owner may continue to exclude from his or her PNW other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm to a maximum of \$3 million, if this exclusion was used in any certification decision prior to June 20, 2012. See 49 CFR Parts 23.3, 26.5, and 26.67.

2.07 UCP Members: California U.S. DOT RECIPIENTS and Sub-RECIPIENTS as defined in Section 2.01.

2.08 CM Agencies: Those California UCP members that elect to perform DBE and or ACDBE Certifications.

2.09 NCM Agencies: Those California UCP members that elect not to perform DBE or ACDBE Certifications.

2.10 The Executive Committee: The Committee that will function as the final decision-making body with respect to the day-to-day operations of the UCP.

2.11 Standing Committees: Committees established to oversee the development and implementation of on-going UCP programs and processes. Any UCP member may chair or serve on a Standing Committee. Standing Committees will include the following:

- (a) **Oversight Committee**: The roles and responsibilities of the Oversight Committee are to ensure a common understanding among all stakeholders of the objectives of the DBE/ACDBE Programs. Governance is the structure and process established to ensure a common understanding and provide oversight of implementation and decisions of the California UCP (CUCP) regarding the DBE/ACDBE Programs. This committee reports directly to the CUCP Executive Committee. The committee is responsible for:
- (i) Structure & Process
 - (ii) Implementation
- (b) **Systems & Reporting Committee**: The roles and responsibilities of the Systems and Reporting Committee are to oversee and monitor the statewide certification database, identify technical issues, make recommendations for improvements, and ensure pertinent DBE/ACDBE information from applicants is thoroughly and securely captured. This committee reports directly to the CUCP Executive Committee. The committee is responsible for:
- (i) Database
 - (ii) Intake
- (c) **Documentation Committee**: The roles and responsibilities of the Documents Committee are to ensure the AGREEMENT is amended as necessary and to ensure the CUCP is consistently using the most current application and forms related to the DBE/ACDBE Program. This committee reports directly to the CUCP Executive Committee. The committee is responsible for:
- (i) AGREEMENT
 - (ii) Application/Forms
- (d) **Operations Committee**: The roles and responsibilities of the Operations Committee are to ensure consistent application of processes and procedures used among the CUCP certifying agencies. This committee reports directly to the CUCP Executive Committee. The committee is responsible for:
- (i) Clusters
 - (ii) On-Site
 - (iii) Appeals
 - (iv) Concessions
 - (v) File Transfer

(e) **Support Committee:** The roles and responsibilities of the Support Committee are to ensure that the DBE/ACDBE Programs are meeting the specified requirements of the U.S. DOT, to recommend ways to increase stakeholder confidence in the programs, to identify ways to provide DBE/ACDBE certification information to potential applicants, to coordinate mandatory annual training for CUCP certifying agencies, as well as training for new certification staff at the various agencies. This committee reports directly to the CUCP Executive Committee, The committee is responsible for:

- (i) Quality Assurance
- (ii) Training
- (iii) External Affairs

The Executive Committee Guidelines are attached hereto as Exhibit “D.”

2.12 **Certifying Clusters:** Two clusters of California U.S. DOT RECIPIENTS which work together to coordinate certification processes, review and provide oversight of certifying member (CM) agencies’ certification decisions, assist with training activities, and oversee other activities of the UCP. The two clusters are as follows:
1) Part 23 cluster comprised of RECIPIENTS that certify for ACDBE Programs;
and
2) Part 26 cluster comprised of RECIPIENTS that certify for DBE Programs.

ARTICLE 3: ORGANIZATION OF THE UCP

3.01 Members of the UCP:

- (a) The UCP shall consist of all U.S. DOT RECIPIENTS in the State of California as defined in Section 2.01. Each RECIPIENT shall choose to become either a CM agency or a NCM agency by using the Sample Letter of Agreement/Declaration of Status attached hereto as Exhibit “E.”
- (b) If the number of UCP agencies that elects to be or to remain “certifying” is or becomes too few for the UCP to function efficiently and effectively, the Executive Committee will formulate a solution.

- (c) **As the final remedial solution to 3.01(b) above, the California Department of Transportation (Caltrans) agrees to assume the duties and responsibilities of statewide DBE certification for the CUCP.**
- (d) **A UCP member that elects to become a NCM agency or change its status from a CM agency to a NCM agency, will transfer all files to the appropriate Cluster within 90 days from the date of signing the UCP Agreement/ Declaration of Status Letter. The Cluster will determine the new “home agency” of said NCM agency’s certification files for continued processing.**
- 3.02 CM Agency Responsibilities: All RECIPIENTS that elect to become CM agencies agree to maintain and continue with the processes involved in a DBE or ACDBE Certification Program by collecting and maintaining certification application files, conducting site visits, making certification decisions, and handling appeals and complaints. CM agencies shall utilize the Uniform Certification Application form issued by U.S. DOT. A copy of the DBE certification application package, which includes the Uniform Certification Application form, is attached hereto as Exhibit “F.”**
- 3.03 State of California Department of Transportation: RECIPIENTS hereby acknowledge that Caltrans, as the major RECIPIENT of FHWA funds in the State of California, has the largest DBE/ACDBE Certification Program in the State; and maintains an electronic certification database of certified DBEs and ACDBEs which is currently available electronically and in printed form to other U.S. DOT RECIPIENTS, contractors and other interested members of the public.**
- 3.04 Caltrans “Certification Database Manager”: Caltrans agrees to serve as the CUCP “Certification Database Manager” for all DBE and ACDBE certifications made by CM agencies, including maintaining the electronic certification database.**

3.05 Certification Decisions - Submission to CUCP DBE Certification Database: Upon receipt by a CM agency of a certification application package, an initial entry will be made to the certification database; and when a CM agency makes a final DBE or ACDBE certification decision, a full profile of information on the DBE or ACDBE shall be entered into the electronic certification database. The information shall include:

- Name, street address, P.O. box, phone, fax and e-mail of certified DBE or ACDBE;
- Name, sex, and race/ethnicity of owner(s) of DBE firm;
- Type of work performed by DBE using the North American Industry Classification System (NAICS) adopted by the SBA;
- Licenses (type and number);
- Name of certifying RECIPIENT;
- Site visit date;
- Certification date; and
- Any other appropriate information as agreed upon by CM agencies.

CM agencies shall also provide information on firms denied DBE or ACDBE status or removed from DBE or ACDBE status in the certification database and the U.S. DOT DBE and ACDBE ineligibility database.

3.06 Maintaining Electronic CUCP DBE Certification Database: As the Certification Database Manager, Caltrans staff shall assume the following responsibilities:

- (a) Maintain the electronic certification database and keep it current with weekly updates;
- (b) assure its availability to all CUCP members and other interested parties; and
- (c) provide printed copies of the certification database upon request and at a charge to be established by Caltrans' Publications Unit based on the cost of printing.

3.07 RECIPIENTS' Currently Certified DBEs/ACDBEs: RECIPIENTS shall submit for initial inclusion in the certification database only DBEs/ACDBEs that are currently certified according to 49 CFR Parts 23 and 26. When other currently certified firms' files are updated to be consistent with Parts 23 and 26, they shall be included in the certification database at that time.

- (a) If it is found that a DBE/ACDBE firm is certified by more than one CM agency or NCM agency, they will agree to transfer the file and responsibility to one CM agency. That CM agency will be from the Cluster where the principal place of business of the DBE/ACDBE is located. That CM agency will then become the DBE's/ACDBE's "home agency."
- (b) For currently certified out-of-state firms, the responsible CM agency may request proof of current DBE/ACDBE certification by a U.S. DOT RECIPIENT in the firm's home state or may request that the firm become certified by a U.S. DOT RECIPIENT or the UCP in the firm's home state. New out-of-state applicants will be required to be certified in their home state as set out in 5.05 below.
- (c) If an out-of-state firm is certified by more than one CM Agency, the CM Agency best able to provide certification services to the DBE/ACDBE will act as the responsible Home Agency for the DBE/ACDBE.

3.08 Executive Committee Membership and Duties: It is hereby agreed that:

- (a) The Executive Committee shall ensure that the CUCP follows all certification procedures and standards of 49 CFR Parts 23 and 26; shall ensure that the CUCP cooperates fully with oversight, review and monitoring activities of U.S. DOT and its operating administrations; shall review and resolve certification eligibility disputes between and among CM agencies; and shall ensure that the CUCP implements U.S. DOT directives and guidance concerning certification matters.

- (b) **The Executive Committee shall be comprised of all CM agencies and two NCM agencies (one from each Cluster), with each individual agency exercising one vote at Executive Committee meetings in order to transact CUCP business. In the event that an agency is unable to attend a scheduled CUCP Executive Committee meeting, that agency may elect to cast a vote by written or voice proxy.**
- (c) **The Executive Committee shall meet as necessary to provide oversight and ensure compliance with 49 CFR Section 26.81. The Executive Committee shall at all times seek the participation, or call special meetings, of the entire CUCP membership to ensure compliance with 49 CFR Section 26.81.**
- (d) **The Executive Committee shall establish standing and special committees as necessary.**
- (e) **The Executive Committee shall ensure that the CUCP has sufficient resources and expertise to carry out the requirements of 49 CFR 26.81.**
- (f) **The Executive Committee shall resolve disputes between or among CM agencies that cannot be resolved at the Cluster level.**
- (g) **In the proceedings of the Executive Committee meetings, each member shall be entitled to one vote. A quorum of the committee shall be a majority of all Executive Committee members, and no action of the Executive Committee shall be passed but upon the affirmative vote of at least a majority of a quorum. Voting shall be by voice unless the Executive Committee Chair or an Executive Committee member requests that a roll call vote be taken.**

3.09 Standing Committee Guidelines: Standing committees shall be established and shall operate in an ad hoc manner and shall report directly to the Executive Committee.

3.10 Two Certifying “Clusters”: The CUCP will be made up of the following two functional certifying “Clusters:”

- **Part 23 Cluster – for ACDBE Certification**
- **Part 26 Cluster – for DBE Certification**

The scope and responsibilities of the Clusters are included in the “Structure and Process” report attached hereto as Exhibit “G.”

Due to the size of California, the Clusters are seen as a vital component of the overall CUCP. The value and purpose of Cluster CM agencies is far reaching in that Clusters will provide oversight and a forum for discussions between and among CM agencies.

Both Clusters will follow the same certification process. The CM agency will complete the file review, paperwork, site visit and determine eligibility or ineligibility of a firm. The Cluster will review a synopsis of the certification activities submitted by the CM agency for oversight purposes. The CM agency will submit information on the firm for inclusion in the certification database or in the list of firms denied or removed. The CM agency also will enter information into the U.S. DOT DBE and ACDBE ineligibility database as appropriate. Details of CM agency and Cluster responsibilities are included in Exhibit “G.”

ARTICLE 4 – RIGHTS AND OBLIGATIONS OF RECIPIENTS

4.01 Types of RECIPIENTS: The parties hereto understand that this CUCP shall consist of two types of members - CM agencies (certifying) and NCM agencies (non-Certifying) - and that each shall have the rights and obligations set forth hereinafter.

4.02 CM Agencies:

- (a) Upon written notice to the CUCP Executive Committee, any RECIPIENT may choose to become a CM agency.**
- (b) CM agencies shall collect, evaluate and process DBE and/or ACDBE certification applications, conduct site visits and make certification decisions, in accordance with 49 CFR Part 26 or Part 23, as applicable.**

- (c) CM agencies shall promptly enter information into the certification database, including the initial DBE/ACDBE application information, and the final DBE/ACDBE certification decisions with the full DBE/ACDBE profile information specified in paragraph 3.05.**
- (d) CM agencies shall keep the certification database current with all updated information (annual affidavits of no change, removals, change of address, etc.).**
- (e) CM agencies shall process, maintain and retain their complete certification files for currently certified firms. CM agencies may purge certification files for firms not currently certified in accordance with requirements of 49 CFR Part 26 or the CM agency's document retention policy, whichever is longer.**
- (f) CM agencies will notify firms of certification, decertification, denial and removal decisions.**
- (g) In the event of an appeal to U.S. DOT, the CM agency whose action is being appealed shall be the contact agency for U.S. DOT, Office of Civil Rights, to obtain records for reviewing the appeal. CM agencies also shall make basic file information available to other U.S. DOT RECIPIENTS and other state UCPs in response to questions or complaints. Any DBE/ACDBE files furnished to U.S. DOT, Office of Civil Rights, or to other CM agencies shall be packaged in a way that facilitates review by the RECIPIENT, including pagination and indexing.**
- (h) When requested by another CM agency in the same Cluster, a CM agency will assist to the extent possible in conducting a Site Visit to a DBE/ACDBE applicant.**
- (i) A CM agency will process a specific DBE/ACDBE certification application when requested by a NCM agency.**
- (j) Some CM agencies may contract DBE/ACDBE certification activities with outside consulting firms, in which case such consultants shall be obligated to receive proper and adequate training as required by the CUCP. The contracting CM agency remains responsible for administration of its contracts and actions of its consultants.**

- (k) **In processing DBE and ACDBE certification files, CM agencies agree to utilize the “Intake Procedures” which are attached hereto as Exhibit “H.”**
- (l) **External or internal ineligibility complaints regarding certification decisions of CM agencies are to be filed with the certification office of that CM agency and processed in accordance with 49 CFR, Part 26, Section 26.87.**

4.03 NCM Agencies:

- (a) **Upon written notice to the CUCP Executive Committee, any RECIPIENT may choose to be a NCM agency.**
- (b) **NCM agencies will refer applicants to CM agencies in the Cluster where the firm’s principal place of business is located. The NCM agencies will in no way act to influence the CM agency’s certification decision. Since the certification issue may be contract related, the CM agency will cooperate to the fullest extent possible in expediting such certification.**
- (c) **If a CUCP approved NCM agency has agreed to assist the CUCP by conducting site visits, CM agencies may request that NCM agency to assist with a site visit.**

4.04 Review of Eligibility: CM agencies shall be responsible for processing an Annual No Change Declaration and supporting documentation to verify continuing eligibility of their own certified DBEs and/or ACDBEs, and for specific DBE or ACDBE file reviews at any time upon request by another CM agency.

4.05 Ineligibility Complaints: Any CUCP member has the right to initiate an ineligibility complaint of any DBE- or ACDBE-certified firm included in the certification database. The complaint must be in writing and specify the alleged reasons why the firm is ineligible.

To ensure firms previously denied and decertified as ineligible do not become included in the certification database until at least twelve (12) months from denial or decertification, all CUCP members will periodically review the firms listed in the certification database. Where firms are identified that were previously denied or decertified by a CM agency, and that CM agency has cause to believe the firm continues to be ineligible for certification, that CM agency will forward an ineligibility complaint to the current CM agency. Upon receipt of the ineligibility complaint, the current CM agency will review any new evidence, request additional information from the firm and/or conduct a site visit review, if deemed necessary, and make its determination. The CM agency will report to the Cluster on its findings. Information on this action will be input into the certification database by the CM agency after the firm has been afforded due process under 26.87 and 26.89.

The certification database will designate firms that have been denied certification, removed and decertified as ineligible; and the certification database system will reject new applications from the same company. A previously rejected applicant firm will be referred to the CM agency that issued the denial, removal or decertification.

- 4.06 Disputes: The CUCP Executive Committee will resolve certification eligibility disputes that cannot be resolved between or among CM agencies.**

ARTICLE 5 – RIGHTS AND OBLIGATIONS OF THE UCP

- 5.01 CUCP and RECIPIENTS' Responsibilities: The CUCP and individual CM agencies shall be responsible for maintaining processes and programs that conform to the overall certification standards set out in 49 CFR Part 26 and Part 23, as applicable.**

- 5.02 Certification Decisions:** The CM agencies shall make all DBE and/or ACDBE certification decisions, as applicable, and report to the Clusters its determinations. The CM agencies will approve DBE and /or ACDBE status for and on behalf of all U.S. DOT RECIPIENTS in California; and all U.S. DOT RECIPIENTS in California will utilize DBEs and ACDBEs on U.S. DOT-assisted contracts certified by the CM agencies and included in the certification database to meet their goals.
- 5.03 “One-Stop Shopping”:** The CUCP shall provide “one-stop shopping” to applicants for DBE and ACDBE certifications in California, such that an applicant is required to apply only once for a DBE/ACDBE certification that will be honored by all U.S. DOT RECIPIENTS in the State.
- 5.04 Pre-Certification Requirement:** In response to 49 CFR, Section 26.81(c), the “Pre-Certification” requirement, final DBE/ACDBE certification approvals must be made before the due date for bids or offers on contracts in which the firm seeks to participate as a DBE/ACDBE. CM agencies agree to make timely final decisions on DBE/ACDBE applications as outlined in 49 CFR, 26.83(k) or within 90 days of receipt of all information. The CM agency may extend this time period once, for no more than an additional 60 days, upon written notice to the applicant, stating the specific reasons for the extension.
- 5.05 Processing Out-of-State Applications:** CM agencies will not process a new application for DBE/ACDBE certification from a firm having its principal place of business in another state, unless the firm has already been certified in that state. When a CM agency does process an out-of-state application, a full certification application file with all supporting documentation shall be compiled by the CM agency before the firm will be included in the certification database. Such file will also include a copy of the Site Visit Questionnaire obtained from the applicant’s home state or from the state’s UCP if it is in place. CM agencies shall follow 49 CFR 26.85 (a), (c), (d), (e), (f), and (g) when processing an out-of-state applicant.

5.06 Reciprocity with Other UCPs/SBA:

- (a) **The CUCP Executive Committee may enter into written reciprocity agreements at any time with other UCPs subject to approval of U.S. DOT.**
- (b) **Such reciprocity agreements must outline the specific responsibilities of each participating UCP.**
- (c) **The CUCP and its CM and NCM agencies may accept a DBE/ACDBE certification decision made by any other state UCP or U.S. DOT RECIPIENTS on a case-by-case basis. However, before an out-of-state firm is included in the certification database, a California CM agency must have a full certification file for that firm.**
- (d) **This UCP and its CM agencies shall share information concerning a California DBE/ACDBE applicant firm with other state UCPs and U.S. DOT RECIPIENTS.**
- (e) **The CUCP and its CM and NCM agencies may accept and recognize certifications made by the SBA under its 8(a) Business Development (BD) Program. CM agencies will process applications submitted by SBA-certified firms. However, before that firm is included in the certification database, a CM agency must have a complete certification file, including a Site Visit Questionnaire.**

5.07 CUCP Information Program: All CUCP members shall provide information on the CUCP to the public and to DBE/ACDBE applicant firms, and will provide a list of CM agencies that are available to process certification applications.

5.08 Meetings for Continued UCP Monitoring: The CM agencies agree that statewide meetings may be held from time to time for continued monitoring and fine-tuning of the CUCP, the Executive and Standing Committees and the on-going certification processes.

ARTICLE 6 – DBE CERTIFICATION PROCEDURES

- 6.01 Certification Application:** All CM agencies shall utilize the U. S. DOT-approved Uniform Certification Application form, which will be included in the “DBE/ACDBE Certification Application Package” which is an attachment to this Agreement, as amended from time to time.
- 6.02 Certification Process:** All CM agencies shall follow DBE/ACDBE certification processes and adhere to standards set forth in 49 CFR 26, Subparts D and E, Certification Procedures, as well as all other guidelines set forth in various attachments to this Agreement. The Support Committee shall provide guidance as needed to assure compliance with the certification processing.
- 6.03 DBE Certification Site Visits:** All CM agencies shall conduct a “site visit” to the principal place of business of an applicant firm prior to official DBE certification approval and submission to the certification database. CM agencies will utilize the “Site Visit Questionnaire” form approved by the CUCP and attached hereto as Exhibit “I.” CM agencies shall conduct site visits for one another when requested. CM agencies may request a NCM agency to conduct a site visit when that NCM agency has agreed to assist the CUCP with site visits. The Support Committee will provide guidance as needed and to assure compliance with Uniform Site Visit Procedures. When requested, Caltrans will assist in conducting site visits, to the extent possible, anywhere in the State for other CM agencies.

ARTICLE 7 – APPEALS

7.01 Appeals:

- (a) 49 CFR Sections 26.85, 26.87 and 26.89 provide for due process to be afforded to firms whose DBE or ACDBE eligibility is to be denied or removed. The CM agencies shall adhere to the regulations when giving effect to a denial of initial certification, or proposing to find the firm ineligible and removing the firm

from the certification program based either on an ineligibility complaint or on RECIPIENT- or DOT-initiated proceedings (26.87). The CM agency shall notify the firm in writing, setting forth the reasons for the denial or proposed decertification or removal, and the CM agency shall report its actions to the Cluster for oversight purposes. The CM agency shall also advise the firm of its right to rebut.

- (b) **Certification appeals shall be handled by the Office of Appeals within the responsible CM agency whose decision is being appealed, in accordance with 26.87 and 26.89. A firm that is currently participating in the DBE/ACDBE Programs may appeal a Notice proposing to find the firm ineligible with the Office of Appeals of the CM agency. After issuing its administratively final decision, the Office of Appeals of the CM agency shall report its decision to the Cluster at its next meeting. The process for appeals is fully described in Exhibit “J” attached.**

7.02 DBE/ACDBE Denials: Denials of initial requests for DBE or ACDBE certification, as outlined in Section 26.85, may be appealed only with the U.S. DOT.

7.03 Ineligible Firms: Following an administratively final decision by the CM agency to decertify, as outlined in Section 26.87, a firm may appeal to the U.S. DOT.

7.04 Notices: Any notice, report or other communication required or permitted hereunder shall be in writing and shall be delivered by hand, by facsimile, email, or deposited in the United States mail (postage prepaid), to the other CM agencies involved, with copies to the Appeals Office of the CM agency.

ARTICLE 8 - TRAINING

- 8.01 Support Committee:** A “standing” Support Committee shall be organized by the CUCP to develop training materials, arrange for instructors, and prepare a proposed training course and schedule for all DBE certification processes and procedures, all as described in the “Training Program Report” attached hereto as Exhibit “K.”
- 8.02 Course Training:** A course of training on DBE certification processes and procedures shall be sponsored by the CUCP for all CM agencies and NCM agencies that agree to assist with site visits and conducted as determined by the Support Committee and described in Exhibit “K” attached. Since some CM agencies may contract out certification activities with private consultant firms, the contracting CM agencies agree to ensure that their consultants receive proper and adequate training as required by the CUCP Training Program.

ARTICLE 9 – CUCP DBE CERTIFICATION DATABASE

- 9.01 Organization of the CUCP DBE Certification Database:** The certification database shall be maintained and continually updated by CM agencies and Caltrans, the Certification Database Manager, using industry standard state-of-the-art software. All CM agencies agree to maintain compatible or mutually accessible software and systems in order to best use the electronic certification database, and to provide certification information and updates for the certification database in a timely manner.
- 9.02 Computer Access and Security:** CM agencies will be given a unique code by the Certification Database Manager for their exclusive use to access information in the certification database. The code given to CM agencies will also allow them to access, input and change information about firms they have certified. All CM agencies agree

to use their codes responsibly and to keep their codes confidential in order to safeguard the safety and integrity of the certification database.

ARTICLE 10 – FEES/COSTS

- 10.01 UCP Membership Fee:** An annual membership fee may be assessed for the purpose of operating and maintaining the CUCP. CM agency and NCM agency RECIPIENTS and sub-RECIPIENTS will be assessed a minimum fee of \$1,000, or a maximum of \$2,000 per year. The costs of operating and maintaining the CUCP will be re-evaluated by the CUCP Executive Committee, and may be adjusted with the approval of the CUCP members.
- 10.02 CUCP DBE Certification Database Costs to Users:** As set forth in Article 3.06, the Certification Database Manager shall provide printed copies of the certification database when requested, at a nominal cost to requesting parties. Such cost will be determined by the Publications Unit at Caltrans.
- 10.03 DBE/ACDBE Applicant Firms:** There shall be no costs to DBE or ACDBE firms for certification application processing.
- 10.04 Contingency Funding:** In the event adequate resources for the CUCP have not been provided for by this Agreement or by approved annual budgets, the Executive Committee shall call a special meeting of the entire CUCP membership at any time to discuss contingency funding for the CUCP.

ARTICLE 11 – GENERAL PROVISIONS

- 11.01 Attachments to the Agreement:** All exhibits attached to this Agreement are incorporated herein by reference and made a part hereof. The additional documents attached as Exhibit “L” - “Other CUCP Committee Reports”- were prepared by the Database, External Affairs, and Quality Assurance Committees,

- and have been reviewed and approved by the entire CUCP, amended from time to time.**
- 11.02 Interpretation of Agreement: Article and section headings and Table of Contents are for convenience only and shall not affect construction of this Agreement.**
- 11.03 Amendments to the Agreement: This Agreement may be amended, modified, supplemented or waived by an instrument in writing agreed to by the CUCP Executive Committee. Should any provisions of 49 CFR, Part 26/23, and 13 CFR, Part 121, be changed or modified, corresponding provisions of this Agreement shall be modified accordingly. This Agreement shall be reviewed on an on-going basis and amended as agreed upon by the CUCP Executive Committee with advisement to the CUCP members. The CUCP membership may only be amended with the majority approval of a quorum of the CUCP members.**
- 11.04 Compliance with Law: CUCP members agree that the operation of this Agreement and performance of all obligations hereunder shall at all times comply with 49 CFR Parts 23 and 26 and with applicable Federal and State laws, as amended.**
- 11.05 Signed Agreement: This Agreement was signed by the CM agencies and by the Chair of the Executive Committee of the CUCP. Participation by a RECIPIENT in this CUCP will become effective immediately upon execution and submission by the RECIPIENT of a “Letter of Agreement and Declaration of Status” to the CUCP. Upon such submission, each RECIPIENT shall be a CM agency or NCM agency. All CUCP members shall accept the terms of this Agreement. The CUCP became effective on January 1, 2002 with the approval of this Agreement by the Secretary of the U.S. Department of Transportation.**
- 11.06 Severability: Should any part, term, portion or provision of this Agreement be finally decided to be in conflict with any law of the United States or of the State of**

California, or otherwise be unenforceable or ineffectual, the remaining provisions shall be deemed valid and severable, and not affected thereby.

11.07 Successors: This Agreement shall be binding upon and inure to the benefit of any successors or assigns of the CUCP and its members.

RESOLUTIONS OF CUCP EXECUTIVE COMMITTEE

ATTACHMENT 12

Procedures for Removal of DBE's Eligibility

Ineligibility Complaints:

- Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in §26.109(b).
- You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.
- If you determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

Recipient-initiated proceedings: If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

DOT directive to initiate proceeding:

- If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.
- The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.
- You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

Hearing: When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

- In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.
- You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under §26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.
- The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, you bear the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as you would during a hearing.

RESOLUTION NO. 2016 –

**BOARD OF DIRECTORS, SAN MATEO COUNTY TRANSIT DISTRICT
STATE OF CALIFORNIA**

* * *

ADOPTING THE REVISED DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

WHEREAS, the San Mateo County Transit District (District) recently underwent its Federal Transit Administration (FTA) Triennial Review, which resulted in recommendations to revise the Disadvantaged Business Enterprise (DBE) Program to reflect the most current policies and procedures in use and to incorporate the most recent changes in U.S. Department of Transportation (DOT) guidance, by July 26, 2016; and

WHEREAS, DOT regulations, 49 Code of Federal Regulations Part 26.21, require FTA grantees to send significant changes to their DBE Programs to the FTA for approval; and

WHEREAS, the District's DBE Program was last revised and approved by the Board of Directors (Board) in 2012 (Resolution No. 2012-02); and

WHEREAS, staff has revised the DBE Program to respond to the FTA Triennial Review comments and accord with updates in the law, including providing a new policy statement, clarifying duties and responsibilities of DBE staff, revising DBE Certification Standards, clarifying how contract-specific goal attainment and good faith efforts are evaluated, revising small business enterprise policies and procedures, and revising monitoring of DBE firms; and

WHEREAS, the General Manager/CEO recommends that the Board adopt the revised DBE Program, attached hereto.

NOW, THEREFORE, BE IT RESOLVED the Board of Directors of the San Mateo County Transit District adopts the attached revised Disadvantaged Business Enterprise Program

and authorizes the General Manager/CEO to execute the DBE Program policy statement set forth in the DBE Program; and

BE IT FURTHER RESOLVED the Board of Directors directs the General Manager/CEO to submit the DBE Program to the U.S. Department of Transportation, Federal Transit Administration by July 26, 2016.

Regularly passed and adopted this 6th day of July, 2016 by the following vote:

AYES:

NOES:

ABSENT:

Chair, San Mateo County Transit District

ATTEST:

District Secretary

**SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT**

TO: Finance Committee

THROUGH: Jim Hartnett
General Manager/CEO

FROM: Eli Kay
Chief Financial Officer

Gigi Harrington
Deputy CEO/
Chief Administrative Officer

SUBJECT: **AWARD OF CONTRACT TO PROVIDE PUBLIC LIABILITY CLAIMS
ADMINISTRATION SERVICES**

ACTION

Staff proposes that the Committee recommend the Board:

1. Award a contract for public liability claims administration services to Carl Warren & Company (Carl Warren) for an estimated cost of \$690,000 for a five-year term and additional reimbursement for allocated costs estimated at \$27,800; also, outside defense counsel fees will be remitted at hourly rates of \$195 to \$220, as needed, for an estimated cost of \$1,250,801 for the term of the contract. The total estimated aggregate contract amount, inclusive of all costs, for the five-year term is \$1,968,601.
2. Authorize the General Manager/CEO, or designee, to execute a contract with Carl Warren in full conformity with the terms and conditions of the solicitation documents and negotiated agreement.

SIGNIFICANCE

Award of this contract will allow the San Mateo County Transit District (District) to continue partnering with an experienced Third Party Administrator (TPA) to support the District's public liability claims administration program for claims that fall within established self-insured retentions and insurance deductibles.

BUDGET IMPACT

Funding for these services will be available under current and projected operating budgets.

In addition, for subrogation services rendered, Carl Warren will receive:

- 20 percent on amounts collected up to \$50,000
- 15 percent on collections greater than \$50,000

BACKGROUND

A joint Request for Proposals (RFP) to provide public liability claims administration services was issued detailing the scope of services for the District and the Peninsula Corridor Joint Powers Board (JPB). The solicitation was advertised in a

newspaper of general circulation and on the District's website. Solicitation notices also were sent to interested firms, small business enterprises (SBEs) and disadvantaged business enterprises (DBEs). Staff received proposals from two firms, none of which is a SBE/DBE.

An Evaluation Committee (Committee), composed of staff with expertise in various disciplines, reviewed and ranked proposals according to the following weighted criteria set forth in the RFP:

- | | |
|--|-----------|
| • Approach to Scope of Services | 10 points |
| • Qualifications and Experience of Firm | 25 points |
| • Qualifications and Experience of Management Team and Key Personnel | 35 points |
| • Cost Proposal | 30 points |

The Committee concluded that conducting proposer interviews was not likely to change the final result and omitted the interview phase. The two firms are listed below in order of their consensus ranking:

- Carl Warren & Company, Walnut Creek, CA
- George Hills Company, Rancho Cordova, CA

The Committee determined that Carl Warren, the highest consensus ranked proposer, is qualified to be selected for contract award. Carl Warren has more than 32 years of transit public liability claims administration experience and is currently providing public liability claims administration services for 11 transit clients, including Santa Clara Valley Transportation Authority and Golden Gate Bridge, Highway and Transportation District, and has been the District's TPA for the last five years. This background demonstrates that the firm possesses the depth of experience and requisite qualifications to successfully perform the scope of services defined in the solicitation documents. In addition, the firm intends to engage one SBE/DBE firm as a subcontractor to provide ancillary investigation and administrative support services.

Based on full and open competition for this procurement, staff determined the costs proposed by Carl Warren are fair and reasonable. Carl Warren's per claim fees of \$650 for the first and second contract years, \$700 for the third and fourth contract years and \$750 for the fifth contract year compare favorably to the per claim fees of \$695 for the first year and \$782 for the final contract year proposed by George Hills Company. The previous contract awarded to Carl Warren was at per claim fee of \$580 for the final year of the contract.

Contract Officer: Adwoa Oni
Project Manager: Marshall Rush, Claims Administrator

650-508-6411
650-508-7742

RESOLUTION NO. 2016-

**BOARD OF DIRECTORS, SAN MATEO COUNTY TRANSIT DISTRICT
STATE OF CALIFORNIA**

*** * ***

**AWARDING OF A CONTRACT TO CARL WARREN & COMPANY TO PROVIDE PUBLIC
LIABILITY CLAIMS ADMINISTRATION SERVICES
FOR AN ESTIMATED AGGREGATE COST OF \$1,968,601**

WHEREAS, the San Mateo County Transit District (District) jointly with the Peninsula Corridor Joint Powers Board solicited competitive proposals to provide public liability claims administration services; and

WHEREAS, in response to the joint solicitation, two firms submitted proposals, neither of which was a Small Business Enterprise/Disadvantaged Business Enterprise; and

WHEREAS, an Evaluation Committee (Committee) composed of District staff has reviewed the proposals and ranked proposals according to the evaluation criteria set forth in the Request for Proposals; and

WHEREAS, the Committee concluded that no advantage would accrue to the District from conducting proposer interviews, and determined that Carl Warren & Company (Carl Warren) of Walnut Creek, California received the highest consensus ranking; and

WHEREAS, the Committee determined that Carl Warren possesses the depth of experience and requisite qualifications to provide the requested services, and will perform them at fair and reasonable prices; and

WHEREAS, staff and legal counsel have reviewed Carl Warren's proposal and determined that it complies with the requirements of the solicitation documents; and

WHEREAS, the General Manager/CEO recommends, and the Finance Committee concurs, that a contract for the provision of public liability claims administration services be awarded to Carl Warren & Company for a five-year term at the estimated aggregate cost of \$1,968,601, inclusive of per claim fees, allocated costs, and outside defense counsel fees; and

WHEREAS, subrogation services rendered by Carl Warren will be reimbursed by the District based on the percentage of the subrogation amounts collected as indicated below:

- 20 percent on amounts collected up to \$50,000
- 15 percent on collections greater than \$50,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors (Board) of the San Mateo County Transit District hereby awards Carl Warren & Company of Walnut Creek, California a contract to provide public liability claims administration services for a five-year term at an estimated cost of \$1,250,801, including allocated costs of an estimated \$27,800; outside defense counsel fees of an estimated \$1,250,801; per claim fees of \$650 for the first and second contract years, \$700 for the third and fourth contract years and \$750 for the fifth contract year; and with fees for subrogation services rendered to be reimbursed as follows: 20 percent for collections up to \$50,000, and 15 percent for collections greater than \$50,000.

BE IT FURTHER RESOLVED that the Board authorizes the General Manager/CEO, or designee, to execute a contract on behalf of the District with Carl Warren in full conformity with all the terms and conditions of the solicitation documents and negotiated agreement, and in a form approved by legal counsel.

Regularly passed and adopted this 6th day of July, 2016 by the following vote:

AYES:

NOES:

ABSENT:

Chair, San Mateo County Transit District

ATTEST:

District Secretary

grand total estimated bid price for a five-year period. However, in the time since the last iteration of this solicitation, the definitions used by OPIS in its newsletters have changed. The solicitation documents did not reflect the updated definitions, creating some confusion among the bidders as to which rate was intended by the District. During the period for requests for clarifications, none of the bidders asked the District to provide a clarification on the required OPIS rate. Furthermore, when the District evaluated the submitted bids, it was determined that all bidders used different OPIS rates such that the District could not evaluate the bids using identical criteria. In order to ensure that the District obtains the most competitive pricing, and all bidders compete on a level basis, Staff recommends rejecting all bids and re-issuing the solicitation with clarifications made to ensure that potential bidders do not make the same mistakes in calculating the contract costs. In the revised solicitation documents, Staff will supply the required OPIS rate in order to prevent the bid submittal errors made in response to the current solicitation.

Pinnacle Petroleum is the current contractor for the District and the JPB, and has agreed to extend the term of their contract for six months from July 1, 2016 to December 31, 2016. This will allow staff to re-solicit and successfully award a new contract in a timely manner.

Contract Officer: Brian Geiger 650-508-7973
Project Manager: Natalie Chi, Bus Maintenance Contract Administrator 650-508-6418



BOARD OF DIRECTORS 2016

ZOE KERSTEEN-TUCKER, CHAIR
ROSE GUILBAULT, VICE CHAIR
JEFF GEE
CAROLE GROOM
SHIRLEY HARRIS
KARYL MATSUMOTO
PETER RATTO
CHARLES STONE
ADRIENNE TISSIER

JIM HARTNETT
GENERAL MANGER/CEO

A G E N D A
LEGISLATIVE COMMITTEE
COMMITTEE OF THE WHOLE

San Mateo County Transit District
Bacciocco Auditorium - Second Floor
1250 San Carlos Ave., San Carlos, CA

WEDNESDAY, JULY 6, 2016 – 2:30 p.m.
or immediately following previous Committee meeting

ACTION

1. Approval of Minutes of Legislative Committee Meeting of June 1, 2016

INFORMATIONAL

2. State and Federal Legislative Update

Committee Members: Peter Ratto, Shirley Harris, Karyl Matsumoto

NOTE:

- This Committee meeting may be attended by Board Members who do not sit on this Committee. In the event that a quorum of the entire Board is present, this Committee shall act as a Committee of the Whole. In either case, any item acted upon by the Committee or the Committee of the Whole will require consideration and action by the full Board of Directors as a prerequisite to its legal enactment.
- All items appearing on the agenda are subject to action by the Board. Staff recommendations are subject to change by the Board.

**SAN MATEO COUNTY TRANSIT DISTRICT (DISTRICT)
1250 SAN CARLOS AVENUE, SAN CARLOS, CALIFORNIA**

**MINUTES OF LEGISLATIVE COMMITTEE MEETING
COMMITTEE OF THE WHOLE
JUNE 1, 2016**

Committee Members Present: P. Ratto (Committee Chair), S. Harris, K. Matsumoto

Other Board Members Present, Constituting Committee of the Whole: J. Gee, C. Groom, R. Guilbault, C. Stone, A. Tissier

Other Board Members Absent, Constituting Committee of the Whole: Z. Kersteen-Tucker

Staff Present: J. Averill, S. Bhatnagar, J. Cassman, A. Chan, G. Harrington, J. Hartnett, C. Harvey, E. Kay, M. Martinez, N. McKenna, S. Murphy, D. Olmeda, M. Simon, S. van Hoften

Committee Chair Peter Ratto called the meeting to order at 3:15 p.m.

Approval of Minutes of May 4, 2016

Motion/Second: Harris/Stone

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Update on the State and Federal Legislative Program

Shweta Bhatnagar, Manager, Government Affairs, said last month the Senate approved the Fiscal Year 2017 Transportation Housing and Urban Development (THUD) Appropriations bill, which will provide \$16.9 billion in discretionary appropriations to the Department of Transportation (DOT). The bill also includes \$332 million for the Federal Transit Administration's (FTA) Core Capacity Program, but it doesn't call out specific projects for funding. The bill leaves the discretion up to the FTA. The House Appropriations Committee approved their FY2017 THUD funding bill late last month. Their bill includes \$19.2 billion in discretionary appropriations to the DOT and it also includes \$330 million for the Core Capacity Program and specifically recommends that Caltrain Electrification Project receive \$100 million. The House has not yet set a schedule to bring the bill up for a floor vote.

Matt Robinson, Shaw Yoder, Antwih, said the Conference Committee started meeting today on the budget that will ultimately be sent to the governor for signature. The budget is due on June 15. The May Revise came out and there was not very good news for transit with regards to the State Transit Assistance Program, which is down about \$48 million. In January the governor anticipated about \$2.4 billion through the four Cap and Trade auctions, but now it looks like \$1.8 billion. This shouldn't have an impact on the formula programs. The governor is proposing \$400 million of Cap and Trade funding over 10 years for transit.

Adjourned: 3:23 p.m.

**SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT**

TO: Legislative Committee

THROUGH: Jim Hartnett
General Manager/CEO

FROM: Seamus Murphy
Chief Communications Officer

SUBJECT: **STATE AND FEDERAL LEGISLATIVE UPDATE**

ACTION

This report is for information only. No Board action is required.

SIGNIFICANCE

Staff will provide regular updates to the Board in accordance with the approved Legislative Program.

BUDGET IMPACT

There is no impact on the budget.

BACKGROUND

STATE ISSUES

On June 15, 2016, the Legislature passed a \$122.5 billion general fund budget, meeting its June 15 constitutional deadline. The budget includes new investments in childcare, education, and sets aside \$2 billion for the State's rainy-day reserve fund. Noticeably absent from the budget is the appropriation of unallocated Cap and Trade revenues, funding for roads, and a fix for the State Transit Assistance distribution methodology, leaving Legislators to work out details in budget trailer bills by the end of session in August.

FEDERAL ISSUES

We are still waiting for the House to schedule a floor vote on their Fiscal Year 2017 Transportation, Housing and Urban Development, and Related Agencies (THUD) Appropriations Act bill. The Senate approved their THUD bill on May 24, 2016.

The current House THUD bill contains \$100 million for the Caltrain Peninsula Corridor Electrification Project. The Senate approved THUD bill includes \$332 million for the overall FTA Core Capacity Program and did not call out specific projects for funding. The Senate bill leaves that to the discretion of Federal Transit Administration (FTA).

In June, the Peninsula Corridor Joint Powers Board applied for funding through the Federal Railroad Authority Railroad Safety Infrastructure Improvement Program. If awarded, funding would be used to implement safety measures at grade crossings along the corridor. The application was supported by the members of the Federal delegation and local jurisdictions.

Prepared By: Shweta Bhatnagar, Manager, Government and
Community Relations

650-508-6385

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>AB 33 Quirk D</p> <p>Electrical corporations: energy storage systems.</p>	<p>6/13/2016-S. E.Q. 6/13/2016-SEN. E.,U. & C. Vote - Do pass as amended, and re-refer to the Committee on Environmental Quality.</p>	<p>Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the commission to open a proceeding to determine appropriate targets, if any, for each load-serving entity, as defined, to procure viable and cost-effective energy storage systems to be achieved by December 31, 2015, and December 31, 2020. If determined to be appropriate, the commission is required to adopt the procurement targets, by October 1, 2013, and to reevaluate the determinations not less than once every three years. Pursuant to these requirements the commission adopted Decision 13-10-040 (October 17, 2013), Decision Adopting Energy Storage Procurement Framework and Design Program.</p> <p>This bill contains other existing laws.</p>	
<p>AB 326 Frazier D</p> <p>Public works: prevailing wage rates: wage and penalty assessments.</p>	<p>6/9/2016-S. APPR. 6/9/2016-Read second time and amended. Re- referred to Com. on APPR.</p>	<p>Existing law requires the Labor Commissioner to issue a civil wage and penalty assessment to a contractor or subcontractor, or both, if the Labor Commissioner determines, after investigation, that the contractor or subcontractor, or both, violated the laws regulating public works contracts, including the payment of prevailing wages. Existing law also requires the awarding body, as defined, to withhold from payments due under a contract for public work an amount sufficient to satisfy the civil wage and penalty assessment issued by the Labor Commissioner, and to give notice of the withholding to the affected contractor or subcontractor.</p> <p>This bill would require the department to release the funds deposited in escrow plus interest earned to those persons and entities within 30 days following either the conclusion of all administrative and judicial review or upon the department receiving written notice from the Labor Commissioner or his or her designee of a settlement or other final disposition of an assessment issued, as specified, or from the authorized representative of the awarding body of a settlement or other final disposition of a notice issued, as specified. This bill contains other existing laws.</p>	

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>AB 516 Mullin D</p> <p>Vehicles: temporary license plates.</p>	<p>2/10/2016-S. THIRD READING 2/10/2016-Read second time. Ordered to third reading.</p>	<p>Existing law requires the Department of Motor Vehicles (DMV), upon registering a vehicle, to issue to the owner 2 license plates, as specified. Existing law also requires vehicle dealers and lessor-retailers to attach a numbered report-of-sale form issued by the DMV to a vehicle at the time of sale, and to submit to the DMV an application for registration of the vehicle, and the applicable fees, within a specified period after the date of sale. Existing law authorizes a dealer, as specified, to assess a specified document processing charge on the purchaser or lessee of a vehicle for the preparation and processing of documents, disclosures, and titling, registration, and information security obligations imposed by state and federal law. Existing law generally makes a violation of the Vehicle Code an infraction, but makes counterfeiting a license plate a felony.</p> <p>This bill would require the DMV to develop an operational system, no later than January 1, 2018, that allows a dealer or lessor-retailer to electronically report the sale of a vehicle and provide a temporary license plate, as specified. The bill would, commencing January 1, 2017, authorize the department to assess specified administrative fees on processing agencies to support the administration of this system. The bill would also, commencing January 1, 2018, increase the document processing charge, as specified, that a dealer may impose on the purchaser or lessee of a vehicle, and would authorize the imposition of a specified electronic filing charge for reporting vehicle sales and producing temporary license plates. The bill would authorize the DMV to establish contracts with qualified industry partners to provide these vehicle sale reporting and temporary license plate services . This bill contains other related provisions and other existing laws.</p>	<p>Support</p>

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>AB 626 Chiu D</p> <p>Public contracts: claim resolution.</p>	<p>6/8/2016-S. ED. 6/8/2016-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on ED.</p>	<p>Existing law prescribes various requirements regarding the formation, content, and enforcement of state and local public contracts. Existing law applicable to state public contracts generally requires that the resolution of claims related to those contracts be subject to arbitration. Existing law applicable to local agency contracts prescribes a process for the resolution of claims related to those contracts of \$375,000 or less.</p> <p>This bill would establish, for contracts entered into on or after January 1, 2017, a claim resolution process applicable to any claim by a contractor in connection with a public works project. The bill would define a claim as a separate demand by the contractor for one or more of the following: a time extension for relief from damages or penalties for delay, payment of money or damages arising from work done pursuant to the contract for a public work, or payment of an amount disputed by the public entity, as specified. This bill contains other related provisions and other existing laws.</p>	
<p>AB 828 Low D</p> <p>Vehicles: transportation services.</p>	<p>6/8/2016-S. E. U., & C. 6/8/2016-Set for hearing.</p>	<p>Existing law establishes the Public Utilities Commission and designates the duties of the commission, including regulating specified transportation carriers.</p> <p>This bill would require the commission to conduct an investigation to consider whether existing statutes and regulations relating to transportation services serve the public interest, encourage innovation, and create a fair and competitive transportation market between companies that provide regulated transportation services. The bill would require the commission to complete the investigation and report its conclusions and recommendations to the Legislature on or before January 1, 2017. This bill contains other related provisions and other existing laws.</p>	

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>AB 857 Cooper D</p> <p>Firearms: identifying information.</p>	<p>5/19/2016-A. ASSEMBLY 5/19/2016-Read third time. Passed. Ordered to the Assembly. (Ayes 24. Noes 14. Page 3903.).</p>	<p>Existing law authorizes the Department of Justice to assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer's number or other mark of identification, or whenever the manufacturer's number or other mark of identification or distinguishing number or mark assigned by the department has been destroyed or obliterated.</p> <p>This bill would, commencing July 1, 2018, and subject to exceptions, require a person who manufactures or assembles a firearm to first apply to the department for a unique serial number or other identifying mark, as provided. The bill would, by January 1, 2019, and subject to exceptions, require any person who, as of July 1, 2018, owns a firearm that does not bear a serial number to likewise apply to the department for a unique serial number or other mark of identification. The bill would, except as provided, prohibit the sale or transfer of ownership of a firearm manufactured or assembled pursuant to these provisions. The bill would prohibit a person from aiding in the manufacture or assembly of a firearm by a person who is prohibited from possessing a firearm. The bill would make a violation of these provisions a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.</p>	
<p>AB 1364 Linder R</p> <p>California Transportation Commission.</p>	<p>2/4/2016-S. T. & H. 2/4/2016-Referred to Coms. on T. & H. and G.O.</p>	<p>Existing law establishes in the state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.</p> <p>This bill would exclude the California Transportation Commission from the Transportation Agency and establish it as an entity in the state government. The bill would also make conforming changes.</p>	

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>AB 1550 Gomez D</p> <p>Greenhouse gases: investment plan: disadvantaged communities.</p>	<p>6/9/2016-S. E.Q. 6/9/2016-Referred to Com. on E.Q.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law requires the Department of Finance, in consultation with the state board and any other relevant state agency, to develop, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund. Existing law requires the investment plan to allocate a minimum of 25% of the available moneys in the fund to projects that provide benefits to disadvantaged communities, as defined, and a minimum of 10% to projects located in disadvantaged communities. Existing law authorizes the allocation of 10% for projects located in disadvantaged communities to be used for projects included in the minimum allocation of 25% for projects that provide benefits to disadvantaged communities.</p> <p>This bill would instead require the investment plan to allocate a minimum of 25% of the available moneys in the fund to projects located within, and benefitting individuals living in, disadvantaged communities and a minimum of 20% to projects that benefit low-income households, as specified, with a fair share of those moneys targeting households with incomes at or below 200% of the federal poverty level.</p>	

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>AB 1591 Frazier D</p> <p>Transportation funding.</p>	<p>2/1/2016-A. TRANS. 2/1/2016-Referred to Coms. on TRANS. and REV. & TAX.</p>	<p>Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain registration fees on vehicles, with revenues from these fees deposited in the Motor Vehicle Account and used to fund the Department of Motor Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.</p> <p>This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria to ensure efficient use of the funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.225 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill, including an inflation adjustment as provided, an increase of \$38 in the annual vehicle registration fee, and a new \$165 annual vehicle registration fee applicable to zero-emission motor vehicles, as defined. This bill contains other related provisions and other existing laws.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>AB 1610 Committee on Budget Transportation.</p>	<p>6/15/2016-S. BUDGET & F.R. 6/15/2016-Action From BUDGET & F.R.: Do pass.</p>	<p>Existing law authorizes the California Infrastructure and Economic Development Bank to sell specified portions of compact assets, defined as moneys required to be paid to the state under specified provisions of designated tribal compacts and the state's rights to receive those payments, to a special purpose trust, which may issue bonds that are secured against those assets. The net proceeds of the sale of the compact assets are required to be deposited into certain transportation funds in a specified order. Existing law requires that when the amounts described in those provisions have been paid to the transportation funds named, the revenues received by the state from the tribal compacts are required to be remitted to the California Gambling Control Commission for deposit in the General Fund.</p> <p>This bill would instead provide that after the amounts described have been fully paid to the transportation funds named, or in any year during which any portion of these amounts are repaid from the General Fund pursuant to specified provisions of the California Constitution in an amount greater than or equal to the amount of tribal gaming revenues remitted pursuant to the amended tribal compacts in that year, the revenues received by the state from the compact would be required to be remitted to the California Gambling Control Commission for deposit in the General Fund. This bill contains other related provisions and other existing laws.</p>	
<p>AB 1640 Stone, Mark D Retirement: public employees.</p>	<p>5/5/2016-S. P.E. & R. 6/9/2016-In committee: Set, first hearing. Hearing canceled at the request of author.</p>	<p>The California Public Employees' Pension Reform Act of 2013 (PEPRA) requires a public retirement system, as defined, to modify its plan or plans to comply with the act and, among other provisions, establishes new retirement formulas that may not be exceeded by a public employer offering a defined benefit pension plan for employees first hired on or after January 1, 2013. PEPRA exempts from its provisions certain public employees whose collective bargaining rights are subject to specified provisions of federal law until a specified federal district court decision on a certification by the United States Secretary of Labor, or until January 1, 2016, whichever is sooner.</p> <p>This bill would extend indefinitely that exemption for those public employees, whose collective bargaining rights are subject to specified provisions of federal law and who became a member of a state or local public retirement system prior to December 30, 2014.</p>	<p>Support</p>

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Bill ID/Topic	Location	Summary	Position
<p>AB 1641 Allen, Travis R</p> <p>Shuttle services: loading and unloading of passengers.</p>	<p>2/4/2016-A. TRANS. 4/4/2016-In committee: Set, second hearing. Hearing canceled at the request of author.</p>	<p>Under existing law, a person may not stop, park, or leave a vehicle standing alongside a curb space authorized for the loading or unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on the curb, except that existing law allows local authorities to permit schoolbuses to stop alongside these curb spaces upon agreement between a transit system operating buses as common carriers in local transportation and a public school district or private school.</p> <p>This bill would also allow local authorities to permit shuttle service vehicles, as defined, to stop for the loading or unloading of passengers alongside these curb spaces upon agreement between a transit system operating buses engaged as common carriers in local transportation and a shuttle service provider, as defined. The bill would state that it is the intent of the Legislature to not replace public transit services. This bill contains other related provisions.</p>	
<p>AB 1661 McCarty D</p> <p>Local government: sexual harassment prevention training and education.</p>	<p>6/13/2016-S. GOV. & F. 6/13/2016-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on GOV. & F.</p>	<p>Existing law requires all local agency officials to receive training in ethics, at specified intervals, if the local agency provides any type of compensation, salary, or stipend to those officials. Existing law also requires any civil or political subdivision of the state and all cities to provide at least 2 hours of training and education regarding sexual harassment to all supervisory employees, as specified.</p> <p>This bill would additionally require local agency officials, as defined, to receive sexual harassment prevention training and education if the local agency provides any type of compensation, salary, or stipend to those officials, and would allow a local agency to require employees to receive sexual harassment prevention training or information. The bill would also require an entity that develops curricula to satisfy this requirement to consult with the Attorney General, city attorney, or county counsel regarding the sufficiency and accuracy of that proposed content.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>AB 1665 Bonilla D</p> <p>Transactions and use taxes: County of Alameda, County of Contra Costa, and Contra Costa Transportation Authority.</p>	<p>6/14/2016-S. GOV. & F. 6/14/2016-Action From T. & H.: Do pass.To G. & F..</p>	<p>Existing law authorizes the County of Alameda and the County of Contra Costa to impose a transactions and use tax for the support of countywide transportation programs at a rate of no more than 0.5% that, in combination with other specified taxes, exceeds the combined rate of all these taxes that may be imposed, if certain requirements are met, including a requirement that the ordinance proposing the transactions and use tax be submitted to, and approved by, the voters. Existing law repeals this authority on December 31, 2020, if the ordinance is not approved by the voters by that date.</p> <p>This bill would remove this taxing authority from the County of Alameda and the County of Contra Costa and grant this taxing authority to the Contra Costa Transportation Authority. This bill contains other related provisions.</p>	
<p>AB 1676 Campos D</p> <p>Employers: salary information.</p>	<p>6/9/2016-S. L. & I.R. 6/9/2016-Referred to Coms. on L. & I.R. and JUD.</p>	<p>Existing law imposes various restrictions on employers with respect to applicants for employment. A violation of those restrictions is a misdemeanor.</p> <p>This bill would prohibit an employer, including state and local government employers, from seeking salary history information about an applicant for employment, except as otherwise provided. The bill would require an employer, except state and local government employers, upon reasonable request, to provide the pay scale for a position to an applicant for employment. The bill would specify that a violation of its provisions would not be subject to the misdemeanor provision.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>AB 1746 Stone, Mark D</p> <p>Transit buses.</p>	<p>5/24/2016-S. T. & H. 5/24/2016-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on T. & H.</p>	<p>Existing law authorizes the Monterey-Salinas Transit District and the Santa Cruz Metropolitan Transit District to conduct a transit bus-only program using the shoulders of certain state highways as transit bus-only traffic corridors, subject to approval by the Department of Transportation and the Department of the California Highway Patrol. Existing law requires that the highway segments to be used for the program are to be jointly determined by the districts, the department, and the Department of the California Highway Patrol, and imposes other conditions and requirements.</p> <p>This bill would additionally authorize the operation of transit buses on the shoulder of a segment of a state highway designated under the program within the areas served by the transit services of the 8 entities described above, subject to the same conditions and requirements. Two years after commencing the operation of the program, the bill would require a participating entity, in conjunction with the department and the Department of the California Highway Patrol, to submit a report to the Legislature that includes specified information about the program. The bill would also require the participating entity to post the report on its Internet Web site to enable the public to access the report. This bill contains other existing laws.</p>	
<p>AB 1886 McCarty D</p> <p>California Environmental Quality Act: transit priority projects.</p>	<p>6/9/2016-S. E.Q. 6/9/2016-Referred to Com. on E.Q.</p>	<p>The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.</p> <p>This bill, for a transit priority project to meet the requirements for limited CEQA review, would increase that percentage to 50%. This bill contains other existing laws.</p>	

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Bill ID/Topic	Location	Summary	Position
AB 1889 Mullin D Peninsula Rail Transit District.	5/12/2016-S. T. & H. 6/13/2016-In committee: Set, first hearing. Hearing canceled at the request of author.	Existing law, operative under certain conditions, redesignates the Peninsula Corridor Study Joint Powers Board as the Peninsula Rail Transit District, comprised of 9 members appointed from various governing bodies situated in the City and County of San Francisco and the Counties of San Mateo and Santa Clara, with specified powers. This bill would repeal obsolete provisions relating to the Peninsula Rail Transit District.	
AB 1919 Quirk D Local transportation authorities: bonds.	6/14/2016-S. T. & H. 6/14/2016-Action From T. & H.: Do pass.	The Local Transportation Authority and Improvement Act provides for the creation in any county of a local transportation authority and authorizes the imposition of a retail transactions and use tax by ordinance, subject to approval of the ordinance by 2/3 of the voters. Existing law authorizes the ballot proposition submitted to the voters to include a provision authorizing bonds to be issued that would be payable from the proceeds of the transactions and use tax. Existing law requires the bond proceeds to be placed in the treasury of the local transportation authority and to be used for allowable transportation purposes, except that accrued interest and premiums received on the sale of the bonds are required to be placed in a fund to be used for the payment of bond debt service. This bill would instead require the premiums received on the sale of the bonds to be placed in the treasury of the local transportation authority to be used for allowable transportation purposes.	
AB 1964 Bloom D High-occupancy vehicle lanes: vehicle exceptions.	5/19/2016-S. T. & H. 5/19/2016-Referred to Com. on T. & H.	Existing federal law authorizes, until September 30, 2019, a state to allow low emission and energy-efficient vehicles, as specified, to use lanes designated for high-occupancy vehicles (HOVs). Existing federal law also authorizes, until September 30, 2025, a state to allow alternative fuel vehicles, as defined, and new qualified plug-in electric drive motor vehicles, as defined, to use HOV lanes. This bill would extend the operation of the provisions allowing specified vehicles to use HOV lanes until the date federal authorization expires, or until the Secretary of State receives a specified notice, whichever occurs first. The bill would provide that identifiers issued for specified vehicles are valid until January 1, 2019. The bill would authorize the Department of Motor Vehicles to issue other identifiers until the date federal authorization expires, or until the Secretary of State receives a specified notice, whichever occurs first. This bill contains other related provisions and other existing laws.	

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Bill ID/Topic	Location	Summary	Position
<p>AB 2030 Mullin D</p> <p>Transportation districts: contracts.</p>	<p>6/1/2016-S. T. & H. 6/1/2016-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on T. & H.</p>	<p>Existing law requires contracts of the San Francisco Bay Area Rapid Transit District for the purchase of supplies, equipment, and materials to be let to the lowest responsible bidder or to the bidder who submits a proposal that provides best value, as defined, if the amount of the contract exceeds \$100,000 and requires the district to obtain a minimum of 3 quotations for those contracts between \$2,500 and \$100,000. Existing law requires the district, if the contract is for the construction of facilities and works, to let the contract to the lowest responsible bidder if the amount of the contract exceeds \$10,000 and to obtain a minimum of 3 quotations for those contracts between \$2,500 and \$10,000.</p> <p>This bill would instead impose those bidding requirements with respect to district contracts for the purchase of supplies, equipment, and materials if the amount of the contract exceeds \$150,000 and would require a minimum of 3 quotations for those contracts between \$5,000 and \$150,000. The bill would also require, with respect to district contracts for the construction of facilities and works, a minimum of 3 quotations for those contracts between \$5,000 and \$10,000. This bill contains other related provisions and other existing laws.</p>	<p>Sponsor</p>
<p>AB 2090 Alejo D</p> <p>Low Carbon Transit Operations Program.</p>	<p>6/9/2016-S. T. & H. 6/9/2016-Referred to Coms. on T. & H. and E.Q.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law continuously appropriates specified portions of the annual proceeds in the fund to various programs, including 5% for the Low Carbon Transit Operations Program, which provides operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility, with a priority on serving disadvantaged communities.</p> <p>This bill would additionally authorize moneys appropriated to the program to be expended to support the operation of existing bus or rail service if the governing board of the requesting transit agency declares a fiscal emergency and other criteria are met, thereby expanding the scope of an existing continuous appropriation.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>AB 2126 Mullin D</p> <p>Public contracts: Construction Manager/General Contractor contracts.</p>	<p>5/19/2016-S. T. & H. 5/19/2016-Referred to Com. on T. & H.</p>	<p>Existing law authorizes the Department of Transportation to use the Construction Manager/General Contractor method on no more than 6 projects, and requires 4 out of the 6 projects to use department employees or consultants under contract with the department to perform all project design and engineering services, as specified. Existing law requires specified information provided to the department pursuant to these provisions to be verified under oath.</p> <p>This bill would authorize the department to use this method on 12 projects and would require 8 out of the 12 projects to use department employees or consultants under contract with the department to perform all project design and engineering services. By expanding this authorization, the bill would expand the scope of the crime of perjury, thus imposing a state-mandated local program. This bill contains other related provisions and other existing laws.</p>	
<p>AB 2152 Gray D</p> <p>Elections: ballots: ballot order.</p>	<p>3/8/2016-A. E. & R. 5/31/2016-From committee: Without further action pursuant to Joint Rule 62(a).</p>	<p>Existing law requires all voting to be by ballot and requires each polling place to provide, at each election at which public officers are to be voted for, but one form of ballot for all candidates for public office, except for partisan primary elections, as specified. Existing law specifies the order of precedence of offices on the ballot and authorizes a county elections official to vary the order for certain offices and measures submitted to the voters, in order to allow for the most efficient use of space on the ballot in counties that use a voting system, as defined. Existing law requires state measures to always precede local measures.</p> <p>This bill, for the November 8, 2016, statewide general election only, would authorize a county board of supervisors to direct the county elections official to place a local measure related to local transportation finance above state measures. This bill contains other related provisions.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>AB 2170 Frazier D</p> <p>Trade Corridors Improvement Fund: federal funds.</p>	<p>6/9/2016-S. T. & H. 6/9/2016-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on T. & H.</p>	<p>The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement, and specified categories of projects eligible to receive these funds. Existing law continues the Trade Corridors Improvement Fund in existence in order to receive revenues from sources other than the bond act for these purposes.</p> <p>This bill would require revenues apportioned to the state from the National Highway Freight Program established by the federal Fixing America's Surface Transportation Act to be allocated for trade corridor improvement projects approved pursuant to these provisions. This bill contains other related provisions and other existing laws.</p>	
<p>AB 2222 Holden D</p> <p>Greenhouse Gas Reduction Fund: Transit Pass Program.</p>	<p>6/9/2016-S. T. & H. 6/9/2016-Referred to Coms. on T. & H. and E.Q.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund.</p> <p>This bill would establish the Transit Pass Program to be administered by the Department of Transportation with moneys from the Greenhouse Gas Reduction Fund, upon appropriation, to support transit pass programs that provide free or reduced-fare transit passes to specified pupils and students. The bill would require the department , in coordination with the state board, to develop guidelines that describe the criteria that eligible transit providers are required to use to make available free or reduced-fare transit passes to eligible participants and the methodologies that eligible participants would use to demonstrate that the proposed expenditures will reduce greenhouse gas emissions. The bill would exempt those guidelines from the Administrative Procedure Act. The bill would require eligible transit providers and eligible participants to enter into agreements for the distribution of free or reduced-fare transit passes to students. This bill contains other related provisions.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>AB 2257 Maienschein R</p> <p>Local agency meetings: agenda: online posting.</p>	<p>6/9/2016-S. GOV. & F. 6/9/2016-Referred to Com. on GOV. & F.</p>	<p>The Ralph M. Brown Act enables the legislative body of a local agency to call both regular and special meetings. The act requires the legislative body of a local agency to post, at least 72 hours before the meeting, an agenda containing a brief general description of each item of business to be transacted or discussed at a regular meeting, in a location that is freely accessible to members of the public and to provide a notice containing similar information with respect to a special meeting at least 24 hours prior to the special meeting. The act requires that the agenda or notice be freely accessible to members of the public and be posted on the local agency's Internet Web site, if the local agency has one.</p> <p>This bill would require an online posting of an agenda for the legislative body of a local agency, if the local agency has an Internet Web site, to be posted on the local agency's primary Internet Web site homepage accessible through a prominent, direct link, as specified. The bill would exempt a city, county, city and county, and special district from this requirement if it has an integrated agenda management platform that meets specified requirements, including that the current agenda of the legislative body of the local agency is the first agenda available at the top of the integrated agenda management platform. The bill would require an online posting of any agenda by a local agency to be posted in an open format that meets specified requirements, including that the agenda is platform independent and machine readable. The bill would also define terms for these purposes. The bill would make these provisions applicable on and after January 1, 2019. This bill contains other related provisions and other existing laws.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>AB 2348 Levine D</p> <p>Department of Finance: infrastructure investment.</p>	<p>6/9/2016-S. G.O. 6/9/2016-Referred to Com. on G.O.</p>	<p>Existing law creates the Department of Finance and provides that the department has general powers of supervision over all matters concerning the financial and business policies of the state.</p> <p>This bill would authorize the Department of Finance to identify infrastructure projects in the state for which the department will guarantee a rate of return on investment for an investment made in that infrastructure project by the Public Employees' Retirement System. The bill would create the Reinvesting in California Special Fund as a continuously appropriated fund and would require the moneys in the fund to be used to pay the rate of return on investment. The bill would require the rate of return on investment to be subject to the availability of moneys in the fund. The bill would also state the intent of the Legislature to identify special funds to be transferred into the fund for the purposes of these provisions. By creating a new continuously appropriated fund, this bill would make an appropriation. This bill contains other existing laws.</p>	
<p>AB 2411 Frazier D</p> <p>Transportation revenues.</p>	<p>6/9/2016-S. T. & H. 6/9/2016-Referred to Com. on T. & H.</p>	<p>Article XIX of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. Existing law requires certain miscellaneous revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and requires the Controller to transfer from the fund to the General Fund an amount of those revenues necessary to offset the current year debt service made from the General Fund on general obligation transportation bonds issued pursuant to Proposition 116 of 1990.</p> <p>This bill would, on July 1, 2017, delete the transfer of these miscellaneous revenues to the Transportation Debt Service Fund, thereby eliminating the offsetting transfer to the General Fund for debt service on general obligation transportation bonds issued pursuant to Proposition 116 of 1990. The bill, subject to a specified exception, would, on July 1, 2017, instead require the miscellaneous revenues to be retained in the State Highway Account and to be used solely for transportation expenditures consistent with the restrictions for expenditure of fuel tax revenues in Article XIX of the California Constitution.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>AB 2722 Burke D</p> <p>Transformative Climate Communities Program.</p>	<p>6/9/2016-S. E.Q. 6/9/2016-Referred to Com. on E.Q.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020.</p> <p>This bill would create the Transformative Climate Communities Program, to be administered by the council. The bill would require the council, in coordination with the California Environmental Protection Agency Assistant Secretary for Environmental Justice and Tribal Affairs, to award competitive grants to specified eligible entities for the development of transformative climate community plans, and projects that implement plans, that contribute to the reduction of emissions of greenhouse gases and demonstrate potential climate, economic, workforce, health, and environmental benefits in disadvantaged communities that have a demonstrated need for climate, economic, workforce, health, and environmental benefits. This bill contains other existing laws.</p>	
<p>AB 2906 Committee on Transportation</p> <p>Transportation: omnibus bill.</p>	<p>6/13/2016-S. T. & H. 6/13/2016-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on T. & H.</p>	<p>Existing law authorizes the Treasurer and the California Transportation Commission to pledge amounts deposited in the State Highway Account from federal transportation funds for the purposes of issuing federal highway grant anticipation notes, commonly known as GARVEE bonds, to fund transportation projects selected by the commission. Existing law requires the commission to prepare an annual analysis of the bonding capacity of those federal transportation funds.</p> <p>This bill would instead require the commission to prepare this analysis when the Department of Transportation anticipates the issuance of new notes and makes a written request in that regard, but not more than once annually. This bill contains other related provisions and other existing laws.</p>	

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Bill ID/Topic	Location	Summary	Position
ABX1 1 Alejo D Transportation funding.	6/23/2015-A. PRINT 6/24/2015-From printer.	<p>Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.</p> <p>This bill, with respect to any loans made to the General Fund from specified transportation funds and accounts with a repayment date of January 1, 2019, or later, would require the loans to be repaid by December 31, 2018. This bill contains other related provisions and other existing laws.</p>	
ABX1 2 Perea D Transportation projects: comprehensive development lease agreements.	6/25/2015-A. PRINT 6/26/2015-From printer.	<p>Existing law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. These arrangements are commonly known as public-private partnerships. Existing law provides that a lease agreement may not be entered into under these provisions on or after January 1, 2017.</p> <p>This bill would extend this authorization indefinitely and would include within the definition of "regional transportation agency" the Santa Clara Valley Transportation Authority, thereby authorizing the authority to enter into public-private partnerships under these provisions. The bill would also delete obsolete cross-references and make technical changes to these provisions.</p>	
ABX1 3 Frazier D Transportation funding.	9/24/2015-A. CONFERENCE COMMITTEE 9/24/2015-Senators Beall (Co-Chair), Allen, Leyva, Cannella, and Gaines appointed to Conference Committee.	<p>Existing law requires the Department of Transportation to improve and maintain the state's highways, and establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state.</p> <p>This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to maintain and repair highways, local roads, bridges, and other critical infrastructure.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>ABX1 6 Hernández, Roger D</p> <p>Affordable Housing and Sustainable Communities Program.</p>	<p>7/16/2015-A. PRINT 7/17/2015-From printer.</p>	<p>Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature. Existing law continuously appropriates 20% of the annual proceeds of the fund to the Affordable Housing and Sustainable Communities Program, administered by the Strategic Growth Council, to reduce greenhouse gas emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development and that support other related and coordinated public policy objectives.</p> <p>This bill would require 20% of moneys available for allocation under the program to be allocated to eligible projects in rural areas, as defined. The bill would further require at least 50% of those moneys to be allocated to eligible affordable housing projects. The bill would require the council to amend its guidelines and selection criteria consistent with these requirements and to consult with interested stakeholders in this regard.</p>	
<p>ABX1 7 Nazarian D</p> <p>Public transit: funding.</p>	<p>7/16/2015-A. PRINT 7/17/2015-From printer.</p>	<p>Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.</p> <p>This bill would instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program, and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation. This bill contains other existing laws.</p>	<p>Support</p>

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Bill ID/Topic	Location	Summary	Position
<p>ABX1 8 Chiu D</p> <p>Diesel sales and use tax.</p>	<p>7/16/2015-A. PRINT 7/17/2015-From printer.</p>	<p>Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these revenues to the Controller, for allocation by formula to transportation agencies for public transit purposes.</p> <p>This bill, effective July 1, 2016, would increase the additional sales and use tax rate on diesel fuel to 5.25%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. This bill contains other related provisions.</p>	<p>Support</p>
<p>ABX1 10 Levine D</p> <p>Public works: contracts: extra compensation.</p>	<p>8/19/2015-A. PRINT 8/20/2015-From printer.</p>	<p>Existing law sets forth requirements for provisions in public works contracts awarded by a state entity. Under existing law, the state or any other public entity in any competitively bid public works contract may provide for the payment of extra compensation to the contractor for cost reduction changes.</p> <p>This bill would provide that a state entity in a megainfrastructure project contract, as defined, may not provide for the payment of extra compensation to the contractor until the megainfrastructure project, as defined, has been completed and an independent third party has verified that the megainfrastructure project meets all architectural or engineering plans and safety specifications of the contract. This bill would apply to contracts entered into or amended on or after the effective date of this bill.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>ABX1 13 Grove R</p> <p>Greenhouse Gas Reduction Fund: streets and highways.</p>	<p>8/31/2015-A. PRINT 9/1/2015-From printer.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law continuously appropriates 20% of the annual proceeds of the fund to the Strategic Growth Council for the Affordable Housing and Sustainable Communities Program, as provided.</p> <p>This bill would reduce the continuous appropriation to the Strategic Growth Council for the Affordable Housing and Sustainable Communities Program by half. This bill contains other related provisions.</p>	
<p>ABX1 14 Waldron R</p> <p>State Highway Operation and Protection Program: local streets and roads: appropriation.</p>	<p>8/31/2015-A. PRINT 9/1/2015-From printer.</p>	<p>Existing law requires the Department of Transportation to prepare a State Highway Operation and Protection Program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. Existing law provides for apportionment of specified portions of revenues in the Highway Users Tax Account derived from gasoline and diesel excise taxes to cities and counties by formula, with the remaining revenues to be deposited in the State Highway Account for expenditure on various state transportation programs, including maintenance of state highways and transportation capital improvement projects.</p> <p>This bill would continuously appropriate \$1 billion from the General Fund, with 50% to be made available to the Department of Transportation for maintenance of the state highway system or for purposes of the State Highway Operation and Protection Program, and 50% to be made available to the Controller for apportionment to cities and counties by a specified formula for street and road purposes.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>ABX1 15 Patterson R</p> <p>State Highway Operation and Protection Program: local streets and roads: appropriation.</p>	<p>8/31/2015-A. PRINT 9/1/2015-From printer.</p>	<p>Existing law appropriates the sum of \$663,287,000 for the 2015-16 fiscal year from the State Highway Account to the Department of Transportation for Capital Outlay Support.</p> <p>This bill would reduce the \$663,287,000 appropriation for Capital Outlay Support by \$500 million, and would appropriate \$500 million from the State Highway Account for the 2015-16 fiscal year, with 50% to be made available to the Department of Transportation for maintenance of the state highway system or for purposes of the State Highway Operation and Protection Program, and 50% to be made available to the Controller for apportionment to cities and counties by formula for street and road purposes. This bill contains other existing laws.</p>	
<p>ABX1 17 Achadjian R</p> <p>Greenhouse Gas Reduction Fund: state highway operation and protection program.</p>	<p>8/31/2015-A. PRINT 9/1/2015-From printer.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law continuously appropriates 60% of the annual proceeds of the fund for transit, affordable housing, sustainable communities, and high-speed rail purposes.</p> <p>This bill, beginning in the 2016-17 fiscal year, would continuously appropriate 25% of the annual proceeds of the fund to fund projects in the state highway operation and protection program.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>ABX1 18 Linder R</p> <p>Vehicle weight fees: transportation bond debt service.</p>	<p>8/31/2015-A. PRINT 9/1/2015-From printer.</p>	<p>Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Account to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the Transportation Bond Direct Payment Account for direct payment of debt service on designated bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006.</p> <p>This bill, notwithstanding these provisions or any other law, effective January 1, 2016, would prohibit weight fee revenue from being transferred from the State Highway Account to the Transportation Debt Service Fund or to the Transportation Bond Direct Payment Account, and from being used to pay the debt service on transportation general obligation bonds.</p>	
<p>ABX1 19 Linder R</p> <p>California Transportation Commission.</p>	<p>8/31/2015-A. PRINT 9/1/2015-From printer.</p>	<p>Existing law establishes in the state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.</p> <p>This bill would exclude the California Transportation Commission from the Transportation Agency and establish it as an entity in the state government. The bill would also make conforming changes.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>ABX1 23 Garcia, Eduardo D Transportation.</p>	<p>9/4/2015-A. PRINT 9/5/2015-From printer.</p>	<p>Existing law requires the Department of Transportation to prepare a State Highway Operation and Protection Program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. Existing law provides for the programming of transportation capital improvement funds for other objectives through the State Transportation Improvement Program administered by the California Transportation Commission, which includes projects recommended by regional transportation planning agencies through adoption of a regional transportation improvement program and projects recommended by the department through adoption of an interregional transportation improvement program, as specified.</p> <p>This bill, by January 1, 2017, would require the California Transportation Commission to establish a process whereby the department and local agencies receiving funding for highway capital improvements from the State Highway Operation and Protection Program or the State Transportation Improvement Program prioritize projects that provide meaningful benefits to the mobility and safety needs of disadvantaged community residents, as specified. This bill contains other related provisions and other existing laws.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>ABX1 24 Levine D</p> <p>Bay Area Transportation Commission: election of commissioners.</p>	<p>9/11/2015-A. PRINT 9/12/2015-From printer.</p>	<p>Existing law designates the Metropolitan Transportation Commission as the regional transportation planning agency for the San Francisco Bay area, with various powers and duties with respect to transportation planning and programming, as specified, in the 9-county San Francisco Bay area region. Existing law creates the Bay Area Toll Authority, governed by the same board as the commission, but created as a separate entity, with specified powers and duties relative to the administration of certain toll revenues from state-owned toll bridges within the geographic jurisdiction of the commission. Under existing law, the commission is comprised of 21 appointed members, as specified.</p> <p>This bill, effective January 1, 2017, would redesignate the Metropolitan Transportation Commission as the Bay Area Transportation Commission. The bill would require commissioners to be elected by districts comprised of approximately 750,000 residents. The bill would require each district to elect one commissioner, except that a district with a toll bridge, as defined, within the boundaries of the district would elect 2 commissioners. The bill would require commissioner elections to occur in 2016, with new commissioners to take office on January 1, 2017. The bill would state the intent of the Legislature for district boundaries to be drawn by a citizens' redistricting commission and campaigns for commissioners to be publicly financed. This bill contains other related provisions and other existing laws.</p>	
<p>ABX1 25 Allen, Travis R</p> <p>Shuttle services: loading and unloading of passengers.</p>	<p>1/11/2016-A. PRINT 1/12/2016-From printer.</p>	<p>Under existing law, a person may not stop, park, or leave a vehicle standing alongside a curb space authorized for the loading or unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on the curb, except that existing law allows local authorities to permit schoolbuses to stop alongside these curb spaces upon agreement between a transit system operating buses as common carriers in local transportation and a public school district or private school.</p> <p>This bill would also allow local authorities to permit shuttle service vehicles, as defined, to stop for the loading or unloading of passengers alongside these curb spaces upon agreement between a transit system operating buses engaged as common carriers in local transportation and a shuttle service provider, as defined. The bill would state that it is the intent of the Legislature to not replace public transit services. This bill contains other related provisions.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>ACA 4 Frazier D</p> <p>Local government transportation projects: special taxes: voter approval.</p>	<p>8/19/2015-A. APPR. SUSPENSE FILE 8/27/2015-In committee: Hearing postponed by committee.</p>	<p>The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of 2/3 of the voters of the city, county, or special district voting on that tax, except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55% of the voters within the jurisdiction of these entities.</p> <p>This measure would provide that the imposition, extension, or increase of a sales and use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or a transactions and use tax imposed in accordance with the Transactions and Use Tax Law by a county, city, city and county, or special district for the purpose of providing funding for local transportation projects, as defined, requires the approval of 55% of its voters voting on the proposition. The measure would also make conforming and technical, nonsubstantive changes. This measure would also provide that it would become effective immediately upon approval by the voters and would apply to any local measure imposing, extending, or increasing a sales and use tax or transactions and use tax for local transportation projects submitted at the same election. This bill contains other existing laws.</p>	<p>Support</p>
<p>SB 32 Pavley D</p> <p>California Global Warming Solutions Act of 2006: emissions limit.</p>	<p>6/10/2016-A. NAT. RES. 6/10/2016-From committee with author's amendments. Read second time and amended. Re-referred to Com. on NAT. RES.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020 and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emissions reductions.</p> <p>This bill would require the state board to approve a statewide greenhouse gas emissions limit that is equivalent to 40% below the 1990 level to be achieved by 2030. This bill contains other related provisions.</p>	<p>Support</p>

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Bill ID/Topic	Location	Summary	Position
<p>SB 824 Beall D</p> <p>Low Carbon Transit Operations Program.</p>	<p>6/9/2016-A. TRANS. 6/9/2016-Referred to Com. on TRANS.</p>	<p>Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.</p> <p>This bill would authorize a recipient transit agency that does not submit an expenditure for funding under the program in a particular fiscal year to retain its funding share for expenditure in a subsequent fiscal year. The bill would allow a recipient transit agency to loan or transfer its funding share in any particular fiscal year to another recipient transit agency within the same region, or to apply to the department to reassign, to other eligible expenditures under the program, any savings of surplus moneys from an approved and completed expenditure under the program or from an approved expenditure that is no longer a priority, as specified. The bill would also allow a recipient transit agency to apply to the department for a letter of no prejudice for any eligible expenditures under the program for which the department has authorized a disbursement of funds, and, if granted, would allow the recipient transit agency to expend its own moneys and to be eligible for future reimbursement from the program, under specified conditions. The bill would also require a recipient transit agency to provide additional information to the department to the extent funding is sought for capital projects. This bill contains other existing laws.</p>	<p>Support</p>

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Bill ID/Topic	Location	Summary	Position
<p>SB 838 Committee on Budget and Fiscal Review</p> <p>Transportation.</p>	<p>6/10/2016-A. BUDGET 6/12/2016-From committee with author's amendments. Read second time and amended. Re-referred to Com. on BUDGET. (Amended)</p>	<p>Existing law authorizes the California Infrastructure and Economic Development Bank to sell specified portions of compact assets, defined as moneys required to be paid to the state under specified provisions of designated tribal compacts and the state's rights to receive those payments, to a special purpose trust, which may issue bonds that are secured against those assets. The net proceeds of the sale of the compact assets are required to be deposited into certain transportation funds in a specified order. Existing law requires that when the amounts described in those provisions have been paid to the transportation funds named, the revenues received by the state from the tribal compacts are required to be remitted to the California Gambling Control Commission for deposit in the General Fund.</p> <p>This bill would instead provide that after the amounts described have been fully paid to the transportation funds named, or in any year during which any portion of these amounts are repaid from the General Fund pursuant to specified provisions of the California Constitution in an amount greater than or equal to the amount of tribal gaming revenues remitted pursuant to the amended tribal compacts in that year, the revenues received by the state from the compact would be required to be remitted to the California Gambling Control Commission for deposit in the General Fund. This bill contains other related provisions and other existing laws.</p>	
<p>SB 882 Hertzberg D</p> <p>Crimes: public transportation: minors.</p>	<p>6/13/2016-A. PUB. S. 6/13/2016-Referred to Com. on PUB. S.</p>	<p>Existing law makes it an infraction or a misdemeanor to evade the payment of a fare on a public transit system, to misuse a transfer, pass, ticket, or token with the intent to evade the payment of a fare, or to use a discount ticket without authorization or fail to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket.</p> <p>This bill would prohibit a minor from being charged with an infraction or a misdemeanor for those acts.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>SB 885 Wolk D</p> <p>Construction contracts: indemnity.</p>	<p>6/9/2016-A. JUD. 6/9/2016-Referred to Com. on JUD.</p>	<p>Existing law makes specified provisions in construction contracts void and unenforceable, including provisions that purport to indemnify the promisee against liability for damages for death or bodily injury to persons, injury to property, or any other loss arising from the sole negligence or willful misconduct of the promisee or the promisee's agents who are directly responsible to the promisee, or for defects in design furnished by those persons.</p> <p>This bill would specify, with certain exceptions, for construction contracts entered into on or after January 1, 2017, that a design professional, as defined, only has the duty to defend himself or herself from claims or lawsuits that arise out of, or pertain or relate to, negligence, recklessness, or willful misconduct of the design professional. The bill would prohibit these provisions from being construed to affect any duty of a design professional to pay a reasonable allocated share of defense fees and costs with respect to claims and lawsuits alleging negligence, recklessness, or willful misconduct of the design professional, as specified. The bill would prohibit waiver of these provisions and would provide that any clause, covenant, or agreement contained in, collateral to, or affecting a contract that requires a design professional to defend claims or lawsuits against other persons or entities is void and unenforceable. The bill would provide legislative findings and declarations in support of these provisions.</p>	<p>Oppose</p>

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Bill ID/Topic	Location	Summary	Position
<p>SB 903 Nguyen R</p> <p>Transportation funds: loan repayment.</p>	<p>2/4/2016-S. T. & H. 2/4/2016-Referred to Com. on T. & H.</p>	<p>Existing law creates the Traffic Congestion Relief Fund, as a continuously appropriated fund, for the purpose of funding a list of transportation projects specified in statute. Existing law provided for the transfer of specified amounts from the General Fund to the Traffic Congestion Relief Fund, beginning in the 2000-01 fiscal year. Existing law also provided for the transfer of a portion of the sales tax on gasoline to the Transportation Investment Fund subsequent to voter approval on March 5, 2002, of Article XIX B of the California Constitution, which thereafter dedicated those sales tax revenues to specified transportation purposes. Existing law required a portion of the revenues in the Transportation Investment Fund to be transferred to the Traffic Congestion Relief Fund.</p> <p>This bill would acknowledge, as of June 30, 2015, \$879,000,000 in outstanding loans of certain transportation revenues, and would require this amount to be repaid from the General Fund by June 30, 2016, to the Traffic Congestion Relief Fund for allocation to the Traffic Congestion Relief Program, the Trade Corridors Improvement Fund, the Public Transportation Account, and the State Highway Account, as specified. The bill would thereby make an appropriation. This bill contains other related provisions and other existing laws.</p>	
<p>SB 944</p> <p>Committee on Transportation and Housing</p> <p>Housing omnibus.</p>	<p>5/31/2016-A. H. & C.D. 5/31/2016-From committee with author's amendments. Read second time and amended. Re-referred to Com. on H. & C.D.</p>	<p>Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law imposes specified requirements on home improvement contracts and service and repair contracts. Existing law makes it a misdemeanor for a person to engage in the business or act in the capacity of a contractor without a license and provides certain exemptions from that licensure requirement, including exemptions for owner-builders, as specified.</p> <p>This bill would provide an additional exemption for a nonprofit corporation providing assistance to an owner-builder who is participating in a mutual self-help housing program, as specified. This bill contains other related provisions and other existing laws.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>SB 1128 Glazer D</p> <p>Commuter benefit policies.</p>	<p>5/5/2016-A. TRANS. 6/6/2016-June 13 hearing postponed by committee.</p>	<p>Existing law authorizes the Metropolitan Transportation Commission and the Bay Area Air Quality Management District to jointly adopt a commuter benefit ordinance that requires covered employers operating within the common area of the 2 agencies with a specified number of covered employees to offer those employees certain commuter benefits through a pilot program. Existing law requires that the ordinance specify certain matters, including any consequences for noncompliance, and imposes a specified reporting requirement. Existing law makes these provisions inoperative on January 1, 2017.</p> <p>This bill would extend these provisions indefinitely, thereby establishing the pilot program permanently. The bill would also delete bicycle commuting as a pretax option under the program and instead would authorize a covered employer, at its discretion, to offer commuting by bicycling as an employer-paid benefit in addition to commuting via public transit or by vanpool. The bill would also delete the reporting requirement.</p>	<p>Support</p>
<p>SB 1383 Lara D</p> <p>Short-lived climate pollutants.</p>	<p>6/13/2016-A. NAT. RES. 6/13/2016-Referred to Com. on NAT. RES.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The state board is also required to complete a comprehensive strategy to reduce emissions of short-lived climate pollutants, as defined, in the state.</p> <p>This bill would require the state board, no later than January 1, 2018, to approve and begin implementing that comprehensive strategy to reduce emissions of short-lived climate pollutants to achieve a reduction in methane by 40%, hydrofluorocarbon gases by 40%, and anthropogenic black carbon by 50% below 2013 levels by 2030, as specified.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>SB 1398 Leyva D</p> <p>Public water systems: lead pipes.</p>	<p>6/13/2016-A. E.S. & T.M. 6/13/2016-Referred to Com. on E.S. & T.M.</p>	<p>Existing law requires public water systems to take specified actions to test for and remediate certain contaminants in drinking water, including lead and copper. Existing law prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except as specified.</p> <p>This bill would require a public water system to compile an inventory of lead pipes in use by July 1, 2018, and, after completing the inventory, to provide a timeline for replacement of lead pipes in the system to the State Water Resources Control Board.</p>	
<p>SB 1464 De León D</p> <p>California Global Warming Solutions Act of 2006: greenhouse gas emissions reduction.</p>	<p>6/6/2016-A. NAT. RES. 6/6/2016-Referred to Com. on NAT. RES.</p>	<p>The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.</p> <p>This bill would require, in identifying priority programmatic investments, that the investment plan assess how proposed investments interact with current state regulations, policies, and programs, and evaluate if and how the proposed investments could be incorporated into existing programs. The bill would also require the investment plan to recommend metrics that would measure progress and benefits from the proposed programmatic investments. This bill contains other existing laws.</p>	

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Bill ID/Topic	Location	Summary	Position
<p>SBX1 1 Beall D</p> <p>Transportation funding: environmental mitigation: oversight.</p>	<p>4/21/2016-S. APPR. 4/21/2016-From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.</p>	<p>Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain registration fees on vehicles, with revenues from these fees deposited in the Motor Vehicle Account and used to fund the Department of Motor Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.</p> <p>This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system and for other specified purposes. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.12 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill and \$0.10 of a \$0.22 per gallon increase in the diesel fuel excise tax imposed by the bill, an increase of \$35 in the annual vehicle registration fee, a new \$100 annual vehicle registration fee applicable to zero-emission motor vehicles, as defined, a new annual road access charge on each vehicle, as defined, of \$35, and repayment, by June 30, 2016, of outstanding loans made in previous years from certain transportation funds to the General Fund. The bill would provide that revenues from future adjustments in the applicable portion of the fuel tax rates, the annual vehicle registration fee increase, and the road access charge would also be deposited in the account. This bill contains other related provisions and other existing laws.</p>	
<p>SBX1 2 Huff R</p> <p>Greenhouse Gas Reduction Fund.</p>	<p>6/30/2015-S. T. & I.D. 9/1/2015-September 1 set for first hearing. Failed passage in committee. (Ayes 3. Noes 9. Page 56.) Reconsideration granted.</p>	<p>Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.</p> <p>This bill would exclude from allocation under these provisions the annual proceeds of the fund generated from the transportation fuels sector. The bill would instead provide that those annual proceeds shall be appropriated by the Legislature for transportation infrastructure, including public streets and highways, but excluding high-speed rail. This bill contains other existing laws.</p>	<p>Oppose</p>

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Bill ID/Topic	Location	Summary	Position
SBX1 4 Beall D Transportation funding.	9/24/2015-S. CONFERENCE COMMITTEE 9/24/2015-Senators Beall (Co-Chair), Allen, Leyva, Cannella and Gaines appointed to Conference Committee.	<p>Existing law requires the Department of Transportation to improve and maintain the state's highways, and establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state.</p> <p>This bill would declare the intent of the Legislature to enact statutory changes to establish permanent, sustainable sources of transportation funding to maintain and repair the state's highways, local roads, bridges, and other critical transportation infrastructure.</p>	
SBX1 5 Beall D Transportation funding.	9/1/2015-A. DESK 9/1/2015-In Assembly. Read first time. Held at Desk.	<p>Existing law establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state.</p> <p>This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to improve the state's key trade corridors and support efforts by local governments to repair and improve local transportation infrastructure.</p>	
SBX1 7 Allen D Diesel sales and use tax.	9/3/2015-S. APPR. 9/3/2015-Read second time and amended. Re-referred to Com. on APPR.	<p>Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to transferred to the Public Transportation Account. Existing law continuously appropriates these revenues to the Controller, for allocation by formula to transportation agencies for public transit purposes.</p> <p>This bill, as of July 1, 2016, would increase the additional sales and use tax rate on diesel fuel to 5.25%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. The bill would restrict expenditures of revenues from the July 1, 2016, increase in the sales and use tax on diesel fuel to transit capital purposes and certain transit services. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements. This bill contains other related provisions and other existing laws.</p>	Support

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Bill ID/Topic	Location	Summary	Position
<p>SBX1 8 Hill D</p> <p>Public transit: funding.</p>	<p>9/2/2015-S. APPR. 9/2/2015-From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0. Page 57.) (September 1). Re-referred to Com. on APPR.</p>	<p>Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund.</p> <p>This bill would instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program, and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation. This bill contains other existing laws.</p>	<p>Support</p>

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Bill ID/Topic	Location	Summary	Position
<p>SBX1 10 Bates R</p> <p>Regional transportation capital improvement funds.</p>	<p>7/16/2015-S. T. & I.D. 9/9/2015-September 8 hearing: Testimony taken. Hearing postponed by committee.</p>	<p>Existing law establishes the state transportation improvement program process, pursuant to which the California Transportation Commission generally programs and allocates available state and federal funds for transportation capital improvement projects, other than state highway rehabilitation and repair projects, over a multiyear period based on estimates of funds expected to be available. Existing law provides funding for these interregional and regional transportation capital improvement projects through the state transportation improvement program process, with 25% of funds available for interregional projects selected by the Department of Transportation through preparation of an interregional transportation improvement program and 75% for regional projects selected by transportation planning agencies through preparation of a regional transportation improvement program. Existing law requires funds available for regional projects to be programmed by the commission pursuant to the county shares formula, under which a certain amount of funding is available for programming in each county, based on population and miles of state highway. Existing law specifies the various types of projects that may be funded with the regional share of funds to include state highways, local roads, transit, and others.</p> <p>This bill would revise the process for programming and allocating the 75% share of state and federal funds available for regional transportation improvement projects. The bill would require the department to annually apportion, by the existing formula, the county share for each county to the applicable metropolitan planning organization, transportation planning agency, or county transportation commission, as a block grant. These transportation capital improvement funds, along with an appropriate amount of capital outlay support funds, would be appropriated annually through the annual Budget Act to regional transportation agencies. The bill would require the regional transportation agencies, in their regional transportation improvement programs, to identify the transportation capital improvement projects to be funded with these moneys, and would require the California Transportation Commission to incorporate the regional transportation improvement programs into the state transportation improvement program. The bill would eliminate the role of the California Transportation Commission in programming and allocating funds to these regional projects, but would retain certain oversight roles of the commission with respect to expenditure of the funds. The bill would repeal provisions governing computation of county shares over multiple years and make various other conforming changes.</p>	

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>SBX1 11 Berryhill R</p> <p>Environmental quality: transportation infrastructure.</p>	<p>9/4/2015-S. T. & I.D. 9/4/2015-From committee with author's amendments. Read second time and amended. Re-referred to Com. on T. & I.D.</p>	<p>The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA.</p> <p>This bill would exempt from these CEQA provisions a project that consists of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of existing transportation infrastructure if certain conditions are met, and would require the person undertaking these projects to take certain actions, including providing notice to an affected public agency of the project's exemption. Because a lead agency would be required to determine if a project qualifies for this exemption, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.</p>	
<p>SBX1 12 Runner R</p> <p>California Transportation Commission.</p>	<p>8/20/2015-S. APPR. 8/20/2015-Read second time and amended. Re-referred to Com. on APPR.</p>	<p>Existing law establishes in state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.</p> <p>This bill would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes. This bill contains other related provisions and other existing laws.</p>	

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>SBX1 13 Vidak R</p> <p>Office of the Transportation Inspector General.</p>	<p>9/3/2015-S. APPR. 9/3/2015-From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.</p>	<p>Existing law creates various state transportation agencies, including the Department of Transportation and the High-Speed Rail Authority, with specified powers and duties. Existing law provides for the allocation of state transportation funds to various transportation purposes.</p> <p>This bill would create the Office of the Transportation Inspector General in state government, as an independent office that would not be a subdivision of any other government entity, to build capacity for self-correction into the government itself and to ensure that all state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be removed from office during the term except for good cause. The bill would specify the duties and responsibilities of the Transportation Inspector General, would require an annual report to the Legislature and Governor, and would provide that funding for the office shall, to the extent possible, be from federal transportation funds, with other necessary funding to be made available from the State Highway Account and an account from which high-speed rail activities may be funded.</p>	
<p>SBX1 14 Cannella R</p> <p>Transportation projects: comprehensive development lease agreements.</p>	<p>7/16/2015-S. T. & I.D. 8/17/2015-August 19 set for first hearing canceled at the request of author.</p>	<p>Existing law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. These arrangements are commonly known as public-private partnerships. Existing law provides that a lease agreement may not be entered into under these provisions on or after January 1, 2017.</p> <p>This bill would extend this authorization indefinitely and would include within the definition of "regional transportation agency" the Santa Clara Valley Transportation Authority, thereby authorizing the authority to enter into public-private partnerships under these provisions. The bill would also delete obsolete cross-references and make technical changes to these provisions.</p>	

San Mateo County Transit District State Legislative Matrix 6/15/16

Bill ID/Topic	Location	Summary	Position
<p>SCA 5 Hancock D</p> <p>Local government finance.</p>	<p>4/12/2016-S. GOV. & F. 4/12/2016-From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.</p>	<p>The California Constitution provides that all property is taxable, unless exempted by the California Constitution or by federal law. The California Constitution authorizes the Legislature to classify personal property for differential taxation or for exemption by means of a statute approved by a 2/3 vote of the membership of each house.</p> <p>This measure would exempt from taxation for each taxpayer an amount up to \$500,000 of tangible personal property used for business purposes. This measure would prohibit the Legislature from lowering this exemption amount or from changing its application, but would authorize it to be increased consistent with the authority described above. This measure would provide that this provision shall become operative on January 1, 2019. This bill contains other related provisions and other existing laws.</p>	
<p>SCAX1 1 Huff R</p> <p>Motor vehicle fees and taxes: restriction on expenditures.</p>	<p>9/9/2015-S. APPR. 9/9/2015-From committee: Be adopted and re-refer to Com. on APPR. (Ayes 13. Noes 0. Page 72.) (September 8). Re-referred to Com. on APPR.</p>	<p>Article XIX of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes, and restricts the expenditure of revenues from fees and taxes imposed by the state upon vehicles or their use or operation to state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways, as well as to street and highway and certain mass transit purposes. These restrictions do not apply to revenues from taxes or fees imposed under the Sales and Use Tax Law or the Vehicle License Fee Law.</p> <p>This measure would prohibit the Legislature from borrowing revenues from fees and taxes imposed by the state on vehicles or their use or operation, and from using those revenues other than as specifically permitted by Article XIX. The measure would also prohibit those revenues from being pledged or used for the payment of principal and interest on bonds or other indebtedness. The measure would delete the provision that provides for use of any fuel tax revenues allocated to mass transit purposes to be pledged or used for payment of principal and interest on voter-approved bonds issued for those mass transit purposes, and would instead subject those expenditures to the existing 25% limitation applicable to the use of fuel tax revenues for street and highway bond purposes. O This bill contains other related provisions and other existing laws.</p>	



BOARD OF DIRECTORS 2016

ZOE KERSTEEN-TUCKER, CHAIR
ROSE GUILBAULT, VICE CHAIR
JEFF GEE
CAROLE GROOM
SHIRLEY HARRIS
KARYL MATSUMOTO
PETER RATTO
CHARLES STONE
ADRIENNE TISSIER

JIM HARTNETT
GENERAL MANAGER/CEO

AGENDA

PLANNING, DEVELOPMENT AND SUSTAINABILITY COMMITTEE COMMITTEE OF THE WHOLE

**San Mateo County Transit District
Bacciocco Auditorium - Second Floor
1250 San Carlos Ave., San Carlos, CA**

WEDNESDAY, JULY 6, 2016 – 2:45 p.m.

or immediately following previous Committee meeting

ACTION

1. Approval of Minutes of Planning, Development and Sustainability Committee Meeting of June 1, 2016

INFORMATIONAL

2. Metropolitan Transportation Commission Transit Sustainability Project Update

Committee Members: Adrienne Tissier, Jeff Gee, Rose Guilbault

NOTE:

- This Committee meeting may be attended by Board Members who do not sit on this Committee. In the event that a quorum of the entire Board is present, this Committee shall act as a Committee of the Whole. In either case, any item acted upon by the Committee or the Committee of the Whole will require consideration and action by the full Board of Directors as a prerequisite to its legal enactment.
- All items appearing on the agenda are subject to action by the Board. Staff recommendations are subject to change by the Board.

**SAN MATEO COUNTY TRANSIT DISTRICT (DISTRICT)
1250 SAN CARLOS AVENUE, SAN CARLOS, CALIFORNIA
MINUTES OF PLANNING, DEVELOPMENT AND SUSTAINABILITY
COMMITTEE MEETING
COMMITTEE OF THE WHOLE
JUNE 1, 2016**

Committee Members Present: A. Tissier (Committee Chair), J. Gee, R. Guilbault

Other Board Members Present, Constituting Committee of the Whole: J. Gee, C. Groom, R. Guilbault, S. Harris, C. Stone

Other Board Members Absent, Constituting Committee of the Whole: Z. Kersteen-Tucker

Staff Present: J. Averill, J. Cassman, A. Chan, B. Fitzpatrick, G. Harrington, J. Hartnett, C. Harvey, E. Kay, J. Lipps, M. Martinez, N. McKenna, L. Millard, S. Murphy, D. Olmeda, M. Senatore, M. Simon, S. van Hoften

Committee Chair Adrienne Tissier called the meeting to order at 3:23 p.m.

Approval of Minutes of Planning, Development and Sustainability Committee Meeting of May 4, 2016

Motion/Second: Stone/Harris

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Authorize Executing a Cooperative Agreement to Provide Right-of-Way Certification and Eminent Domain Services to Support Future Peninsula Corridor Joint Powers Board (JPB) Capital Projects

Brian Fitzpatrick, Manager, Real Estate and Development, said this is a need for District services as the JPB doesn't have the power to do eminent domain services. The District provided this service for the JPB for the San Bruno Caltrain Station project.

Motion/Second: Ratto/Stone

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Authorize Enrollment in the Peninsula Clean Energy Community Choice Energy Program

Michelle Senatore, Principal Planner, said Option 1 is a budget-neutral option that achieves higher renewable energy content and lower greenhouse gas emissions. This option supports the District's 2015-2019 Strategic Plan commitment to "provide public transportation in the most environmentally and economically sustainable manner possible." Ms. Senatore said staff will reassess this option in one year and report the findings to the Board.

Motion/Second: Groom/Stone

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Proclamation Declaring June 16, 2016 as National Dump the Pump Day

Jeremy Lipps, Social Media Officer, said the event is sponsored by the American Public Transportation Association as a day to get drivers out of their cars and on to public transit. Fares will be free on Routes 294 and ECR on June 16 and there will be energizer stations at Hillsdale Mall and Redwood City. There will be a bilingual, digital and traditional media campaign.

Motion/Second: Guilbault/Harris

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

Capital Projects Quarterly Status Report – 3rd Quarter Fiscal Year 2016

Ladi Millard, Director, Budgets, said this is an informational item.

Adjourned: 3:31 p.m.

**SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT**

TO: Planning, Development and Sustainability Committee

THROUGH: Jim Hartnett
General Manager/CEO

FROM: April Chan
Chief Officer, Planning, Grants and Transportation Authority

SUBJECT: **UPDATE: METROPOLITAN TRANSPORTATION COMMISSION TRANSIT
SUSTAINABILITY PROJECT**

ACTION

This report is for information only. No Board action is required.

SIGNIFICANCE

The Metropolitan Transportation Commission (MTC) adopted the Transit Sustainability Project (TSP) program on May 23, 2012, establishing performance measures and targets for the seven large San Francisco Bay Area transit operators: San Mateo County Transit District (District), Alameda-Contra Costa Transit District, Bay Area Rapid Transit District, Peninsula Corridor Joint Powers Board, Golden Gate Bridge, Highway & Transportation District, San Francisco Municipal Transportation Agency, and Santa Clara Valley Transportation Authority.

As part of the TSP program, the District is required to achieve a 5 percent real reduction by Fiscal Year (FY) 2017 for the one of the following performance measures: 1) cost per service hour, 2) cost per passenger, or 3) cost per passenger hour. The benchmarks for the reductions are the highest reported costs for each measure between FY2008 and FY2011. On an annual basis, the District is required to submit data to MTC on the progress of achieving its reduction targets. MTC will analyze the District's progress in meeting these targets in FY2018. By FY2019, MTC will link existing and new operating and capital funds administered by MTC to the progress that operators make towards these targets.

This year, the District is required to submit its metrics for FY2015. Staff will present this update at the July 6, 2016 meeting and discuss any updates to strategies designed to achieve the required reductions. The TSP is consistent with the District's adopted Strategic Plan, which calls for increasing productivity of its bus services.

BUDGET IMPACT

There is no impact on the budget.

BACKGROUND

MTC launched the TSP in January 2010 to address operating and capital shortfalls experienced by transit operators in the nine-county San Francisco Bay Area. The purpose of the TSP is to help improve transit performance and attract more customers to public transit. The TSP focuses on financial, service performance, and institutional frameworks of the transit agencies. The District is one of the participants in the TSP.

STRATEGIC INITIATIVES

- Priority 1: Expand Mobility Options
Goal 1: Increase weekday fixed-route ridership by 15 percent

- Priority 2: Strengthen Fiscal Health
Goal 1: Increase fixed-route farebox revenue by 20 percent

Prepared By: Douglas Kim, Director

650-508-6278



ZOE KERSTEEN-TUCKER, CHAIR
ROSE GUILBAULT, VICE CHAIR
JEFF GEE
CAROLE GROOM
SHIRLEY HARRIS
KARYL MATSUMOTO
PETER RATTO
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ADRIENNE TISSIER

JIM HARTNETT
GENERAL MANAGER/CEO

BOARD OF DIRECTORS

**San Mateo County Transit District
Bacciocco Auditorium - Second Floor
1250 San Carlos Ave., San Carlos, CA**

WEDNESDAY, JULY 6, 2016 – 3:00 p.m.
or immediately following Committee meetings

1. ROLL CALL

2. CONSENT CALENDAR

MOTION

- a. Approval of Minutes of Board of Directors Meeting of June 1, 2016
- b. Acceptance of Statement of Revenues and Expenses for May 2016
- c. Executed Contracts Up to \$100,000 (Non-Contracts and Procurement) Quarterly Report

3. PUBLIC COMMENT

Public comment by each individual speaker shall be limited to one minute

4. REPORT OF THE CHAIR

5. REPORT OF THE GENERAL MANAGER/CEO

- a. Strategic Initiatives Update

6. COMMUNITY RELATIONS COMMITTEE – J. GEE

- a. Accessibility Update
- b. Paratransit Coordinating Council Update
- c. Citizens Advisory Committee Liaison Report
- d. Mobility Management Report - Caltrain
- e. Multimodal Ridership Report – May 2016

7. FINANCE COMMITTEE – C. STONE

RESOLUTIONS

- a. Authorize Adoption of Revised Disadvantaged Business Enterprise Program
- b. Award of Contract to Carl Warren and Company for Public Liability Claims Administration for a Total Estimated Amount of \$1,968,601 for a Five-Year Term

Note: All items appearing on the agenda are subject to action by the Board. Staff recommendations are subject to change by the Board.

MOTION

- c. Rejection of All Bids for the Provision of California Air Resources Board Ultra Low Sulfur Diesel Fuel and Fueling Services

8. LEGISLATIVE COMMITTEE – P. RATTO

SUBJECTS DISCUSSED

- a. State and Federal Legislative Update

9. PLANNING, DEVELOPMENT AND SUSTAINABILITY – A. TISSIER

SUBJECT DISCUSSED

- a. Metropolitan Transportation Commission Transit Sustainability Project Update

10. WRITTEN COMMUNICATIONS TO THE BOARD OF DIRECTORS

11. BOARD MEMBER REQUESTS/COMMENTS

12. GENERAL COUNSEL PROPOSAL

13. DATE, TIME AND PLACE OF NEXT REGULAR MEETING – August 3, 2016 at 2 p.m.,
San Mateo County Transit District, Bacciocco Auditorium, 2nd Floor,
1250 Carlos Ave., San Carlos 94070

14. ADJOURNMENT

INFORMATION FOR THE PUBLIC

If you have questions on the agenda, please contact the District Secretary at 650-508-6242. Agendas are available on the SamTrans Website at www.samtrans.com.

The San Mateo County Transit District Board and Citizens Advisory Committee (CAC) meeting schedules are available on the Web site. Communications to the Board of Directors can be e-mailed to board@samtrans.com.

Date and Time of Board and Advisory Committee Meetings

San Mateo County Transit District Committees and Board: First Wednesday of the month, 2 p.m.; SamTrans Citizens Advisory Committee: Last Wednesday of the month, 6:30 p.m. Date, time and location of meetings may be change as necessary.

Location of Meeting

The San Mateo County Transit District Administrative Building is located at 1250 San Carlos Avenue, San Carlos, one block west of the San Carlos Caltrain Station on El Camino Real, accessible by SamTrans bus Routes ECR, FLX, 260, 295 and 398. [Map link](#) Additional transit information can be obtained by calling 1-800-660-4287 or 511.

Public Comment

- If you wish to address the Board, please fill out a speaker's card located on the agenda table. If you have anything that you wish distributed to the Board and included for the official record, please hand it to the District Secretary, who will distribute the information to the Board members and staff.
- Members of the public may address the Board on non-agendized items under the Public Comment item on the agenda. Public testimony by each individual speaker shall be limited to one minute and items raised that require a response will be deferred for staff reply.

Accessibility for Individuals with Disabilities

Upon request, the Transit District will provide for written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number and brief description of the requested materials and a preferred alternative format or auxiliary aid or service at least two days before the meeting. Requests should be mailed to the District Secretary at San Mateo County Transit District, 1250 San Carlos Avenue, San Carlos, CA 94070-1306; or emailed to board@samtrans.com; or by phone at 650-508-6242, or TTY 650-508-6448.

Availability of Public Records

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at 1250 San Carlos Avenue, San Carlos, CA 94070-1306, at the same time that the public records are distributed or made available to the legislative body.

Note: All items appearing on the agenda are subject to action by the Board. Staff recommendations are subject to change by the Board.

**SAN MATEO COUNTY TRANSIT DISTRICT (DISTRICT)
1250 SAN CARLOS AVENUE, SAN CARLOS, CALIFORNIA**

**MINUTES OF BOARD OF DIRECTORS MEETING
JUNE 1, 2016**

Board Members Present: J. Gee, C. Groom, R. Guilbault, S. Harris, K. Matsumoto, P. Ratto, C. Stone, A. Tissier

Board Members Absent: Z. Kersteen-Tucker (Chair)

Staff Present: J. Averill, B. Carson, J. Cassman, A. Chan, P. Glenn, G. Harrington, J. Hartnett, C. Harvey, E. Kay, D. Kim, M. Martinez, N. McKenna, S. Murphy, D. Olmeda, M. Simon, S. van Hoften

Vice Chair Rose Guilbault called the meeting to order at 2:04 p.m.

PUBLIC HEARING TO CONSIDER ELIMINATION OF FLX SAN CARLOS ROUTE

Martha Martinez, Executive Officer, District Secretary/Executive Administration, reported on the steps taken to announce and receive public comment after the Board called for the public hearing at the May 4 meeting.

Ms. Martinez said a public meeting was held on May 25 in San Carlos with eight attendees. Since the release of the proposed elimination one comment has been received.

Doug Kim, Director, Planning, reported:

- San Carlos FLX Route was launched in January 2014 as a fixed-route between 6:50 a.m.–10:15 a.m. and 3:15 p.m.–7:15 p.m. The route was on-demand service between 10:15 a.m.–3:15 p.m.
- The route has had low performance at 1.7 passengers per hour at a cost of \$98 per passenger.
- Environmental Clearance
 - California Environmental Quality Act (CEQA) requires SamTrans to evaluate environmental impacts
 - No significant impacts under State Law
- Title VI Equity Analysis
 - No adverse disparate and disproportionate effects
- Public Input:
 - Public Hearing
 - Posted information on SamTrans website
 - Accepted mail, email, phone
 - Public meeting with eight attendees
 - No major comments
- Received a comment from a FLX San Carlos Route user and staff feels there are other options for this rider.
- A new service will be launched in San Carlos on August 7.

Public Comment

Dee Dee Clarke, San Carlos, said she is in favor of the elimination and ask staff to reinstate the route that goes to Sequoia High School along Alameda de las Pulgas. She said the route that goes to Charter School is very crowded.

Dawn Brozek, San Carlos Parent Teachers Association (PTA) Transportation Committee, said the PTA is thankful for Route 95 and new Route 46. The PTA agrees to eliminate the service, but is concerned about the lack of service along Alameda de las Pulgas and would like Route 295 operated into Redwood City as it did prior to the FLX San Carlos Route.

Close public hearing:

Motion/Second: Stone/Tissier

Ayes: Gee, Groom, Guilbault, Harris, Matsumoto, Ratto, Stone, Tissier

Absent: Kersteen-Tucker

AUTHORIZE THE ELIMINATION OF FLX SAN CARLOS ROUTE EFFECTIVE AUGUST 5, 2016, APPROVAL OF TITLE VI EQUITY ANALYSIS, AND APPROVAL TO FILE A NOTICE OF EXEMPTION UNDER CEQA

Director Adrienne Tissier said the Board doesn't like to eliminate routes, but with the high cost to operate this route this recommendation makes sense. She is happy to see staff working on finding alternatives or new routes for these passengers.

Motion/Second: Tisser/Ratto

Ayes: Gee, Groom, Harris, Matsumoto, Ratto, Stone, Tissier, Guilbault

Absent: Kersteen-Tucker

Adjourn to committee meetings at 2:24 p.m.

Reconvene from committee meetings at 3:31 p.m.

CONSENT CALENDAR

- a. Approval of Minutes of Board of Directors Meeting of May 4, 2016
- b. Acceptance of Statement of Revenues and Expenses for April 2016

Motion/Second: Harris/Stone

Ayes: Gee, Groom, Harris, Matsumoto, Ratto, Stone, Tissier, Guilbault

Absent: Kersteen-Tucker

PUBLIC COMMENT

Michael Rodriguez, San Carlos, said he took the FLX San Carlos Route today and with the increase in traffic and this being an affluent county he doesn't understand why funding can't be found to operate this service.

REPORT OF CHAIR

No report.

REPORT OF THE GENERAL MANAGER/CEO – J. Hartnett

Strategic Initiative

- Staff will be bringing back a formal Strategic Plan progress report at the September and March meetings.
- One of the goals in the Strategic Plan is to increase youth ridership. The marketing staff is doing a Summer Youth Pass (SYP) campaign to reach out to more youth riders by offering online sales of the SYP. The SYP is \$40 for a three-month pass. A mobile ticketing application will be beta tested in early 2017. The SYP commercial was shown.

Jim Hartnett, General Manager/CEO, reported:

- Staff will have a booth at the San Mateo County Fair on Senior Day and Youth Day.
- Two more veterans were trained for Veterans Mobility Corps.
- Fixed-route service averaged over 29,000 miles between service calls in April and paratransit averaged over 45,000 miles between service calls.
- Over 2,300 hours of training was conducted in April.
- Runbook 120 goes into effect June 12.
- Staff has met with school officials and city officials in Half Moon Bay to finalize route changes for safety reasons so students don't have to cross Main Street. These changes will be effective with the August runbook.
- Weekend service was increased for Route 294 and there was an initial 78 percent increase in ridership. There was a bit of dip in March, but April increased 60 percent.

COMMUNITY RELATIONS COMMITTEE – J. Gee

SUBJECTS DISCUSSED

- a. Accessibility Update
- b. Paratransit Coordinating Council
- c. Citizens Advisory Committee Liaison Report
- d. Mobility Management Report - Shuttles
- e. Multimodal Ridership Report - April 2016

FINANCE COMMITTEE – C. Stone

ORDINANCE

- a. Approval of Salary Ordinance No. 99

RESOLUTIONS

- b. Approval of Fiscal Year (FY) 2017 Operating Budget in the Amount of \$145,054,100
- c. Approval of FY2017 Capital Budget in the Amount of \$16,327,874
- d. Authorize Reduction of Employer Paid Member Contributions to the California Employees Retirement System (Classic Members) Effective June 26, 2016
- e. Approval of Proposed Disadvantaged Business Enterprise Goal of 0 Percent for Federal FY2017 Through FY2019 for Federal Transit Administration-Assisted Contracts

- f. Authorize Executing Contracts Over \$100,000 for Technology Related Products and Services to Vendors Under Cooperative Purchasing Agreements for FY2017 for an Aggregate Not-to-Exceed Amount of \$1.5 Million
- g. Authorize Executing Contracts Over \$100,000 for Information Technology License Renewals, Maintenance Services and Professional Services for FY2017 for an Aggregate Not-to-Exceed Amount of \$850,000
- h. Rejection of All Bids for Electrical Maintenance Services

Motion/Second: Stone/Ratto

Ayes: Gee, Groom, Harris, Matsumoto, Ratto, Stone, Tissier, Guilbault

Absent: Kersteen-Tucker

LEGISLATIVE COMMITTEE – P. Ratto

SUBJECT DISCUSSED

- a. State and Federal Legislative Update

PLANNING, DEVELOPMENT AND SUSTAINABILITY COMMITTEE – A. Tissier

RESOLUTIONS

- a. Authorize Executing a Cooperative Agreement to Provide Right-of-Way Certification and Eminent Domain Services to Support Future Peninsula Corridor Joint Powers Board Capital Projects
- b. Authorize Enrollment in the Peninsula Clean Energy Community Choice Energy Program
- c. Proclamation Declaring June 16, 2016 as National Dump the Pump Day

Motion/Second: Tissier/Groom

Ayes: Gee, Groom, Harris, Matsumoto, Ratto, Stone, Tissier, Guilbault

Absent: Kersteen-Tucker

SUBJECT DISCUSSED

- d. Capital Projects Quarterly Status Report – 3rd Quarter Fiscal Year 2016

WRITTEN COMMUNICATIONS

No discussion.

BOARD MEMBER REQUESTS/COMMENTS

None

DATE AND TIME OF NEXT REGULAR MEETING – July 6, 2016, at 2 p.m., San Mateo County Transit District, Administrative Building, 1250 San Carlos Avenue, San Carlos, CA 94070.

Recessed to closed session at 3:48 p.m.

Reconvened to open session at 4:00 p.m.

GENERAL COUNSEL PROPOSAL

- a. Closed Session: Conference with Labor Negotiator – Pursuant to Government Code Section 54957.6
Agency Designated Representative: Pat Glenn and Bill Carson
Employee Organization: Teamsters Union, Local 856 (Maintenance Supervisors)

Joan Cassman, Legal Counsel, said the Board approved the labor agreement with the Teamsters Local 845 representing the maintenance supervisors effective immediately through September 2017.

The meeting adjourned at 4:03 p.m.

**SAN MATEO COUNTY TRANSIT DISTRICT
STAFF REPORT**

TO: Board of Directors

THROUGH: Jim Hartnett
General Manager/CEO

FROM: Martha Martinez
Executive Officer,
District Secretary/Executive Administration

SUBJECT: **EXECUTED CONTRACTS UP TO \$100,000 (NON-C&P) QUARTERLY REPORT**

ACTION

This report is for information only.

SIGNIFICANCE

The attached provides a quarterly update on contracts valued up to \$100,000 delegated by the San Mateo County Transit District Board of Directors (Board) to the General Manager/CEO or his designee. This delegation of authority applies to grant agreements, funding agreements, memoranda of understanding, interagency agreements and cooperative agreements.

BUDGET IMPACT

There is no impact to the budget.

BACKGROUND

On March 2, 2016, the Board delegated authority to the General Manager/CEO or his designee to execute contracts and related amendments with values up to a total of \$100,000 per contract, including any amendments (Resolution No. 2016-12). The Board directed the General Manager/CEO or his designee to report any and all contracts entered into by this authority on a quarterly basis as an informational item on the Board agenda.

Prepared By: Martha Martinez

650-508-6242

San Mateo County Transit District

2016

Executed Contracts by General Manager/CEO

DATE ENTERED INTO	CONTRACT NAME/DESCRIPTION	PARTIES TO CONTRACT	AMOUNT
1st Quarter (Adopted March 3, 2016)			
None			
2nd Quarter April - June 2016			
06/09/16	Shuttle Support Services - paid by SSF	City of South San Francisco	\$ 8,000.00
06/20/16	Short Range Transit Plan - paid by MTC	Metropolitan Transportation Commission	\$ 42,857.00
06/21/16	License Agreement for Use of Facilities or Open Campus - 40th Anniversary	San Mateo County Event Center	\$ 6,448.00