

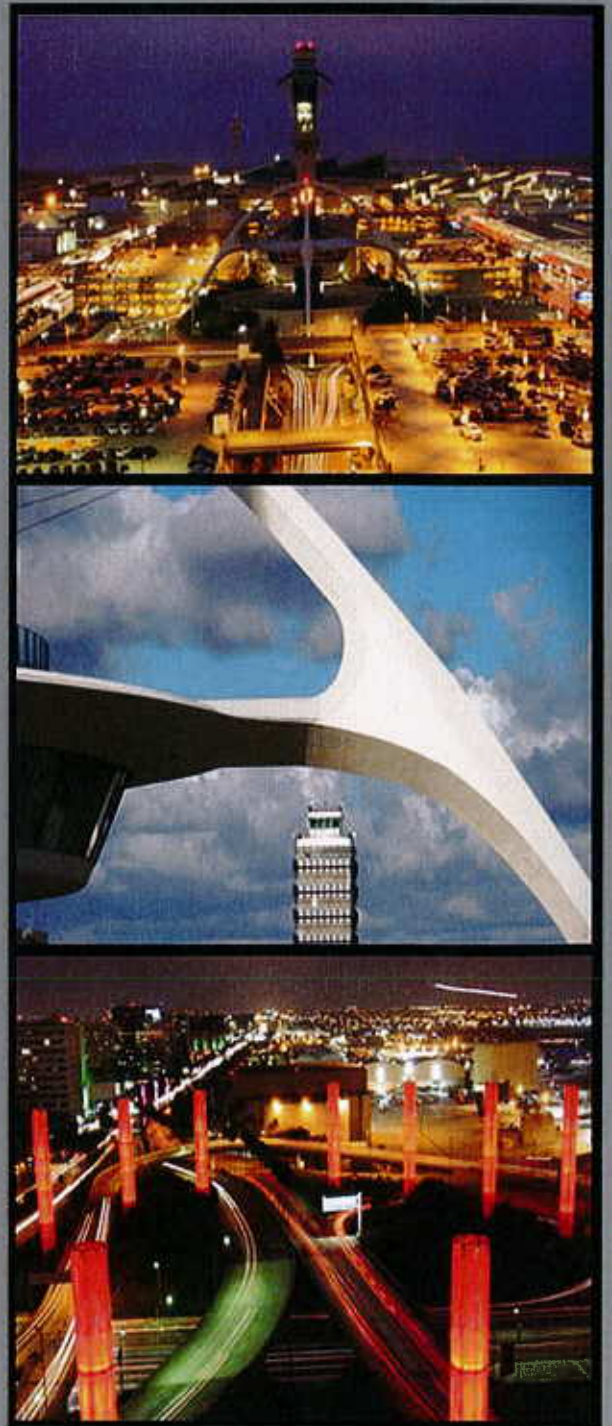


*Los Angeles World Airports*

# DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

Updated January 1, 2014

City of Los Angeles  
Los Angeles World Airports  
Procurement Services Division  
7301 World Way West, 4th Floor  
Los Angeles, CA 90045  
[www.lawa.org](http://www.lawa.org)



**Los Angeles World Airports  
Disadvantaged Business Enterprise (DBE) Program**

**TABLE OF CONTENTS**

---

	<b>Page Number</b>
Policy Statement	1
 <b>SUBPART A – GENERAL REQUIREMENTS</b>	
Section 26.1 Objectives	2
Section 26.3 Applicability	2
Section 26.5 Definitions	2
Section 26.7 Non-discrimination Requirements	2
Section 26.11 Record Keeping Requirements	2
Section 26.13 Federal Financial Assistance Agreement	3
 <b>SUBPART B – ADMINISTRATIVE REQUIREMENTS</b>	
Section 26.21 DBE Program Updates	3
Section 26.23 Policy Statement	3
Section 26.25 DBE Liaison Officer (DBELO)	4
Section 26.27 DBE Financial Institutions	4
Section 26.29 Prompt Payment Mechanisms	5
Section 26.31 Directory	5
Section 26.33 Over-concentration	5
Section 26.35 Business Development Programs	5
Section 26.37 Monitoring and Enforcement Mechanisms	5
Section 26.39 Fostering Small Business Participation	6
 <b>SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING</b>	
Section 26.43 Set-asides or Quotas	6
Section 26.45 Overall Goals	6
Section 26.47 Failure to Meet Overall Goals	8
Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation	8
Section 26.51(d-g) Contract Goals	8

	<b>Page Number</b>
Section 26.53 Good Faith Efforts Procedures	9
Section 26.55 Counting DBE Participation	11
 <b>SUBPART D – CERTIFICATION STANDARDS</b>	
Section 26.61 – 26.73 Certification Process	11
 <b>SUBPART E – CERTIFICATION PROCEDURES</b>	
Section 26.81 Unified Certification Programs	11
Section 26.83 Procedures for Certification Decisions	11
Section 26.85 Interstate Certification	13
Section 26.86 Denials of Initial Requests for Certification	13
Section 26.87 Removal of a DBE's Eligibility	13
Section 26.89 Certification Appeals	13
 <b>SUBPART F – COMPLIANCE AND ENFORCEMENT</b>	
Section 26.109 Information, Confidentiality, Cooperation	14



## **POLICY STATEMENT**

### **Section 26.1, 26.23 Objectives/Policy Statement**

The Los Angeles World Airports of the City of Los Angeles, herein referred to as LAWA, has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. LAWA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, LAWA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of LAWA to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our 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 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 assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Director of Procurement Services Division has been delegated as the DBE Liaison Officer. In that capacity, the DBE Liaison Officer is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by LAWA in its financial assistance agreements with the Department of Transportation.

This policy statement will be available for public access on LAWA's website ([www.lawa.org](http://www.lawa.org)). The link to the LAWA website will also be listed on all solicitation documents qualified for DOT assistance during the DOT Fiscal Years 2014-2017.

---

Gina Marie Lindsey, Executive Director

---

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**

LAWA is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

LAWA will use terms in this program that have the meanings defined in Section 26.5.

### **Section 26.7 Non-discrimination Requirements**

LAWA 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, LAWA 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**

LAWA will continue to provide data about your DBE Program to the Department as directed by DOT operating administrations.

LAWA will report DBE participation to DOT/FAA as follows:

LAWA will transmit to FAA annually on December 1, the "Uniform Report of DBE Awards or Commitments and Payments" form, found in Appendix B to this part. LAWA will also report the DBE Contractor firms contact information either on the FAA DBE Contractor's Form or other similar format.

#### **Bidders List: 26.11(c)**

LAWA maintains an electronic bidders list through the Los Angeles Business Assistance Virtual Network ([www.labavn.org](http://www.labavn.org)). The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on LAWA's DOT-assisted contracts. The bidders list will include the name, address, DBE and non-DBE status, and the NAICS codes of firms.



## **Section 26.13 Federal Financial Assistance Agreement**

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

Assurance: 26.13(a) Each financial assistance agreement LAWA signs with a DOT operating administration (or a primary recipient) must include the following assurance:

LAWA 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. LAWA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. LAWA'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 LAWA of its failure to carry out its approved program, the Department may impose sanctions 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).

### Contract Assurance: 26.13b

LAWA will ensure the following clause is included in all solicitations qualified for DOT assistance and is incorporated as part of the contract:

The contractor 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 materials breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

When LAWA receives grant(s) for airport planning or development totaling \$250,000 in a Federal fiscal year, LAWA will continue to carry out this DBE Program until all funds from DOT financial assistance have been expended. LAWA will provide to DOT updates representing significant changes in the program for approval.

LAWA is not eligible to receive DOT financial assistance unless DOT approves LAWA's DBE Program and deems it in compliance.

### **Section 26.23 Policy Statement**

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



## **Section 26.25 DBE Liaison Officer (DBELO)**

LAWA has designated the following individual as our DBE Liaison Officer:

Karen Tozer, Director  
Procurement Services Division  
Los Angeles World Airports  
7301 World Way West, 4th Floor  
Tel: 424-646-5380  
Fax: 424-646-9274  
Email: [ktozer@lawa.org](mailto:ktozer@lawa.org)

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

The DBELO or her designee is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. 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 and monitors results.
6. Analyzes LAWA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Board of Airport Commissioners on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Determines contractor compliance with good faith effort.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Acts as liaison to the Uniform Certification Process in the State of California.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains LAWA's updated directory on certified DBEs.

## **Section 26.27 DBE Financial Institutions**

It is the policy of LAWA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.



In an effort to identify and use such institutions, using the State of California, Department of General Services online directory, LAWA did not find any DBE financial institutions in the Los Angeles and Orange County area. The following NAICS Codes were used: 522110 (Commercial Banking), 522130 (Credit Unions), 521110 (Monetary Authorities – Central Banks) and 522291 (Consumer Lending).

The DBELO of LAWA will investigate financial institutions established within the community which are owned by socially and economically disadvantaged individuals annually. When a financial institution owned and operated by socially and economically disadvantaged individuals is opened during the period of this approved program, the DBELO will recommend their services to LAWA's Comptroller Group and provide notification to prime contractors with solicitation documents.

### **Section 26.29 Prompt Payment Mechanisms**

LAWA will establish, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors promptly for satisfactory performance of their contracts.

### **Section 26.31 Directory**

The LAWA uses the State of California DBE directory, maintained by the State. 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. In addition, the directory lists 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.

The State of California revises the Directory daily. LAWA makes the Directory available by listing the website address on solicitation packages for interested persons. The Directory may be found at <http://californiaucp.org/>

### **Section 26.33 Over-concentration**

LAWA has not identified that over-concentration exists in the types of work that DBEs perform.

### **Section 26.35 Business Development Programs**

The Business and Job Resources Center (BJRC) of LAWA links businesses, jobs and educational opportunities with those who live in our neighboring communities. BJRC performs business outreach and bond assistance, and provides internships, job training, and employee recruitment services. BJRC's broad base of business resources is further enhanced by its active participation in and collaboration with professional associations, industry organizations, chambers of commerce and the Los Angeles Mayor's Office of Economic Development.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

LAWA has taken the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. LAWA 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 26.107.

2. LAWA has implemented similar action under our own legal authorities, including responsibility determinations in future contracts.
3. LAWA has implemented a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. LAWA has implemented a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records and monitored work sites for this purpose. A copy of Certification Process for Contract Review and Monitoring is found in Attachment 10 to this statement.
5. LAWA has implemented a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT Uniform Reporting Form.

**Section 26.39 Fostering Small Business Participation**

LAWA has created a Small Business Program 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.

LAWA’s Small Business Program is incorporated as Attachment 9 to this DBE Program. We will actively implement the program elements to foster small business participation; doing so is a requirement of good faith implementation of our DBE program.

**SUBPART C – GOALS, GOOD FAITH EFFORT, AND COUNTING**

**Section 26.43 Set-asides or Quotas**

LAWA does not use quotas in any way in the administration of this DBE program.

**Section 26.45 Overall Goals**

LAWA will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding FAA-funded prime contracts exceeding \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f), LAWA will submit its Overall Three-year DBE Goal to FAA by August 1 as required by the established schedule below.

Airport Type	Region	Date Due (Goal Period)	Next Goal Due (Goal Period)
Large & Medium Hub Primary	All Regions	August 1, 2013 (2014/2015/2016)	August 1, 2016 (2017/2018/2019)
Small Hub Primary	All Regions	August 1, 2014 (2015/2016/2017)	August 1, 2017 (2018/2019/2020)



<b>Non-Hub Primary</b>	<b>All Regions</b>	<b>August 1, 2015 (2016/2017/2018)</b>	<b>August 1, 2018 (2019/2020/2021)</b>
<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>Alaskan, Eastern, &amp; Great Lakes</b>	<b>August 1, 2013 (2014/2015/2016)</b>	<b>August 1, 2016 (2017/2018/2019)</b>
<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>New England, Northwest Mountain, &amp; Southern</b>	<b>August 1, 2014 (2015/2016/2017)</b>	<b>August 1, 2017 (2018/2019/2020)</b>
<b>Non-Primary (GAs, Relievers and State DOTs)</b>	<b>Central, Southwest, and Western-Pacific</b>	<b>August 1, 2015 (2016/2017/2018)</b>	<b>August 1, 2018 (2019/2020/2021)</b>

DBE goals will be established for those fiscal years we anticipate awarding DOT-assisted prime contracts exceeding \$250,000 during the three-year period. The DBE goals will be established in accordance with the two-step process as specified in 49 CFR Part 26.45. If LAWA does not anticipate awarding more than \$250,000 in DOT-assisted prime contracts during any of the years within the three-year reporting period, LAWA will not develop an overall goal; however, this DBE Program will remain in effect, and LAWA will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

The first step is to determine the relative availability of DBEs in the market area, “base figure”. The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

In establishing the overall goal, LAWA will consult with minority, women’s and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and LAWA’s efforts to establish a level playing field for the participation of DBEs.

Following this consultation, LAWA will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at LAWA Procurement Services Division for 30 days following the date of the notice, and informing the public that LAWA and DOT/FAA will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority-focus media and trade publications, and websites. Normally, LAWA will issue this notice by June 1 of the reporting period of the goal. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our Overall Three-Year DBE Goal submission to DOT/FAA will include a summary of information and comments received, if any, during this public participation process and our responses.

LAWA will begin using our overall goal on October 1 of the reporting period, unless LAWA receives other instructions from DOT. If LAWA establishes a goal on a project basis, it will begin using the goal for the first solicitation of a DOT-assisted contract.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program.



### **Section 26.47 Failure to Meet Overall Goals.**

LAWA will maintain an approved DBE Program and overall DBE goal, if applicable, as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If LAWA awards and commitments shown on the 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, LAWA will do the following in order to be regarded by the Department as implementing our DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems LAWA has identified in the analysis and to enable LAWA to meet the goal for the new fiscal year;
- (3) LAWA will 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 FAA for approval

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

For the past five (5) years, LAX has not achieved its aspirational goals through race-neutral measures. In consideration of this fact and the findings in Metro's and Caltrans' disparity studies, LAX is implementing race-conscious measures starting January 2014. LAWA estimates that DBE participation will be comprised of 100% race-conscious measures. The breakout of the estimated race and gender-conscious participation goal can be found in Attachment 4 to this program.

### **Section 26.51(d-g) Contract Goals**

LAWA will arrange 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.

During the course of any year in which LAWA determines that it will exceed the overall goal, LAWA will 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 LAWA determines that it will fall short of the overall goal, it will make appropriate modifications in the use of race-conscious measures to meet the overall goal.

LAWA will establish contract goals only on those DOT-assisted contracts that have subcontracting opportunities. LAWA needs not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

LAWA will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.





## **Section 26.53 Good Faith Effort Procedures**

### Demonstration of good faith effort (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith effort. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith effort. Examples of good faith effort are found in Appendix A to Part 26.

LAWA is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith effort to be regarded as Responsive.

LAWA will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith effort before LAWA commits to the performance of the contract by the bidder/offeror.

### Information to be submitted (26.53(b))

LAWA treats bidder/offers' compliance with good faith effort's requirements as a matter of responsiveness in all instances where a contract goal has been established (all bidders will submit the DBE information at the time of bid). Each solicitation for which a contract goal has been established will require all bidders/offerors to submit the following information at the time of bid:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
5. If the contract goal is not met, evidence of good faith effort.

### Administrative reconsideration (26.53(d))

Within three business days of being informed by LAWA that it is not responsive because it has not documented sufficient good faith effort, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Karen Tozer, Director  
Procurement Services Division  
Los Angeles World Airports  
7301 World Way West, 4th Floor  
Tel: 424-646-5380  
Fax: 424-646-9274  
Email: [ktozer@lawa.org](mailto:ktozer@lawa.org)

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith effort to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith effort to do. LAWA will 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 effort to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Effort when a DBE is replaced on a contract (26.53(f))

LAWA will require a contractor to make good faith effort to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. LAWA will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, LAWA will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith effort.

LAWA will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards, provided however, 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;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) We have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that we have determined compels the termination of the DBE subcontractor, provided that if the prime contractor does not terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work.

Before transmitting to LAWA 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 us, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE subcontractor five (5) business days to respond to the prime contractor's notice and advise LAWA and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why LAWA should not approve the



prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), LAWA may provide a response period shorter than five business days.

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 offerors in negotiated procurements. If the contractor fails or refuses to comply in the time specified, LAWA will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, LAWA may issue a termination for default proceeding.

### **Section 26.55 Counting DBE Participation**

LAWA will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. LAWA will not count the participation of a DBE subcontract 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.

## **SUBPART D – CERTIFICATION STANDARDS**

### **Section 26.61–26.73 Certification Process**

LAWA 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. LAWA 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:

City of Los Angeles  
Bureau of Contract Administration  
Office of Contract Compliance  
Centralized Certification Administration  
1149 S. Broadway, Suite 300  
Los Angeles, CA 90015  
Tel: 213-847-2684  
Website: <http://bca.lacity.org>

LAWA's certification application forms and documentation requirements are available on the City of Los Angeles, Office of Contract Compliance's website: <http://bca.lacity.org>.

## **SUBPART E – CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

LAWA is a member of a Unified Certification Program (UCP) administered by the State of California. The UCP will meet all of the requirements of this section.

### **Section 26.83 Procedures for Certification Decisions**

#### **"No Change" Affidavits and Notices of Change (26.83(j))**



The UCP requires all DBE owners to inform LAWA, 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 [Recipient's] application for certification.

The UCP also requires all DBE owners we have certified to submit every year, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I/we, «FirstName» «LastName», declare that there have been no changes in «DBE Company Name» circumstances affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26 and 13 CFR Part 121. I/we further declare there have been no material changes in the information provided with «DBE Company name» application for certification, except for any changes about which I/we have provided written notice to «Agency» pursuant to 49 CFR § 26.83(i).

I/we declare that I am (or we are) socially disadvantaged because I/we have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my/our identity as member(s) of one or more of the groups identified in 49 CFR § 26.5, without regard to my/our individual qualities. I/we further declare that my/our personal net worth does not exceed \$1,320,000.00, and that I am (or we are) economically disadvantaged because my/our 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.

In addition, I/we specifically declare that «DBE Company name» continues to meet the Small Business Administration (SBA) business size criteria and the overall gross receipts cap of 49 CFR Part 26. I/we specifically declare that «DBE Company name»'s average annual gross receipts (as defined by SBA rules) over the previous three fiscal years do not exceed the SBA size standard pursuant to 49 CFR § 26.65(b). I/we provide the attached size and gross receipts documentation to support this declaration.

I/we declare under penalty of perjury that the foregoing is true and correct.<sup>1</sup>

<sup>1</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment or both. All owners claiming social and economic disadvantaged status must sign this declaration.



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

The UCP will notify all currently certified DBE firms of these obligations. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm 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**

When a firm currently certified in its home state ("State A") applies to another State ("State B") for DBE certification, State B may choose not to accept State A's certification as provided in Section 26.85 (b). The UCP follows the procedures defined in Section 26.85 (c)(1) through (4).

### **Section 26.86 Denials of Initial Requests for Certification**

If LAWA denies a firm's application or decertifies it, the firm may not reapply until 12 months have passed from our action.

### **Section 26.87 Removal of a DBE's Eligibility**

In the event LAWA proposes to remove a DBE's certification, LAWA will follow procedures consistent with Section 26.87. Attachment 8 to this program sets forth these procedures in detail. To ensure separation of functions in a de-certification, the UCP have determined that Hannah Choi, Program Manager, Bureau of Contract Administration, will serve as the decision-maker in de-certification proceedings for City of Los Angeles/LAWA. The UCP have established an administrative "firewall" to ensure that Hannah Choi will not have participated in any way in the de-certification proceeding against the firm (including the decision to initiate such a proceeding).

### **Section 26.89 Certification Appeals**

Any firm or complainant may appeal our 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 Program Division (S-33)  
1200 New Jersey Ave., S.E.  
Washington, DC 20590  
Phone: 202-366-4754  
TTY: 202-366-9696  
Fax: 202-366-5575

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





## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

LAWA will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with provisions of the Federal Freedom of Information and Privacy Act (5 U.S.C. Section 552). LAWA may make available to the public any information concerning the DBE program, provided release is not prohibited by Federal law.

Notwithstanding any provision of Federal or state law, LAWA will 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, LAWA 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.

#### **Monitoring Payments to DBEs**

LAWA 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 LAWA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

LAWA will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.



## **ATTACHMENTS**

- Attachment 1 Website link for Regulations: 49 CFR Part 26
- Attachment 2 Organizational Chart
- Attachment 3 Website link to State of California DBE Directory
- Attachment 4 Overall Goal Calculations
- Attachment 5 Subcontractor Participation Plan
- Attachment 6 DBE Monitoring and Enforcement Mechanisms
- Attachment 7 DBE Certification Application Form
- Attachment 8 State of California Memorandum of Agreement
- Attachment 9 Small Business Program
- Attachment 10 Certification Process for Contract Review and Monitoring



*Los Angeles World Airports*

**ATTACHMENT 1**

Download Copy of Regulations: 49 CFR Part 26 at:

**<http://www.ecfr.gov>**



**ATTACHMENT 2**

**Organizational Chart**







*Los Angeles World Airports*

**ATTACHMENT 3**

Website link to State of California DBE Directory:

**[http://dot.ca.gov/hq/bep/find\\_certified.htm](http://dot.ca.gov/hq/bep/find_certified.htm)**



**ATTACHMENT 4**

**Section 26.45: Overall DBE Three-Year Goal Methodology**

As a federal AIP grant recipient, and as required by Title 49 Code of Federal Regulations Part 26, Subpart C, Los Angeles World Airport (LAWA) hereby determines an overall DBE goal of 14.17% on FAA assisted contracts for FY 2014-2016. The methodology for calculating the goal was the two-step process set forth in 49 CFR, Part 26, Section 26.45, and the instructions in the FAA correspondence dated January 12, 2006.

**AIP ELIGIBLE PROJECTS**

In order to perform the federal methodology, we first had to determine what Airport Improvement Projects would be undertaken in the fiscal years October 1, 2014 – September 30, 2016.

According to our Grants Administration Section, there are 12 projects that are expected to occur in FY 2014 – 2016 that would be eligible for AIP funding. The individual projects are listed in the chart below. The total AIP value of the contracts is projected to be \$77,538,000, and represents the portion that may be applicable to DBE goals. Additional costs associated with the projects—such as interdepartmental fees for Public Works inspectors, permit fees, proposal or bid preparation costs, and in-house costs—will be covered with non-AIP funds.

<b>Project Title</b>	<b>Airport</b>	<b>Approximate Contract Value</b>	<b>Approximate Design Contract Value 20%</b>	<b>Approximate Construction Contract Value 80%</b>
<b>FY 2014</b>				
Improve Runway 24R Safety Area	LAX	\$ 5,600,000	\$ 1,120,000	\$ 4,480,000
Rehabilitate Taxiway W	LA/ONT	\$ 4,969,000	\$ 993,800	\$ 3,975,200
<b>FY 2015</b>				
Improve Runway 24L Safety Area	LAX	\$20,160,000	\$ 4,032,000	\$16,128,000
Rehabilitate Runway 6L-24R	LAX	\$12,000,000	\$ 2,400,000	\$ 9,600,000
Rehabilitate Runway Lighting and Signage	LAX	\$10,000,000	\$ 2,000,000	\$ 8,000,000
Rehabilitate Taxiway S2	LAX	\$ 1,892,000	\$ 378,400	\$ 1,513,600
Rehabilitate Taxiway J	VNY	\$ 296,000	\$ 59,200	\$ 236,800
Rehabilitate Taxiway P	VNY	\$ 1,100,000	\$ 220,000	\$ 880,000
Rehabilitate Compass Rose Apron	VNY	\$ 225,000	\$ 45,000	\$ 180,000
<b>FY 2016</b>				
Rehabilitate Taxiway 25L	LAX	\$ 5,000,000	\$ 1,000,000	\$ 4,000,000
Rehabilitate Taxiway L	LA/ONT	\$ 1,223,000	\$ 244,600	\$ 978,400
Rehabilitate Taxiway A and Service Road and Improve Lighting	VNY	\$15,073,000	\$ 3,014,000	\$12,058,000
<b>Totals</b>		<b>\$77,538,000</b>		

Once these projects were identified, we were able to proceed with goal determination.

### **OVERALL GOALS – TWO STEP PROCESS**

**Step 1.** Calculate relative DBE availability (ready, willing and able) through an analysis of the DBE directory and Census Bureau County Business Patterns in the counties from where we draw the bulk of our bidders.

Based upon a review of DBE contracts and the bidders lists from the past three years, it was determined that a substantial number of bidders and all successful contractors were located in Los Angeles, Orange, and Riverside counties. Therefore, the 2011 U.S. Census County Business Patterns by NAICS classifications for Los Angeles County, Orange County and Riverside County have been compared to the number of similar California-based firms certified as DBEs by the City of Los Angeles and the Los Angeles County Metropolitan Transportation Authority (METRO), to arrive at the base percentage. We also accept DBE certification from the California Unified Certification Program (CUCP) agency.

### **Weighting by Type of Project and the Type of Firm that Would Bid**

The next procedure was to weight the projects by the type of firms that would be expected to participate. We anticipate that 80% of the work on all of the projects would be performed by heavy construction firms, and 20% would be performed by design firms including engineering and environmental consulting services.

#### **NAICS Construction Classifications**

<b>Contractor Type</b>	<b>NAICS</b>	<b>Los Angeles County</b>	<b>Orange County</b>	<b>Riverside County</b>	<b>Total</b>	<b>Total Number of Certified DBEs</b>	<b>% of Certified DBEs</b>
Highway and Street Construction	237310	92	77	52	221	65	29.41%
Other Heavy Construction	237990	49	38	31	118	39	33.05%
<b>Subtotal Heavy Construction</b>		<b>141</b>	<b>115</b>	<b>83</b>	<b>339</b>	<b>104</b>	<b>30.68%</b>
Electrical	238210	1603	750	406	2759	57	2.07%
Concrete	238110	236	150	149	535	29	5.42%
Structural Steel	238120	107	31	25	163	23	14.11%
Excavation	238910	346	191	177	714	55	7.70%
Other Specialty Trade	238990	472	284	230	986	52	5.27%
Surveying Services	541370	53	47	34	134	21	15.67%



Contractor Type	NAICS	Los Angeles County	Orange County	Riverside County	Total	Total Number of Certified DBEs	% of Certified DBEs
<b>Subtotal Specialty Trades</b>		<b>2817</b>	<b>1453</b>	<b>1021</b>	<b>5291</b>	<b>237</b>	<b>4.48%</b>
<b>Total Construction Categories</b>		<b>2958</b>	<b>1568</b>	<b>1104</b>	<b>5630</b>	<b>341</b>	<b>6.06%</b>
Architectural Services	54310	914	356	60	1330	57	4.29%
Engineering Services	541330	1446	1091	246	2783	139	4.99%
Environmental Consulting Services	541620	212	149	46	407	97	23.83%
<b>Total Design Categories</b>		<b>2572</b>	<b>1596</b>	<b>352</b>	<b>4520</b>	<b>283</b>	<b>6.26%</b>

**DBE Availability per API Project**

Project Title	Approximate Contract Value	Weighting	Contractor Type	DBE Availability	Weighted DBE Dollars
Improve Runway 24R Safety Area	\$5,600,000	80%	Heavy Construction	30.68%	\$1,374,464
		20%	Design	6.48%	\$72,576
Rehabilitate Taxiway W	\$4,969,000	80%	Heavy Construction	30.68%	\$1,219,591
		20%	Design	6.48%	\$64,398
Improve Runway 24L Safety Area	\$20,160,000	80%	Heavy Construction	30.68%	\$4,948,070
		20%	Design	6.48%	\$261,274
Rehabilitate Runway 6L-24R	\$12,000,000	80%	Heavy Construction	30.68%	\$2,945,280
		20%	Design	6.48%	\$155,520
Rehabilitate Runway Lighting and Signage	\$10,000,000	80%	Heavy Construction	30.68%	\$2,454,400
		20%	Design	6.48%	\$129,600
Rehabilitate Taxiway S2	\$1,892,000	80%	Heavy Construction	30.68%	\$464,372
		20%	Design	6.48%	\$24,520
Rehabilitate Taxiway J	\$296,000	80%	Heavy Construction	30.68%	\$72,650
		20%	Design	6.48%	\$3,836





Project Title	Approximate Contract Value	Weighting	Contractor Type	DBE Availability	Weighted DBE Dollars
Rehabilitate Taxiway P	\$1,100,000	80%	Heavy Construction	30.68%	\$269,984
		20%	Design	6.48%	\$14,256
Rehabilitate Compass Rose Apron	\$225,000	80%	Heavy Construction	30.68%	\$55,224
		20%		6.48%	\$2,916
Rehabilitate Taxiway 25L	\$5,000,000	80%	Heavy Construction	30.68%	\$1,227,200
		20%	Design	6.48%	\$64,800
Rehabilitate Taxiway L	\$1,223,000	80%	Heavy Construction	30.68%	\$300,173
		20%	Design	6.48%	\$15,850
Rehabilitate Taxiway A and Service Road and Improve Lighting	\$15,073,000	80%	Heavy Construction	30.68%	\$3,699,517
		20%	Design	6.48%	\$195,346
<b>Totals</b>	<b>\$77,538,000</b>				<b>\$20,035,819</b>

DBE percentage of total (Weighted DBE Dollars/Approximate Contract Value) = 25.84%

**Step 2.** Examining the evidence available to determine necessary adjustments. We have analyzed the raw data to determine the historical DBE achievement. The Uniform Report of DBE Commitments/Awards and Payments as submitted to the FAA for the prior three fiscal years, reflect the following:

Fiscal Year	FY 2009-2010	FY 2010-2011	FY 2011-2012
Overall Goal	18.05%	18.05%	18.05%
Commitment/Award	1.04%	6.83%	2.49%

Therefore, the median commitment/award for the three years is 2.49%. In giving equal weight to the actual achievement and to the percentage of certified DBE firms from the census data (2.49+25.84 = 28.33/2) we have an adjusted goal of 14.17%

**Notification to Business and Trade Organizations**

Subsequently, we sent written notifications to the following business and trade organizations that play active roles in the contracting process at LAWA. The letters requested any anecdotal information these organizations may wish to provide concerning the availability of disadvantaged and non-disadvantaged businesses, effects of discrimination on opportunities for DBEs with LAWA, and any other information to assist in the establishment of a level playing field for the participation of DBEs. A copy of the letter is attached for review.

- Asian Business Association
- Black Business Association
- Engineering Contractors Association
- Latin Business Association



No comments were received from any of the notified organizations.

We also prepared a notice of the proposed overall goal, informing the public that the proposed goal and its rationale were available for inspection during normal business hours at our principal office for 30 days following the date of the notice. It also stated that DOT-FAA and LAWA would accept comments on the goals for a period of 30 days following the date of the notice.

Publication of this notice was available through one or more of the following, but not limited to, various City media, CityView (Channel 35), LAWA website [www.lawa.org](http://www.lawa.org), Metropolitan News, La Opinion Newspaper, and the LA Sentinel Newspaper.

### **Transition to Race-Conscious Measures**

LAX has never conducted a disparity study, and based on our understanding of the Western States case, we have only used race-neutral measures to try and achieve DBE participation. Following FAA's recent recommendation, we reviewed the disparity studies conducted by the Los Angeles County Metropolitan Transportation Authority (Metro) dated March 2013, and by the California Department of Transportation (Caltrans) dated August 2012. Both studies concluded that, indeed, there was disparity among ethnic minorities and women in contracting:

- Metro's study found that, "... underutilization was found for all ethnic and gender business enterprise contractors for all contracts."
- Caltrans' study found that, "Overall MBE/WBE utilization... was below availability in each of the four regions."

The disparity studies conducted by Metro and Caltrans can be considered the best proxies for LAX due to the shared location in Los Angeles County, population, contractor pool, large-scale construction projects, etc.

For the past five (5) years, LAX has not achieved its aspirational goals through race-neutral measures. In consideration of this fact and the findings in Metro's and Caltrans' disparity studies, LAX is implementing race-conscious measures for our FAA-funded projects starting January 2014 and an overall DBE goal of 14.17%.



*Los Angeles World Airports*

**ATTACHMENT 5**

**Subcontractor Participation Plan (form attached)**

## SUBCONTRACTOR PARTICIPATION PLAN

Project Title: \_\_\_\_\_

BIDDER/PROPOSER COMPANY INFORMATION		PROFILE INFORMATION		BID/PROPOSAL AMOUNT		DESCRIPTION OF PROJECT SERVICES	
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:						
<b>SUBCONTRACTOR COMPANY INFORMATION</b>		<b>PROFILE INFORMATION</b>		<b>\$ PROPOSED</b>	<b>% PROPOSED</b>	<b>DESCRIPTION OF PROJECT SERVICES</b>	
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:						
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:						
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:						
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:						
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:						

## SUBCONTRACTOR PARTICIPATION PLAN

SUBCONTRACTOR COMPANY INFORMATION	PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:



## SUBCONTRACTOR PARTICIPATION PLAN

SUBCONTRACTOR COMPANY INFORMATION	PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:

I certify under the penalty of perjury that the information contained on this form is true and correct and that the firms listed are the subcontractors that will be utilized if this contract is awarded to the above prime contractor. I agree to comply with any applicable provisions for additions and substitutions, and I further understand and agree that any and all changes or substitutions must be authorized by LAWA Procurement Services Division prior to their implementation.

**Participation Level proposed by Bidder/Proposer:**

SBE  
 M/WBE \_\_\_\_\_ %  
 DBE  
 ACDBE

**Level of Participation stated in the Request for Bid/Proposal:**

SBE  
 M/WBE \_\_\_\_\_ %  
 DBE  
 ACDBE

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

NAME \_\_\_\_\_ TITLE \_\_\_\_\_ PHONE \_\_\_\_\_

## INSTRUCTIONS TO COMPLETE THE SUBCONTRACTOR PARTICIPATION PLAN

This form is used to report the proposed participation of Small, Minority/Woman/Other, Disadvantaged or Airport Concessions Disadvantaged Business Enterprise firms during the term of the contract. It represents the bidder's or proposer's commitment to utilize the named SBE/MBE/WBE/DBE/ACDBE firms at the percentages indicated should the contract be awarded to the bidder or proposer.

**When filling out information on this form, if additional space is required you may overwrite the field names. You may also delete or add pages, as needed.**

**Project Title** – The name or designation of the project at the time of bid or proposal.

**Bid/Proposal Amount** – Total amount bidder/proposer proposed for the project.

**Bid Number** – The Bidding number assigned by the Purchasing Office for the specific project being bid.

**Company Information** – The complete name, address, phone number (including area code), email and contact person of each SBE/MBE/WBE/DBE/ACDBE/OBE subcontractor, vendor or supplier must be provided for the bidder/proposer and proposed subcontractor. Insert the following codes (underlined> in the appropriate spaces for the bidder/proposer and all subcontractors.

- **Group** – SBE, MBE, WBE, DBE, ACDBE, OBE
- **Agency** – Certifying Agency (CUCR, City of Los Angeles, CALTRANS, Metro, SCMBDC)
- **Ethnicity** – African American, Hispanic American, Native American, Asian-Pacific Islander, Subcontinent Asian Indian, Asian American, Aleut, Eskimo, Caucasian
- **Gender** – Male, Female
- **NAICS** – North American Industry Classification System listed at <http://www.census.gov/epcd/www/naics.html>

**Please note that in order to receive participation credit, SBE/MBE/WBE/DBE/ACDBE firms must be certified.**

For information regarding the certification process, please call the Department of Public Works, Bureau of Contract Compliance (213-847-1922).

**Please list SBE/MBE/WBE/DBE/ACDBE firms first. Any firm that is not certified as an SBE/MBE/WBE/DBE/ACDBE by one of the foregoing agencies is considered an OBE.**

**Description of Project Services** – A brief description of the work the bidder/proposer or subcontractor will perform.

**NAICS** – In order to receive credit for SBE/MBE/WBE/DBE/ACDBE participation, the subcontractor must be certified in the NAICS code for the specific work they will perform on the contract.

**Amount Proposed** – Indicate the anticipated amount to be paid the subcontractor over the term of the contract.

**Proposed Percentage** – Calculate the subcontractor's share of the contract by dividing the Subcontractors Proposed Amount by the Bid/Proposal Amount. Please note: If the subcontractor is a regular dealer/supplier as defined in Code of Federal Regulations, Title 49, Part 26.55(e), only 60 percent of the Amount Proposed can be used in this calculation.

**Signature/Date** – This form must be signed by a responsible person capable of committing the firm contractually.

**Name/Title/Phone** – Print the name and title of the person signing the form. Include the area code with his or her telephone number.

**Participation Level proposed by Bidder/Proposer** – Calculate the participation level by adding the Amounts Proposed for all SBE/MBE/WBE/DBE/ACDBE subcontractors, and divide the result by the Bid/Proposal Amount.

**Level of Participation stated in the Request for Bid/Proposal** – The SBE/MBE/WBE/DBE/ACDBE level established by PSD for the Request for Bid/Proposal.

**SPECIAL NOTE** – Firms certified as DBEs or ACDBEs may be counted toward M/WBE participation levels.



*Los Angeles World Airports*

**ATTACHMENT 6**

DBE Monitoring – Monthly Utilization Report (attached)

# SBE/MBE/WBE/DBE/ACDBE/OBE SUBCONTRACTOR UTILIZATION REPORT

Project Title goes here

PRIME CONTRACTOR/CONCESSIONAIRE INFORMATION	PROFILE INFORMATION	AMOUNT	PROJECT DESCRIPTION/ CONCESSION TYPE
Name:	Contract Number:	Authorized Contract Amount:	
Address:	Ethnicity:	Amended Contract Amount to Date:	
City/State/Zip:	Gender:	Change Order Amount to Date:	
Project Manager/ Contact Person:	Category Group (check all that apply):	Total Contract Amount to Date:	
Telephone No:	<input type="checkbox"/> SBE <input type="checkbox"/> DBE	Total Invoiced to Date:	
Email Address:	<input type="checkbox"/> MBE <input type="checkbox"/> ACDBE	<b>CONCESSIONS ONLY:</b>	NAICS:
Vendor/Federal ID:	<input type="checkbox"/> WBE <input type="checkbox"/> OBE	Minimum Annual Guarantee:	
	Certifying Agency:	Total Gross Receipts to Date:	
<b>CONTRACT DETAILS</b>			
Award Date:	Start date:	End date:	Reporting Period:
Division Name:	Pledge %:	Utilized % to Date:	Utilized Amount to Date:
<b>LAWA-APPROVED SUBCONTRACTOR/ SUBCONCESSIONAIRE INFORMATION</b>	<b>PROFILE INFORMATION</b>	<b>AMOUNT INVOICED OR CONCESSION GROSS RECEIPTS</b>	<b>% UTILIZED TO DATE</b>
	Name:	For this period:	
	Address:	\$	
	City/State/Zip:	To date:	
	Contact Name:	\$	
	Telephone Number:		
Email Address:			
Vendor/Federal ID:			
Proposed Amount: \$			

**SUBMIT THIS FORM TO: [UTILIZATIONREPORT@LAWA.ORG](mailto:UTILIZATIONREPORT@LAWA.ORG) AND TO YOUR LAWA CONTRACT ADMINISTRATOR**



# SBE/MBE/WBE/DBE/ACDBE/OBE SUBCONTRACTOR UTILIZATION REPORT

Project Title goes here

LAWA-APPROVED SUBCONTRACTOR/ SUBCONCESSIONAIRE INFORMATION	PROFILE INFORMATION	AMOUNT INVOICED OR CONCESSION GROSS RECEIPTS	% PROPOSED	% UTILIZED TO DATE	PROJECT DESCRIPTION/ CONCESSION TYPE
Name: _____ Address: _____ City/State/Zip: _____ Contact Name: _____ Telephone Number: _____ Email Address: _____ Vendor/Federal ID: _____ Proposed Amount: \$ _____	Ethnicity: _____ Gender: _____ <input type="checkbox"/> SBE <input type="checkbox"/> DBE <input type="checkbox"/> MBE <input type="checkbox"/> ACDBE <input type="checkbox"/> WBE <input type="checkbox"/> OBE Certifying Agency: _____	For this period: \$ _____ To date: \$ _____	%	%	NAICS: _____
Name: _____ Address: _____ City/State/Zip: _____ Contact Name: _____ Telephone Number: _____ Email Address: _____ Vendor/Federal ID: _____ Proposed Amount: \$ _____	Ethnicity: _____ Gender: _____ <input type="checkbox"/> SBE <input type="checkbox"/> DBE <input type="checkbox"/> MBE <input type="checkbox"/> ACDBE <input type="checkbox"/> WBE <input type="checkbox"/> OBE Certifying Agency: _____	For this period: \$ _____ To date: \$ _____	%	%	NAICS: _____
Name: _____ Address: _____ City/State/Zip: _____ Contact Name: _____ Telephone Number: _____ Email Address: _____ Vendor/Federal ID: _____ Proposed Amount: \$ _____	Ethnicity: _____ Gender: _____ <input type="checkbox"/> SBE <input type="checkbox"/> DBE <input type="checkbox"/> MBE <input type="checkbox"/> ACDBE <input type="checkbox"/> WBE <input type="checkbox"/> OBE Certifying Agency: _____	For this period: \$ _____ To date: \$ _____	%	%	NAICS: _____

# SBE/MBE/WBE/DBE/ACDBE/OBE SUBCONTRACTOR UTILIZATION REPORT

Project Title goes here

LAWA-APPROVED SUBCONTRACTOR/ SUBCONCESSIONAIRE INFORMATION	PROFILE INFORMATION	AMOUNT INVOICED OR CONCESSION GROSS RECEIPTS	% PROPOSED	% UTILIZED TO DATE	PROJECT DESCRIPTION/ CONCESSION TYPE
Name: _____	Ethnicity: _____	For this period:			
Address: _____	Gender: _____	\$ _____			
City/State/Zip: _____	<input type="checkbox"/> SBE	To date:			
Contact Name: _____	<input type="checkbox"/> MBE	\$ _____	% _____	% _____	NAICS: _____
Telephone Number: _____	<input type="checkbox"/> WBE				
Email Address: _____	<input type="checkbox"/> ACDBE				
Vendor/Federal ID: _____	<input type="checkbox"/> OBE				
Proposed Amount: \$ _____	Certifying Agency: _____				
Name: _____	Ethnicity: _____	For this period:			
Address: _____	Gender: _____	\$ _____			
City/State/Zip: _____	<input type="checkbox"/> SBE	To date:			
Contact Name: _____	<input type="checkbox"/> MBE	\$ _____	% _____	% _____	NAICS: _____
Telephone Number: _____	<input type="checkbox"/> WBE				
Email Address: _____	<input type="checkbox"/> ACDBE				
Vendor/Federal ID: _____	<input type="checkbox"/> OBE				
Proposed Amount: \$ _____	Certifying Agency: _____				

I certify under the penalty of perjury that the information contained on this form is true and correct and that the subcontractors/subconcessionaires listed above are selected firms that were included in the approved Subcontractor Participation Plan. I agree to comply with any applicable SBE/MBE/WBE/DBE/ACDBE/OBE provisions for substitutions and I further understand and agree that any and all changes or substitutions of subcontractors/subconcessionaires must be authorized by LAWA Procurement Services prior to utilization.

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_ PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

### FOR LAWA STAFF USE ONLY (For Amendment Only)

Notes/Comments:

Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_ % of SBE/MBE/WBE/DBE/ACDBE Achieved To Date: \_\_\_\_\_

Procurement Services Division

# INSTRUCTIONS TO COMPLETE THE SUBCONTRACTOR UTILIZATION REPORT

This form is used to report the participation of Small, Minority/Woman/Other, Disadvantaged or Airport Concessions Disadvantaged Business Enterprise firms during the term of the contract as pledged by the Bidder/Proposer.

## THE SUBCONTRACTOR UTILIZATION REPORT MUST BE SUBMITTED WITHIN 15 DAYS FOLLOWING THE END OF THE PREVIOUS MONTH TO [utilizationreport@lawa.org](mailto:utilizationreport@lawa.org)

**When filling out information on this form, if additional space is required you may overwrite the field names. You may also delete or add pages, as needed.**

**Project Title** – The name or description of the project at the time of award.

each year of the concession agreement.

**Contract Number** – The Contract number assigned to the project.

**Total Gross Receipts** – Total cumulative Gross Receipts reported by Prime Concessionaire to LAWA, including Subconcessionaires' Gross Receipts.

**Company Information** – The complete name, address, phone number (including area code), email and contact person of the Prime and of each SBE/MBE/WBE/DBE/ACDBE/OBE subcontractor, vendor or supplier must be provided for the bidder/proposer and proposed subcontractor. Insert the following codes (underlined) in the appropriate spaces for the bidder/proposer and all subcontractors.

**Project Description/Concession Type** – A brief description of the work the Prime Contractor or subcontractor will perform.

**NAICS** – In order to receive credit for SBE/MBE/WBE/DBE/ACDBE participation, the subcontractor must be certified in the NAICS code for the specific work they will perform on the contract.

- Group – SBE, MBE, WBE, DBE, ACDBE, OBE
- Agency – Certifying Agency (CUCP, City of Los Angeles, CALTRANS, Metro, SC/MBC)
- Ethnicity – African American, Hispanic American, Native American, Asian-Pacific Islander, Subcontinent Asian Indian, Asian American, Aleut, Eskimo, Caucasian
- Gender – Male, Female
- NAICS – North American Industry Classification System listed at <http://www.census.gov/epcd/www/naics.html>

**Pledge %** – Total percentage of SBE/MBE/WBE/DBE/ACDBE subcontractor participation committed by the Prime Contractor or Concessionaire.

**Utilized % to Date** – Percentage of SBE/MBE/WBE/DBE/ACDBE subcontractors utilized to date or current level of SBE/MBE/WBE/DBE/ACDBE achievement. Calculate the subcontractor's share of the contract amount by dividing the subcontractor's invoice amount (or gross receipts) to date by the Total Contract Amount (or Gross Receipts) to Date.

**Please note that in order to receive participation credit, SBE/MBE/WBE/DBE/ACDBE firms must be certified by a recognized certifying agency.**

**Utilized Amount to Date** – Cumulative amount of SBE/MBE/WBE/DBE/ACDBE subcontractors utilized to date. Calculate the total invoice amount to date of all subcontractors.

For information regarding the certification process, please call the Department of Public Works, Bureau of Contract Compliance (213-847-1922).

**% Proposed** – Calculate the subcontractor's share of the contract by dividing the Subcontractors Proposed Amount by the Authorized Contract Amount. Please note: if the subcontractor is a regular dealer/supplier as defined in Code of Federal Regulations, Title 49, Part 26.55(e), only 60 percent of the Amount Proposed can be used in this calculation.

**Please list SBE/MBE/WBE/DBE/ACDBE firms first. Any firm that is not certified as an SBE/MBE/WBE/DBE/ACDBE is considered an OBE.**

**Authorized Contract Amount** – Total amount authorized by the BOAC at award.

**Amended Contract Amount to Date** – Total cumulative amount amended to date.

**Signature/Date** – This form must be signed by a responsible person capable of committing the firm contractually.

**Change Order Amount to Date** – Amount approved by the BOAC for change order or unilateral changes within the scope of the contract.

**Name/Title/Phone** – Print the name, title, and telephone number of the person signing the form.

**Total Contract Amount to Date** – Total cumulative amount authorized to date, including total cumulative amount amended to date.

**SPECIAL NOTE** – Firms certified as DBEs or ACDBEs may be counted toward M/WBE participation levels.

**Minimum Annual Guarantee** – The minimum annual guaranteed concession fee for



*Los Angeles World Airports*

**ATTACHMENT 7**

Download Copy of DBE Certification Application Form at:

**<http://bca.lacity.org>**

**or**

**[http://dot.ca.gov/hq/bep/find\\_certified.htm](http://dot.ca.gov/hq/bep/find_certified.htm)**





*Los Angeles World Airports*

**ATTACHMENT 8**

State of California Memorandum of Agreement (attached)

**U.S. DOT Recipients  
California**

**MEMORANDUM OF AGREEMENT (MOA)**

**for a**

**Unified Certification Program**

**Pursuant to 49 CFR Part 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

**TABLE OF CONTENTS**  
**AGREEMENT**

	<b><u>Page</u></b>
RECITALS	1
ARTICLE 1 – VISION	2
ARTICLE 2 – DEFINITIONS	2
Section 2.01 Recipient	2
Section 2.02 Sub-Recipient	3
Section 2.03 Disadvantaged Business Enterprise (DBE)	3
Section 2.04 Socially and Economically Disadvantaged Individuals	3
Section 2.05 Small Business Concern	4
Section 2.06 Personal Net Worth (PNW)	4
Section 2.07 UCP Members	4
Section 2.08 Certifying Members (CMs)	5
Section 2.09 Non-Certifying Members (NCMs)	5
Section 2.10 Executive Committee	5
Section 2.11 Standing Committees	5
Section 2.12 Regional Certifying Clusters	6
ARTICLE 3 – ORGANIZATION OF THE UCP	6
Section 3.01 Members of the UCP	6
Section 3.02 Certifying Member Responsibilities	6
Section 3.03 State of California Department of Transportation	7
Section 3.04 Caltrans “DBE Database Manager”	7
Section 3.05 Certification Decisions Submission to DBE Database	7
Section 3.06 Maintaining Electronic DBE Database	8
Section 3.07 Recipients’ Currently Certified DBEs	8
Section 3.08 Executive Committee Membership and Duties	9
Section 3.09 Standing Committee Guidelines	10
Section 3.10 Two Regional Certifying “Clusters”	10
ARTICLE 4 – RIGHTS AND OBLIGATIONS OF RECIPIENTS	11
Section 4.01 Types of Recipients	11
Section 4.02 CM Agencies	11
Section 4.03 NCM Agencies	12
Section 4.04 Review of Eligibility	12
Section 4.05 Ineligibility Complaints	13
Section 4.06 Disputes	13
ARTICLE 5 – RIGHTS AND OBLIGATIONS OF THE UCP	13

California Unified Certification Program  
Memorandum of Agreement

Section 5.01	UCP and Recipients' Responsibilities	13
Section 5.02	Certification Decisions	14
Section 5.03	"One-Stop Shopping"	14
Section 5.04	Pre-Certification Requirement	14
Section 5.05	Processing Out-of-State Applications	14
Section 5.06	Reciprocity with Other UCPs/Small Business Administration	14
Section 5.07	UCP Information Program	15
Section 5.08	Meetings for Continued UCP Monitoring	15
<b>ARTICLE 6 – CERTIFICATION PROCEDURES</b>		<b>15</b>
Section 6.01	Certification Application	15
Section 6.02	Certification Process	16
Section 6.03	Certification Site Visit	16
<b>ARTICLE 7 – APPEALS</b>		<b>16</b>
Section 7.01	Appeals	16
Section 7.02	DBE Denials	17
Section 7.03	Ineligible Firms	17
Section 7.04	Notices	17
<b>ARTICLE 8 – TRAINING</b>		<b>17</b>
Section 8.01	Support Committee	17
Section 8.02	Course Training	17
<b>ARTICLE 9 – DBE DATABASE</b>		<b>18</b>
Section 9.01	Organization of the Database	18
Section 9.02	Computer Access and Security	18
<b>ARTICLE 10 – FEES/COSTS</b>		<b>18</b>
Section 10.01	UCP Membership Fee	18
Section 10.02	DBE Database Cost to Users	18
Section 10.03	DBE Applicant Firms	19
Section 10.04	Contingency Funding	19
<b>ARTICLE 11 – GENERAL PROVISIONS</b>		<b>19</b>
Section 11.01	Attachments to the Agreement	19
Section 11.02	Interpretation of the Agreement	19
Section 11.03	Amendments to the Agreement	19
Section 11.04	Compliance with Law	20
Section 11.05	Signed Agreement	20
Section 11.06	Severability	20
Section 11.07	Successors	20
<b>EXECUTIVE COMMITTEE RESOLUTION</b>		<b>20-23</b>



## **EXHIBITS**

**EXHIBIT “A” - LIST OF U.S. DOT RECIPIENTS IN CALIFORNIA**

**EXHIBIT “B” - 49 CFR PART 26**

**EXHIBIT “C” - IMPLEMENTATION PLAN AND SCHEDULE**

**EXHIBIT “D” –EXECUTIVE COMMITTEE GUIDELINES**

**EXHIBIT “E” - SAMPLE LETTER/DECLARATION**

**EXHIBIT “F” - CERTIFICATION APPLICATION PACKAGE**

**EXHIBIT “G” - STRUCTURE AND PROCESS**

**EXHIBIT “H” - INTAKE PROCEDURES**

**EXHIBIT “I” - SITE VISIT QUESTIONNAIRE**

**EXHIBIT “J” - APPEALS PROCESS**

**EXHIBIT “K”- TRAINING PROGRAM**

**EXHIBIT “L”- OTHER UCP COMMITTEE REPORTS:**

- Database
- External Affairs
- Quality Assurance

**MEMORANDUM OF AGREEMENT  
FOR THE ESTABLISHMENT OF A  
UNIFIED CERTIFICATION PROGRAM  
AMONG ALL U.S. DOT RECIPIENTS IN CALIFORNIA**

This Memorandum of Agreement (“Agreement”) is made, entered into and effective as of January 1, 2002, by and between all U.S. DOT RECIPIENTS in the State of California which are listed on Exhibit “A” attached (herein called “RECIPIENTS”).

**RECITALS**

WHEREAS, RECIPIENTS have established Disadvantaged Business Enterprise (DBE) Programs in accordance with regulations of the United States Department of Transportation (U.S. DOT), 49 CFR Part 26, (copy attached as Exhibit “B”); 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; 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 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 certification located in the State of California, such that an

**applicant is required to apply only once for a DBE 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 DBE 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.**

#### **ARTICLE 1 - VISION**

**It is recognized that the RECIPIENTS share the common goals of creating a level playing field on which DBE 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 Disadvantaged Business Enterprise (“DBE”): A for-profit small business concern, at least 51% owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, at least 51% 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.**

**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 \$750,000, excluding the individual's ownership interest in the applicant firm and the individual's equity in his or her personal, primary residence. For an Airport Concessionaire DBE (ACDBE) applicant firm, each individual owner may also 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 (or have in fact been encumbered to support existing financing for the individual's ACDBE business), to a maximum of \$3 million.

**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 Certifications.
- 2.09 NCM Agencies:** Those California UCP Members that elect to not perform DBE 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:
- 1. Oversight**
    - a. Structure & Process
    - b. Implementation
  - 2. Systems & Reporting**
    - a. Database
    - b. Intake
  - 3. Documentation**
    - a. MOA
    - b. Application/Forms
  - 4. Operations**
    - a. Cluster
    - b. On-Site
    - c. Appeals
    - d. Concessions
    - e. File Transfer
  - 5. Support**
    - a. Quality Assurance
    - b. Training
    - c. External Affairs

The Executive Committee Guidelines is attached hereto as Exhibit "D".

- 2.12 Regional Certifying Clusters:** Two regional groups of California U.S. DOT Recipients which work together to coordinate certification processes, review and approve CM Agencies' certification recommendations, assist with training activities, and oversee other activities of the UCP.

**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 agrees to assume the duties and responsibilities of statewide DBE certification for the California UCP.
- (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 Regional Cluster within 90 days from the date of signing the UCP Agreement/Declaration of Status Letter. The Regional 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 processes involved in a DBE Certification Program, by collecting and maintaining certification application files, conducting site visits, making certification decisions, and handling appeals and complaints. CM

Agencies agree to 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 the State of California, Department of Transportation (herein called Caltrans), as the major recipient of FHWA funds in the State of California, has the largest DBE certification program in the State; and maintains an electronic database of certified DBEs 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 "DBE Database Manager":** Caltrans agrees to serve as the California UCP "DBE Database Manager" for all DBE certifications made by CM Agencies, including maintaining the electronic DBE Database.

**3.05 Certification Decisions - Submission to DBE Database:** Upon receipt by a CM Agency of a certification application package, an initial entry will be made to the DBE Database; and when a CM Agency makes a final DBE certification decision, a full profile of information on the DBE shall be entered into the electronic DBE Database. The information shall include:

- Name, street address, P.O. box, phone, fax and e-mail of certified DBE;
- Name, sex, and ethnicity of owner(s) of DBE firm;
- Type of work performed by DBE using the North American Industry Classification System (NAICS) adopted by the Small Business Administration on October 1, 2002;
- Licenses (type and number);
- Name of Certifying Recipient;
- Site Visit Date;
- Certification date and certification renewal date;
- Any other appropriate information as agreed upon by CM Agencies.

**CM Agencies shall also provide information on firms denied DBE status to the DBE Database Manager.**

**3.06 Maintaining Electronic DBE Database: As the DBE Database Manager, Caltrans staff shall assume the following responsibilities:**

- (a) maintain the electronic DBE Database and keep it current with weekly updates;**
- (b) assure its availability to all UCP Members and other interested parties; and**
- (c) provide printed copies of the DBE 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: Recipients shall submit for initial inclusion in the DBE Database only DBEs that are currently certified according to 49 CFR Part 26. When other currently certified firms' files are updated to be consistent with Part 26, they shall be included in the DBE Database at that time.**

- (a) Upon implementation of the UCP, if it is found that a DBE 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 Regional Cluster where the principal place of business of the DBE is located. That CM Agency will then become the DBE's "Home Agency".**
- (b) For currently certified out-of-state firms, upon implementation of the UCP, the responsible CM Agency may request proof of current DBE 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) Upon implementation of the UCP, 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 will act as the responsible Home Agency for the DBE.

**3.08 Executive Committee Membership and Duties: It is hereby agreed that:**

- (a) The Executive Committee shall ensure that the UCP will follow all certification procedures and standards of 49 CFR Part 26; shall ensure that the UCP cooperates fully with oversight, review and monitoring activities of U.S. DOT and its operating administrations; shall review and resolve disputes between and among CM Agencies; and shall ensure that the UCP 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 UCP business. In the event that an Agency is unable to attend a scheduled UCP 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 UCP 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 UCP 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 Regional Certifying “Clusters”: The California UCP will be made up of the following two Regional Certifying “Clusters”:**

**Cluster 1 – Riverside, Imperial & San Diego (RIS), Los Angeles Area**

**Cluster 2 – Bay Area/Central Valley, Northern California**

**The boundaries for the Regional Clusters, those Recipients belonging in each Regional Cluster, and the scope and responsibilities of the Regional Clusters are included in the “Structure and Process” Report attached hereto as Exhibit “G”.**

**Due to the size of California, the Regional Clusters are seen as a vital component of the overall UCP. The value and purpose of Regional Cluster CM Agencies is far reaching in that Regional Clusters will provide oversight and a forum for discussions between CM Agencies.**

**Both Regional 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 Regional Cluster will review a synopsis of the DBE activity submitted by the CM Agency for oversight purposes. The CM Agency will submit information on the firm for inclusion in the UCP DBE Database or in the list of firms denied. Details of CM Agency and Regional 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 UCP 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 UCP Executive Committee, any Recipient may choose to become a CM Agency.
- (b) CM Agencies shall collect, evaluate and process DBE certification applications, conduct site visits and make certification decisions, in accordance with 49 CFR Part 26.
- (c) CM Agencies shall promptly enter information into the DBE Database, including the initial DBE application information, and the final DBE certification decisions with the full DBE profile information specified in paragraph 3.05.
- (d) CM Agencies shall keep the DBE Database current with all updated information (renewals, removals, change of address, etc.).
- (e) CM Agencies shall process, maintain and retain their complete certification files.
- (f) CM Agencies will notify firms of certification, renewal, 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 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 Regional Cluster area, a CM Agency will assist to the extent possible in conducting a Site Visit to a DBE applicant.
- (i)** A CM Agency will process a specific DBE certification application when requested by a NCM Agency.
- (j)** Some CM Agencies may contract DBE certification activities with outside consulting firms, in which case such consultants shall be obligated to receive proper and adequate training as provided by the California UCP Training Program. The contracting CM Agency remains responsible for actions of its consultants.
- (k)** In processing DBE 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 UCP, any Recipient may choose to be a NCM Agency.
- (b)** NCM Agencies will refer applicants to CM Agencies in the Regional 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)** CM Agencies may not request a NCM Agency to assist with a Site Visit.

**4.04 Review of Eligibility:** CM Agencies shall be responsible for processing Annual No Change Declaration and supporting documentation to verify continuing eligibility of their own certified DBEs, and for specific DBE file reviews at any time upon request by another CM Agency.

**4.05 Ineligibility Complaints:** Any UCP Member has the right to initiate an Ineligibility Complaint of any DBE-certified firm included in the UCP DBE 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 UCP DBE Database until at least twelve months from denial or decertification, all UCP Members will periodically review the firms listed in the DBE 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 Regional Cluster on its findings. Information on this action will be input into the UCP Database by the CM Agency after the firm has been afforded due process under 26.87 and 26.89.

Once the UCP DBE Database is fully operational, it will designate firms that have been denied certification, removed and decertified as ineligible; and the UCP 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 UCP Executive Committee will resolve disputes that cannot be resolved between or among CM Agencies.

#### **ARTICLE 5 – RIGHTS AND OBLIGATIONS OF THE UCP**

**5.01 UCP and Recipients' Responsibilities:** The UCP 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.

- 5.02 Certification Decisions:** The CM Agencies shall make all DBE certification decisions and report to the Regional Clusters its determinations. The CM Agencies will approve DBE status for and on behalf of all U.S. DOT recipients in California; and all U.S. DOT recipients in California will utilize as DBEs on U.S. DOT-assisted contracts only those firms certified by the CM Agencies and included in the California DBE Database.
- 5.03 “One-Stop Shopping”:** The UCP shall provide “one-stop shopping” to applicants for DBE certification in California, such that an applicant is required to apply only once for a DBE 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 certification approval must be made before the due date for bids or offers on contracts in which the firm seeks to participate as a DBE. CM Agencies agree to make timely final decisions on DBE 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 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 will be compiled by the CM Agency before the firm will be included in the California DBE Database. Such file will include a copy of the Site Visit Report obtained from the applicant’s home state or from the state’s UCP if it is in place.
- 5.06 Reciprocity With Other UCPs/Small Business Administration:**
- (a) The UCP Executive Committee may enter into written reciprocity agreements at any time with other UCPs subject to approval of U.S. DOT.



- (b) Such reciprocity agreement(s) must outline the specific responsibilities of each participating UCP.
- (c) The California UCP and its CM Agencies may accept a DBE 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 California DBE 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 applicant firm with other state UCPs and U.S. DOT recipients.
- (e) The California UCP and its CM Agencies may accept and recognize certifications made by the U.S. Small Business Administration (SBA) under its 8(a) Business Development (BD) and Small Disadvantage Business (SDB) Programs. CM Agencies will process applications submitted by SBA-certified firms pursuant to the DOT/SBA MOU as specified in Sections 26.84 through 26.87.

**5.07 UCP Information Program:** All UCP Members shall provide information on the California UCP to the public and to DBE 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 UCP, the Standing Committees and the on-going processes.

## **ARTICLE 6 – CERTIFICATION PROCEDURES**

**6.01 Certification Application:** All CM Agencies agree to and shall utilize the U. S. DOT-approved Uniform Certification Application form, which will be included in the “DBE Certification Application Package” which is an attachment to this MOA.

- 6.02 Certification Process: All CM Agencies shall follow DBE 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 MOA. The Support Committee shall provide guidance as needed to assure compliance with DBE certification processing.**
- 6.03 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 DBE Database. CM Agencies will utilize the “Site Visit Questionnaire” form approved by the UCP and attached hereto as Exhibit “I”. CM Agencies shall conduct site visits for one another when requested. CM Agencies may not request a NCM Agency to conduct a Site Visit. The Support Committee will provide guidance as needed and to assure compliance with Uniform Site Visit Procedures. When requested, the California Department of Transportation 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 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 DBE 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 Regional Cluster for oversight purposes. The CM Agency shall also advise the firm of its right to rebut.**
- (b) DBE 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**

program 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 Regional Cluster at its next meeting. The process for appeals is fully described in Exhibit "J" attached.

- 7.02 **DBE Denials:** Denials of initial requests for DBE 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, 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 and to the UCP DBE Database Manager.

#### **ARTICLE 8 - TRAINING**

- 8.01 **Support Committee:** A "standing" Support Committee shall be organized by the UCP 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 UCP for all CM Agencies and conducted as determined by the Support Committee and described in Exhibit "K" attached. Since some CM Agencies may contract out DBE certification activities with private consultant firms, the contracting CM Agencies agree to ensure that their consultants

receive proper and adequate training as provided by the California UCP Training Program.

#### **ARTICLE 9 – DBE DATABASE**

**9.01 Organization of the Database:** The DBE Database shall be organized, maintained and continually updated by CM Agencies and Caltrans, the UCP DBE Database Manager, using industry standard state-of-the-art software such as Microsoft Access. All CM Agencies agree to maintain compatible or mutually accessible software and systems in order to best use the electronic DBE Database, and to provide DBE certification information and updates for the DBE Database in a timely manner.

**9.02 Computer Access and Security:** CM Agencies will be given a unique code by the UCP Database Manager for their exclusive use to access information in the UCP Database. The code given to CM Agencies will also allow them to access, input and change information about DBE 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 UCP DBE Database.

#### **ARTICLE 10 – FEES/COSTS**

**10.01 UCP Membership Fee:** An annual membership fee will be assessed for the purpose of operating and maintaining the California Unified Certification Program. CM 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 CA UCP will be re-evaluated by the UCP Executive Committee, and may be adjusted with the approval of the General Membership.

**10.02 DBE Database Costs to Users:** As set forth in Article 3.06, the DBE Database Manager shall provide printed copies of the DBE Database when requested, at a

**nominal cost to requesting parties. Such cost will be determined by the Publications Department of Caltrans.**

**10.03 DBE Applicant Firms: There shall be no costs to DBE firms for DBE certification application processing.**

**10.04 Contingency Funding: In the event adequate resources for the UCP have not been provided for by this Agreement or by approved annual budgets, the Executive Committee shall call a special meeting of the entire UCP membership at any time to discuss contingency funding for the UCP.**

#### **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 UCP Committee Reports”- were prepared by the Database, External Affairs, and Quality Assurance Committees, and have been reviewed and approved by the entire UCP.**

**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 UCP 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 UCP Executive Committee with advisement to the UCP General Membership. The UCP Membership Fee may only be amended with the approval of the General Membership.**



**11.04 Compliance with Law:** UCP Members agree that the operation of this Agreement and performance of all obligations hereunder shall at all times comply with 49 CFR Part 26 and with applicable federal and state laws.

**11.05 Signed Agreement:** This Agreement is signed by the CM Agencies and by the Chair of the Executive Committee of the UCP. Participation by a Recipient in this California UCP will become effective immediately upon execution and submission by the Recipient of a "Letter of Agreement and Declaration of Status" to the California UCP. Upon such submission, each Recipient shall be a CM Agency or NCM Agency. All UCP Members accept the terms of this Agreement. The California UCP will become effective as of January 1, 2002 or immediately upon approval of this Memorandum of 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 California UCP and the UCP Members.

#### **RESOLUTIONS OF CALIFORNIA UCP EXECUTIVE COMMITTEE**



*Los Angeles World Airports*

**ATTACHMENT 9**

Small Business Program (attached)

**LOS ANGELES WORLD AIRPORTS  
SMALL BUSINESS ENTERPRISE PILOT PROGRAM  
RULES AND REGULATIONS**

The City of Los Angeles, Los Angeles World Airports (LAWA) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at LAWA. LAWA's Small Business Enterprise (SBE) Program is a one-year pilot program that was created to provide additional opportunities for small businesses to participate in LAWA contracts.

**APPLICABILITY:**

LAWA's Procurement Services Division (PSD) will establish the mandatory SBE participation levels for construction, non-professional and personal services including professional services projects valued over \$150,000. Failure to meet those mandatory SBE participation levels may disqualify bidding/proposing firms from being considered for award of the contract. LAWA's SBE Program requires Prime Contractors who receive contracts from LAWA to utilize certified small businesses at the levels promised and may impose penalties for the failure to meet those levels if changes to the proposed levels were not previously approved by LAWA in writing. (Federally-funded projects, and projects for the procurement of goods, equipment, and materials are not subject to the SBE Program.)

LAWA defines an SBE as an independently-owned and operated business that meets the criteria set forth by the Small Business Administration 8(a) Business Development Program. The State of California SBE program defines an SBE as a business with 100 or fewer employees with average annual gross receipts of \$14 million or less over the last three years. The Federal Small Business Administration (SBA) program uses a much broader range of size thresholds (see [www.sba.gov/sites/default/files/Size\\_Standards\\_Table.pdf](http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf)). LAWA will apply the larger of the State of California or Federal SBA size standard for businesses applying for LAWA's SBE status.

The following chart shows which agency certifications will be accepted by LAWA as an SBE:

CERTIFYING AGENCY	CERTIFICATION	ACCEPTED BY LAWA AS SBE?
Federal Small Business Administration (SBA)	SBA 8(a) Business Devpt. Program	Yes
State of California Department of General Services (DGS)	SB, MB (micro)	Yes
California Department of Transportation (CALTRANS)	SMBE, SWBE, DBE	Yes
L.A. County Metropolitan Transportation Authority (METRO)	SBE, DBE	Yes
<ul style="list-style-type: none"> <li>• Central Contra Costa Transit Authority (CCCTA)</li> <li>• City of Fresno</li> <li>• City of Los Angeles</li> <li>• San Diego County Regional Airport Authority (SAN)</li> <li>• San Francisco Bay Area Rapid Transit District (BART)</li> <li>• San Francisco International Airport (SFO)</li> <li>• San Francisco Municipal Transportation Agency (SFMTA)</li> <li>• San Mateo County Transit District (SAMTRANS)</li> <li>• Santa Clara Valley Transportation Authority (VTA)</li> <li>• Yolo County Transportation District (YOLOBUS)</li> </ul>	DBE	Yes

If a business does not have an acceptable certification from one of the agencies listed above, it can apply for LAWA SBE certification by filling out the attached SBE Application and meeting the eligibility criteria.

The following are some examples of industries and the size standards applied by LAWA:

INDUSTRY	LAWA SIZE STANDARD
General Building and Heavy Construction Contractors	\$33.5 million
Special Trade Construction Contractors	\$14 million
Most Manufacturing Industries	500 employees
Computer Programming, Data Processing & Systems Design	\$25 million
Engineering Services	\$14 million
Environmental Consulting Services	\$14 million
Architectural Services	\$14 million
Financial Investments and Related Activities	\$14 million

Prime contractors will be responsible for determining the SBE status of its subcontractors for purposes of meeting the SBE requirement. The SBE participation level will be determined by the percentage of the total amount of compensation under the project paid to SBEs.

LAWA also encourages Prime Contractors to utilize Emerging Business Enterprises (EBEs). LAWA defines an Emerging Business Enterprise (EBE) based on the State of California's Micro-business definition, which is (1) a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees. A firm that is certified with the State of California as a Micro-business will be recognized by LAWA as an EBE. Additionally, LAWA encourages Prime Contractors to utilize Disabled Veterans Business Enterprises (DVBEs). A firm that is certified with the State of California as a DVBE will be recognized by LAWA as a DVBE.

#### LAWA'S GOALS:

While the use of SBEs is mandatory for those projects that have been identified by PSD as having mandatory SBE participation levels, LAWA additionally has overall departmental goals. The specific mandatory SBE participation level for each project may be higher or lower than LAWA's department goal based on the scope of work and the availability of the SBEs to perform the work.

LAWA's overall departmental goal for the one-year pilot is 15% SBE participation.

When sufficient data is available, LAWA will analyze the SBE achievement levels of the one-year goal on awarded contracts.

#### SETTING MANDATORY SBE PARTICIPATION LEVELS:

PSD will review each Request for Bid/Request for Proposal (project) estimated to be in excess of \$150,000 to determine whether a mandatory SBE participation level should be set on the project. Setting the mandatory SBE participation level consists of the following steps:

- PSD and the requesting division will discuss the project to determine whether there are reasonable subcontracting opportunities

- PSD will review various databases to determine the availability of SBE subcontractors in the identified subcontracting work areas
- PSD will review the historical achievement of subcontractor utilization on the same/similar projects

If PSD determines that there are sufficient SBEs available in the identified work areas, PSD will set a mandatory SBE participation level for the project. PSD will confer with the requesting division and Executive staff to thoroughly analyze the project and ensure that the established mandatory SBE participation level is valid and attainable. A committee comprised of Executive staff will review PSD's recommendations.

LAWA reserves the right to review cooperative agreements with other governmental agencies ("Piggy Back") to determine if subcontracting opportunities exist and to set mandatory SBE participation levels, if appropriate.

Since the SBE Program is a mandatory program, Bidders/Proposers are strongly encouraged to attend pre-bid and pre-proposal meetings for projects with mandatory SBE participation levels so that they will understand the requirements of the SBE Program. PSD will verify the SBE status of the proposed subcontractors, regardless of the dollar amount of work to be performed. It is important to note that if a Prime Contractor is itself an SBE, their participation in the contract will count as 100% SBE.

LAWA's Board of Airport Commissioners (BOAC) may at any time before the award of a Contract, determine that it is in LAWA's best interest to award away from firms that have met the SBE requirement.

#### SUBCONTRACTORS:

Contractors are required to comply with California's "Subletting and Subcontracting Fair Practices Act" (Public Contract Code Sections 4100 et seq.) ([www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc&codebody=&hits=20](http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc&codebody=&hits=20)).

Any reduction, increase, or other change to any SBE Subcontract amount without prior written approval of PSD is considered an Unauthorized Subcontractor Substitution, and the Contractor may be subject to a penalty. A subcontract dollar value increased or reduced as the result of a Change Order issued by LAWA to add or delete from the original scope of work shall not be subject to a penalty for an Unauthorized Subcontractor Substitution.

Only PSD is authorized to grant either initial approval of SBE Subcontractor(s) or SBE Subcontractor substitution(s).

Contractors must list all Subcontractors on LAWA's Subcontractor Participation Plan and include all requested information.

#### PENALTIES:

A Contractor violating any provision(s) of this section shall, subject to prior notice of the alleged violations and an opportunity to be heard and to present evidence in its own defense, be deemed in violation of the Contract, and LAWA, subject to BOAC approval, may:

1. Cancel the contract.



2. Assess the Contractor a penalty of not more than ten percent (10%) of the amount of the unpaid/underpaid amount of the Subcontract(s) involved.

At the end of each project, before calculation of any actual final subcontracting penalties, LAWA may withhold as disputed funds 15% of all subcontract(s) that appear to be in violation of any subcontracting provision of the project, and 15% of all subcontract(s) where work was performed on the project without, or prior to, approval by LAWA.

#### SUB-AGREEMENT FALSIFICATION:

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work to be done by the sub-bidder/subcontractor may result in sanctions set forth under Penalties.

#### MONTHLY REPORT SUBMITTAL:

The Contractor shall submit to LAWA, on a monthly basis, together with its invoice the Subcontractor Utilization Report listing the SBE subcontractors utilized during the reporting period. Contractor shall cooperate with LAWA personnel in providing such information as requested by LAWA in order to ensure compliance. LAWA will not process or pay Contractor's subsequent invoices if the Subcontractor Utilization Reports are not timely submitted or if the Contractor fails to cooperate with LAWA personnel by promptly providing any and all information related to SBE participation requested by LAWA.

#### FINAL SUBCONTRACTING REPORT SUBMITTAL:

The Contractor must submit the Final Subcontracting Report to PSD within fifteen (15) calendar days after a request for the report by PSD. Failure to comply may result in the assessment of liquidated damages in the amount of \$100.00 per day by LAWA.

#### FUTURE REVISIONS TO RULES AND REGULATIONS:

The Executive Director is authorized make modifications to these Rules and Regulations as necessary from time to time.



*Los Angeles World Airports*

**ATTACHMENT 10**

Certification Process for Contract Review and Monitoring (attached)

## **Certification Process for Contract Review and Monitoring:**

### **A. Identify the Contract Award/s with DBE/ACDBE Goals**

Procurement Services Division (PSD) Contract Compliance staff will review the Board Actions to identify contract award/s with DBE and ACDBE goals and proposed participation levels.

### **B. Verify the Pertinent Documentation of the Contract Awarded**

PSD Contract Compliance staff will verify the DBE and ACDBE goals, the Prime Contractor's proposed DBE and ACDBE participation levels, and the authorized contract amount in the pertinent documentation (listed below) to ensure consistent records:

- Contract - provision for DBE/ACDBE
- Board Resolution
- Board Report
- SAP Authority
- Vendor's Review Memo – source document
- Form C

### **C. Verify the DBE/ACDBE Enforcement Provision**

PSD Contract Compliance staff will verify the enforcement provision in the contract for the DBE and ACDBE programs to ensure it is included in the contract. (Except, DBE construction project/s)

### **D. Initial the Pertinent Documentation as Reviewed**

PSD Contract Compliance staff will initial the Board Report, Board Resolution, SAP Authority, and Form C to ensure that pertinent documentation of the contract are in place and reviewed. (Certifying as reviewed for consistency and accuracy of information relative to ACDBE/DBE participation, contract awarded, contract provision/s, and contract amount authorized).

### **E. Create a Contract Profile in the PSD's Database for Monitoring**

PSD Contract Compliance staff will create a contract profile in the PSD's database to start monitoring the race-neutral DBE and race-conscious ACDBE participation of the Prime Contractor and Concessionaire, respectively.

### **F. Monitoring of the Participation Level/Utilization of Subcontractors**

PSD Contract Compliance staff will review the Subcontractor Utilization Report submitted by the Prime Contractor/Concessionaire to ensure timely submission, accurate reporting of amount invoiced for the period/ to date, and approved subcontractors were utilized. Once reviewed, the Contract Compliance staff will initial the monthly utilization report. The Contract Compliance staff member enters the data from the Subcontractor Utilization Report into PSD's database to monitor the status of subcontractor utilization on a monthly basis.

In addition, the Contract Administrator and/or Project Manager of the contract at the Division will verify and certify the invoice and/or revenue activity report, along with the utilization report. The Division has a designated staff to perform an on-site visit to concession and/or project location for inspection.