CALIFORNIA HIGH-SPEED RAIL AUTHORITY

August 2012

Edmund G. Brown Jr.
Governor
State of California

REVISED SMALL AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

The California High-Speed Rail Authority is committed to making small business a top priority in all contracting phases of this historic infrastructure project. Our goal is to achieve 30 percent small and disadvantaged business participation on the project. This commitment will serve to inspire business growth, job creation and workforce development opportunities while building the vitality of California's high-speed rail program.

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California High Speed Rail Authority
Small and Disadvantaged Business Enterprise Program

TABLE OF CONTENTS

Small and Disadvantaged Business Enterprise Policy Statement.....i

I. SUBPART A: GENERAL REQUIREMENTS
- A. Program Authority and Applicability.....1
- B. Definitions.....1
- C. Non-Discrimination Requirements.....5
- D. Federal Financial Assistance Agreements.....7

II. SUBPART B: RESPONSIBILITY OF SB PROGRAM IMPLEMENTATION
- A. SB Liaison Officer.....8
- B. Shared Responsibility.....9
- C. Other Program Support Divisions.....10
- D. Fostering Small Business Participation.....11

III. SUBPART C: ADMINISTRATIVE REQUIREMENTS
- A. Data Collection and Reporting.....13
- B. Records Maintenance and Confidentiality.....15
- C. SB Program Updates and Amendments.....15
- D. Prompt Payment Mechanisms.....16
- E. Small Business Meetings.....16
- F. Contract Monitoring and Compliance.....17

IV. SUBPART D: GOALS, GOOD FAITH EFFORTS AND COUNTING SB PARTICIPATION
- A. Overall Goal.....20
- B. Federal Financial Assisted Contract Goal.....20
- C. Good Faith Efforts (Pre and Post Award).....21
- D. Counting SB Participation.....25
- E. Substitution or Termination of a SB, DVBE or DBE on a Contract.....28

V. SUBPART E: DESIGN-BUILD PROVISIONS
- A. SB Performance Plan Objectives.....32
- B. Key Personnel (Contractor SB Officer).....32
- C. Meeting Established SB Goal.....36
- D. Contractor Good Faith Effort and Reporting Obligations.....37

VI. SUBPART F: SUPPORTIVE SERVICES, RESOURCE PARTNERS AND PARTNERING
- A. Supportive Services.....39
- B. Resources Partners.....39
- C. Partnering.....40

ATTACHMENTS:

Authority Organizational Chart..... Attachment 1
DGS Standard Form 810 Contracting Activity Report..... Attachment 2
USDOT Uniform Report of DBE Awards/Commitments..... Attachment 3
Monthly SB Subcontractors Paid Report Summary and Payment Verification--
Form 103..... Attachment 4
Sample Partnering MOU Agreement..... Attachment 5

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

POLICY DIRECTIVE

Number POLI-SB-01

Approved By

Jeff Morales
Chief Executive Officer

8.20.12
Date

SUBJECT: Small and Disadvantaged Business Enterprise Policy

The California High-Speed Rail Authority (Authority) is overseeing the design and construction of a multi-billion dollar state-of-the-art high-speed rail system, with 800 miles of track connecting urban centers from San Francisco to San Diego, utilizing trains that operate at speeds of 220 mph. Building this state-of-the-art high-speed rail system will promote a strong, diverse economy. The project will create significant contracting opportunities for businesses throughout the State of California and will eventually result in more than 1 million job-years, with 100,000s of long-term/permanent jobs once the system is fully in place.

As a condition of federal financial assistance, from the Federal Railroad Administration (FRA), the Authority has signed an assurance that it will implement the best practices of Title 49 Code of Federal Regulations (CFR) Part 26 "*US Department of Transportation DBE Program*" and comply with Title VI of the Civil Rights Act of 1964 and related statutes, on all activities to ensure Small and Disadvantaged Businesses have an equitable opportunity to participate in contracts funded in part or in whole with federal financial assistance. The Authority has established a Small and Disadvantaged Business Enterprise Program, inclusive of Small Businesses (SB), Disabled Veteran Business Enterprises (DVBE), Disadvantaged Business Enterprises (DBE) and Microbusinesses (MB), which meets the State of California SB/DVBE and federal DBE certification eligibility criteria, and herein after, will be referred to as SBs. The Authority is committed to ensuring SBs have the maximum practicable opportunity to compete for and participate in the Authority's contracting and procurement opportunities.

It is the policy of the Authority to ensure SBs as defined by Government Code 14837, Military and Veteran Code 999 and 49 CFR Part 26; are afforded every opportunity to participate in the Authority's contracting program. The Authority strives to meet an overall 30 percent SB participation goal, representative of firms that reflect the diversity of California. The 30 percent goal is inclusive of a 10 percent DBE goal and a 3 percent DVBE goal on federally assisted contracts.

Program Objectives

The Authority's Chief Executive Officer (CEO) has the lead responsibility for the development and implementation of the Authority's SB Program. The CEO will designate a SB Liaison Officer (SBLO). In this capacity, the SBLO is responsible for implementing and ensuring compliance by all parties with respect to all components of the program.

The Authority's policy and race and gender neutral SB Program incorporates the following objectives:

- Ensure participation by SB concerns owned and controlled by socially and economically disadvantaged individuals;
- Provide maximum practicable opportunities for SBs, including veteran owned small businesses and service-disabled veteran small businesses;
- Ensure best practices are implemented, consistent with our nation's Civil Rights and Equal Opportunity laws that ensure all individuals regardless of race, gender, age, disability and national origin benefit from activities funded by federal financial assistance;
- Meet construction employment goals for minorities and women;
- Ensure non-discrimination in the award and administration of all contracts inclusive of USDOT–assisted contracts;
- Create a level playing field in which SBs can compete fairly for all Authority contracts and subcontracts;
- Ensure that the SB Program is implemented in accordance with applicable State and federal laws and regulations;
- Ensure that only firms that fully meet Government Code 14837, Military and Veterans Code 999 and 49 CFR Part 26 eligibility standards are permitted to be counted towards meeting the overall SB goal;
- Help remove barriers for the participation of SBs;
- Assist in the development of existing SB firms--enabling the firms to compete successfully in the market place;
- Ensure Contractors meet the established SB goals, including developing a SB Performance Plan (SB Utilization Plan);
- Ensure subcontract solicitation and subcontract documents include the SB Program plan and goal requirements;
- Ensure the SB Program is flexible, attainable, efficient and credible; and
- Ensure a workforce on the construction of the project to be reflective of the diversity of California.

The Authority will administer the SB Program in accordance with the spirit and intent of the Governor's Executive Order S-02-06 and US Department of Transportation, 49 CFR Part 26, federal financial assistance agreements until all funds are expended.

The Authority ensures Equal Opportunity to all people and businesses, regardless of race, color, or national origin.

I. SUBPART A: GENERAL REQUIREMENTS

I.A. Program Authority and Applicability

Pursuant to the Authority's project funding assurances, the SB Program is authorized by Executive Order S-02-06; and by Title VI of the Civil Rights Act of 1964 and related statutes.

This SB Program is applicable to the Authority's State financially assisted and federal USDOT-- Federal Railroad Administration (FRA) financially assisted projects. To ensure success of the program, the Authority will require strict compliance in meeting the program objectives and corresponding requirements by all Authority staff, its Consultants, Contractors and subcontractors, regardless of tier.

The SB Program:

1. Complies with State laws and federal regulations and financial assistance agreements;
2. Meets legal standards of application;
3. Ensures non-discrimination in the award of State and USDOT-assisted contracts; and
4. Reaffirms the Authority's commitment to fairness and the principles of equal opportunity.

In the event of any conflicts or inconsistencies between the federal regulations and the SB Program with respect to DOT-assisted contracts, the federal regulations shall prevail.

Contracts

The Authority recognizes that certain modifications are necessary to adapt the SB Program for use in connection with the construction of the high speed rail system. The SB Program plan provisions will be modified for construction, professional services, and supplier and manufacturer procurements.

I.B. Definitions

Some of the most common terms, as used in the SB Program, are defined as:

Business Registry: A list of all contractors, SBs and non-SBs, which have expressed an interest in bidding on the Authority's prime contracts and subcontracts. The purpose of this list is to provide as accurate data as possible about the availability of SBs and non-SBs who seek to work on Authority contracts.

California Unified Certification Program (CUCP): One-stop certification clearinghouse, enabling applicants to apply once for DBE certification, which will be honored by all USDOT recipients in the state of California.

Commercially Useful Function (CUF): A small, disadvantaged business, disabled veteran business and microbusiness is deemed to perform a commercially useful function if the business does all of the following:

Disabled Veteran Business Enterprise:

Disabled veteran business enterprise contractor, subcontractor, or supplier which means any person or entity that has been certified by the administering agency pursuant to this article and that performs a "commercially useful function," as defined below, in providing services or goods that contribute to the fulfillment of the contract requirements. Pursuant to the Military and Veteran Code 999(b) (5):

(i) A person or an entity is deemed to perform a "commercially useful function" if a person or entity does all of the following:
(I)(aa) is responsible for the execution of a distinct element of the work of the contract.
(ab) carries out the obligation by actually performing, managing, or supervising the work involved.
(ac) performs work that is normal for its business services and functions.
(II) is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.
(ii) a Contractor, subcontractor, or supplier will not be considered to perform a "commercially useful function" if the Contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

Disadvantaged Business Enterprise:

Pursuant to Title 49 CFR Part 26.55 (1), "A DBE performs a commercially useful function when it is responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The DBE must also be responsible, with respect, to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing and paying for the material itself." As stated in 49 CFR Part 26.55 (2)(3), "A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. A DBE does not perform a CUF if it does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved."

Small Business or Microbusiness:

Pursuant to the Government Code § 14837 and California Code of Regulations § 1896.4(h), a SB or Microbusiness is considered to perform a CUF if the firm:

1. Is responsible for the execution of a distinct element of the work of the contract;
2. Carries out its obligation by actually performing, managing, or supervising the work involved;
3. Performs work that is normal for its business services and functions;
4. Is not further subcontracting a greater portion of the work that is greater than that expected to be subcontracted by normal industry practices;
5. Is responsible, with respect to materials and supplies provided on the subcontract, for negotiating price, determining quality and quantity, ordering the material, installing (when applicable), and paying for the material itself; and
6. Will not be considered to perform a CUF if the role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to achieve the appearance of small business or microbusiness participation.

Compliance: A Contractor has correctly implemented the requirements of the SB Program.

Contract: A legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to construction and professional services) and the buyer to pay for them.

Contractor: One who participates, through a prime contract, in the Authority's Design-Build program. In this SB Program, Contractor shall also mean--Design-Builder, Master Contractor, Prime Contractor and Prime Consultant.

Department of Transportation or USDOT: The U.S. Department of Transportation, including the Office of the Secretary, the Federal Railroad Administration (FRA), Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA). U.S. Department of Transportation is also synonymous with Operating Administration.

DBE Certification: A certification issued to a firm by a certifying member agency of the California Unified Certification Program (CUCP) which has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by the certifying CUCP member. Refer to the DBE Directory for a listing of DBE firms.

DOT-Assisted Contract: A contract funded in whole or in part with USDOT financial assistance, including letters of credit or loan guarantees.

Goal: A numerically expressed objective, which the Authority or its Contractors are required to make Good Faith Efforts to achieve.

Good Faith Efforts: Efforts to achieve the established SB goal or other requirements which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the Authority's SB Program requirement.

North American Industrial Classification System (NAICS): The five to six digit classification number which best describes the primary business of a firm. The basis for industry classification changed from the 1987 Standard Industrial Classification System (SIC) to the 2002 NAICS.

Non-Compliance: A Contractor who has not correctly implemented the requirements of the SB Program.

Professional Services: Professional services that are infrequent, technical or unique functions performed by independent Contractors or consultants whose occupation is the rendering of such services.

Program: Any undertaking on the Authority to use State and USDOT financial assistance authorized by laws to which the SB Program applies.

Race-Conscious Measure: A program or portion thereof that focuses specifically on assisting only DBEs, including women-owned DBEs, by the development and inclusion of numeric participation goals.

Race-Neutral Measure: A program or portion thereof that, assists all small businesses regardless of ownership through community outreach and awareness programs to participate successfully in the

Authority's procurement program. For the purposes of the SB Program, "race neutral" includes gender neutrality.

Small Business Concern: In order to be as inclusive as possible to small businesses for the purpose of this federal aid project, the Authority recognizes a Small Business Concern to include certified Small Businesses (SB), Disadvantaged Business Enterprises (DBE), Disabled Veteran Business Enterprises (DVBE) and Microbusinesses. With respect to firms seeking to participate as SB or DBE in DOT-assisted contracts, a business which meets the definition contained in Section 3 of the Small Business Act and the U.S. Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26.65 (b)., as set forth below:

> **Disadvantaged Business Enterprise (DBE)** – A for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged. In the case of a corporation, 51 percent of the stock is owned by one or more such individuals; and, whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it and has been certified as a Disadvantaged in accordance with 49 C.F.R. Part 26. The Authority recognizes DBE certifications issued by the California Unified Certification Program (CUCP).
>
> **Disabled Veteran Business Enterprise (DVBE)** – A for-profit small business concern that is at least 51 percent owned by a veteran of the United States Military who has at least a 10 percent service-connected disability. To qualify as a Disabled Veteran Business Enterprise, the business must have received the appropriate certification issued by the California Department of General Services.
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> **Microbusiness (MB)** – A for-profit small business concern with gross annual receipts of less than $3,500,000; or, if the small business is a manufacturer, with 25 or fewer employees. The Authority recognizes Microbusiness certifications issued by the California Department of General Services.
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> **Small Business (SB)** – A for-profit small business that meets the requirements and eligibility criteria set forth by the U.S. Small Business Administration and California Department of General Services for certification as a Small Business.
>
> For purposes of 100 percent State-funded contracts, a Small Business is independently owned and operated, with its principal office located in California, and with owners living in California, has grossed $14 million or less over the previous three (3) tax years, and is not dominant in its field of operations. This certification is issued by the California Department of General Services. The Small Business participation will be counted toward the Authority's overall Small Business utilization goal.

Small Business Administration (SBA): The United States Small Business Administration.

Small Business Liaison Officer (SBLO): The SBLO shall be responsible for implementing all aspects of the Authority SB Program.

Socially and Economically Disadvantaged Individual: Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and is—

(1) Found to be socially and economically disadvantaged on a case by case basis by a certifying agency pursuant to the standards of the USDOT Title 49 CFR Part 26.

(2) A member of any one or more of the following groups, members of which are rebuttably presumed to be social 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, 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; and

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

Subcontractor: (a) Prior to contract award, any person with whom the Offeror proposed to enter into a subcontract for any part of the work, or that will enter into a sub-subcontract for any part of the work, at any tier; or (b) after contract award, any person with whom the Contractor has entered into a subcontract for any part of the work, or with whom the Contractor has entered into a subcontractor for any part of the work, or with whom any subcontractor has further subcontracted any part of the work, at all tiers. In this SB Program, Subcontractor shall also mean—Supplier, Vendor, and Services, to include general and professional services, regardless of tier.

I.C. Non-discrimination Requirements

The Authority will not 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.

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

In accordance with Title VI of the 1964 Civil Rights Act and related statutes, Contractors and Consultants, regardless of tier, shall comply with the following non-discrimination requirements:

A. **Compliance with regulations:** The Contractor shall comply with regulations relative to Title VI (non-discrimination in federally-assisted programs of the U.S. Department of Transportation - Title 49 CFR Part 21 and Part 26.7 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of non-discrimination in which no person shall, on the basis of race, color, or national origin, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

B. **Non-discrimination:** The Contractor, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Contractor shall not discriminate on the basis of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Part 21.5 et. seq. of the USDOT's regulations, including employment practices.

C. **Solicitations for Subcontracts, Including Procurements of Services, Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the regulations relative to non-discrimination on the grounds of race, color or national origin.

D. **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the Authority or any duly authorized representative of the federal government to be pertinent to ascertain compliance with such regulations or directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Authority, or any duly authorized Federal Agency as appropriate, and shall set forth what efforts it has made to obtain the information.

E. **Sanctions for Non-compliance:** In the event of the Contractor's non-compliance with the non-discrimination provisions of this Agreement, the Authority shall impose such Agreement sanctions as it or any federal funding agency may determine to be appropriate, including, but not limited to:

1) Withholding of payments to the Contractor under the Agreement until the Contractor complies, and/or
2) Cancellation, termination or suspension of the Agreement, in whole or in part.

Incorporation of Provisions: The Contractor shall include the provisions of paragraphs (A) through (E) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The Contractor will take such action with respect to any subcontractor or procurement as the Authority or any federal funding agency may direct as a means of enforcing such provisions including sanctions for non-compliance.

Refer to Subpart C: Administrative Requirements, Section F. Contract Monitoring and Compliance for information on administrative sanctions.

The Authority will ensure that the following clause is placed, in every USDOT-assisted contract and in subcontract language, regardless of tier:

The Contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, or national origin in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26.13(b) in the award and administration of DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Authority deems appropriate.

For Solely State Funded Contracts

In accordance with State non-discrimination program requirements as set forth in Government Code Section 12990 et seq and Title 2, California Code of Regulations, Division 4, Chapter 5, Sections 8103, 8104, 8108 and 8113 (unless exempted pursuant to Section 8115) Contractors or subcontractor firms with 50 or more employees shall provide a description of the firm's non-discrimination plan designed to eliminate discrimination based on race, color, religion, age, sex, sexual orientation, disability or national origin.

Each firm (Contractor or subcontractor) with fewer than 50 employees must provide a statement indicating that the firm has fewer than 50 employees and is therefore exempt from the Non-discrimination Plan requirement.

I.D. Federal Financial Assistance Agreements

Pursuant to Public Utilities Code 185036(d) the Authority may enter into a cooperative or joint development agreement with local governments or private entities. As a condition of receiving federal financial assistance funds, the local government or private entities must adhere to non-discrimination and develop and implement a SB Program in accordance with the best practices of 49 CFR Part 26, where applicable. The local government or private entity may implement an existing SB Program, with the concurrence of the Authority.

Pursuant to federal provisions, the Authority shall require the local government or private entity to provide assurances of their compliance with 49 CFR Part 26.13(a), and will include the below language in agreements with local governments or private entities.

Assurance: 49 CFR Part 26.13(a)

The (INSERT LOCAL GOVERNMENT OR PRIVATE ENTITY NAME) shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT assisted contract or in the administration of its SB Program or the best practices of 49 CFR Part 26. The (INSERT NAME) shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of USDOT assisted contracts. The Authority's SB Program, as approved by FRA or FTA, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Authority of (INSERT NAME) failure to carry out its approved program, the FRA or FTA may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Authority shall maintain program oversight to ensure the local government or private entity complies with the best practices of 49 CFR Part 26, where applicable, under the cooperative or joint development agreement.

II. SUBPART B: RESPONSIBILITY OF SB PROGRAM IMPLEMENTATION

II.A SB Liaison Officer (SBLO)

The Authority's Chief Executive Officer (CEO) designates the SBLO to administer the day-to-day operations of the SB Program. The SBLO has direct, independent access to the CEO concerning SB Program matters. The SBLO contact information is:

Small Business Liaison Officer
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814
(916) 324-1541

The SBLO or its designee, is responsible for implementing all aspects of the SB Program and ensuring that Authority complies with all provisions of the Executive Order S-02-06 and the best practices of 49 CFR Part 26.25, where applicable. An organization chart displaying the SBLO position in the organization is found in Attachment 1 to this plan.

In this capacity, the SBLO is responsible for developing, implementing and monitoring the SB Program, in coordination with other appropriate officials. The SBLO shall have appropriate resources to assist in the administration of the program. The duties and responsibilities include, and are not limited to the following:

1. Develops, implements and monitors the SB Program, keeping it up-to-date with the current business environment and the latest revisions to the applicable State and federal laws and regulations, ensuring the SB Program is responsive to and in compliance with the regulations, including, but not limited to, the Executive Order S-02-06 and the best practices of 49 CFR Part 26, as applicable.

2. Performs the duties of the Small Business Liaison and Disabled Veteran Business Enterprise Advocate, as prescribed by State statutes.

3. Ensures the Authority employees and its Contractors under contract; understand the importance of the SB Program and meeting the established SB utilization goals.

4. Provides SB Program training to the Authority employees, Program Management Team and others as appropriate.

5. Complies reports and publishes statistical SB utilization data as required for appropriate entities.

6. Reviews third party contracts and purchase requisitions for compliance with this program.

7. Works with the Program Management Team to set an overall SB business goal.

8. Ensures bid notices and requests for proposals are available to SBs in a timely manner.

9. Identifies federally assisted contracts and procurements and assesses viability for race-neutral or race-conscious contract-specific goal application, where applicable.

10. Analyzes progress toward goal attainments and identifies ways to improve progress, as necessary.

11. Participates in SB meetings and outreach events.

12. Participates in the development and review of contract specifications and solicitations.

13. Evaluates Bidder/Offeror Good Faith Efforts and/or Small Business Performance Plan submittals for compliance with the SB Program objectives.

14. Advises the CEO and the Authority's Board on SB matters and achievements.

15. Plans and participates in SB training seminars.

16. Conducts business outreach and assists SBs in obtaining the necessary information to compete on contracts by providing guidance and direction, and advising SBs on where to seek management, SB certifications, technical business development expertise, bonding, lines of credit and other supportive services.

17. Provides guidance and assistance to Contractors on the development and implementation of their SB Program Performance Plans.

18. Reviews SB utilization reports from Contractors and makes recommendations, where applicable.

19. Monitors and conducts SB Program reviews of the Contractors adherence with Title VI Program and the SB Program.

20. Ensures coordination of the SB Program deliverables with Authority managers, the Authority's Board, Governor's Office, DGS, FRA, Federal Transit Administration, local agencies and the business community.

21. Ensures only firms meeting eligibility standards count towards the overall SB goal.

22. Facilitates SB inquiries regarding Authority activities, contracts and projects.

23. Facilitates the Authority Business Advisory Council formation, meetings, activities and reports on SB utilization.

II.B. Shared Responsibility

The following Authority divisions have a shared responsibility to achieve the overall SB Program goals and ensure compliance and success of the SB Program and objectives.

Administrative Services - Procurements and Contracts responsibilities will include, and are not limited to the following, as applicable:

1. Provides draft scopes of work and engineering estimates to enable the SBLO to actively engage in goal setting, outreach and the development of appropriate SB language in solicitation documents.

2. Provides the SBLO with copies of final Information for Bids (IFB), Request for Proposal (RFP), Request for Interest of Qualification (RFIQ), Purchase Orders (PO), mailing lists and advanced notices on Authority procurements.

3. Incorporates SB goals and compliance language into the solicitations.

4. Notifies the SBLO of any changes to IFBs, RFIQs, RFPs and POs.

5. Disseminates information on contracting opportunities to the SBs on the Business Registry and posts on Authority webpage in addition to BidSync.

6. Documents the placement of legal notices in response to Title VI and the best practices 49 CFR Part 26 publication requirements for SB goals, as applicable. Notices will be placed in general, trade and minority focused newspapers.

7. Notifies the SBLO of pre-bid, pre-proposal and pre-construction conferences.

8. Solicits and maintains Business Registry and assists in the identification of potential SB vendors and contractors.

9. Requests SBLO or staff member participation on Bid and Proposal Evaluation, and Negotiation Committees or Teams.

10. Forwards copies of Bids and Proposals to the SBLO for evaluation of responsiveness and/or responsibility to SB Program requirements.

11. Participates in outreach program activities, including vendor fairs.

12. Collects, tracks and reports quarterly and annual SB reports to the SBLO.

13. Assists the SBLO in compiling federal financial assistance information and data to facilitate a SB goal.

14. Assists the SBLO to identify SB financial institutions, bonding and insurance programs to help increase the number of SB participating in contracts and subcontracts.

15. Assists on other contract administration activities that impacts SB utilization.

II.C. Other Program Support Divisions

The Authority personnel, divisions and Program Management Team share in the responsibility for ensuring the effective implementation and success of the SB Program. The program support divisions and Program Management Team are expected to give their full cooperation and active support to the SBLO in this effort.

Program Management Team responsibilities will include, and not be limited to:

1. Develops a working knowledge of the SB Program's policies, practices and procedures, including race and gender neutral methods of achieving SB utilization by implementing the SB Program requirements.

2. Notifies the SBLO in a timely manner of the project's Pre-Proposal or Pre-Bid conferences and "Kick-Off" meetings.

3. Structures individual contracting actions and acquisition strategies to create a level playing field and utilization by SBs, wherever possible. This includes dividing a contract statement of work, where possible, into portions that will enable SBs to compete as primes. Proper use of this structuring for SB utilization shall not result in the avoidance of proper approval Authority. This also includes, if not prohibited by State law, waiving or reducing bonding requirements or allowing for incremental bonding.

4. Assists the SBLO to perform ongoing contract compliance and monitoring to ensure SBs are utilized on contracts and subcontracts as committed.

5. Assists the SBLO to obtain SB utilization data records and reports, to include reviewing the documents for compliance with the contract terms and conditions and SB Program requirements.

6. Identifies and refers potential SB utilization issues promptly to the SBLO.

7. Responds promptly to other SB related requests.

Communications and Outreach Team responsibilities will include, and not be limited to:

1. Provides up-to-date information electronically on the Authority webpages regarding contracting opportunities, upcoming events and current SB Program information.

2. Provides project and contract information in multiple medias, such as newspapers, other publications, webpages, and a toll free number.

3. Ensures similar business opportunities and events are posted on the DGS and BidSync webpages.

4. Assists the SBLO to provide technical assistance to firms requesting to be placed on the Business Registry, provides database information, including detailed step-by-step instructions on how to register on the Business Registry database.

II.D. Fostering Small Business Participation

In accordance with the best practices of 49 CFR 26.39, the SB Program shall include elements to structure contracting requirements to facilitate competition by small businesses, taking all reasonable steps to eliminate barriers, including unnecessary and unjustified bundling of contract requirements that may preclude small businesses from participating as prime contractors or subcontractors.

The SBLO is responsible for identifying and implementing innovative acquisition strategies, such as to:

1. Assist SBs in understanding how to do business with the Authority and other Contractors.

2. Participate in forums to hear about and address SB issues.

3. Develop and implement methods for outreach and promotion of SBs to the Authority contract opportunities.

4. Develop brochures and other written material and marketing tools that promote SB utilization in contracts.

5. Create a calendar of contract opportunities, outreach events and general information of interest to SB and post it on the website at www.cahighspeedrail.ca.gov under the Small Business Resources webpage.

6. Disseminate information on networking opportunities for all SBs.

7. Inspire prime bidders on a contract without a goal to provide subcontracting opportunities of a size that SBs can reasonably perform on.

8. Encourage the utilization of the State of California Small Business Option, where possible.

9. Express to Contractors the importance of utilizing innovative strategies in their subcontracting procurements to meet the overall SB goal, which includes utilizing a Small Business Option.

The SBLO will track SB utilization through the *Form 103* and include SB attainments on annual reports and publish the information on the Authority website under the Small Business Resources webpage.

III. SUBPART C: ADMINISTRATIVE REQUIREMENTS

III.A. Data Collection and Reporting

State SB Reporting

Pursuant to Government Code § 14838, the Authority is obliged to report SB utilization to the Authority's Board, DGS and California Legislators through the Standard Form 810—Contracting Activity Report and related Form 810s. The Authority shall submit the report to DGS by July 31 of each year. The data will include SB contract and subcontract awards for previous fiscal year on solely State funded contracts (See Attachment 2—Standard Form 810). The SB utilization data for the Form 810 will be collected from Contractors through the monthly submittal of the Form 103 SB Utilization Report.

Federal SB and DBE Reporting

The Authority will report SB, including DBE utilization, on the USDOT Uniform Report of DBE Awards/Attainments Form. The report will be submitted to the FRA on a semi-annual basis (June 1 and December 1) each year. The June 1 report shall include information from October 1 through March 31. The December 1 report shall include information from April 1 through September 30. These reports will capture SB, including DBE utilization for USDOT financially assisted contracts awarded during the reporting period and actual SB attainments based on payments made to SBs and DBEs on USDOT financially assisted contracts closed within the respective reporting period (See Attachment 3 for the USDOT Uniform Report of DBE Awards and Commitments Form). The SB utilization data will be collected from Contractors through the monthly submittal of the Form 103 SB Utilization Report.

In the event that the Authority receives USDOT financial assistance from an Operating Administration that has directed the Authority to impose 49 CFR Section 26.45(e) (2), the Authority will develop a DBE goal in accordance with federally prescribed goal setting methodology and submit its overall DBE goal to the appropriate USDOT Operating Administration by August 1, under a three-year goal review interval. The Authority will additionally, on an annual basis, review its DBE attainments in contrast to its overall DBE goal to determine if any measures, including race-conscious measures would need to be instituted to effectively meet its established overall DBE goal.

For purposes of the federal SB and DBE utilization report, a small business that is certified by the DGS or the SBA will be counted as a SB.

Business Registry

The Authority will create and maintain a Business Registry, consisting of information regarding all SBs and non-SBs that have expressed an interest in, have bid or quoted on the Authority's contracting opportunities. The purpose of the Business Registry is to determine the availability of the SBs interested in the rail project and provide potential and selected Contractors with information on who is available for subcontracting opportunities. The Business Registry is designed to capture:

- Business name
- Contact information—address, phone numbers
- SB certification type and status
- If the firm is not a SB, their non-SB status

- Age of business
- General or average annual gross receipts
- General business services
- Business's NAICS
- Central Contractor Registration number

The Business Registry will be derived through the contract procurement solicitation process and through the Authority's website. The Business Registry will be available to prospective Bidders and Offerers to facilitate meeting the SB goal. The Business Registry is not a certification directory. SB certification must be validated through a recognized certifying agency.

SB/DVBE/DBE Directories:

The Authority and Contractor shall rely on the DGS - SB/DVBE/Microbusiness Directory, the California Unified Certification Program (CUCP) and the SBA directory to identify and verify certified firms. A complete listing of certified SBs, DVBEs and Microbusinesses can be found on the DGS website at www.dgs.ca.gov/pd/programs/OSDS/aspx. A complete listing of certified DBEs can be found on the California Unified Certification Program website at www.dot.ca.gov/hq/bep. A complete listing of certified SBs by the SBA can be found at www.sam.gov.

The directories provide the firm's name, address, phone number, fax number, certification status and the type of services the firm provides. (Government Code § 14837 and 49 CFR 26.31)

Notification of Reporting Responsibilities

Contractors participating in any of the Authority's contracts shall fully comply with the Authority's specific SB reporting, adhoc reports, record keeping and report submittal requirements.

SB Activity Reporting Forms

All Contractors shall submit monthly progress reports on SB utilization to the Authority. The Authority and Contractors will keep a running tally of actual payments to SBs for work committed to them during the contract performance. Attachment 4, *Monthly SB Subcontractors Paid Report--Summary and Payment Verification* (Form 103) will be used to keep the running tally. The Form 103 reporting requirement also captures SB utilization at all tiers.

All Contractors shall submit the Form 103 by the 15th of each month. The contract specifications shall describe the method in which to transmit the monthly report. Failure to submit the Form 103 reports may result in the imposition of a penalty of $1,000 per day for each monthly report overdue. Civil penalties for knowingly providing information on Form 103, is in the minimum amount of $2,500 and the maximum amount of $25,000. An action for a civil penalty under this subdivision may be brought by any public prosecutor in the name of the people of the State of California and the penalty imposed shall be enforceable as a civil judgment. [Military and Veterans Code § 999.5(d)].

Refer to Subpart C: Administrative Requirements, Section F. Contract Monitoring and Compliance for information on administrative sanctions.

The monthly Form 103 is designed to capture and verify the following information:

a. Name of each SB participating under the respective contract.
b. Type of work assignment designated to each SB.
c. The dollars committed to each SB.
d. The dollars paid to each SB during the reporting period.
e. The dollars paid to date for each SB.
f. The dollars paid to the SB as a result of a change order or other cost modification.
g. The dollars paid to date as a percentage of the total commitment to each SB.
h. Date of last progress payment to the Contractor.
i. Invoice number corresponding to last payment to subcontractor.
j. An authorized Contractor's Signature that certifies under penalty of perjury that it has complied with all SB Program requirements, including prompt payment and retainage requirements per State laws and the best practices of 49 CFR Part 26.29, as applicable.

III.B. Record Maintenance and Confidentiality

The Authority shall maintain records for the period prescribed in State Records Management and Federal Records Management and requires Contractors to do the same. The Authority shall safeguard from disclosing to third parties information that may reasonably be regarded as confidential business information, consistent with federal, State, and local law. The California Legislature created the Public Records Act, mindful of the right of individuals to privacy, finding and declaring that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

III.C. SB Program Updates and Amendments

The SB Program will be administered in accordance with applicable statues, regulations and funding assurance conditions. The SB Program may be amended to reflect significant operation, administration, regulatory and/or statutory changes that will effect implementation of the program. Amendments to the program will be incorporated and presented to the appropriate State, federal and private funding partners, as deemed necessary. The amended language will be posted on the webpage as an "update" to the SB Program. The SB Program updates and amendments will be disseminated to the Contractors for incorporation into existing contracts.

<u>Accountability</u>

The Authority will follow the accountability provisions in the best practices of 49 CFR 26 to assure the FRA that it is committed to carry out the best practices of 49 CFR 26 to meet the USDOT intended goals and objectives of affording SBs a level playing field by which to actively bid/propose and successfully perform on the Authority's USDOT-assisted contracts.

In the event the Authority does not meet its overall SB goal at the end of the fiscal year, it will in conformance with USDOT guidance, analyze the reasons for the shortfall and establish specific steps and milestones to correct problems identified in its analysis that will enable the Authority to meet its goal in the new fiscal year. The Authority must submit the analysis and corrective actions within 90 days of the end of the fiscal year for FRA approval.

When the FRA approves the report, the Authority will be regarded as compliant with the best practices of 49 CFR Part 26 for the remainder of the federal fiscal year. FRA may impose

conditions on its approval, including the requirement to increase good faith efforts or modify the SB Program race-neutral measures for the remainder of the federal fiscal year. [49 CFR Part 26.47(c) and (d)].

The Authority will additionally maintain strong outreach efforts to encourage small, disabled veteran, minority and women-owned firms to become certified as SB, DBEs, DVBEs and Microbusinesses to increase the pool of ready, willing and able SBs.

III.D. Prompt Payment Mechanisms

The Authority will include the following clause in each contract:

> *"The Contractor/Consultant agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment the Contractor receives from Authority. The Contractor/Consultant agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Authority. This clause applies to both SB and non-SB subcontracts (Government Code 927 et seq. Public Contract Codes 10261, 10262 et seq, Business and Professions Code 7108.5, Military and Veterans Code 999.5 (d) (4), and 49 CFR Part 26.29, where appropriate.)*

<u>Monitoring Payments to SBs</u>

The Authority shall use the monthly Form 103 to monitor and enforce the Contractor's compliance with the prompt payment provisions to ensure all contract terms and conditions are fully adhered to. Evidence of payment made to subcontractors must be provided at the Authority's request, to verify compliance. Credits toward the overall or individual contract goals are to be taken upon satisfactory evidence that payments were actually made to SBs. Failure to comply with these provisions or delay in payment without prior written approval from the Authority will constitute non-compliance, which will result in appropriate administrative sanctions, up to and including withholding of payment to the Contractor. Refer to Subpart C: Administrative Requirements, Section F. Contract Monitoring and Compliance for information on administrative sanctions.

It is the Contractor's responsibility to maintain records and documents upon completion of the contract. These records will be made available for inspection upon request by any authorized representative of the Authority, FRA or USDOT. The Authority may perform interim audits of payments to SBs. The audit will review payments to SBs to ensure that the actual amount paid to SBs equals the dollar amounts reported on the Form 103 report.

If the Authority determines that the Contractor has failed to comply with the prompt payment provisions, written notice shall be given to the Contractor and/or the Contractor's Surety that, if the default is not remedied within a specified period of time, at least five (5) days, the contract may be terminated for cause, in accordance with the terms and conditions of the contract.

III.E. Small Business Meetings

The Contractor and Contractor's Small Business Officer shall host SB partnering meetings with a representative of each SB firm, Authority staff and Authority's SBLO, within 60 days of Notice to Proceed to ensure all parties understand and are acclimated to the SB Program requirements, including the

commitments made in Contractor's SB Performance Plan, as applicable. The meeting should be in proximity to the construction site. The agenda will include the role and responsibilities of the Contractor's SB Officer and how the Contractor will assist SBs in completing their subcontracts. The Authority will provide an overview of the contract SB requirements, including prompt payment, retention, commercially useful function, reporting requirements and other matters. The Contractor is responsible for notifying all subcontractors, regardless of tier, of the SB Program and Contractor's SB Performance Plan requirements.

III.F. Contract Monitoring and Compliance

The Authority's Contract Compliance Officer shall be responsible for working with the Contractor's designated SB Liaison Officer to ensure the following contract monitoring and enforcements actions are taken to comply with Executive Order S-02-06 and the best practices of 49 CFR Part 26, where applicable.

Recordkeeping

The Authority has a recordkeeping mechanism that allows for timely data capturing on the Contractor's SB utilization attainments. The Contractor's monthly submission of the Form 103 enables the Authority to effectively monitor, track and report SB contract awards and progress in attaining their respective SB goal commitments throughout the performance of the contract. The Authority will monitor the Contractor's compliance to ensure that work committed to SBs at contract award and thereafter is actually performed by the SBs and is fully actualized based on dollars paid to the SBs. Procedures adopted by the Authority also serve to comply with the Governor's Executive Order S-02-06 and the best practices of 49 CFR Part 26.

Executed SB Subcontract Agreements

The Contractor shall submit copies of all executed SB subcontracts and/or SB purchase orders (PO) within 14 working days after the Notice to Proceed is issued by the Authority. Subcontract agreements entered into subsequent to the NTP, shall be submitted to the Authority within 14 working days following commencement of the work, regardless of the subcontractor and vendor tier. The Contractor and its lower tier subcontractors must incorporate the Authority's prompt payment provisions in all executed subcontract agreements.

On-Site Performance Monitoring

During the course of the contract, the Authority will perform periodic on-site monitoring to ensure that work committed to SB firms is actually being performed by the SBs.

The Authority may also utilize the Labor Compliance Field Interview process as a secondary mechanism to verify that work awarded to SBs are being performed by the SB's own workforce. The interview results will be reconciled against the SB agreements submitted by the Contractor and the Contractor's Form 103 reports.

Written Certification

As a part of the project/contract close-out process, the Authority will include a written certification that it has fully monitored the contract in accordance with the SB Policy and approved SB Program. The written certification will be maintained in the Authority's contract file and available upon request to the funding partner.

Administrative Remedies for Non-Compliance

Areas of identified non-compliance will be subject to administrative or financial sanctions and may include termination of the contract. The Authority will consider all State and federal regulatory options to impose administrative or financial sanctions, which may include termination of the contract and present the action to the Authority Board.

All Contractors deemed to be in non-compliance shall be informed in writing by certified mail, by the SBLO or designee that administrative remedies shall be mandatory for failure to comply with the SB Program requirements. The Contractor shall be given five (5) working days from the date the notice was received, to file a written appeal to the Chief Executive Officer. Failure to respond within the five (5) day period shall constitute a waiver of appeal. The notice shall state the specific administrative remedy to be imposed.

The Chief Executive Officer or his/her designee, at his/her sole discretion, may schedule a hearing to gather additional facts and evidence and shall issue a final determination on the matter within five (5) working days of receipt of the written appeal. The written decision of the Chief Executive Officer or designee is final and there is no further administrative appeal process.

In the event the Contractor fails to demonstrate that it undertook adequate good faith efforts to the satisfaction of the Authority to meet the objectives and reporting requirements of the program and/or meet their respective SB goal commitment, the Authority reserves the right to initiate administrative remedies, which may include, but are not limited to:

1. Withholding an amount equal to the difference between the actual SB attainment and the Contractor's SB goal commitment from any milestone payment that would otherwise be due until the breach is cured, including submittal of Monthly Narrative SB Progress Reports demonstrating satisfactory good faith efforts towards achieving the SB goal;
2. Withholding up to the full amount of any milestone payments that would otherwise be due until the breach is cured, including submittal of Monthly Narrative SB Progress Reports demonstrating satisfactory good faith efforts towards achieving the SB goal;
3. Requiring the Contractor to prepare a Corrective Action Agreement and to make a presentation to the Authority Board at the next regularly scheduled Board meeting to explain reasons for non-compliance and present the Corrective Action Agreement to remedy non-compliance. Thereafter, until such time as compliance is achieved and the Board determines that future presentations are not needed, the Contractor is to provide written reports and make presentations to the Board on a quarterly basis, or more often as required by the Board;
4. Penalty of $1000 per day for each monthly Form 103 (See Attachment 4) report that is overdue;
5. Civil penalties for knowingly providing false information on the Form 103, in the minimum amount of $2,500 and the maximum amount of $25,000;
6. Holding a Responsibility Determination Hearing in which the Contractor's past non-compliance performance may preclude the Contractor from bidding on future projects; and/or,
7. Termination of the contract in part or in whole.

The Administrative Remedies shall not apply if the Contractor is able to demonstrate to the satisfaction of the Authority that it has fully effectuated compliance to remedy all areas of non-compliance and/or exercised adequate efforts in an attempt to meet the overall project and/or contract-specific SB goal commitments.

The Authority will bring to the attention of the affected Operating Administration through the Civil Rights Officer, any false, fraudulent or dishonest conduct in connection with the program, so that the affected Operating Administration can take the steps e.g., referral to the U.S. Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud Civil Penalties Act of 1986 (6 CFR 13, as amended, 31 U.S.C. § 3801 et. seq. and USDOT regulations Program Fraud Civil Remedies (49 CFR Part 31). The Authority also will consider similar action under its own legal authorities.

The Contractor is advised to reference the Debarment and Suspension section in the General Provisions for additional information.

USDOT Hotline

Anyone with knowledge of possible bid rigging, bidder collusion or other fraudulent activities should use the USDOT "hotline" to report these activities. The "hotline" is part of the USDOT's continuing effort to identify and investigate contract fraud and abuse, and it is operated under the direction of the USDOT Inspector General. The office is open Monday through Friday, between 8:00 a.m. and 5:00 p.m., Eastern Time, telephone number (800) 424-9071. All information will be treated confidentially, and caller anonymity will be respected.

IV. SUBPART D: GOALS, GOOD FAITH EFFORTS, AND COUNTING SB PARTICIPATION

IV.A. Overall Goal

The Authority has established an overall SB goal of 30 percent to be achieved through the utilization of small business concerns, in any combination and at any tier level. In order to be as inclusive as possible to small businesses, the Authority recognizes a small business concern to include certified:

- Small Businesses (SB)
- Disadvantaged Business Enterprises (DBE)
- Disabled Veteran Business Enterprises (DVBE)
- Microbusinesses (MB)

The SB Program has incorporated the best practices of 49 CFR Part 26, Section 26.41. On federally assisted contracts, the Authority established a 10 percent DBE goal, within the overall 30 percent SB goal. The 10 percent DBE goal is wholly race-neutral.

The SB Program has incorporated California Executive Order D-43-01; Public Contract Code 10115(c), and Military and Veterans Code 999 et. seq, as applicable. On federal assisted contracts, the Authority established a three (3) percent DVBE goal, within the overall 30 percent SB goal. On 100 percent State funded contracts; the Authority established a three (3) DVBE goal or an incentive as authorized by Military and Veterans Code 999 et. seq.

The Authority will provide its overall goal recommendation to the Authority Board, SBs, contracting industry and small business organizations for review, comment and consultation. Following this consultation, the Authority will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at its principal office for 30 days following the date of the notice and inform the public that the Authority is soliciting comments for consideration on the proposed goals for 45 days from the date of the notice. The notice shall include the address to which comments may be sent and business location where the proposed goal may be reviewed.

The Authority will exercise good faith efforts to meet the overall SB Program goals and objectives, in partnership with its Contractors and resource partners.

IV.B. Federal Financial Assisted Contract Goal

For contracts with USDOT financial assistance that are received from an Operating Administration with Congressional regulatory authority to impose 49 CFR Part 26 in its entirety, the Authority shall establish an appropriate DBE goal for the individual projects and/or contracts in accordance with 49 CFR Part 26.

In the event the Authority is directed by the Operating Administration to operate in a race-conscious environment, the Authority will use DBE contract goals to meet any portion of the overall goal the Authority does not foresee being able to meet using race-neutral measures. Contract goals are established so that, over the period to which the overall goal applies, contract goals will cumulatively result in meeting any portion of the Authority's overall goal that is not projected to be met through the use of race and gender neutral measures.

IV.C. Good Faith Efforts (Pre and Post Award)

The Authority and its Contractors, as good business stewards, will exercise good faith efforts to meet the Authority's overall SB goal as outlined in this SB Program, including developing innovative contracting strategies and providing necessary supportive services to promote and ensure the success of SBs in all aspects and phases of the Authority's contracting program. At this time, the Authority will administer the SB Program in a race and gender neutral environment.

The Authority and its Contractors will be requested to employ the following good faith effort strategies towards ensuring that SBs have the maximum practicable opportunity to participate in the Authority's State and federally-assisted contract opportunities. The suggested good faith effort strategies are not inclusive of all the efforts expected to ensure SB Program goals and objectives are met. The suggested good faith efforts are to:

- Select and break out contract work items into economically feasible units to facilitate SB utilization, even when the Contractor might otherwise prefer to perform these work items with its own forces.
- Advertise and solicit subcontracting opportunities through all reasonable and available means, including written correspondence, fax, emails and telephone, to all SBs.
- Provide sufficient time for the SB to respond to the solicitation and takes appropriate steps to follow up the initial solicitation to the SB.
- Host pre-bid conference or "Open House" to meet and greet with potential SBs who are interested in the subcontract opportunities.
- Select sufficient portions of the work to be performed by SBs, in order to increase the likelihood that the SB goal will be met.
- Provide interested SBs with information about the contract scope in a timely manner and assists them in responding to the solicitation.
- Negotiate in good faith with interested SBs.
- Seriously consider all SB sub bids.
- Assist SBs in obtaining bonding and lines of credit.
- Assist interested SBs in obtaining equipment, supplies, materials or related assistance or services.
- Use available resources, i.e., Chambers of Commerce, minority, women business, disabled veteran business organizations, government agencies or other groups to identify SBs.
- Conduct outreach and networking forums and related activities on an ongoing basis to ensure SBs are ready, willing and positioned to pursue viable subcontract opportunities.

The Contractor's pre award good faith efforts documentation shall be presented and included in the Contractor's Small Business Performance Plan.

<u>Good Faith Efforts Towards SB Participation (Post Award)</u>

As good business stewards to ensure SB utilization during the term of the contract, the selected Contractor shall continue to make good faith efforts to ensure SBs have an opportunity to successfully perform on the contract, and that the Contractor meets its SB goal. These post award efforts shall include but not be limited to:

1. Negotiate in good faith to attempt to finalize and execute a subcontract agreement with the SB committed to in the bid/proposal.

2. Seek out and utilize additional SB suppliers and SB subcontractors when the Contractor is aware it is below participation levels to meet the overall goals and objectives.

3. Continue to provide assistance to SB subcontractors or suppliers in obtaining bonding, lines of credit, etc.

4. Notify a SB in writing of any potential problem and attempt to resolve the problem prior to formally requesting the Authority's approval to substitute the SB.

5. Ensure timely payment of all monies due and owed to SBs, subcontractors and suppliers in strict conformance with prompt payment and retainage provisions, as set forth in the SB Program, State statutes and federal regulations.

6. Not terminate an approved SB for convenience to perform the work of the terminated SB subcontractor with its own work forces or those of an affiliate, without the prior written consent from the Authority.

7. If a SB is terminated, or fails to complete its designated scope of work on the contract for any reason, the Contractor must make good faith efforts to find another SB subcontractor to substitute for the original SB. Refer to Section IV, Subpart D: Item F for steps to comply with substitution and or termination of a listed SB.

8. Change in Contract Amount - The dollar amount of Change Orders or any other contract modifications that increase or decrease the work area in which SB utilization has been committed shall be commensurately added to or subtracted from the respective total subcontract amount. Revised total contract dollar values shall be reflected in the monthly progress report submitted to the Authority with supporting evidence of an approved change.

9. Encourage major subcontractors to meet the SB goal on their lower tier agreements and report attainments to the Contractor for the monthly SB utilization report.

10. Major subcontractors shall also demonstrate compliance with the post-award good faith efforts to assist the Contractor achieve the SB goal.

State Funded Contracts

On 100 percent State funded contracts, the good faith efforts procedures are not applicable when a DVBE goal is established. The DVBE contract requirements under Military and Veterans Code 999 et. seq. will prevail in the application of an appropriate DVBE goal and incentive, where applicable, on a 100 percent State funded contract. The Authority may elect to apply State statutory Small Business Options to encourage SB participation and therefore provide appropriate small business preferences.

Federal Financial Assisted Contract Good Faith Efforts

For federal financial assisted contracts with Congressional regulatory authority to apply 49 CFR Part 26 in its entirety, the Authority will instruct prospective Bidders and Offerors to enlist the following Good Faith Effort steps to demonstrate responsiveness to the objectives set forth in 49 CFR Part 26. The Authority also reserves the right to employ these minimum standards in evaluating the Bidders or Offerors demonstration of good faith efforts under the Authority's SB

Program utilizing the corresponding SB definitions. The Contractor may use the following efforts as part of the Contractor's Small Business Performance Plan.

1	ATTENDANCE AT PRE-BID CONFERENCE/JOB WALK

Effort: Attendance at pre-bid proposal conference and job walk, if held by the Authority (or the Bidder/Offeror for subsequent subcontract bid packages it lets), to solicit the interest of certified SB/DBEs who have the capability to perform the work on the contract.

Evidence: Name, title and date of person(s) attending, to be verified by conference sign-in sheet.

2	IDENTIFICATION OF SCOPE OF WORK FOR SUBCONTRACTS IN ORDER TO MEET THE PROJECT GOAL

Effort: Selecting portions of the work that can be subcontracted to SB/DBEs in order to increase the likelihood that the overall SB/DBE goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate SB/DBE utilization, even when the Bidder/Proposer might otherwise prefer to perform these work items with its own forces.

Evidence: Identifying the scope of work the Bidder/Offeror intends to perform with its own workforce and identifying the subcontracting items the Bidder/Offeror made available to SB/DBEs to meet the established SB/DBE goal.

3	ADVERTISEMENT OF SUBCONTRACTING OPPORTUNITIES

Effort: Advertisements in trade association publications and disadvantaged/minority and women business focused media. Advertisements must identify specific subcontracting opportunities being solicited, project name and location, Bidder/Offeror contact person including name, address, phone, fax, e-mail and bid solicitation submittal due date. Advertisements should appear a minimum of 14 days prior to bid due date.

Evidence: As verification of publication, Bidder/Offeror must provide a listing of advertisements placed, including copies of advertisement tear sheets and/or proof of publication containing at minimum the information specified above.

4	WRITTEN REQUESTS FOR BIDS/PROPOSALS

Effort: Provision of written notices to the maximum number of SB/DBE firms to solicit interest *for each subcontracting area identified sufficient to meet the established goal.* Notices should be issued at least 14 days prior to bid submittal due date.

Evidence: Copy of the solicitation letter, list of recipients grouped by each identified subcontracting area, including name, address, and phone number, date contacted for all SB/DBE firms *for each subcontracting area identified* and identification of mode of communication (letter or fax), including corresponding copies of letters and/or fax confirmations.

5	SOLICITATION FOLLOW-UP

Effort: Subsequent efforts to solicit SB/DBEs within all available *subcontracting areas*. The follow-up solicitation should occur within a reasonable time of the initial solicitation, in order to allow the Bidder/Offeror to solicit additional SB/DBEs and identify additional subcontractable items to draw greater interest and subbids.

Evidence: Bidder/Offeror must determine with certainty if the SB/DBEs initially solicited are interested by taking appropriate steps to follow up on initial solicitations. Documentation should include:

(a) Names, addresses and telephone numbers of SB/DBEs contacted by each subcontracting area identified/solicited;
(b) Description of information timely provided to SB/DBEs regarding plans and specifications for portions of the scope of work to assist SB/DBEs in responding to the solicitation; and
(c) Statement of justification re: unsuccessful solicitation of SB/DBEs.
(d) Description of additional efforts the Bidder/Offeror made to encourage greater interest from SB/DBEs to submit subbids.

6	NEGOTIATION IN GOOD FAITH

Effort: Negotiating in good faith with interested SB/DBEs to facilitate SB/DBE utilization. Utilize a sound basis for selection and/or rejection of SB/DBE subbids/proposals.

Evidence: Evidence of such negotiation includes the names, addresses, and phone numbers of all subcontractors (SB/DBEs and non-SB/DBEs) who submitted bids; copies of subbids for each portion of work solicited; and stated reasons for choice of subcontractor. (Barring lack of qualifications to perform work, only significant price differences of 10 percent (an applicable regulatory guideline) between the selected firm and rejected SB/DBE firms' proposed costs would be considered as valid cause for rejecting subbids.

7	PERFORMANCE OF OTHER BIDDERS/PROPOSERS IN MEETING THE SB/DBE GOAL

Effort: In determining whether the low Bidder/Offeror has made adequate efforts to meet the SB/DBE goal, the Authority, as appropriate, will take into account the performance of other level Bidders/Proposers in meeting the established contract-specific goal requirements.

Evidence: The individual Bidder/Offeror must meet or exceed the average SB/DBE utilization obtained by the three (3) low responsive Bidders/Offerors to adequately demonstrate that the apparent successful Bidder/Offeror has taken all reasonable efforts towards meeting the contract-specific goal.

8	PROVISION OF ASSISTANCE TO DBEs TO OBTAIN BONDING, LINES OF CREDIT AND/OR INSURANCE

Effort: Provision of assistance to interested SB/DBEs in obtaining bonding, lines of credit, and/or insurance as required by the Bidder/Offeror.

Evidence: Brief description of the type of assistance provided by the Bidder/Offeror to interested SB/DBEs in obtaining bonding, lines of credit and/or insurance.

9	UTILIZATION OF COMMUNITY OUTREACH SERVICES

Effort: Utilization of outreach services available within the DBE community, including construction/consultant groups, local, State and federal SB/DBE offices and other organizations that provide assistance in the recruitment and placement of SB/DBEs.

Evidence: Copies of letters, faxes, telephone logs, etc., used to contact organizations, which include the names of organizations/groups, dates, names of contacts, and telephone numbers; and copies of correspondence received from these entities acknowledging contact. The Bidder/Offeror must document outreach to a minimum of ten (10) organizations/groups.

Verification of Good Faith Efforts.

Only those efforts made prior to bid/offer will be considered in evaluating adequate efforts to meet the goal. Failure to submit the required documentation by the time specified may be grounds for finding the bid/proposal to be non-responsive.

IV.D. Counting SB Participation

The standards of crediting SB utilization will be in conformance with meeting the commercially useful standards and crediting provisions, as set forth in applicable State statutes and the best practices of 49 CFR Part 26. The Authority and its Contractors shall only count firms who are certified by a recognized Certifying Agency and when the SB is also performing a Commercially Useful Function (CUF).

While the Authority is not a SB certifying agency, the Authority recognizes the SB certifications from the California Unified Certification Program, California DGS and the Small Business Administration. Refer to SB/DVBE/DBE Directories in Subpart C: Administrative Requirements for the Certifying Agencies webpages.

In order for the Authority to count and verify the Contractor's SB participation, the Contractor shall submit the following information along with the Form 103:

1. The names and addresses of each SB that will participate in the contract;
2. A description of the work that each SB will perform;
3. The dollar amount of the utilization of each SB; and
4. Written and signed documentation of confirmation from the SB that it is participating in the contract and whose utilization will count towards the contract goal.

The Authority will use the SBs' information to determine the SBs' certification and conformance with performing a commercially useful function.

SB and Microbusiness Counting and CUF

The Authority shall use the California DGS certification eligibility standards to verify the certification for SB, DVBE and Microbusiness participation. The Authority shall use the DGS Directory at www.dgs.ca.gov/pd/Programs/eprocure to verify the listed SB, DVBE or Microbusiness's certification and the SBA Directory at www.sam.gov for small business 8(a) certification.

Credit for SB or Microbusiness utilization will count 100 percent of the contract price provided the certified SBs or Microbusinesses are performing a CUF on the contract. A determination of CUF is when the SB or Microbusiness has responsibility for a distinct element of the contract and the work is within the SB or Microbusiness' normal business functions. The SB or Microbusiness cannot further subcontract their distinct element of work. Refer to the CUF definition for SB and Microbusiness participation in Subpart A: General Requirements.

Disabled Veteran Business Enterprise Counting and CUF

All certified DVBE firms that bid on or participate in a State-funded contract must perform a CUF on the contract. This is done to prevent businesses from acting as a "pass through" when identified as participating on a State-funded contract.

Credit for DVBE utilization will count as 100 percent of the contract price, provided the DVBE prime is performing a CUF. Credit for utilization of DVBE subcontractors, suppliers or services will be 100 percent of the dollar value of the DVBE performance, provided the DVBE is performing a CUF. The Authority will evaluate the DVBE utilization in order to determine if the DVBE is performing a CUF and thus apply the appropriate DVBE credit. DVBE brokers awarded a contract under the DVBE goal provisions must disclose their broker status to the Authority and Contractor to properly credit DVBE utilization on the contract. Refer to the CUF definition for DVBE participation in Subpart A: General Requirements.

A certified SB, DVBE or Microbusiness who fails to demonstrate performance of a CUF when bidding as a Contractor, will result in that certified bidder being eliminated from consideration. Also, for SBs, DVBEs and Microbusinesses who are participating as a subcontractor, failure to demonstrate performance of a CUF will result in the reported utilization being removed. Furthermore, businesses who fraudulently obtain a certification as a SB, DVBE or Microbusiness for purposes of obtaining a State contract may be suspended from doing business with State or federal agencies.

Pursuant to Government Code § 14842, the following may be imposed on a business that obtains certification as a SB or a DVBE by having given incorrect, incomplete or fraudulent information and has been awarded a contract to which it would not have been awarded otherwise:

1. Pay to the State any difference between the contract amount and what the State's costs would have been if the contract had been properly awarded.
2. Pay to the awarding State agency and the department an amount that is equal to the costs incurred to investigate the small business certification.
3. Be assessed a penalty in an amount of not more than ten (10) percent of the amount of the contract involved.
4. The small business will be suspended from business with the State for a period of not less than 3 years and not more than 10 years.

Failure to carry out the requirements of § 999 of the Military and Veterans Code for DVBE firms will constitute a material breach of contract and may result in termination of the contract or other remedy that the Authority deems appropriate.

As found in Public Contract Code § 10115.10n (a)(1), *"It shall be unlawful for a person or firm to knowingly and with intent to defraud, fraudulently obtain ...aid another in fraudulently obtaining*

...acceptance or certification as a minority, women, or disabled veteran business enterprise...(b) Any person who violates ... is guilty of a misdemeanor and shall be liable for a civil penalty..."

Disadvantaged Business Enterprise Counting and CUF

The Authority shall only count DBE utilization towards the goals, where applicable, when the DBE provides evidence of its certification and is performing a commercially useful function. (49 CFR Part 26.55).

The Authority shall use the California Unified Certification Program (CUCP) certification eligibility standards for DBE acknowledgement. The Authority shall use the CUCP Directory at www.dot.ca.gov/hq/bep/find_certified.htm to verify the listed DBE's certification.

The following guidelines apply in calculating DBE utilization toward meeting the goal in accordance with the best practices of 49 CFR Part 26.55, as applicable:

a) Only work proposed to be performed by a DBE's own work forces (including cost of supplies, materials and equipment leases) obtained by the DBE for the work of the contract, except supplies and equipment the subcontractor purchases and/or leases from the Contractor or its affiliate.

b) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE subcontractor is itself a certified DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. A DBE should perform at least 30 percent of the total cost of its contract with its own workforce.

c) In instances of joint venture, the joint venture may only count toward its DBE goal the portion of work proposed to be performed by the DBE partnering firm, which meets certification, ownership and control standards.

d) A Contractor may count toward its DBE goal, only expenditures to firms that are proposed to perform a commercially useful function on that contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved.

e) A Contractor may count toward its DBE goal, 60 percent of its expenditures for materials and supplies required under the contract and obtained from a DBE regular dealer and 100 percent of such expenditures to a DBE manufacturer. For purposes of this section, a manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials and supplies obtained by the Contractor. A regular dealer is a firm that owns, operates or maintains a store, warehouse or other establishment in which the materials or supplies required for performance of the contract are bought, kept in stock and regularly sold to the public in the usual course of business.

f) A Contractor may count towards its DBE goal, fees and commissions paid to DBE firms that are not manufacturers or regular dealers, provided that the fees or commissions are determined to be reasonable and not excessive, as compared to fees customarily allowed for similar services.

g) Special Provisions for Trucking – The Contractor may count towards its goal, all transportation services provided by DBE trucking firms, who can demonstrate control of trucking operations for which it seeks credit and it owns, insures and operates, using drivers it employs in the performance of the contract. The DBE must itself own and operate at least one fully licensed, insured and operational truck used on the contract. The DBE trucking firm may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.

h) In cases where DBE certification has ceased during the performance period of the contract, although the Contractor will continue to report the dollar value of the worked performed to the Authority on the monthly Form 103, the Authority will not count the utilization towards DBE participation.

For DBEs, as stated in 49 CFR Part § 26.107(a) "*...attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstance indicating a serious lack of business integrity or honesty, the Operating Administration may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29.*"

IV.E. Substitution or Termination of a SB, DVBE, Microbusiness or DBE on a Contract

The Authority requires that a Contractor, or its subcontractors, not substitute or terminate a SB without the Authority's prior written consent. This includes, but is not limited to, instances in which a Contractor or its subcontractors seek to perform work originally designated for a SB with its own forces or those of an affiliate, a non-SB, or with another SB.

The Authority shall enforce the provisions of Public Contract Code § 4107 et seq., where applicable, and the provisions in Military and Veterans Code § 999 et seq for proposed substitution of a DVBE on 100 percent State funded contracts where a DVBE goal is established.

The Authority will provide written consent only if it agrees, for reasons stated in the written justification for substitution/termination request, that the Contractor and its subcontractor has good cause to substitute or terminate the subcontractor. For purposes of this section, good cause includes the following circumstances:

- The listed subcontractor, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontract's bid and at the price specified in the subcontractor's bid; when that written contract, based upon the general terms, conditions, plans and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the Contractor.
- The listed subcontractor becomes insolvent or the subject of an order for relief in bankruptcy.
- The listed subcontractor fails or refuses to perform the work of its subcontract.
- The listed subcontractor fails or refuses to meet the Contractor's bond requirements, as set forth in Public Contract Code § 4108.

- The Contractor demonstrates to the Authority, subject to the further provisions set forth in Section 4107.5, that the name of the subcontractor was listed as a result of an inadvertent clerical error.
- The listed subcontractor is not licensed pursuant to the Contractor's License laws.
- The Authority determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or the subcontractor is substantially delaying or disrupting the progress of the work.
- The listed subcontractor is ineligible to work on public works projects pursuant to Section 1777.1 or 1777.7 of the Labor Code.
- The Authority determines that a listed subcontractor is not a responsible contractor.
- The listed subcontractor voluntarily withdraws from the project and provides written notice of its withdrawal.
- Other documented good cause that compels the substitution or termination of the subcontractor. Provided that good cause does not exist, if the Contractor seeks to substitute or to terminate a subcontractor it relied upon to obtain the contract so that the Contractor can self-perform the work for which the subcontractor was engaged or so that the Contractor can substitute another subcontractor after contract award.

Prior to approval of the Contractor's request for the substitution, the Authority shall give notice in writing to the subcontractor of the Contractor's request to substitute and of the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been so notified has five (5) working days within which to submit written objections to the substitution to the Authority. Failure to file these written objections constitutes the listed subcontractor's consent to the substitution.

If written objections are filed, the Authority shall give notice in writing at least five (5) working days to the listed subcontractor of a hearing by the Authority on the Contractor's request for substitution.

On 100 percent State funded contracts, a Contractor may, subject to the approval of the DGS, replace a DVBE identified by the Contractor in its bid or offer, pursuant to subdivision (a) of Military and Veterans § 999.10, with another DVBE. As an added step to ensure that Contractors honor their commitments to use DVBE subcontractors and meet the commitment levels identified in bids, the following, or similar, language is to be included into the solicitations and resulting subcontract documents:

> *"After award of a contract, the successful Contractor must use the DVBE subcontractor(s) and/or supplier(s) proposed in their bid or offer to the State unless a substitution is requested and is approved by the awarding department and the Department of General Services. The California Code of Regulations Title II section 1896.64(c) and Public Contract Code § 4107 (for Public Works) provide the current requirements for awarding departments to approve the substitution of a DVBE subcontractor."*
>
> *"Contractor understands and agrees that should award of this contract be based in part on their commitment to use the Disabled Veteran Business Enterprise (DVBE) subcontractor(s) identified in their bid or offer, per Military and Veterans Code § 999.5 (e), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by the DGS. Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment. Failure of Contractor to seek substitution and*

adhere to the DVBE utilization level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to the State, and penalties as outlined in Military and Veterans Code § 999.9; Public Contract Code (PCC) § 10115.10, or PCC § 4110 (applies to public works only)."

The Authority shall follow the processes set forth in 2 CCR § 1894.64(c) and Public Contract Code § 4107 when a Contractor requests the substitution of a DVBE subcontractor with the added provisions that: 1) only another DVBE subcontractor shall be considered to replace a DVBE subcontractor, and 2) the awarding department shall obtain final approval to replace a DVBE subcontractor from the DGS.

Requests to replace a DVBE subcontractor must be amply documented to show that the replacement meets the criteria, as previously specified. Documentation may include, but is not limited to the request, confirmation of receipt of the request, the subcontractor's objection and request for hearing and the final Statement of Decision. Requests and resulting amendments generated by the DVBE subcontractor substitution should be timely so as not to unreasonably delay the Contractor's performance of the contract, resulting in potential claims against the Authority for delay damages. Requests are to be sent electronically to osdshelp@dgs.ca.gov.

Substitution or Termination of a Listed DBE on Federal Financial Assisted Contracts

For federal financial assisted contracts with Congressional regulatory authority to apply 49 CFR Part 26 in its entirety, the Authority will require a Contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the same extent needed to meet the overall or individual contract specific DBE goal as established. The Authority will require the Contractor to notify the Authority's SBLO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

The Contractor must first obtain the written consent of the Authority before any Contractor can act on the substitution of the DBE. The Authority will require the Contractor to provide copies of the new or amended subcontracts. If the candidate subcontractor to be substituted is not a DBE, the Authority also requires the Contractor to submit documentation of their good faith efforts to replace the DBE with another DBE of equivalent percentage in another work item.

A DBE subcontractor listed in the Contractor's commitment [as required by 49 CFR Part § 26.53] may be substituted or terminated only with the Authority's prior written consent for good cause should the DBE:

- fails or refuses to execute a written contract;
- fails or refuses to perform the work of its subcontract consistent with normal industry standards; good cause does not exist where failure or refusal to perform the work of the subcontract results from bad faith or discriminatory action of the Contractor;
- fails or refuses to meet reasonable, nondiscriminatory bond requirements;
- becomes bankrupt, insolvent or exhibits credit unworthiness;
- is ineligible to work because of suspension and debarment proceedings;
- is not a responsible subcontractor;
- voluntarily withdraws from the project and provides written notice of its withdrawal;
- is ineligible to receive DBE credit for the type of work required;
- owner dies or becomes disabled and is unable to complete its work; or
- other documented good cause that compels termination.

Before requesting the Authority's consent for the proposed termination, the Contractor must give written notice of the proposal, including the reason for the request, to the DBE with a copy to the Authority. The DBE must be given five (5) days to respond. The notice period may be reduced if required by public necessity (e.g., safety).

In addition to post-award terminations, these provisions apply to pre-award deletions or substitutions of DBE firms put forward by proposers in negotiated procurements.

V. SUBPART E: DESIGN-BUILD PROVISIONS

SB PROGRAM REQUIREMENTS-- SPECIFIC TO DESIGN-BUILD CONTRACTS

The Authority recognizes certain modifications are necessary to adapt the program for use in connection with high speed rail contracts, and has therefore established certain procedures applicable to design-build contracts under the SB Program. Subpart E: Design-Build Provisions represents the additional requirements the Design-Build Contractor must comply with to meet the spirit and intent of the Authority's SB Program.

The Authority has established an SB overall project goal of 30 percent for each of its Design-Build projects, to be achieved through the utilization, in any combination and at any tier level, of firms who are certified as:

- Small Businesses
- Disabled Veteran Business Enterprises
- Disadvantaged Business Enterprises
- Microbusinesses

The SB Program has incorporated the best practices of 49 CFR Part 26, Section 26.41. On federally assisted contracts, the Authority established a 10 percent DBE goal, within the overall 30 percent SB goal. The 10 percent DBE goal is wholly race-neutral.

The SB Program has incorporated California Executive Order D-43-01; Public Contract Code 10115(c), and Military and Veterans Code 999 et. seq, as applicable. On federally assisted contracts, the Authority established a 3 percent DVBE goal, within the overall 30 percent SB goal.

The Design-Build Contractor will be responsible for the established subsequent SB subcontract goal, as appropriate, for the subcontracts it lets, in conformance with the best practices of 49 CFR Part 26 and the Authority's SB Program. The Authority will maintain oversight of the Design-Build Contractor's activities to ensure activities are conducted in a manner consistent with the requirements of the Authority's SB Program and the best practices of 49 CFR Part 26, as applicable.

In accordance with Executive Order S-02-06 and the best practices of 49 CFR Part 26, as applicable, the following are hereby incorporated into the Design-Build Provisions:

V.A. SB Performance Plan Objectives

The prospective Design-Build Contractor shall establish and implement a Small Business Performance Plan, to address how the Contractor will meet the overall 30 percent SB goal. The SB Performance Plan shall be submitted with the Bidder's or Offeror's proposal, at the date and time specified by the Authority. The SB Performance Plan shall be subject to concurrence by the Authority. If requested by the Authority, either before or after the Notice to Proceed, the Design-Build Contractor shall revise its SB Performance Plan to incorporate the Authority's comments.

The SB Performance Plan shall at minimum, include but not be limited to the components described in this Subpart.

V.B. Key Personnel (Contractor Small Business Officer)

The Design-Build Contractor will designate a Small Business Officer (SBO) who will report directly to the Design-Build Contractor's Project Executive Director, or equivalent, and in this capacity, shall be responsible for developing, implementing, monitoring and managing the day-to-day operations of the Design-Build Contractor's SB Performance in compliance with the Authority's SB Program and provisions of the Executive Order S-02-06, Title VI of the Civil Rights Act of 1964 and the best practices of 49 CFR Part 26, where applicable.

The SBO will coordinate all elements of the SB Performance Plan to effectively track, monitor and report on SB utilization throughout the duration of the contract. The SBO will coordinate efforts at all subcontractor tier levels to institute innovative strategies and remedies to meet the Design-Build Contractor's SB goal commitments and the intended goals and objectives of the Authority's SB Program. The SBO shall continue to maintain independent and direct access to the Project Executive Director concerning all SB Program and corresponding performance matters. The SBO shall develop and maintain good communication and working relationships with the Authority representatives and the small and general business community. The SBO shall work in close coordination with the Authority, and shall report quarterly on Contractor's success in attaining the established SB utilization goals during the design work and the construction period. The SBO may be a subconsultant to the Design-Build Contractor.

<u>SBO Duties and Responsibilities</u>

The SBO shall have appropriate resources to assist in the administration of the Design-Build Contractor's SB Performance Plan. The duties and responsibilities include, but are not limited to:

1. Serve as the Design-Build Contractor's SB Officer.
2. Develop, implement and monitor the SB Performance Plan, keeping it up-to-date with the current business environment and the latest revisions to the applicable State and federal laws and regulations, ensuring the SB Performance Plan is responsive to and in compliance with the regulations, including, but not limited to, the Executive Order S-02-06, Title VI and the best practices of 49 CFR Part 26, as applicable.
3. Ensure the Contractor's employees and its subcontractors under contract, understand and are fully acclimated to the goals and objectives and ensure that the responsibility to comply are treated with the same priority as any other contractual legal obligation.
4. Compile and report on SB attainment progress in narrative form by outlining good faith efforts undertaken within the respective reporting period and providing statistical information on SB/DBE/DVBE and Microbusiness utilization on a monthly basis or as more often as required by the Authority. In the event the progress and or SB utilization report indicates that the Contractor is underutilizing SBs, the Contractor will describe the remedies it will undertake to improve SB utilization.
5. Review third party contracts and purchase requisitions for compliance with the SB Program.
6. Post on Contractor's website, a list of SBs who are being utilized to meet the overall SB goal, regardless of tier.
7. Ensure that bid notices and requests for proposals are readily accessible and timely disseminated to small business community.
8. Monitor and analyze the Contractor's progress toward meeting its goal commitments and make adjustments as necessary to remedy deficiencies.
9. Participate in SB meetings, as related to the contract.

10. Attend quarterly meetings with the Authority's SB Liaison Officer to identify strategies to achieve the goals.
11. Attend four (4) of the Authority's Business Advisory Council meetings, per year, and at minimum, present information on the Design-Build Contractor's SB utilization and SB participation activities.
12. Assist in the development and implementation of the Design-Build Contractor's SB supportive services, such as providing technical assistance, business development, mentor-protégé, bonding/capacity building, financial assistance, business matchmaking with subcontractors and contract administration. Plan and facilitate SB training seminars to promote understanding and acclimation of small business communities regarding contracting opportunities and contract administration.
13. Develop and conduct information sharing and communication
14. Advise the Project Executive Director on SB matters and achievements.
15. Facilitate inquiries and complaints from SBs regarding the contract, project, subcontract, other subcontractors, prompt payment, etc.
16. Develop and maintain own directory of interested SBs for subcontracting opportunities and outreach activities.
17. Conduct business outreach and assist all SBs in obtaining the necessary information to compete on contracts by providing guidance and direction, and advise SBs on where to seek management, technical business development expertise, bonding, lines of credit and other supportive services.
18. Provide guidance and assistance to subconsultants and construction subcontractors on the importance of achieving, tracking and reporting their SB utilization attainments.
19. Review SB utilization reports from subconsultants and construction subcontractors and make recommendations for greater SB attainment, where applicable.
20. Ensure coordination of the SB Program deliverables with the Authority, local agencies and the business community.
21. Establish and maintain a good working relationship with SBs, local agencies, non-SBs, and business organizations/associations.
22. Ensure only firms meeting eligibility standards count towards the SB goals.
23. Ensure compliance with federal EEO Clause provisions, as set forth under Title 41 CFR Part 60 et seq.
24. Ensure compliance with U.S. Department of Labor provisions, as set forth under Office of Federal Contract Compliance Program – Mega Project.
25. Perform other related duties as necessary to meet the SB Program goals and objectives.

Small Business Performance Plan

The Design-Build Contractor will provide a detailed description of the planned methodology for achieving the overall 30 percent SB goal, including a description of the good faith efforts the Design-Build Contractor intends to undertake to achieve the overall project goal. The SB Performance Plan shall include elements such as:

1. A policy statement, signed by Design-Build Contractor's Authorized Representative, which expresses the Contractor's commitment to utilize SBs in all aspects of the work, outlines the various levels of responsibility and states the objectives of the SB Performance Plan. The Contractor shall obtain the written commitment of all Contractor related entities to comply with and advance the intent of the policy statement.

2. An affidavit that the Contractor will meet or exceed the overall SB project goal for the Design-Build contract and will exercise good faith efforts to do so. The SB Affidavit shall be

signed by the Contractor's Authorized Representative. Refer to the Request For Proposal or Contract Instructions for the Affidavit.

3. Designation of a person responsible for the SB Performance Plan (refer to the SBO duties and responsibilities) to administer the plan and a description of the responsibilities and duties of the SBO and support staff. The SBO and staff are responsible for developing, managing and implementing the SB Performance Plan on a day-to-day basis, providing technical assistance to SBs, and disseminating information on available business opportunities so that SBs are provided an equitable opportunity to engage in work as subcontractors or subconsultants.
4. A description of proposed actions to facilitate SB engagement in work as subcontractors and subconsultants, such as:
   a) Hold ongoing quarterly strategic planning sessions to establish goals for specific bid item groups by reviewing the work, available firms, strategies, anticipated obstacles and means to overcome obstacles;
   b) Conduct bid-item specific outreach meetings for SB firms to highlight current and upcoming appropriate subcontracting opportunities;
   c) Solicit statements of qualification, proposals, and/or price quotations from qualified SB firms and arrange a time for the review of qualifications, plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of proposals and/or price quotations;
   d) Provide assistance to SB firms so that the firms may overcome barriers, such as the inability to obtain bonding, insurance, financing, or technical assistance;
   e) Develop and conduct information and communication programs or workshops, on contracting procedures and specific contracting opportunities, in a timely manner;
   f) Encourage eligible SB firms to apply for certification to the appropriate Certifying Agency; and
   g) Contact local/regional SB, Disadvantaged, Underutilized, Trade-Specific Contractor Associations and appropriate city agencies with SB Programs for assistance in recruiting and encouraging eligible SBs to submit subbids.
5. Pursuant to the best practices of 49 CFR Section 26.39; Fostering Small Business Participation, the SB Performance Plan shall include elements to structure contracting requirements to facilitate competition by SBs, taking all reasonable steps to eliminate barriers including unnecessary and unjustified bundling of contract requirements that may preclude SBs from participating as subcontractors.

   The Design-Build Contractor is responsible for identifying and implementing innovative acquisition and strategies, such as:

   - Assist SBs understand how to do business with the Design-Build Contractor and its subcontractors.
   - Establish equal SB goals and objectives to its subcontractors.
   - Participate in forums to hear about and address SB issues.
   - Develop and implement methods for outreach and promotion of SBs to all subcontract opportunities.

- Develop brochures and other written material and marketing tools that promote SB utilization in subcontracts.
- Establish a prompt payment process to assist SBs, at any tier.
- Disseminate information on networking opportunities to all SBs.
- Assist in the use of joint ventures consisting of SBs and major subcontractors.
- Inspire subcontractors to provide lower tier subcontracting opportunities of a size SBs, can reasonably perform on.
- Seek opportunities to split contracts to increase SB utilization.
- Utilize innovative procurements, such as a Small Business Option procurement method in subcontracting opportunities to meet overall SB goal.

V.C. Meeting Established SB Goal

Upon execution of the contract, the Design-Build Contractor shall immediately execute the Affidavit confirming that the Design-Build Contractor will aggressively exercise good faith efforts to the satisfaction of the Authority to obtain SB/DBE/DVBE and Microbusiness commitments equal to or exceeding the SB utilization goal.

The Contractor shall:

1. Host SB partnering meetings with a representative of each SB firm, Authority staff and Authority's SBLO within 60 days of Notice to Proceed to ensure all parties understand and are acclimated to the SB Program requirements, including the commitments made in Design-Build Contractor's SB Performance Plan, as applicable.
2. Develop innovative contracting and procurement strategies that advance the utilization of SBs/DBEs/DVBEs and Microbusinesses;
3. Report monthly on progress of SBE/DVBE/DBE and Microbusiness utilization (goal commitments and attainments through the Form 103);
4. Make adjustments to the SB Performance Plan as necessary to meet goals and intended objectives of the Authority SB Program;
5. Hold strategic planning sessions to establish goals for specific bid items, identify available SB firms, anticipate obstacles and means to overcome these obstacles, including identifying resources that aid in building capacity;
6. Develop communication protocols and outreach instruments that provide ready access and effective means of timely disseminating information on subcontracting opportunities to the impacted business communities;
7. Conduct bid-item specific outreach meetings to highlight current and upcoming subcontracting possibilities and provide for networking and marketing opportunities with other prospective proposers and bidders;
8. Provide assistance to SBs to overcome barriers, such as inability to obtain bonding, insurance, access capital or technical assistance;
9. Implement a SB/Supportive Services Program to leverage the Authority SB Program;
10. Develop and conduct information and communication programs on contracting opportunities, procedures and contract administration to facilitate acclimation;
11. Encourage eligible SBs to apply for certification;
12. Contact, establish and maintain good working relations with SBs, trade and professional groups, associations and general contracting industry; and
13. Any other good faith efforts that promote meeting utilization goals objectives.

The dollar amount of any Supplemental Agreement or any other contract modification that increases the dollar amounts of the contract or any subcontract or subconsultant agreement will be subject to the SB goal established for this project, and the Contractor and its subcontractors and subconsultants will be required to solicit SB utilization for such increases. Revised total contract dollar values shall be reflected in the Form 103 submitted on a monthly basis to the Authority.

V.D. Contractor Good Faith Efforts and Reporting Obligations

Ongoing good faith efforts, as described in the Authority's SB Program, Subpart D: Goals, Good Faith Efforts and Counting SB Participation, will be monitored by the Authority throughout the duration of the Design-Build project based on the following submittals:

a. Submit a "Monthly SB Subcontractors Paid Report Summary and Payment Verification Form" (Form 103) to the Authority no later than the 15th of each month (and at more frequent intervals if requested by the Authority). The Form 103 Report is required to be submitted during both the design and construction phases of the project.

b. Submit "Monthly Narrative SB Progress Reports" to the Authority with each invoice and an annual report on or before August 1 of each year of the design-build contract term. Each report must include a narrative summary stating whether the Contractor is on target with respect to the SB goal set forth in the design-build contract, whether the goal has been exceeded (stating the amount of the excess), or whether the Contractor is behind target (stating the amount of the deficit) and substantiate such attainments. If any progress report shows that the Contractor is behind target or if it anticipates being behind target, the report must include satisfactory evidence of past good faith efforts undertaken and must specify additional good faith efforts planned to be taken to remedy deficiencies towards meeting the SB goal in accordance with the Authority's SB Program. Following review and concurrence of such proposed additional good faith efforts by the Authority, the Contractor shall modify its SB Performance Plan accordingly.

c. Provide the Authority with the information required by the Authority in its Substitution and/or Request to Add SB Form upon selection of any SB subcontractor not previously identified by the Contractor. The Authority must approve all SB substitution requests with written consent prior to implementing any substitution. Refer to Subpart D: Goals, Good Faith Efforts, and Counting SB Participation--Section IV.E Substitution or Termination of a SB, DVBE or DBE on a Contract.

d. Comply with State statutes and federal regulations regarding Prompt Payment and Retainage. Refer to Subpart C: Administrative Requirements provisions of the SB Program. The Contractor must readily provide evidence of such at the request of the Authority.

<u>CONSEQUENCES OF NON-COMPLIANCE</u>

BREACH OF CONTRACT - Failure to carry out the SB requirements specified in the Contract Documents constitutes a breach of contract. The Authority will notify the Contractor and the USDOT of such breach, including notification that the breach may result in termination of the contract by Authority or imposition of other appropriate sanctions. This notice is given pursuant to the best practices of 49 CFR Part 26, where applicable. For purposes of this section, timely submittal means received by the Authority by the close of business on the date noted in the contract provisions of the following month.

NOTICE - If the Contractor or any subcontractor, consultant, subconsultant, supplier or service provider is deemed to be in non-compliance, the Contractor will be informed in writing, by certified mail by the Authority, that sanctions may be imposed for failure to meet SB utilization goals and/or submit documentation of good faith efforts. The notice will state the specific sanction to be imposed.

SANCTIONS - If it is determined that the Contractor's failure to meet all or part of the SB goal is due to the Contractor's inadequate good faith efforts throughout the life of the contract, including failure to submit required good faith efforts information and documentation, the Contractor will be subject to administrative sanction.

Refer to Subpart C: Administrative Requirements, Section F. Contract Monitoring and Compliance for information on administrative sanctions, for additional information.

VI. SUBPART F: SB SUPPORTIVE SERVICES, RESOURCE PARTNERS AND PARTNERING

VI.A. Supportive Services

The Authority will implement a SB Supportive Services (SB/SS) component to augment SB participation.

The SB/SS component will be designed to enhance business growth and increase SB access and capacity to bid on and win contracts. The Authority will consider available resources to incorporate a comprehensive Business Development Program and/or a Mentor-Protégé Program in accordance with guidance provided by USDOT applicable Appendices C and D of 49 CFR Part 26. [49 CFR 26.35 and 26.51(b)]. The Authority may solicit a consultant contract and/or engage in an agreement with an existing government entity, with demonstrated results in overcoming issues most pertinent to SBs, to provide SB/SS, including bonding, insurance and finance.

To leverage existing resources, the Authority will work closely with the Small Business Development Centers and the USDOT Office of Small Disadvantaged Business Utilization to direct SBs to these centers for assistance on business development, capital and bonding assistance.

The Authority will enlist partnering Memorandum of Understandings (See Attachment 5) with industry, governments and community partners with the goal of leveraging mutual strengths and services to assist SBs in the areas of:

- Certification
- Capacity Building
- Communications
- Partnering
- Keys to marketing and negotiations
- Bonding and insurance
- Contract administration, including preparing schedules of values
- Access to capital
- Business counseling and training
- How to do Business with the Authority

The SB/SS elements will be designed to help foster and grow small businesses toward meaningful utilization and success in all phases of the Authority's contracting and Contractors' subcontracting opportunities.

VI.B. Resource Partners

The State of California has numerous resources available to assist small businesses. The Authority will work closely with existing small business development and technical assistance resource centers and enter into partnering MOUs to increase SB access and utilization of these resources with the goal of meeting small business utilization goals and building their capacity to bid.

The partners will include and are not limited to:

- California Department of General Services
- U.S. Small Business Administration
- California Department of Transportation
- Small Business Development Centers

- Governor's Office of Economic Development
- Associated General Contractors of California
- American Council of Engineering Companies
- Small Business Association
- Disabled Veteran Business Alliance
- Associated Professionals and Contractors of California
- Minority Chambers of Commerce
- Career Technical Education
- Employment Development Department

VI.C. Partnering

The Authority is committed to "Partnering" which is designed to establish long term and harmonious relationships, at all levels of the contracting team towards achieving cohesiveness and mutual goals in delivering the project.

Partnering will serve to identify key project issues; risk management strategies; and build partnering processes and structure, communication protocols and dispute resolution processes.

The Authority will institute a requirement to facilitate Partnering on its Design-Build contracts, which will be afforded to the entire contracting team's utilization, regardless of subcontracting tier or industry.

The Partnering contract specifications are under development and will be a component of the contract specifications.

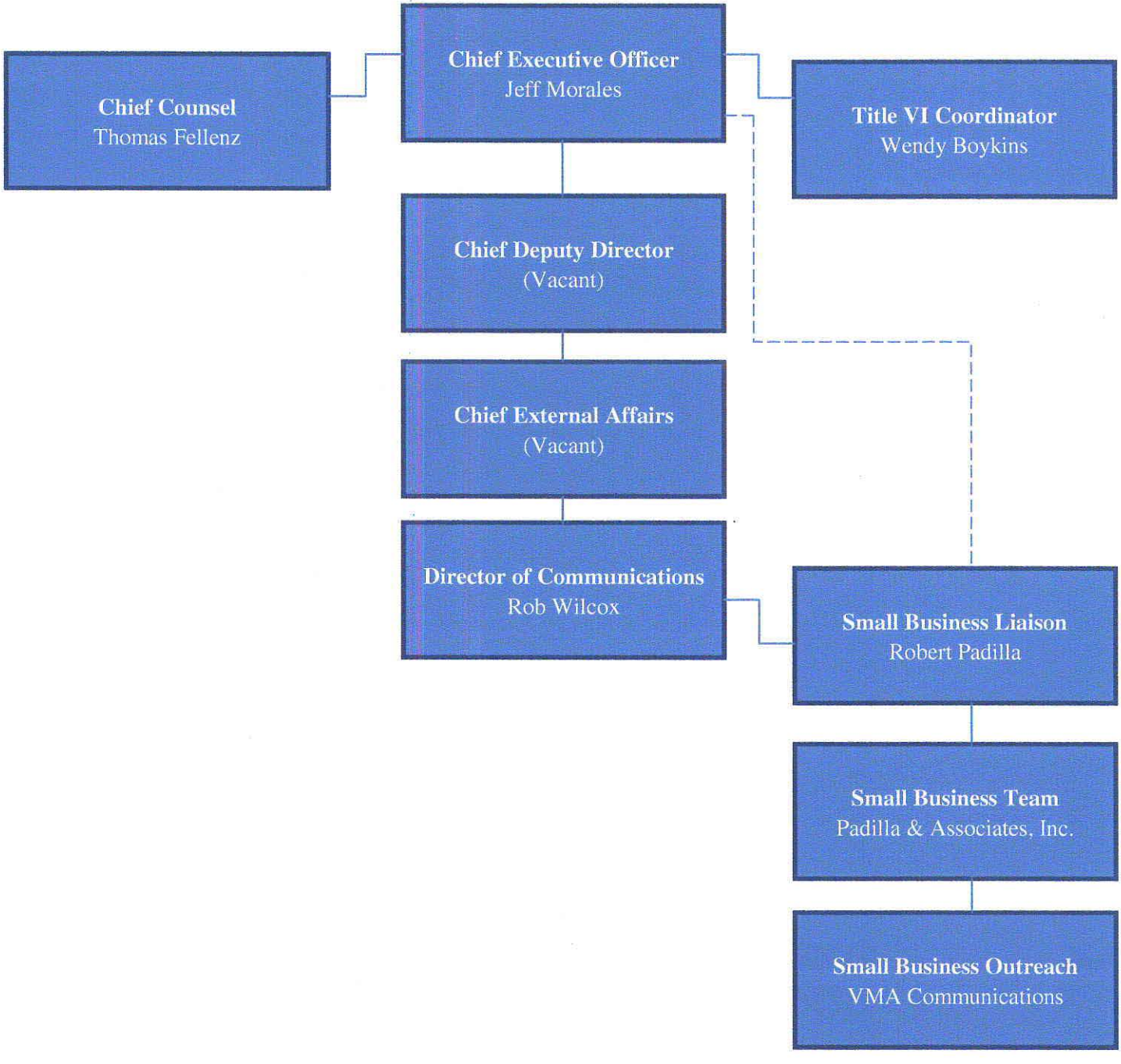
Attachment 1

California High-Speed Rail Authority

Small and Disadvantaged Business Enterprise Program

Organizational Chart

August 2012



STD 810 Contracting Activity Report Form (Rev. June 2008)
CONTRACTING ACTIVITY REPORT

STATE OF CALIFORNIA-DEPARTMENT OF GENERAL SERVICES
PROCUREMENT DIVISION

	Fiscal Year or Midyear:	**Year of report:**	
Agency:		**Department:**	

CONTRACTING ACTIVITY CATEGORY	**Part 1**						**Part 2**								
	Certified Disabled Veteran Business Enterprise (DVBE) Participation in State Contracting Activity						Certified Small Business (SB) / Microbusiness (MB) Participation in State Contracting Activity								
	TOTAL CONTRACT AWARDS						TOTAL CONTRACT AWARDS								
	Total Contract Dollars*	Total $ to DVBE Prime Contractors	Total $ to DVBE Sub-Contractors	Total DVBE Prime & Subs $	Percentage (Column D divided by Column A)		Total Contract Dollars*		Total $ to SB/MB Prime Contractors		Total $ to SB/MB Sub-Contractors		Total SB/MB Contract Dollars		Percentage (Column J divided by Column G)
	A	B	C	D (B+C)	E (D/A)	F	G		H		I		J (H+I)		K
1. Goods (Non-IT)	$ -	$ -	$ -	$0	0.00%		$0	SB	$ -	SB	$ -	SB	$0	SB	0.00%
								MB	$ -	MB	$ -	MB	$0	MB	0.00%
2. Services** (Non-IT)	$ -	$ -	$ -	$0	0.00%		$0	SB	$ -	SB	$ -	SB	$0	SB	0.00%
								MB	$ -	MB	$ -	MB	$0	MB	0.00%
3. Construction	$ -	$ -	$ -	$0	0.00%		$0	SB	$ -	SB	$ -	SB	$0	SB	0.00%
								MB	$ -	MB	$ -	MB	$0	MB	0.00%
4. IT (Goods & Services)	$ -	$ -	$ -	$0	0.00%		$0	SB	$ -	SB	$ -	SB	$0	SB	0.00%
								MB	$ -	MB	$ -	MB	$0	MB	0.00%
5. CALCard Data	$ -			$ -	0.00%		$0					SB	$ -	SB	0.00%
												MB	$ -	MB	0.00%
TOTALS	$0	$0	$0	$0	0.00%		$0	SB	$0	SB	$0	SB	$0	SB	0.00%
								MB	$0	MB	$0	MB	$0	MB	0.00%
				DVBE							**SB**		**MB**		0.00%
				TOTAL NUMBER OF DVBE CONTRACTS:							*TOTAL NUMBER OF SB/MB CONTRACTS:*				

Comments:

Preparer's Information:				***Approver's Information***			
Name (Print):				Name (Print):			
Title:				Title:			
Signature:		Date:		Signature:		Date:	
Telephone		Fax:		Telephone:		Fax:	
Email Address:				Email Address:			
Street Address:				City:		Zip:	

*The amounts shown in Columns A and G should be the same. If not, submit an explanation with this report.
**Includes Architect and Engineering Services (A&E)
DVBE = Disabled Veteran Business Enterprise SB = Small Business MB = Microbusiness

***INCLUDE** STD 810 Supplemental Report, STD 810 A Infrastructure Bond Acts Report, Consulting Services Report and Ethnicity, Race and Gender Reports with submission of the annual report.*

Return Annual and Mid-Year Department Reports To:
Department of General Services
Procurement Division
Attn: Reports Coordinator
707 3rd Street, 1st Floor, Room 400, IMS Z-1, MS 204
West Sacramento, CA 95605

UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS

Please refer to the Instructions sheet for directions on filling out this form

1. Submitted to (check only one): [ ] FHWA [ ] FAA [ ] FTA--Vendor Number _____

2. AIP Numbers (FAA Recipients Only):

3. Federal fiscal year in which reporting period falls: FY _____

4. Date This Report Submitted:

5. Reporting Period [ ] Report due June 1 (for period Oct. 1-Mar. 31) [ ] Report due Dec. 1 (for period April 1-Sept. 30)

6. Name of Recipient:

7. Annual DBE Goal(s): Race Conscious Goal _____% Race Neutral Goal _____% OVERALL Goal _____%

AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (total contracts and subcontracts awarded or committed during this reporting period)	A Total Dollars	B Total Number	C Total to DBEs (dollars)	D Total to DBEs (number)	E Total to DBEs /Race Conscious	F Total to DBEs/Race Conscious (number)	G Total to DBEs/Race Neutral (dollars)	H Total to DBEs/Race Neutral (number)	I Percentage of total dollars to DBEs
8. Prime contracts awarded this period									
9. Subcontracts awarded/committed this period									
TOTAL									

DBE AWARDS/COMMITMENTS THIS REPORTING PERIOD-BREAKDOWN BY ETHNICITY & GENDER	A Black American	B Hispanic American	C Native American	D Subcont. Asian American	E Asian-Pacific American	F Non-Minority Women	G Other (i.e. not of any other group listed here)	H TOTALS (for this reporting period only)	I Year-End TOTALS
10. Total Number of Contracts (Prime and Sub)									
11. Total Dollar Value									

ACTUAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	A Number of Prime Contracts Completed	B Total Dollar Value of Prime Contracts Completed	C DBE Participation Needed to Meet Goal (Dollars)	D Total DBE Participation (Dollars)	E Percentage of Total DBE Participation
12. Race Conscious					
13. Race Neutral					
14. Totals					

15. Submitted by (Print Name of Authorized Representative)

16. Signature of Authorized Representative

17. Phone Number:

18. Fax Number:

MONTHLY SB SUBCONTRACTORS PAID REPORT SUMMARY AND PAYMENT VERIFICATION (Form 103)

Reporting Period (month): _____, 20 ____

ATTACHMENT 4

Contract/Project Number: _____

Project Name: _____

Contract Award Date: _____

Master Contractor Name: _____

Address: _____

_____

Report Number: _____

Original Contract Award Amount: $ _____

Current Contract Value: $ _____

% of Project Complete: _____

Telephone: _____

SB Goal: _____% (% of total Contract)

SB Commitment: _____%

SB Goal Attainment to date:_____%

Total $ Paid to Master Contractor to date:

Payment to Master Contractor this period: _____

Total $ Paid to SBs this period: _____

Date of Last Progess Payment: _____

Total $ Paid to Sub to date: _____

SBE SUBCONTRACTORS	$ Amount paid this Month Date Issued	$ Amount Paid to Date	Type of Work Performed (Scope)	Original $ Amount Committed to DBE at Award	$ +/- resulting from Change Order Activity	% of Work Complete	% of Retention Withheld
Name: Address: City, State, Zip Code: Telephone Number: ( ) Subcontractor__ Broker __ Supplier: Regular Dealer __ or Manufacturer __ ( ) SB ( ) DVBE ( ) DBE ( ) MB ( ) MINORITY ( )WOMEN							
Name: Address: City, State, Zip Code: Telephone Number: ( ) Subcontractor __ Broker __ Supplier: Regular Dealer __ or Manufacturer __ ( ) SB ( ) DVBE ( ) DBE ( ) MB ( ) MINORITY ( )WOMEN							
Name: Address: City, State, Zip Code: Telephone Number: ( ) Subcontractor__ Broker __ Supplier: Regular Dealer __ or Manufacturer __ ( ) SB ( ) DVBE ( ) DBE ( ) MB ( ) MINORITY ( )WOMEN							

DRAFT

By my signature, I hereby attest that we have complied with all SB Program requirements , including prompt payment and retainage provisions.

Authorized Binding Title:

Authorized Binding Signature: _____

If necessary, this form can be duplicated and/or modified; however, it must contain all requested data fields.

Attachment 5

PARTNERSHIP AGREEMENT

STATE OF CALIFORNIA
BETWEEN
CALIFORNIA HIGH SPEED RAIL AUTHORITY
AND
DEPARTMENT OF GENERAL SERVICES

We the undersigned partners within California's State Government achieve greater efficiency in the delivery of contract opportunities to Californians. We will minimize overlap, redundancy, and cost in state operations by being fully committed lo leveraging shared services and information in order to make state government more transparent, accessible and accountable, and enhance the quality of services to Small Businesses. Disabled Veteran Business Enterprises, and Disadvantaged Business Enterprises. Leveraging shared services have been proven to achieve greater efficiency, cost-effectiveness and reduced fiscal impact.

Whereas the California High Speed Rail Authority agrees to:

- **Assist business owners on where to obtain Small Business certification.**
- **Email Small Business information and certification opportunities to business owners upon request.**
- **Distribute Small Business certification brochures at outreach events.**
- **Attend outreach events in partnership with the Department of General Services to present and distribute CHSRA business opportunity material.**
- **Share information with the Department of General Services critical to maintaining the integrity of Small Business certification.**

Whereas the Department of General Services agrees to:

- **Educate the CHSRA on navigating the Web site for the Small Business and the Disabled Veteran Business Enterprise certification process.**
- **Educate the CHSRA on navigating the BidSync Web site.**
- **Distribute CHSRA contract opportunities to Small Businesses and Disabled Veteran Business Enterprises.**
- **Attend CHSRA outreach events.**

We mutually agree to actively participate in regularly scheduled meetings and to work together as a cohesive cooperative team to maximize the participation of Small Businesses and Disabled Veteran Business Enterprises including Disadvantaged Business Enterprises, in the State's contracting program and to strengthen and sustain California's economy.

SIGNED: