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# Disadvantaged Business Enterprise Program FY 2004-05

**2004  
MEMBERSHIP ROSTER**

**SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS**

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The Federal Highway Administration and the State of California furnished financial support for the preparation of this plan.

## TABLE OF CONTENTS

### Disadvantaged Business Enterprise (DBE) Program

I	Definitions of Terms .....	5
II	Objectives/Policy Statement .....	8
III	Nondiscrimination.....	9
IV	DBE Program updates .....	9
V	Quotas .....	9
VI	DBE Liaison Officer (DBELO) .....	9
VII	Federal Financial Assistance Agreement Assurance.....	10
VIII	DBE Financial Institutions .....	10
IX	Directory.....	10
X	Over-concentration.....	10
XI	Business Development Programs.....	11
XII	Required Contract Clauses .....	11
XIII	Monitoring and Enforcement Mechanisms .....	12
XIV	Overall Goals .....	14
XV	Contract goals .....	16
XVI	Transit Vehicle Manufacturers .....	16
XVII	Good Faith Efforts .....	16
XVIII	Counting DBE Participation .....	17
XIX	Certification .....	18
XX	Information Collection and Reporting .....	18
<b><u>APPENDICES</u></b>		
	Appendix A to Part XVII – Guidance Concerning Good Faith Efforts.....	19
	Appendix B – To Be Used for Design-Build Contracts .....	21
	Appendix C – Sample of Resolution Regarding Necessity or Emergency for Subsequent Sub-contractor Identification and Selection for Design-Build Contracts.....	23
	Appendix D – Annual Overall Goal Information – Transmitting Letter to Caltrans Local District Engineer (Exhibit 17-F).....	24
	Appendix E -- Guidelines for Civil Rights Compliance Review of Location Procedures.....	26
	General .....	26
	Location Determination .....	26
	Community Participation .....	27
	Public Hearings.....	28
	Appendix F – Glossary of acronyms and terms .....	29
	Attachment A – Organizational Chart .....	31

# DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

Santa Barbara County Association of Governments (SBCAG)

## I. Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR §26.5. Sec. 26.5 as listed below.

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

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

- (i) One concern controls or has the power to control the other; or
- (ii) A third party or parties controls or has the power to control both; or
- (iii) An identity of interest between or among parties exists such that affiliation may be found.

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

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

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

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

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

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

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

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

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

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

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

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

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

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

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

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

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

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

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

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

Primary industry classification means the four-digit Standard Industrial Classification (SIC) code designation that best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS manual and applicable codes. The SIC Manual and the NAICS Manual are available through

the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its web site ([www.ntis.gov/naics](http://www.ntis.gov/naics)).

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

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

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

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

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

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

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

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

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

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

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is--

- (1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are reputedly presumed to be socially and economically disadvantaged:
  - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
  - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - (iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

- (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) Women;
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

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

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

## **II. Objectives /Policy Statement (§§26.1, 26.23)**

SBCAG has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. SBCAG has received federal financial assistance from the DOT, and as a condition of receiving this assistance, SBCAG will sign an assurance that it will comply with 49 CFR Part 26.

It is the policy of SBCAG to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also SBCAG's policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Public Information/Government Affairs Coordinator has been delegated as the DBE Liaison Officer. In that capacity, the Public Information/Government Affairs Coordinator is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by SBCAG in its financial assistance agreements with the California Department of Transportation (Caltrans).

SBCAG has disseminated this policy statement to the SBCAG board and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by publishing this statement in published general circulation media and available minority-focused media and trade association publications.

### **III. Nondiscrimination (§26.7)**

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

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

### **IV. DBE Program Updates (§26.21)**

SBCAG will continue to implement this program until SBCAG has established a new goal setting methodology or until significant changes to this DBE Program are adopted. SBCAG will provide to Caltrans a proposed overall goal and goal setting methodology and other program updates by June 1 of every year.

### **V. Quotas (§26.43)**

SBCAG will not use quotas or set-asides in any way in the administration of this DBE program.

### **VI. DBE Liaison Officer (DBELO) (§26.25)**

SBCAG has designated the following individual as the DBE Liaison Officer:

Gregg Hart  
Public Information Officer  
Santa Barbara County Association of Governments  
260 North San Antonio Road, Suite B  
Santa Barbara, CA 93110  
(805) 961-8900  
E-mail: ghart@sbcag.org

In this capacity, Mr. Hart is responsible for implementing all aspects of the DBE program and ensuring that SBCAG complies with all provisions of 49 CFR Part 26, which is available on the Internet at <http://www.osdbuweb.dot.gov/main.cfm>. Mr. Hart has direct, independent access to the Executive Director of SBCAG concerning DBE program matters. The DBELO has the support of two personnel who devote a portion of their time to the program. An organization chart displaying the DBELO's position in the organization is found in Attachment A to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions of those contracts for compliance with this program.
3. Works with all staff to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.

6. Analyzes SBCAG's progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Executive Director/SBCAG Board of Directors on DBE matters and achievement.
9. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

## **VII. Federal Financial Assistance Agreement Assurance (§26.13)**

SBCAG will sign the following assurance, applicable to all DOT-assisted contracts and their administration as part of the program supplement agreement for each project:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 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.).

## **VIII. DBE Financial Institutions**

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

Information on the availability of such institutions can be obtained from the DBE Liaison Officer. The Caltrans Disadvantaged Business Enterprise Program may offer assistance to the DBE Liaison Officer.

## **IX. Directory (§26.31)**

SBCAG will refer interested persons to the DBE directory available from the Caltrans Disadvantaged Business Enterprise Program website at [www.dot.ca.gov/hq/bep](http://www.dot.ca.gov/hq/bep).

## **X. Over-concentration (§26.33)**

SBCAG has not identified any types of work in DOT-assisted contracts that have an over-concentration of DBE participation. If in the future SBCAG identifies the need to address over-concentration, measures for addressing over-concentration will be submitted to the District Local Assistance Engineer (DLAE) for approval.

## **XI. Business Development Programs (§26.35)**

SBCAG does not have a business development or mentor-protégé program. If SBCAG identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description of it will be submitted to the DLAE for approval.

## **XII. Required Contract Clauses (§§26.13, 26.29)**

### Contract Assurance

SBCAG ensures that the following clause is placed in every DOT-assisted contract and subcontract:

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

### Prompt Payment

SBCAG ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

#### Prompt Progress Payment to Subcontractors

A prime contractor or subcontractor shall pay to any subcontractor not later than 10 days of receipt of each progress payment in accordance with provisions in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10 days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractor performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

#### Prompt Payment Of Withheld To Subcontractors

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall

not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractors performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

### **XIII. Monitoring and Enforcement Mechanisms (§26.37) (when applicable)**

SBCAG does not anticipate any direct involvement in federal-aid funded project construction.

If this changes, the following procedures would apply.

SBCAG will assign a Resident Engineer (RE) or Contract Manager to monitor and track actual DBE participation through contractor and subcontractor reports of payments in accordance with the following:

#### After Contract Award

After the contract award SBCAG will review the award documents for the portion of items each DBE and first tier subcontractor will be performing and the dollar value of that work. With these documents the RE/Contract Manager will be able to determine the work to be performed by the DBEs or subcontractors listed.

#### Pre-construction Conference

A pre-construction conference will be scheduled between the RE and the contractor or their representative to discuss the work each DBE subcontractor will perform.

Before work can begin on a subcontract, SBCAG will require the contractor to submit a completed “Subcontracting Request,” Exhibit 16-B of the Local Assistance Procedures Manual (LAPM) or equivalent. When the RE receives the completed form it will be checked for agreement of the first tier subcontractors and DBEs. The RE will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed “Local Agency Bidder DBE Information,” Exhibit 15-G. The “Subcontracting Request” will not be approved until any discrepancies are resolved. If an issue cannot be resolved at that time, or there is some other concern, the RE will require the contractor to eliminate the subcontractor in question before signing the subcontracting request. A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date.

Suppliers, vendors, or manufacturers listed on the “Local Agency Bidder DBE Information” will be compared to those listed in the completed Exhibit 16-I of the LAPM or equivalent. Differences must be resolved by either making corrections or requesting a substitution.

Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). Local agencies will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4144. FPA requires the contractor to list all subcontractors in excess of one half of one percent (0.5%) of the contractor’s total bid or \$10,000, whichever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except with the approval of the awarding authority.

The RE will give the contractor a blank Exhibit 17-F, “Final Report Utilization of Disadvantaged Business Enterprises, First Tier Subcontractors” and will explain to them that the document will be required at the end of the project, for which payment can be withheld, in conformance with the contract.

### Construction Contract Monitoring

The RE will ensure that the RE's staff (inspectors) knows what items of work each DBE is responsible for performing. Inspectors will notify the RE immediately of apparent violations.

When a firm other than the listed DBE subcontractor is found performing the work, the RE will notify the contractor of the apparent discrepancy and potential loss of payment. Based on the contractor's response, the RE will take appropriate action: The DBE Liaison Officer will perform a preliminary investigation to identify any potential issues related to the DBE subcontractor performing a commercially useful function. Any substantive issues will be forwarded to the Caltrans Disadvantaged Business Enterprise Program. If the contractor fails to adequately explain why there is a discrepancy, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withholding of payment.

If the contract requires the submittal of a monthly truck document, the contractor will be required to submit documentation to the RE showing the owner's name; California Highway Patrol CA number; and the DBE certification number of the owner of the truck for each truck used during that month for which DBE participation will be claimed. The trucks will be listed by California Highway Patrol CA number in the daily diary or on a separate piece of paper for documentation. The numbers are checked by inspectors regularly to confirm compliance. Providing evidence of DBE payment is the responsibility of the contractor.

### Substitution

When a DBE substitution is requested, the RE/Contract Manager will request a letter from the contractor explaining why substitution is needed. The RE/Contract Manager must review the letter to be sure names and addresses are shown, dollar values are included, and reason for the request is explained. If the RE/Contract Manager agrees to the substitution, the RE/Contract Manager will notify, in writing, the DBE subcontractor regarding the proposed substitution and procedure for written objection from the DBE subcontractor in accordance with the Subletting and Subcontracting Fair Practices Act. If the contractor is not meeting the contract goal with this substitution, the contractor must provide the required good faith effort to the RE/Contract Manager for local agency consideration.

If there is any doubt in the RE/Contract Manager's mind regarding the requested substitution, the RE/Contract Manager may contact the DLAE for assistance and direction.

### Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

The contractor shall maintain records showing the name and address of each first-tier subcontractor. The records shall also show:

1. The name and business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE trucking company.
2. The date of payment and the total dollar figure paid to each of the firms.
3. The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

When a contract has been completed, the contractor will provide a summary of the records stated above. The DBE utilization information will be documented on the form "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" (Exhibit 17-F) and will be submitted to the DLAE attached to the Report of Expenditures. The RE will compare the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form to the contractor's completed "Local Agency Bidder-DBE-Information" (Exhibit 15-G) and, if applicable, to the completed "Subcontracting Request" (Exhibit 16-B). The DBEs shown on the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBEs and they were added. The dollar amount should reflect any

changes made in planned work done by the DBE. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed "Local Agency Bidder-DBE-Information" form when:

- There have been no changes made by the RE.
- The contractor has not provided a sufficient explanation in the comments section of the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form.

The explanation will be attached to the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form for submittal. The RE will file this in the project records.

The local agency's Liaison Officer will keep track of the DBE certification status on the Internet at [www.dot.ca.gov/hq/bep](http://www.dot.ca.gov/hq/bep) and keep the RE informed of changes that affect the contract. The RE will require the contractor to act in accordance with existing contractual commitments regardless of de-certification.

The DLAE will use the PS&E checklist to monitor the SBCAG's commitment to require bidders list information to be submitted to SBCAG from the awarded prime and subcontractors as a means to develop a bidders list. This monitoring will only take place if the bidders list information is required to be submitted as stipulated in the special provisions.

SBCAG will bring to the attention of the DOT through the DLAE any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. SBCAG also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

#### **XIV. Overall Goals (§26.45)**

##### Amount of Goal

SBCAG's suggested overall goal for the federal FFY 2004-05 is the following: 10% of the federal financial assistance in DOT-assisted contracts. This overall goal is broken down into 8% race-conscious and 2% race-neutral components.

##### Methodology

SBCAG staff developed a suggested goal utilizing methodology number 2 (use of a bidders list) suggested in the Local Assistance Procedure Manual. SBCAG determined the number of DBEs that have bid or quoted on DOT-assisted prime contracts or subcontracts in the past for similar projects slated for 2004. Then, SBCAG determined the number of all consultants that have bid or quoted on similar prime or subcontracts in the past. The number of DBE bidders was divided by the number of all bidders to derive a base figure for the relative availability of DBEs. This base figure of 10% is recommended as the FY 2004 goal.

SBCAG will continue to develop lists of offerors/bidders who request inclusion on the mailing list for potential projects. Those lists will be analyzed for DBE and race-conscious/race-neutral components and used in evaluating future and past goals.

## Breakout of Estimated Race-Neutral and Race-Conscious Participation

SBCAG suggests adoption of 10% as the overall DBE goal, which would then be broken down into 8% race-neutral and 2% race-conscious. SBCAG utilized the information used by the City of Santa Barbara in establishing their breakout of their DBE goal. The City of Santa Barbara collected information from the census bureau computation that suggested a low percentage of the overall goal could be attained through race-neutral means.

SBCAG will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. SBCAG will use the following race-neutral means to increase DBE participation: Contracts awards to the lowest bidder, encouragement of prime contractors to subcontract portion of the work that they might otherwise perform themselves, providing technical assistance and other support services to facilitate consideration of DBE's and other small businesses, and seeking out DBE certified firms for RFP mailings.

SBCAG will adjust the breakout of the overall goal into race-neutral and race-conscious participation as needed to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

## Process for Goal Setting and Approval

Starting with the federal fiscal year 2002, the amount of overall goal, the method to calculate the goal, and the breakout of estimated race-neutral and race-conscious participation will be required annually by June 1 in advance of the federal fiscal year beginning October 1 for DOT-assisted contracts. Submittals will be to the Caltrans' DLAE. An exception to this will be if FTA or FAA recipients are required by FTA or FAA to submit the annual information to them or a designee by another date. FHWA recipients will follow this process.

Once the DLAE has responded with preliminary comments and the comments have been incorporated into the draft overall goal information, SBCAG 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 SBCAG's principal office for 30 days following the date of the notice, and informing the public that comments will be accepted on the goals for 45 days following the date of the notice. The notice must be published in general circulation media and available minority-focused media and trade association publications. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The overall goal resubmission to the Caltrans DLAE, will include a summary of information and comments received during this public participation process and SBCAG's responses. This will be due by September 1 to the Caltrans DLAE. The DLAE will have a month to make a final review so SBCAG may begin using the overall goal on October 1 of each year.

If there is a design build please refer to Appendix B of this Model DBE Program.

## **XV. Contract Goals (§26.51)**

SBCAG will use contract goals to meet any portion of the overall goal SBCAG does not project being able to meet by the use of race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). The contract work items will be compared with eligible DBE contractors willing to work on the project. A determination will also be made to decide which items are likely to be performed by the prime contractor and which ones are likely to be performed by the subcontractor(s). The goal will then be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

## **XVI. Transit Vehicle Manufacturers (§26.49)**

If DOT-assisted contracts will include transit vehicle procurements, SBCAG will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49. SBCAG will direct the transit vehicle manufacturer to the subject requirements located on the Internet at <http://osdbuweb.dot.gov/programs/dbe/dbe.htm>.

## **XVII Good Faith Efforts (§26.53)**

### Information to be Submitted

SBCAG treats bidders'/offerors' compliance with good faith effort requirements as a matter of responsiveness. A responsive proposal is meeting all the requirements of the advertisement and solicitation.

Each solicitation for which a contract goal has been established will require the bidders'/offerors to submit the following information to SBCAG no later than 4:00 p.m. on or before the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening:

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

### Demonstration of Good Faith Efforts

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

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: the Public Information/Government Affairs Coordinator.

SBCAG will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before a commitment to the performance of the contract by the bidder/offeror is made.

### Administrative Reconsideration

Within 10 days of being informed by SBCAG that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Jim Kemp  
Executive Director  
SBCAG  
260 North San Antonio Road, Suite B  
Santa Barbara, CA 93110  
(805) 961-8900

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. SBCAG will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to Caltrans, FHWA or the DOT.

### Good Faith Efforts when a DBE is Replaced on a Contract

SBCAG 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 extent needed to meet the contract goal. The prime contractor is required to notify the RE immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain SBCAG prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, SBCAG contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.



## APPENDIX A TO PART 26 -- GUIDANCE CONCERNING GOOD FAITH EFFORTS

I. When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

IV. The following is a list of types of actions that you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

**APPENDIX B**  
**TO BE USED FOR DESIGN-BUILD CONTRACTS**

The following are hereby incorporated into the Agency's Disadvantaged Business Enterprise (DBE) Program:

**II. Objectives /Policy Statement** (§§26.1, 26.23)

At the end of the first paragraph, add the following:

*The Agency recognizes that certain modifications are necessary to adapt the program for use in connection with design-build contracts, and has therefore established certain procedures applicable to design-build DBE contracts under the DBE Program. Public Contract Code Section 4109 requires subcontractors to be identified by the prime contractor for the subletting or subcontracting of any portion of the work in excess of one-half of 1 percent of the prime contractor's total bid. Exceptions are only in the cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the awarding authority setting forth the facts constituting the emergency or necessity. The written public record of the awarding authority/Agency as to either emergency or necessity is attached hereto (See Appendix C for sample).*

**XIII. Monitoring and Enforcement Mechanisms** (§26.37)

At the end of the first paragraph below "After Contract Award", add the following paragraph:

*After Design-Build Contract Award*

*As described in the Section entitled "GOOD FAITH EFFORTS" below, each proposer for an Agency design-build contract will be required to submit a DBE Performance Plan as part of a responsive proposal. Following award of a design-build contract and during both the design and construction portions of the project, the design-build contractor will be required to submit documentation, in the form of progress reports described below, to show that the design-build contractor is meeting the contract goal for the project, or if the goal is not being met, the design-build contractor must submit satisfactory evidence that it has made good faith efforts, in accordance with Section XVII, to meet the goal. Evidence of good faith efforts, as described in 49 CFR Part 26 Section 26.53 and Appendix A, will be monitored by the Agency throughout the duration of the design-build project.*

At the end of the first paragraph below "Pre-construction Conference", add the following sentence:

*\_\_\_\_\_ The contractor will promptly provide the Agency with the information required by the form entitled "Local Agency DBE Information" upon selection of any DBE or other subcontractor not previously identified by the design-build contractor. During the course of the contract, differences must be explained and resolved by either making corrections or requesting a substitution.*

At the end of the fourth paragraph below "Construction Contract Monitoring", add the following paragraph:

***\_\_\_\_\_ The contractor will provide DBE Progress Reports to the Agency with each invoice and will provide an annual report on or before August 1 of each year of the design-build contract. Each report must also include a narrative summary stating whether the contractor is on target with respect to the DBE 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).***

**XVII. Good Faith Efforts (§26.53)**

At the end of the third paragraph below "Information to be Submitted", add the following items:

- 7. A DBE Performance Plan containing a detailed description of the design-build contractor's planned methodology for achieving the DBE goal stated in the contract, including a description of the good faith efforts the design-build contractor intends to undertake to achieve that goal.***
- 8. A design-build proposal must also include an affidavit that the proposer will either attain the DBE goals for the design-build contract or will exercise good faith efforts to do so.***

At the end of the first paragraph below "Demonstration of Good Faith Efforts", add the following sentence:

***If it is a design-build contract, each contractor proposing will be required to submit a DBE Performance Plan as part of a responsive proposal and good faith efforts.***

\_\_\_\_\_  
[Signature of Local Agency Recipient's Chief Executive Officer]

Date: \_\_\_\_\_

This Disadvantaged Business Enterprise Program for design-build contracts is accepted by:

\_\_\_\_\_  
[Signature of DLAE]

Date: \_\_\_\_\_

**APPENDIX C**

**RESOLUTION OF THE SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS  
REGARDING NECESSITY OR EMERGENCY FOR SUBSEQUENT SUBCONTRACTOR  
IDENTIFICATION AND SELECTION FOR DESIGN-BUILD CONTRACTS**

**(REQUIRED BY PUBLIC CONTRACT CODE SECTION 4109  
ENTITLED "Public Emergency Grounds For Change")**

- A. EXPLANATION OF PUBLIC NECESSITY OR EMERGENCY**
  
- B. FACTS CONSTITUTING THE PUBLIC NECESSITY OR EMERGENCY**
  
- C. FINDINGS**
  
- D. RESOLUTION FOR SUBSEQUENT IDENTIFICATION OF SUBCONTRACTORS**
  
- E. ADOPTION OF PROCEDURE TO BE USED BY DESIGN-BUILD CONTRACTOR FOR  
SUBSEQUENT IDENTIFICATION OF SUBCONTRACTORS**
  
- F. CERTIFICATE OF SECRETARY**
  - 1. MOTION MADE AND DATE**
  
  - 2. VOTING RESULTS**
  
  - 3. SIGNATURES**
    - (a) Secretary**
  
    - (b) Chairperson**

## APPENDIX D

DATE: May 24, 2004

TO: Michael Giuliano, District Local Assistance Engineer, Caltrans District 5

FROM: Gregg Hart, DBE Liaison Officer

SUBJECT: FY 05 DBE Program for Santa Barbara County Association of Governments (SBCAG)

The amount of overall goal, methodology, breakout of estimated race-neutral and race-conscious participation, and any DBE program updates are presented herein in accordance with Title 49 of the Code of Federal Regulations Part 26, and as described in the Local Assistance Procedures Manual.

This is SBCAG's submittal of our proposed annual overall goal information plus updates of our DBE program. We propose an annual overall DBE goal of 10% for the Federal Fiscal Year 2005, beginning on October 1, 2004 and ending on September 30, 2005.

### Methodology

SBCAG staff developed a suggested goal utilizing methodology number 2 (use of a bidders list) suggested in the Local Assistance Procedure Manual. SBCAG determined the number of **DBEs** that have bid or quoted on DOT-assisted prime contracts or subcontracts in the past, similar to the projects slated for 2003-04. Then, SBCAG determined the number of **all** consultants that have bid or quoted on similar prime or subcontracts in the past. The number of DBE bidders was divided by the number of all bidders to derive a base figure for the relative availability of DBEs. This base figure of 10% is recommended as the goal for FY 2004.

SBCAG feels this is an appropriate and objective goal based on willing, able, and active DBE's within the market and scope of potential projects.

SBCAG will continue to develop lists of bidders who request inclusion on the mailing list for potential projects. Those lists will be analyzed for DBE and race-conscious/race-neutral components and used in evaluating future and past goals.

### Breakout of Estimated Race-Neutral and Race-Conscious Participation

SBCAG suggests adoption of 10% as the overall DBE goal, which should then be broken down into a 8% race-neutral and 2% race-conscious. Race-neutral refers to those contracts without a specific DBE goal that are awarded to a DBE firm after normal, competitive procurement processes. Race-conscious refers to those contracts that establish a specific DBE participation goal.

SBCAG would meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. SBCAG would use the following race-neutral means to increase DBE participation: Contracts awards to the lowest bidder, encouragement of prime contractors to subcontract

portion of the work that they might otherwise perform themselves, providing technical assistance and other support services to facilitate consideration of DBE's and other small businesses, and seeking out DBE certified firms for RFP mailings.

SBCAG would adjust the breakout of the overall goal into race-neutral and race-conscious participation as needed to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

#### DBE Program Updates

This goal and document was updated in accordance with any new regulation.

We look forward to receiving your comments on the proposed goal so that we may proceed forward with presentation of the proposed plan to the SBCAG Board and solicitation of public comment.

---

DBE Liaison Officer

---

Date

## APPENDIX E

### GUIDELINES FOR CIVIL RIGHTS COMPLIANCE REVIEWS OF LOCATION PROCEDURES

#### GENERAL

In accordance with Title VI and Title VIII of the Civil Rights Act of 1964 and 1968, local agencies are required to follow certain location procedures on Federal-aid highway projects. This guideline may be used to suggest areas for review.

1. As a result of the choice of highway locations or the procedures used in arriving at the choice, has the Agency, State or Federal Highway Administration received any civil rights complaints? If so, what were the complaints and what has been done to resolve them?

2.a. To what extent does the agency employ minority staff personnel in the location program under review? Are these personnel involved in the following:

- Developing and comparing alternatives,
- Assessing impacts, and
- When used, operating through consultant contracts?

Are they involved in any other related area? If not, what is being done to recruit and hire minority personnel?

2.b. What training or education sessions are conducted to increase the skills of minorities as well as non-minorities? Are promotional opportunities available for minorities? Does the Agency fill professional as well as non-professional positions with minorities? If not, what is being done to rectify these situations?

3. Does the Agency choose consultant firms without discrimination on the basis of race, sex, color, or national origin? Is there evidence that minority consultant and consultants with minority staffs are offered equal employment opportunity? How many of these firms have contracts and what type are they?

4. Does the process for preparation of Environmental Impact Statements, or do the Environmental Impact Statements themselves, reflect any indication of a violation of any of the provisions of Title VI or Title VIII? If so, elaborate.

#### LOCATION DETERMINATION

When reviewing the process leading to location determination on a specific project, the following questions are to be used:

1. To what extent has the agency or consultant compiled the following information for use in the location determination?
  - a. The racial character of the portion of the area through which the alternate locations pass, including the approximate number by race of persons and families affected by each alternate (affected means all persons directly displaced or located in area directly adjoining the road).
  - b. The social and economic character of the area through which alternates pass, including levels of income, whether the area is commercial or residential, and the

approximate number of minority and non-minority owners of businesses and residences in the area.

- c. The racial character of the people employed in the area affected by each alternate.
2. How was the racial and ethnic data used to identify possible problem areas and adverse impacts, such as relocation difficulties or possible changes in minority income capabilities, mobility, or community cohesion? What efforts have been made to rectify these problem areas and minimize the adverse impacts?
3. Will a minority area be bypassed or separated from contiguous areas by any of the alternatives, and if so, what effect will this have on the minority community? To what extent will it perpetuate patterns of segregation?
4. How will each of the alternates affect the use of various community facilities and services such as hospitals, libraries, shopping areas, fire stations, police installations, schools, churches, parks and recreation centers by minority groups in the area?
5. To what extent will each of the locations produce an adverse effect of residential, commercial and industrial development existing or planned within minority communities?
6. What attempt has the Agency made to satisfy minority community planning goals and needs? To what extent were the goals and needs determined utilizing input from the minority community?
7. Have the gradeline, safety considerations, cross-street treatment, pedestrian overpasses, and other design features been established for alternatives to the same degree in minority areas as in non-minority areas?
8. Is access to and from the various alternates provided without discrimination?
9. Would the alternates have an effect on traffic volumes on adjacent streets within minority communities? To what extent has the Agency studies the effect of increased or decreased traffic on residences and businesses?
10. To what extent have aesthetics, noise, and air quality been considered within minority communities?
11. Has all the above information been adequately tabulated and mapped for use in the location determination?

### COMMUNITY PARTICIPATION

In any review of projects, a determination should be made that the minority groups have had an opportunity to provide meaningful input into the decision-making process regarding their goals and needs as they pertain to the location determination. The following questions should be used:

1. To what extent do the Agency's procedures provide for consultation with and dissemination of information to minority community and groups?

2. Where non-English speaking minorities are involved, what provisions are made to overcome language barriers?
3. How are the minority leaders identified and encouraged to provide suggestions and ask questions about locations?
4. To what extent are informal hearings and meetings held with the affected minority communities and groups?
5. To what extent does the Agency respond to questions asked and consider comments made by minorities?
6. To what extent are minority community and groups represented on the various councils, boards, and committees, etc., that provide input to the location determination? How were these representatives selected and have they been given an equal voice?

### PUBLIC HEARINGS

When reviewing the conduct of public hearings, the following questions should be used:

1. Are hearings(s) held at a place and time convenient to minority community and groups?
2. Are advertisements of the hearing(s) (i.e., newspapers, posters, radio, etc.) adequate to provide notification to minorities?
3. Where non-English speaking minorities are involved, what provisions are made to overcome language barriers both in advertisements and at the hearing(s)?
4. Are minority leaders specifically invited to attend and present their views? Do they attend? Do they make comments?
5. To what extent does the Agency respond to questions asked and consider comments made by minority persons at the hearing(s)?
6. To what extents are fair housing requirements and the availability of hardship acquisition discussed at public hearings when minorities are to be relocated?

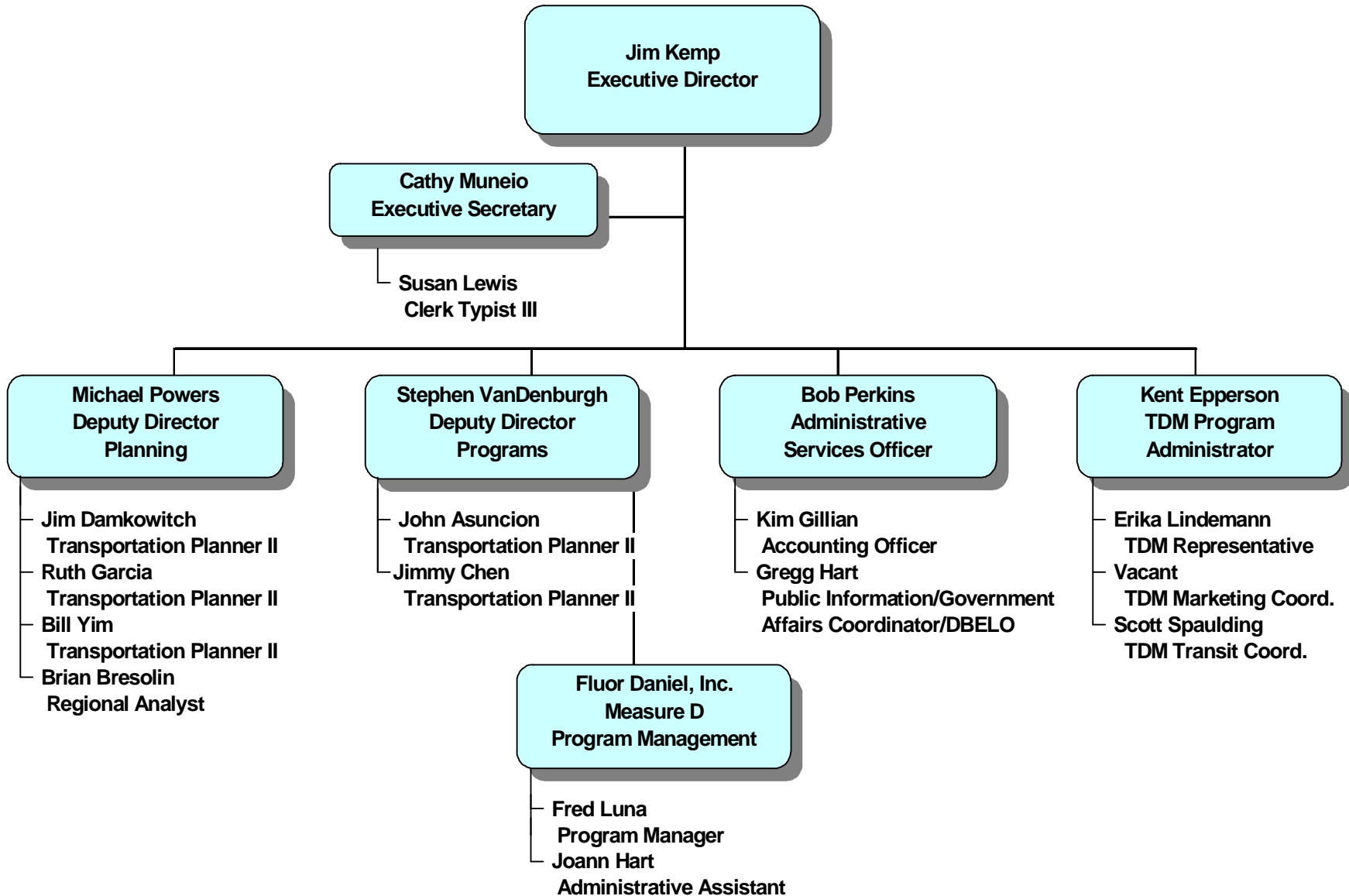
**APPENDIX F**  
**GLOSSARY OF ACRONYMS AND TERMS**

<b>ADA</b>	<b>Americans With Disabilities Act</b> - Landmark 1990 civil rights legislation that bars discrimination against people with disabilities in all major areas of life: employment, public accommodations, transportation and communications. As it relates to provision of transportation services, the ADA requires that transportation providers ensure nondiscriminatory accessible service for disabled individuals, and that public transportation providers operating fixed route bus service provide paratransit service comparable to the fixed route service.
<b>Caltrans</b>	<b>California Department of Transportation</b> - Agency responsible for state-wide transportation programs in California, and the California Transportation Plan. Caltrans is the implementing agency for most state highway projects and for the intercity rail program.
<b>CTP</b>	<b>California Transportation Plan</b> - A long-range transportation plan for the state required by ISTEPA.
<b>DBE</b>	<b>Disadvantaged Business Enterprise</b> -- 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 or, in the case of a corporation, in which 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.
<b>DBELO</b>	<b>Disadvantaged Business Enterprise Liaison Officer</b> – the person in charge of DBE matters for SBCAG.
<b>DLAE</b>	<b>District Local Assistance Engineer</b> – the person at Caltrans that works with local MPO's in addressing the DBE program.
<b>DOT</b>	<b>U.S. Department of Transportation</b> – The agency in charge of all matters relating to federal transportation programs.
<b>FHWA</b>	<b>Federal Highway Administration</b> - As an agency under the U.S. Department of Transportation (U.S.DOT), FHWA is responsible for administering all federal highway programs.
<b>FSTIP</b>	<b>Federal Statewide Transportation Improvement Program</b> – The FSTIP is prepared by Caltrans to meet federal requirements of Title 23 USC and is a statewide compilation projects proposed for federal transportation funding from TEA 21 taken from each regionally adopted FTIP.
<b>FTA</b>	<b>Federal Transit Administration</b> - Formally known as the Urban Mass Transportation Administration (UMTA), FTA is an agency under the U.S. Department of Transportation (U.S.DOT) responsible for all federal programs related to mass transit.
<b>FTIP</b>	<b>Federal Transportation Improvement Program</b> - The FTIP is a multi-year program of transportation projects for Santa Barbara County that are funded from predominantly federal sources. The FTIP is developed and adopted by SBCAG on a biennial basis. Once adopted, the FTIP is submitted to the California Transportation Commission (CTC) and the federal funding agencies.

- ISTEA**      **Intermodal Surface Transportation and Efficiency Act** - Federal transportation legislation signed into law in December 1991, which substantially changed the way transportation funding decisions are made. It emphasized diversity, balance of modes, and the preservation of existing systems. ISTEA authorized the expenditure of \$151 billion over its six-year life. It was superseded by TEA-21 in 1998.
- LAPM**      **Local Assistance Procedures Manual** – a Caltrans procedures manual.
- MPO**      **Metropolitan Planning Organization** - Under federal law, the organization designated by the governor as responsible for transportation planning and programming activities required under federal law in an urbanized area. It serves as the forum for cooperative decision making by a regional board made up of local elected officials. As the regions' designated MPO, SBCAG is responsible for development of the federal long-range transportation plan and multi-year funding programs, and the selection and approval of transportation projects using federal funds.
- RTP**      **Regional Transportation Plan** - The RTP is a long range plan (covering a twenty year planning period) to improve our region's state highways; local streets, roads, and bikeways; airports and marine facilities; transit, paratransit, and passenger rail services. A guide for the development of these facilities, the RTP describes the priorities for making investments in our region's transportation system.
- RTPA**      **Regional Transportation Planning Agency** - The multi-county, or county-level agency responsible under state law for the preparation of RTPs and allocation of funds. RTPAs can be local transportation commissions, Councils of Governments, MPOs, or statutorily created agencies. SBCAG is the designated RTPA for the Santa Barbara County region.
- SBCAG**      **Santa Barbara County Association of Governments** - SBCAG is a voluntary council of governments formed under a joint powers agreement executed by each of the general purpose local governments in Santa Barbara County. SBCAG is an independent entity governed by a twelve-member board consisting of a city council representative from each of the seven cities in the county and the five members of the county board of supervisors. The city representatives are appointed by their respective city councils. SBCAG is the designated Regional Transportation Planning Agency (RTPA) and the Metropolitan Planning Organization (MPO) for Santa Barbara County.
- TDA**      **Transportation Development Act** - As contained in Section 99200 of the Public Utilities Code, the TDA provides two major sources of funding for public transportation through regional planning and programming agencies: the county Local Transportation Fund (LTF), which is derived from 1/4 cent of the 6 cent retail sales tax collected statewide; and the State Transit Assistance (STA) funds (also abbreviated STAF), which are for transportation planning and mass transportation purposes as specified by the legislature.
- TEA-21**      **Transportation Equity Act for the 21<sup>st</sup> Century**- Federal legislation enacted Jun 9, 1998 as Public Law 105-178. TEA-21 authorizes the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period 1998-2003. This legislation superseded the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), but maintained its basic structure and built on its key initiatives.

**ATTACHMENT A**

**SBCAG ORGANIZATIONAL CHART**



**ATTACHMENT B****FEDERALLY FUNDED CONTRACTS  
GOALS WORKSHEET****Summary of Contracts****DBE Participation****FY 2001-2002**

Travel Demand Forecasting	14 RFPs Sent (1 DBE) 8 Bids received (1 DBE) Contract Awarded to Caliper Corp (non-DBE) Caliper Corp used one SBE sub-contractor	7% 12.5%
Regional Transportation Plan	Contract started in FY 2001 Awarded to Lawler Consulting No bid process	
STIP monitoring	Awarded to COM 3 No bid process	
Clean Air Express Operation	58 RFP's sent (9 DBE's) 4 returned bids (No DBE bid) Bid awarded to Santa Barbara Airbus (non-DBE)	15.5% 0%
Commuter Profile Telephone Survey	25 RFP's sent (4 DBE's) 12 Returned bids (3 DBE's bid) Bid awarded to SCR (non-DBE)	16% 25%

**FY 2002-2003**

Highway 101 Implementation Plan	62 RFPs Sent (9 DBEs) 5 bids received (2 DBEs) Awarded to Parsons Brinkerhoff (non-DBE)	14% 40%
State Route 166 Truck Study	8 RFPs Sent (no DBEs) 3 bids received Awarded to Strategic Consulting and Research	0% 0%

**FY 2003-2004**

Project Mgmt. Assistance	Awarded to Fluor Daniel (non-DBE) No RFP process	
Regional Transportation Plan Spanish Language Services	Awarded to Haydee Ramirez (DBE) No RFP process	100%
FlexWork Pilot Program	100+ RFPs sent (approx. 10 DBEs) 8 proposals received (1 DBE) Awarded to Telecommuting Advantage Group	10% 12.5%

**FY 2004-05 Projected Contracts**

<b>Project</b>	<b>Project Cost</b>	<b>All Solicited</b>	<b>DBE's Solicited</b>	<b>DBE Participation</b>
Regional Transportation Plan	\$42,500	10	1	10%
Environmental Impact Report				
Call Box Demo Project Inspection	\$30,000	4	1	25%
Call Box Demo Project Design	\$35,000	3	1	33%

Considering the above historical figures, SBCAG determines that a reasonable goal would be 10% for DBE participation in 04/05. This leaves the goal at the same level as for FY 03/04. It was arrived at by dividing the total number of DBE respondents since FY 01-02 (when and RFP process was used) by the total number of all respondents since FY 01/02.