

Metro Board Approved Policy

Small Business Enterprise Program

Adopted: April 24, 1997

Historical Perspective

This policy was amended on February 26, 2015.

On April 14, 1997, the Board authorized staff to implement the race and gender-neutral SBE program for non-federally funded negotiated contracts. The SBE Program was implemented as an alternative to the state and local M/WBE Program.

In October 1999, the Board adopted a motion to bolster efforts at identifying and assisting disadvantaged small businesses to become certified as DBE or SBE. The motion requires staff to hold seminars that help small businesses understand how to negotiate the pre-qualification process and interpret relevant procurement documents. It also requires us to rotate the DBE and SBE vendor solicitations to increase the number of businesses that can bid on projects.

The Board also adopted a Voluntary M/WBE Program for State and locally funded competitively bid contracts to comply with state law. This program is strictly voluntary; M/WBE participation is encouraged.

In July 2003, staff recommended revisions to the SBE Program modeling DBE Program requirements and a Small Business Preference Program that will provide for a 5% preference for certified SBE firms during the contract award process for negotiated procurements.

This revision extends SBE certification from two years to three years consistent with the DBE program and reduces the burden on small business in the certification process. New certification requirements also require SBEs to submit an annual written affidavit that the firm continues to meet the small business size standards and the existing \$250,000 Personal Net Worth requirement. In addition, the SBE program offers proposers the opportunity for Reconsideration of its Good Faith Efforts (GFE) documentation when determined that

it is not responsive because it has not documented sufficient good faith efforts to meet established contract-specific SBE goals.

Staff recommends a 25% SBE overall program goal for FY11 and FY12. The current 15% program goal was established in 1997 with the creation of the SBE program with an average 10% SBE participation rate annually.



Metro



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**Los Angeles County
Metropolitan Transportation Authority
(Metro)**



**SMALL BUSINESS
ENTERPRISE
(SBE) PROGRAM**

*February 2015
Revised*

Diversity and Economic Opportunity Department

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**Los Angeles County
Metropolitan Transportation Authority
(Metro)**

**S M A L L B U S I N E S S
E N T E R P R I S E
(S B E) P R O G R A M**

Diversity and Economic Opportunity Department

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SUBPART A – GENERAL REQUIREMENTS

A. Objectives

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

B. Applicability

The Los Angeles County Metropolitan Transportation Authority (hereinafter referred as to MTA) is the recipient of non-federal funds from state, local, and other sales tax funding sources. As a condition of assistance, and in compliance with the MTA Board adopted Small Business Enterprise (SBE) Program and the Prohibition against Discrimination or Preferential Treatment by State and Other Public Entities, hereafter referred to as the Proposition 209, MTA shall implement a race and gender neutral small business program.

This program sets forth the policies and procedures to be implemented by MTA to ensure that small businesses have the maximum opportunity to participate in MTA non-federally funded competing negotiated and competing bid contracts.

C. Authority

Authority and references for MTA's SBE Program are derived from, but not limited to, the following:

1. Proposition 209 which amends Article I of California Constitution to prohibit "preferential treatment" on the basis of race, sex, color, ethnicity, and national origin in public employment, education, and contracting;
2. Chapter 424, Section 130232 of the Public Utilities Code, relating to public contracts, as amended;
3. Executive Order W-136-96 requires every state, department, board, or commission, to develop programs which promote equal opportunity for all individuals without regards to race, sex, color ethnicity, or national origin;
4. Directive from the Chair of the MTA's Executive Management Committee that MTA develop a program to increase contracting opportunities for small business firms; and
5. Title 49 Code of Regulations Part 18 "Grants and Cooperative Agreements with Non-federal Governments" dated March 11, 1988.
6. 49 Code of Federal Regulations Part 26

D. Definitions

Definition of terms is listed in Attachment 1.

E. Non-discrimination Requirements

MTA 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 on the basis of race, color, sex, or national origin.

In administering its SBE program, MTA 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 SBE program with respect to individuals of a particular race, color, sex, or national origin.

F. Record Keeping Requirements

MTA will receive monthly prime contractor payment reports on all contracts with SBE commitments. These reports will reflect payments actually made to SBEs on non-federally funded contracts.

G. Contract Assurance

MTA will ensure that the following clause is placed in non-federally funded contracts and subcontracts:

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 in the award and administration of the SBE Program. 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 MTA deems appropriate.

This language is to be used verbatim.

SUBPART B- RESPONSIBILITY OF SBE PROGRAM IMPLEMENTATION

A. SBE Liaison Officer (SBELO)

MTA has designated the following individual as MTA's SBE Liaison Officer:

Linda Wright
Executive Officer (EO),
Diversity and Economic Opportunity Department (DEOD)
Metropolitan Transportation Authority
One Gateway Plaza, 99-8-2
Los Angeles, CA 90012-2952

Telephone: (213) 922-2638
E-mail: wrightl@mta.net

In that capacity, the SBELO is responsible for implementing all aspects of the SBE program and ensuring that MTA complies with all provisions of Proposition 209. The SBELO has direct, independent access to the Chief Executive Officer of MTA concerning SBE program matters.

The SBELO is responsible for developing, implementing and monitoring the SBE program, in coordination with other appropriate officials. The SBELO has a technical staff of seven (7) to assist in the administration of the program. The duties and responsibilities include the following:

1. Develops implements and monitors, with participation by legal counsel, the SBE Program document, keeping it up-to-date with the current business environment and the latest revisions to the applicable federal regulations, ensuring the SBE program is responsive to and in compliance with the non-federal regulations, including, but not limited to, Proposition 209;
2. Gathers and reports statistical data and other information for MTA Board;
3. Reviews third party contracts and purchase requisitions for compliance with this program;
4. Ensures that bid notices and requests for proposals are available to SBEs in a timely manner;
5. Identifies contracts and procurements so that SBE goals are included in solicitations;
6. Analyzes MTA's progress toward attainment and identifies ways to improve progress;
7. Participates in pre-bid meetings;
8. Advises the CEO and MTA Board of Directors on SBE matters and achievement;
9. Chairs the Transportation Business Advisory Committee (TBAC), a SBE Advisory Committee;
10. Participates in pre-bid meetings;
11. Provides SBEs with information and assistance in preparing bids, obtaining bonding and insurance;
12. Plans and participates in SBE training seminars;
13. Certifies SBEs according to the criteria set by MTA;
14. Provides outreach to SBEs and community organizations to advise them of opportunities; and
15. Maintains MTA's updated directory on certified SBEs.

The Chief Executive Officer (CEO)

The CEO designates the SBELO, grants to that SBELO direct, independent access to him or her concerning SBE matters and ensures the SBELO has sufficient resources to implement the SBE Program in compliance with the provisions of Proposition 209.

The General Counsel

1. Addresses small business matters relating to procurement and the implementation of the SBE Program;
2. Renders legal opinions regarding the interpretation of SBE solicitation and contract provisions;
3. Advises the SBELO or his/her designees and the CEO regarding imposition of administrative sanctions against contractors that fail to comply with SBE requirements;
4. Represents MTA in all legal actions involving SBE issues; and
5. Provides the SBELO with legal opinions relevant to SBE certification.

B. Shared Responsibility

The following Metro departments have a shared responsibility to achieve Metro's Overall Goal and ensure compliance with the SBE Program.

The Executive Officer, Procurement (EO)

1. Provides the SBELO with draft scopes of work and engineering estimates to enable the SBELO to actively engage in goal setting, outreach and the development of appropriate SBE language in solicitation documents;
2. Provides the SBELO with copies of final IFB's, RFP's, RFIQs, Purchase Orders (PO), mailing lists and advanced notices of procurements;
3. Incorporates SBE goals and compliance language into the solicitations;
4. Notifies the SBELO of any changes to IFBs, RFPs, RFIQs and PO's;
5. Sends IFBs, RFPs, RFIQs and POs to the SBEs indicated by the SBELO;
6. Notifies the SBELO of pre-bid, pre-proposal and pre-construction conferences;
7. Maintains SBE vendor listing organized by predetermined categories and assists in the identification of potential SBE vendors and contractors;
8. Calls for SBELO or staff member participation on Bid & Proposal Evaluation, and Negotiation Committees or Teams;
9. Forwards copies of Bids and Proposals to the SBELO for evaluation of responsiveness or responsibility to SBE requirements;
10. Participates in outreach programs, including vendor fairs; and
11. All other contract administration that impact SBE participation.

The Chief Financial Officer (CFO)

1. Contacts the SBELO for the names of SBE financial institutions, uses their services in connection with non-federally assisted projects and periodically reports the level of use of SBE financial institutions to MTA Board of Directors;
2. Assists the SBELO in compiling non-federal funding data to calculate the annual SBE goal;
3. Promotes a level playing field for SBE financial advisors, investment bankers and bond counsel in the sale of Revenue Anticipation Notes, Equipment Trust Certificates, and other investment instruments; and
4. Assists the SBELO in developing financing, bonding and insurance programs to help increase the number of SBEs participating in non-federally funded contracts.

C. Other Support Personnel

MTA personnel from other Departments share the responsibility for ensuring the effective implementation of the SBE Program. They are expected to give their full cooperation and active support to the SBELO in this effort. Following are the support personnel and examples of their respective responsibilities.

Project Managers

1. Develop a working knowledge of the SBE program's policies, practices and procedures including race neutral and race conscious methods of achieving SBE participation, by reading

- the SBE program, and/or the project's solicitation documents and/or the contract manual and by attending SBE orientation sessions presented by the SBELO and staff members;
2. Notify the SBELO in a timely manner of their project's Pre-Proposal or Pre-Bid conferences and "Kick-Off" Meetings;
 3. Structure individual contracting actions to create a level playing field and participation by SBE firms wherever possible. This includes dividing a contract statement of work, where possible, into portions that will enable SBE firms to compete as prime contractors. Proper use of this structuring for SBE participation 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. Participate with the SBELO in monitoring that SBE firms are used and SBE records and reports are prepared and submitted in accordance with the terms of the contract; and
 5. Identify and refer potential SBE utilization problems promptly to the SBELO.

Vendor Relations

1. Posts and updates the web listing of newly certified or decertified firms to www.mta.net. This web site provides up-to-date information electronically about MTA contracting opportunities, upcoming events at MTA and current program information;
2. Provides technical assistance over the telephone to firms requesting to be placed on the mailing list and responds to their questions about doing business with MTA;
3. Publishes the "Metro Business Outlook," a monthly newsletter reporting on MTA contracting opportunities, projects, and events, including a six-month forecast of upcoming business opportunities; and
4. Participates in SBE outreach programs that advertise and disseminate information about MTA seminars, programs, solicitations and contracts.

Risk Management

1. Provides periodic reports on industry insurance and bonding standards and requirements to the SBELO. Provides information about insurance and bonding trends relevant to SBE firms for the coming year, if available, to the SBELO; and
2. Participates with the SBELO and with legal counsel in the structuring of bonding and insurance requirements and standards in individual contracting actions to create a level playing field and participation by SBE firms wherever possible. This includes dividing a contract statement of work, where possible, into portions that will enable SBE firms to compete as prime contractors. Proper use of this structuring for SBE participation 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.

SUBPART C - ADMINISTRATIVE REQUIREMENTS

A. SBE Program Updates

MTA will update the SBE Program when substantial changes are warranted to comply with non-federal regulation and MTA Board of Directors.

B. Policy Statement

The MTA shall provide an equal opportunity for small business firms to participate on its non-federally funded contracts by support, commitment, and implementation of its Small Business Enterprise (SBE) Program.

The objectives of the SBE Program include:

1. To ensure nondiscrimination in the award and administration of non-federally funded contracts;
2. To create a level playing field on which SBEs can compete fairly for non-federally funded contracts;
3. To ensure that the SBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet SBE certification eligibility standards are permitted to participate as SBEs;
5. To help remove barriers to the participation of SBEs in non-federally funded contracts;
6. To assist the development of firms that can compete successfully in the market place outside the SBE Program.

The Executive Officer (EO) of the Diversity and Economic Opportunity Department (DEOD) has been designated as the SBE Liaison Officer. In that capacity, the EO is responsible for implementing all aspects of the SBE program.

MTA will disseminate this policy statement to all components of the Authority. In addition, MTA will distribute this statement to SBE and non-SBE communities and business organizations. Distribution will be accomplished through posting on the MTA website and publication in vendor and small business newsletters, and through electronic notification to SBE firms.

C. Financial Institutions

It is the policy of MTA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on non-federally funded contract to make use of these institutions.

At this time, MTA has not identified SBE-owned financial institutions. However, MTA encourages contractors to use the services of minority and women owned financial institutions identified from listings posted at the Website of the Financial Management Service, US Dept of the Treasury, Minority bank Deposit Program. The Internet address of this website is: <http://www.fms.treas.gov/mbdp>.

MTA has identified and provided the contact information of the minority and women owned financial institutions listed in Attachment 2.

D. Prompt Payment Mechanisms

MTA will include the following clause in each non-federally funded prime contract:

The prime contractor 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 prime contract receives from MTA. The prime contractor agrees further to return retainage payments to each subcontractor within seven (7) 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 MTA. This clause applies to both SBE and non-SBE subcontracts.

E. Enforcement

If MTA determines that the prime contractor has failed to comply with the prompt payment provisions set forth above, MTA may give written notice to the Contractor and the Contractor's Surety that, if the default is not remedied within a specified period of time (at least 5 days), the contract may be terminated. The Contract may be terminated for cause in accordance with the Contract Article entitled TERMINATION FOR DEFAULT. MTA may also impose penalties and sanctions for non-compliance with the prompt payment clause contained in Attachment 3, Monitoring and Enforcement Mechanisms.

The prime contractor is required to include the Dispute Resolution language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms contained in Attachment 3, Monitoring and Enforcement Mechanisms to resolve payment disputes in their subcontract agreements.

F. Directory

The SBE Directory identifies all firms certified by the MTA that are eligible to participate on MTA contracts as SBEs. The directory lists the firm's name, address, phone number, fax number, SBE certification expiration date, on-site visit date, ethnicity and gender of ownership, and the type of work the firm has been certified to perform as a SBE. The MTA revises the Directory on an ongoing basis. An SBE listing of certified firms can be obtained by contacting:

Diversity & Economic Opportunity Department
Small Business Certification Unit
Metropolitan Transportation Authority
One Gateway Plaza, 99-8-4
Los Angeles, CA 90012
Phone: (213) 922-2600
Fax: (213) 922-7660
certificationunit@metro.net

G. Small Business Enterprise (SBE) Preference Program

The Los Angeles County Metropolitan Transportation Authority (LACMTA), pursuant to California Public Utilities Code Section 130232¹, may take necessary and reasonable steps to develop procedures that encourage and promote small business contracting opportunities: such steps may include:

- I. Granting 5% bid preference to bidder certified as SBE;
- II. Granting 5% bid preference to bidder who meets or exceeds the SBE subcontracting gal.

The provisions of the Small Business Preference Program apply to competitive bids submitted under this solicitation. The purpose of the Small Business Preference Program is to provide Small Business

¹ Senate Bill 1341(Price) amended Public Utility Code Section 130232

Enterprises (SBE), certified by Metro, with increased contracting opportunities on competitively bid procurements, on non-federally funded procurements and contracts.

1.0 Small Business Preference Evaluation Factor

1.1 Preference When Proposer Is A Certified SBE

Metro will evaluate proposals by awarding five (5) preference points for each proposal submitted from responsible SBE proposer(s), who meet all other solicitation requirements.

An SBE proposer is eligible for the above preference in the Evaluation Criteria if it also satisfies the following:

- a. SBE proposers must perform at least thirty percent (30%) of the prime contract work with its own workforce (see: Commercial Useful Function).
- b. SBE proposers must be certified by Metro.

Sample #1 – Proposer is a certified SBE

Proposer Status	Evaluation Factor	Result
SBE Certified Proposer that Performs Commercial Useful Function	5 Preference Points	Preference points earned will be combined with other scores received in accordance with the evaluation criteria. The proposer receiving the highest cumulative score will be recommended for award.

1.2 Maximum Preference For SBE Proposers That Also Meet or Exceeds The SBE Subcontracting Goal

Metro will evaluate proposals by awarding a maximum ten (10) preference points, for each proposal submitted from responsible SBE proposer(s), who meet or exceeds the SBE subcontracting goal and meet all other solicitation requirements.

An SBE Proposer is eligible for a maximum preference of 10 points in the Evaluation Criteria, if it also satisfies the following:

- a. Proposer is certified SBE and meet all requirements as referenced in “Preference When Proposer Is a Certified SBE” (Letter A above); SBE Proposer will receive 5 preference points.
- b. SBE proposer meet or exceeds the established SBE subcontracting goal by subcontracting with other SBE(s) and ensures that listed SBE subcontractor(s) perform at least thirty percent (30%) of the subcontract work with their own workforce (see: Commercially Useful Function); SBE proposer will receive an additional 5 preference points.
- c. All SBEs must be certified by Metro.

Sample #2 - Maximum Preference for SBE Proposer

Proposer Status	Evaluation Factor	Result
Proposer is certified SBE and meet or exceeds SBE subcontracting goal; SBEs perform Commercial Useful Function	10 Preference Points	Preference points earned will be combined with other scores received in accordance with the evaluation criteria. The proposer receiving the highest cumulative score will be recommended for award.

1.3 Preference For Non-SBE Proposers That Meet or Exceeds The SBE Subcontracting Goal

Metro will evaluate proposals by awarding five (5) preference points, for each proposal submitted from responsible non-SBE proposer(s), who meet or exceeds the SBE subcontracting goal and meet all other solicitation requirements.

A non-SBE proposer is eligible for the above preference in the Evaluation Criteria, if it also satisfies the following:

- a. Non-SBE proposer must meet or exceed the established SBE subcontracting goal by subcontracting with SBE firms.
- b. Ensure that listed SBE subcontractors retained by non-SBE proposer to perform at least thirty percent (30%) of the subcontract work with their own workforce (see: Commercially Useful Function).
- c. All SBEs must be certified by Metro.

Sample #3 - Non-SBE Proposer meets or exceeds the SBE subcontract goal

Proposer Status	Evaluation Factor	Result
Non-SBE Proposer meets established SBE subcontracting goal	10 Preference Points	Preference points earned will be combined with other scores received in accordance with the evaluation criteria. The proposer receiving the highest cumulative score will be recommended for award.

2.0. SBE Subcontracting Goal Requirements

SBE subcontract goal(s) are established to enhance and encourage competition by creating the most advantageous environment that affords small businesses equal access to non-federally funded contracts awarded by Metro. Applicable SBE goals are determined on construction contracts, on the construction component of design-build projects, in the procurement of goods, and in the delivery of services. Please note that:

- 2.1 Established SBE subcontracting goal(s) under this program is not a condition of award or issue of responsiveness;
- 2.2 Proposers who are not Metro certified SBE firms or who fail to meet the established SBE subcontracting goal(s) are ineligible to receive any preference points in the small business preference Evaluation Criteria.

3.0. Commercial Useful Function

SBE primes and subcontractors, at any tier, must perform a Commercial Useful Function (CUF). An SBE performs a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the SBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

A SBE 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 SBE participation. If a SBE does not perform or exercise responsibility for at least 30 percent (30%) of the total cost of its contract with its own work force, or the SBE 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, Metro must presume that it is not performing a CUF.

H. Small Business Set-Aside Program

Metro Board adopted the SBE set-aside program in January, 2014.

1.0 Policy

The Metro Small Business Enterprise (SBE) program requires an element to structure contracting requirements to facilitate competition by small business enterprises (SBEs) on non-federally funded contracts. The purpose of the SBE set-aside is to award certain acquisitions exclusively to SBE firms by limiting competition to small businesses. This element allows Metro to meet the maximum feasible portion of Metro's race-neutral overall SBE goal.

1.1 General

- a. Small business set-asides may be conducted by using any acquisition process authorized in Metro's Acquisition Policy and Procedures.
- b. A contract may not be awarded as a result of a small business set-aside if the cost to Metro exceeds the fair and reasonable price.
- c. Offers received from businesses for a set-aside acquisition that are not eligible as certified SBEs will be rejected.

1.2 Certification Eligibility Requirements

The Metro SBE program certification requirements are adopted for the DBE program SBE set-aside. To be eligible to participate in the set-aside program a business must be certified by Metro as a Small Business Enterprise (SBE) in the applicable North American Industry Classification System (NAICS) codes for the solicited work, by the bid or proposal due date.

1.3 Commercially Useful Function

An SBE firm performs a commercially useful function (CUF) 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. An SBE 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 SBE participation. An SBE is presumed to be performing a CUF when it performs or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force in accordance with the meaning adopted in 49 CFR Part §26.55.

1.4 Setting Aside Acquisitions

1.4.1 The following acquisitions shall be eligible for use of the set-aside element:

Action Type	Micro Purchase	Informal Acquisitions	Formal Acquisitions
	PCard Purchase >\$0 ≤ \$3,000	Requires Three Quotes	Competitive Bid or Proposal
Negotiated awards for Supplies, Equipment, Materials and Services including Architecture & Engineering	N/A	>\$3,000 ≤ \$100,000	>\$100,000 ≤ \$3.0 Million

1.5 Partial Set-Aside

If it is determined that an acquisition is not suitable for a total set-aside, Metro may consider a partial set-aside before soliciting for full and open competition.

1.6 Cause for Not Setting Aside an Acquisition

The set-aside will not be applicable if it is determined that there are an insufficient number of qualified small businesses capable of meeting Metro's requirements resulting in inadequate competition. Adequate competition is defined as two or more qualified firms.

1.7 Advertisement

Advertisement for set-aside acquisitions will follow existing Metro advertising policies including notifying small and disadvantaged businesses.

1.8 Misrepresentation

Suspension or debarment proceedings may be initiated against any firm that:

- a. attempts to participate in the SBE set-aside for non-federally funded contracts under the SBE Program regulation and does not meet the eligibility criteria stated in the Certification Standards for SBE firms for the set-aside program; or on the basis of false, fraudulent or deceitful statements; or under circumstances indicating a serious lack of business integrity or honesty.
- b. attempts to use false, fraudulent or deceitful statements or representations in order to meet eligibility for the SBE set-aside requirements; or uses another firm that does not meet the SBE eligibility criteria.

1.9 Implementation

The Chief Executive Officer shall develop agency-wide policies and procedures necessary to implement this policy.

I. Business Development Programs

MTA has not established a business development program. The SBELO will evaluate the need and assess whether MTA should establish a Business Development Program and/or a Mentor-Protégé Program in MTA's geographic procurement market area.

J. Monitoring and Enforcement Mechanisms

MTA will take the following monitoring and enforcement mechanisms to ensure compliance with SBE requirements.

1. MTA will bring to the attention of the MTA Inspector General (IG) any false, fraudulent, or dishonest conduct in connection with the program, so that the MTA IG can take the steps (e.g., referral to the Department of Justice for criminal prosecution, action under MTA suspension and debarment rules).
2. MTA will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available to MTA in the events of non-compliance with the SBE regulation by a participant in MTA's procurement activities.
3. MTA will also provide a monitoring and enforcement mechanism to verify that work committed to SBEs at contract award is actually performed by the SBEs. This will be accomplished by the following:

Notification of Reporting Requirements

Prior to execution of all contracts containing SBE goals the prime contractor shall be verbally directed to MTA's *Compliance Manual (Non-Federal)* for specific requirements of the SBE Program. Contractors shall be specifically advised of DOT requirements for prompt payment and retention covering all SBE and Non-SBE subcontracts.

Pre-Construction (Kick-off) Meeting

Both the Contractor and the SBE Subcontractor(s) or a representative of each firm shall attend the kick-off meeting concerning SBE requirements and other matters, prior to or immediately after Notice to Proceed is issued. Further, the Contractor shall report its failure to execute subcontractor agreements for any of the listed SBE subcontractors within 14 working days of signing the contract with MTA. The Contractor shall be responsible for informing the Subcontractors of all SBE requirements as specified by MTA herein.

Monthly Expenditure Plan

A monthly expenditure plan in calendar form for each of its approved SBE Subcontractors/Suppliers shall be submitted within 30 days of Notice to Proceed. The planned expenditures shall equal the dollars committed to each SBE Subcontractor/Supplier and shall be developed according to the approved project schedule. The plan shall be updated to incorporate any schedule changes and executed Changed Notices and Work Authorization Change Notices affecting the SBE's work. A revised plan shall be submitted within 30 days from the incorporation of the change.

Executed SBE Subcontract Agreements

The Contractor shall submit to MTA copies of all executed SBE subcontracts and/or SBE purchase orders (PO) within fourteen (14) working days after the Contractor executes their contract or PO with MTA. The contractor is required to incorporate the prompt payment and dispute resolution provisions in all executed subcontract agreements.

4. **Contract Compliance Submittals – Reporting SBE Participation:**
Contractor and all subcontractors shall report payment details to LACMTA using the web-based Small Business Programs Compliance Reporting System (SBCRS) by the 15th of each month. SBCRS allows Contractors to manage their own records, maintain accurate contract information, and report payment details online, and submit system generated report to Metro. SBCRS is mandatory for Contractors and subcontractors to use unless LACMTA instructs otherwise. LACMTA will provide the Contractor, subcontractors, suppliers, brokers, and truckers online training, login and password information, at no cost to the Contractor or its subcontractors, suppliers, and truckers. Contractor shall have fourteen (14) days from Notice to Proceed (NTP) to register and obtain login and password with the SBCRS. Subcontractors, at all tiers, shall register within thirty (30) days of the NTP.

After award, Contractor will receive instructions on how to set up their account and enter required Subcontractor data. Contractor must require each of its subcontractors to enter required payment information into SBCRS. Contractor shall submit all monthly reports, subcontractor agreements, and documents through the SBCRS to Metro review and approval. Failure of Contractor or its subcontractors to enter required information on a timely basis may result in delay of payment by LACMTA and assessment of SBE non-compliance for reporting requirements as identified in Section 700 of this Manual.

A. Contractor Monthly SBE Progress Report (Design/Build Only): The Contractor shall submit timely and complete monthly progress report summarizing the overall status of commitments to SBE firms, attainments to SBE firms, and prompt payment/retainage for all firms (SBE and non-SBE firms) performing on this contract.

The monthly progress report shall be submitted to Metro by the 15th day following the reporting month. The monthly report shall provide, at a minimum, the following information:

- 1) The following general contract value information must be provided:
 - a. Original Contract Amount
 - b. Running Total of Change Order Amount
 - c. Current Contract Amount
 - d. Amount Paid to Contractor during the each month
 - e. Amount Paid to Contractor from inception to Date
 - f. SBE Contract Goal
 - g. Total Dollar Amount of SBE Commitment
 - h. SBE Commitment as Percentage of Current Contract Amount
- 2) The following general information shall be prepared for the Contractor and each subcontractor (at every tier level): Name, address, phone, SBE status, contact person, contractor(s), name, date contract agreement signed, scope of work, anticipated first date of performance and anticipated last date of performance
- 3) Supplemental Reports (Design/Build Only)
Prime contractors shall submit, each month (unless otherwise instructed by Metro's). Contractor may develop their own reporting format (subject to Metro's approval) to meet the following supplemental report requirements:
 - a. SBE Attainment and Commitment Report, a monthly listing of SBE and non-SBE subcontractors with current and anticipated participation. This report shall include a current SBE attainment and commitment tallies from each subcontractor (at any tier) listing of all its subcontractors.
 - b. Prompt Payment" Report listing its immediate subcontractors and the "Prompt Payment" activity from each subcontractor subcontracting at each tier listing their immediate subcontractors, to the Contract Compliance Officer, documenting the status of each subcontractor's retainage account with the Prime Contractor engaged in subcontracting and their compliance with the return of the retainage regulations.
 - c. The Prime Contractor's "Prompt Payment and Retainage" Report for the month (or the period of time designated by DEOD), listing its immediate subcontractors and the prompt payment and retainage activity from each subcontractor (at any tier).

B. Monthly Expenditure Plan (For Construction Work Only): An expenditure plan in calendar format for each of its approved SBE Subcontractors/Suppliers shall be submitted 14 working days after the Contractor executes a contract or purchase order with Metro, and submitted each month thereafter. The planned expenditures shall equal the dollars

committed to each SBE Subcontractor/Supplier and shall be developed according to the approved project schedule.

The plan shall be updated to incorporate any schedule changes and executed Changed Notices and Work Authorization Change Notices affecting the SBE's work. The original plan must be approved and each revision must be approved by the, "Construction Manager's Resident Engineer," prior to being submitted to the assigned Contract Compliance Officer and the Contract Administrator. Revised plans shall be submitted within 30 days from the incorporation of the change.

- C. SBE Trucking Verification Report:** When trucking is listed to be performed, the Contractor shall provide to Metro, by the fifth (5th) day of each month, the preceding month's trucking activity. The Contractor shall submit documentation showing the amount paid to SBE trucking companies listed to perform on the contract. This monthly documentation shall indicate the portion of revenue paid to SBE trucking companies which is claimed toward SBE participation. The Contractor shall also obtain and submit documentation to the DEOD showing the amount paid by SBE trucking companies to all firms, including owner-operators, for the leasing of trucks. The SBE who leases trucks from a non-SBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The records must confirm that the amount of credit claimed toward SBE participation conforms to Subsection 205, referenced above.

The Contractor shall also obtain and submit documentation showing the truck number, owner's name, California Highway Patrol CA number and if applicable, the SBE certification letter of the owner of the truck for all trucks used during that month for which SBE participation will be claimed. The Contractor shall promptly pay SBE trucking companies in accordance with the prompt payment provisions prescribed in Section 300, Subsections 304 through 312.

- D. Executed SBE Subcontract Agreements:** The Contractor shall submit copies of all executed SBE subcontract agreements and/or SBE purchase orders (PO) within 14 days (working) after the Contractor executes their contract or PO with Metro. Failure to comply with this section will be cause for non-compliance and assessment of administrative sanctions, and may include, imposing a special assessment against the Contractor. The Contractor shall ensure that all subcontracts or agreement(s) with SBEs performing work [including supply of labor or materials], at any tier, shall include flow-down requirements for ensuring that all lower tier subcontractors perform subcontract work in accordance with this provision.

The SBE subcontract or PO should be sent to the attention of the assigned Contract Compliance Officer. The Contractor shall incorporate the SBE Program document and this SBE Contract Compliance Manual into each PO and into each Subcontract issued under this DOT-assisted contract and each subcontractor, consultant, dealer, broker, vendor, or other source shall agree to the terms and conditions. The Contractor shall immediately notify DEOD in writing, within the 14-day timeframe mentioned above, of any problems it may have in obtaining the subcontract agreements from listed SBE firms within the specified time. Failure to notify DEOD may deem the Contractor in non-compliance with this requirement and subject to imposed administrative sanctions. Contractor must document all efforts taken to with subcontractor to executive subcontract agreements.

The following Contract Assurance Clause applies to the Contractor and it subcontractors. The Contractor shall include the following language in each subcontract agreement the Contractor signs with a SBE subcontractor, as set forth in Section 700.

- E. Contract Assurance:** The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable SBE requirements in the award and administration of non-federal contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

A. Contract Goals

DEOD will review non-federally funded procurements over \$100,000 to determine the extent of subcontracting opportunities and SBE availability for determining reasonable SBE contract goals.

1. Mandatory SBE goals will apply to competitively negotiated procurements. Good Faith Efforts will be required to determine responsiveness to goal should bidder/proposer not meet goal at time of proposal submittal.
2. SBE goals for non-federally competitively bid procurements are not a condition of award.

MTA need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of SBEs to perform the particular type of work.)

MTA will express MTA's contract goals as a percentage of the total amount of a non-federally funded contract.

B. Good Faith Efforts Procedures

1.0 REQUIREMENTS: Offerors are reasonably expected to take active and aggressive measures to meet the SBE goal. Metro will consider whether the quality, quantity, volume and intensity of the efforts were sufficient to meet the SBE goal. Mere pro forma efforts are not good faith efforts and are not sufficient to meet the SBE contract requirements. Only those efforts made prior to bid/proposal due date shall be considered for GFE evaluation. Attachment H, "Offerors's Notarized Certification of Good Faith Efforts" must be submitted at the bid/proposal due date if the Offerors(s) did not meet the goal.

GFE measures undertaken by a Third Party shall be at the Offerors's own risk and shall not relieve Offerors(s) of the responsibility for meeting the GFE requirements. Offerors(s) shall also identify all Third Parties utilized to prepare GFE responses for each GFE indicator.

2.0 RESPONSIVENESS: To determine if an Offerors who failed to meet the SBE contract goals is responsive, Metro will determine if the effort taken to obtain SBE and/or DVBE participation satisfies the GFE requirements. Further, Metro will ensure that all good faith effort information supplied by each Offerors is complete, accurate and adequately documented prior to award of any contract.

1. Any of the following conditions constitute failure to meet the contract goal and will require submittal of good faith effort documentation:
 - a. The SBE commitment reflected in the SBE Commitment Forms is less than the SBE contract goal established.
 - b. Firms listed toward meeting the SBE contract goal but are not certified by the proposal due date in the NAICS codes for the listed work to perform.
2. If the Offerors has not met the stated contract goal, documentation of its GFE must be submitted at the time of proposal due date.
3. Metro will evaluate each GFE item on a pass/fail basis.
 - a. Offerors will receive either full or zero (0) points for each GFE item.
 - b. Offerors must receive a score of 75 – 100 points to pass the GFE requirements.
 - c. Offerors achieving a passing score of 75 or more points are considered responsive to the GFE requirements.

d. Offerors who receive a score less than 75 points is considered to have failed the GFE requirements.

4. Metro shall notify Offerors in writing whether GFE requirements were met or not met. The notification will explain the basis and include the reasons for the determination. If an Offerors fails GFE, the Offerors will be provided the opportunity for administrative reconsideration of Metro's GFE determination.

3.0 RECONSIDERATION: Offerors(s) shall receive written notification from Metro detailing the results of their GFE evaluation. If the Offerors failed to achieve adequate good faith efforts to meet the established SBE goal, they shall have the right to request a Reconsideration Hearing. Hearing procedures include:

1. Right to Reconsideration Hearing: If an Offerors receives notice that they failed GFE requirements, they may request a reconsideration hearing. Hearing requests shall be made in writing, via U.S. Mail or delivery service to Metro, Attn: Karen Gorman, GFE Reconsideration Officer, One Gateway Plaza, Mail Stop 99-11-12, Los Angeles, CA 90012-2952. Requests may also be submitted by facsimile to the Reconsideration Officer's ("RO") fax number at 213.922.2986, provided, however, that requests must be received by the RO within two (2) business days after the date the Offerors receives the GFE determination notice from DEOD. The Offerors shall be presumed to have received the notification five (5) days after the date of the DEOD notice letter. The RO shall provide DEOD with a copy of the hearing request.
2. Scheduling of Reconsideration Hearing: Upon receipt of a request for a reconsideration hearing, the RO or his/her designee will contact the Offerors and the DEOD to schedule the hearing. Reconsideration hearings will be held no later than five (5) business days after receipt of the Offerors's request, unless the RO agrees to extend this time period based on good cause. Extensions are disfavored.
3. Decision: The RO will provide a written decision to the Offerors and DEOD within five (5) business days of the hearing, or as soon as possible thereafter. The decision will explain the basis for finding that the Offerors did or did not meet the goal or make adequate good faith efforts to do so. Pursuant to 49 CFR 26.53, the decision is final and not administratively appealable to any other person within Metro, the United States Department of Transportation or any other authority.

4.0 GOOD FAITH EFFORTS STEPS: The achievement of GFE will be based on evaluation of the following criteria in accordance with 49 CFR Part 26.53, and Appendix A.

- (1) ADVERTISEMENT
- (2) NOTIFICATION TO SMALL BUSINESS AND DISABLED VETERAN ORGANIZATIONS/COMMUNITY GROUPS
- (3) SELECT PORTION OF THE WORK TO BE SUBCONTRACTED
- (4) SOLICIT PROPOSALS FROM SBEs
- (5) SOLICITATION FOLLOW-UP
- (6) ASSISTANCE IN OBTAINING BONDS & INSURANCE
- (7) ATTEND PRE-PROPOSAL CONFERENCE
- (8) LIST OF SUBCONTRACTORS SUBMITTING BIDS/PROPOSALS

1. ADVERTISEMENT (15 POINTS)

(Ref: "Attachment A – Sample Advertisement" and complete "Attachment B - Newspaper Advertisement Log")

Effort: Advertisements soliciting sub-bids from SBE firm(s) shall appear no fewer than 21 days prior to the initial bid/proposal due date. If the bidding/proposal schedule established by Metro, is less than 21 days, advertisements for a shorter reasonable period of time is acceptable. When amendments extend bid/proposal due dates, GFE consideration shall

only be given to Offerors who extend or revise advertised dates for the benefit of increased SBE opportunities.

Advertisements will refer only to bids/proposals for Metro projects only and will specify the categories of work for SBE subcontracting opportunities. The advertisements will be placed in a minimum of three (3) paid daily or weekly publications.

Advertisements shall consist of the following:

- Offerors shall advertise in general newspaper publications or media that can reasonably be expected to reach SBE firms that are likely to bid/propose on this contract.
- Offerors shall advertise in two (2) varied minority and/or disabled veterans trade association newspapers or other minority and/or disabled veterans trade focus publications or media that will reach all SBE firms.
- The advertisement shall include, at a minimum, the name of the newspaper, company contact person, type of publication, circulation dates of advertisement, project name and number, date of SBE subcontractor bid/proposal or quote due date to the Offerors, Offerors bid/proposal due date to Metro, detailed description of contract work categories solicited, and time and location where bid/proposal plans, specifications and other documents may be reviewed.
- Advertisement must further identify Metro as owner, and indicate that the solicitation is in response to Metro's SBE requirements and that the Offerors will extend opportunities to SBEs and conduct itself in good faith with SBE firms seeking subcontract opportunities for the contract.
- Offerors shall advertise to SBE only
- If bid/proposal due date was amended, explain positive and/or negative impact to SBE solicitations.

Evidence: Include a list of advertisements placed, including a copy of the advertisements and/or tear sheets, advertisement commitment form and/or transaction receipt, and copy of advertisement specs submitted to the selected media source. Metro will closely analyze the tear sheets and the advertisement commitment form to verify dates and adherence to GFE requirements.

Offerors are reasonably expected to take active and aggressive measures sufficient to meet the SBE goal and advertise to SBEs reasonably expected to perform the identified subcontractable work items.

2. NOTIFICATION TO SMALL BUSINESS AND DISABLED VETERAN ORGANIZATIONS AND COMMUNITY GROUPS (5 POINTS)

Effort: Outreach notifications must be made to outreach to a minimum of five (5) small business and/or disabled veterans business organizations and community groups. For assistance, reference the listing of member organizations included in Metro's Transit Business Advisory Council (TBAC) website: <http://www.metro.net/about/deod/tbac-member-organizations>

Notification to organizations shall include at a minimum, the efforts required for advertisement under GFE item #1.

Evidence: Copies of letters, e-mails, faxes, fax confirmation sheets, telephone logs, etc. used to contact organizations. The documentation must include names of organizations/groups, dates, names of contacts, telephone numbers, and SBE goal.

Offerors must also include copies of correspondence received from any of these organizations/groups acknowledging contact by proposer shall be considered in assessing evidence of good faith effort. Evidence of a minimum of five (5) organizations/groups must be attached.

3. SELECT PORTION OF THE WORK TO BE SUBCONTRACTED (15 POINTS)

(Complete "Attachment C – Selected Work Categories Form")

Effort: Bidders/Proposers shall identify work categories it intends to self-perform with its own work force and all services that it intends to subcontract. This includes, breaking out scopes of work into economically feasible units to facilitate SBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own work force.

To increase the likelihood of meeting SBE goal requirements, Bidders/Proposers shall, as part of its planning process to actively and aggressively seek SBE participation, review NAICS codes provided by Metro to ensure that they support the selected portion(s) of work identified by the Bidders/Proposers as subcontractable.

Evidence: Documents showing all the work that the Offerors intends to perform with its own work force and all the work that the Offerors has identified for subcontracting/supply should be evidenced on the selected work categories form. Bidders/Proposers shall provide documentation of efforts to utilize SBE firms that can reasonably be expected to perform the identified subcontractable work items. Include additional comments when selected work categories are not sufficient to meet the goal and provide supporting documentation.

4. SOLICIT PROPOSALS FROM SBEs (20 POINTS)

(Complete "Attachment D – Sample Letter of Solicitation" and use "Attachment G – Written Solicitation Submittal Form")

Effort: Using Sample Letter of Solicitation (Attachment D), extend written Requests for Proposal to SBE firms included in the Metro SBE certified list and the California Department of General Services (DGS) DVBE certified list. Attach copies of solicitation letters to the "Written Solicitation Submittal Form (Attachment G).

See "Guidelines for Contacts for Various Work Categories" following Evidence #4 in this section. Solicitation letters shall be mailed, emailed or sent no fewer than 21 days prior to the bid/proposal due date. If, due to the schedule established by Metro, 21 days are not available, a mailing providing a shorter reasonable period of notice is acceptable.

Evidence: Offerors shall provide interested SBEs with adequate information about the plans, specifications, and requirements in a timely manner to assist them in responding to the solicitation. Offerors shall include names, contact persons, addresses, phone numbers, and dates of all SBE and/or firms solicited at least 21 days prior to bid/proposal due date and by what means (certified letters, fax, phone, emails, etc.). Copies of the solicitation letters must be included. Only certified SBE firms will be taken into consideration. Bidders/Proposers notifications shall:

1. Clearly identify portions of the work to be subcontracted, and offer to break down any portion of the work into economically feasible units in order to facilitate SBE participation.

2. Identify if there is a bond requirement for subcontractors for this contract and specify requirements.
3. Offer assistance with regard to bonding requirements and insurance requirements, where applicable, and/or financing (e.g., lines of credit), specifying the type of assistance that the Offerors is offering. Assistance may include, but is not limited to the following:
 - a. Contact bonding and/or insurance companies on behalf of SBEs
 - b. Arrange with sureties incremental or phased bonding for the SBEs or DVBES; and/or pay for the cost of the bond or insurance
 - c. Waive bond or other requirements.
 - d. Refer SBEs to Business Development Centers or other resource agencies, which may assist SBEs in obtaining bonding, insurance, or lines of credit.
 - e. Offer to make plans and specifications available to SBEs at reasonable hours for viewing, copying, or borrowing and provide a list containing the location of plan rooms.
4. When complying with the guidelines for contacting an adequate number of SBE firms, Bidders/Proposers shall use Metro's SBE certified list included in the solicitation and the DGC listing. When soliciting SBEs, Offerors are required to use the list of SBEs provided by Metro's in the Letter of Invitation Supplement included in the referenced IFB/ RFP, and DVBES listed in the NAICS category included in the California Department of General Services (DGS) website (<http://www.bidsync.com/DPXBisCASB>).

Bidders /Proposers are encouraged to identify additional NAICS codes and request assistant from Metro to increase efforts for achieving the SBE goal. Bidders/Proposers shall outreach to utilize SBE firms that can reasonably be expected to perform the identified subcontractable work items).

5. As an additional outreach resource, Bidders/Proposers may obtain additional SBE listings from the Metro SBE directory and DVBES from DGS at their website: <http://www.bidsync.com/DPXBisCASB>. Bidders/ Proposers shall ensure that all SBE firms listed shall be certified under NAICS codes applicable to the scopes of work associated with the project. Additional SBE listings, not included in the solicitation, must be included in the Bidders/Proposers good faith efforts response.

Note: Determination of an adequate number of SBE's contacted shall depend on the number of SBEs/ DBVEs available in each of the NAICS code work categories.

Guidelines for Contacts for various Work Categories:	
Number of SBEs Identified	Guidelines for number of SBEs to Contact
1 - 50	Contact 50% of all listed SBEs
51 - 199	Contact 50% of all listed SBEs
200 or more	Contact 40% of all listed SBEs

5. SOLICITATION FOLLOW-UP

(15 POINTS)

(Complete Attachment E – Solicitation Follow-up Log)

Effort: Offerors shall conduct follow up with the number of SBE, referenced in the “Guidelines for Contacts for Various Work Categories” included in GFE Item #4.

Offerors shall conduct solicitation follow-up 10 days after the mailing the initial solicitation letters. Follow-up must be to the number of SBEs identified and to same firms solicited from the Metro SBE certified list or the DGC certified list.

Bidders/Proposers may obtain additional SBE listings from the Metro directory and DVBE listing from DGS at their website: <http://www.bidsync.com/DPXBisCASB>. Bidders/ Proposers shall ensure that all SBE firms listed shall be certified under NAICS codes applicable to the scopes of work associated with the project. Additional SBE listings, not included in the solicitation, must be included in the Bidders/Proposers good faith efforts response.

Offerors shall designate someone familiar with the project and capable of answering questions from potential SBE subcontractors and shall be responsible for solicitation follow-up. Additional consideration is given if, 10 days is not available between the mailing of the solicitations and the bid/proposal due date, as a result of the schedule established by Metro. It is expected that follow-up will occur within a shorter, but reasonable period. Follow-up communication may be conducted orally or in writing. Oral communication must include documentation of follow-up (email, letter or fax) and submitted with Attachment E.

Evidence: Follow-up must with a minimum of 75% of the required number of SBEs / DVBEs referenced in GFE Item #4. Follow-up activity must be documented in telephone logs or other written documentation which provide, at a minimum, the following information:

1. Type of contact, e.g., telephone call, visit, email, letter.
2. Name and position of person who made contact on behalf of the Offerors.
3. Name and address and/or email of firm contacted.
4. Name and position of person contacted, telephone number, and date of contact.
5. Indicate response from the firm contacted with regard to its interest in submitting a sub-bid.
6. Email return receipts to document successful delivery to SBE subcontractors and, in the case of returned email correspondence, documentation from the mail server that the email was undeliverable.
7. Follow-up, if any, to the assistance offered in the initial solicitation letter with regard to breakdown of work into economically feasible units, bonding, insurance, lines of credit, and plans and specifications.
8. Offerors shall provide written justification for decisions to self-perform work using its own workforce.

6. ASSISTANCE IN OBTAINING BONDS AND INSURANCE

(5 POINTS)

Effort: Assist SBE firms in obtaining bonding and insurance. Maximum points are given if bonding and insurance is not required.

Evidence: Include a description of assistance provided by Offerors to SBEs in obtaining bonding and insurance.

7. ATTENDANCE AT PRE-PROPOSAL CONFERENCE

(10 POINTS)

Effort: Attendance at the Pre-Bid / Pre-Proposal Conference scheduled by Metro. Each Offerors is strongly encouraged to attend the pre-bid/proposal meetings to be informed of the SBE requirements for this contract and provides an opportunity for Bidders/Proposers to meet, network and outreach to SBE firms. Regardless of whether an Offerors attends the meeting, the Offerors assumes responsibility for being informed and complying with SBE and GFE requirements.

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

8. LIST OF SUBCONTRACTORS SUBMITTING BIDS/PROPOSALS

(15 POINTS)

(Complete Attachment F – List of All Firms/Solicitation Responses Received)

Effort: When negotiating with subcontractors Bidders/Proposers shall include SBE subcontractors, take price and capabilities as well as contracts goals into consideration. The Offerors shall negotiate in good faith with SBEs and not unjustifiably reject bids/proposals prepared by any SBE.

Offerors shall not reject SBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities and must demonstrate justification based on a thorough investigation of their capabilities. Another practice considered an insufficient good faith effort is the rejection of the SBE because its quotation for the work was not the lowest received. Please note that nothing in this paragraph shall be constructed to require the bidder or prime contractor to accept unreasonable quotes to satisfy contract goals. If the reason cited relates to bonding, financing or insurance, or requested further breakdown of the work the Offerors must provide documentation describing in detail the assistance offered by the Offerors to the SBE.

Evidence: Names, addresses, dates, contact person, phone numbers, and emails of all subcontractors SBE; and non-SBE firms who submitted bids/proposals and copies of all proposals including telephone bids for all work categories identified in GFE item #3. Identify number of total bids, proposal or quotes received for each work category and corresponding number from SBE firms. Indicate reason for your choice of subcontractor(s). Submit written (e.g. emails, letters or faxes) documentation evidencing good faith negotiations between subcontractor and Offerors. Only significant price differences (10% or more) between selected subcontractor/supplier, rejected SBE and prime contractors are valid cause for rejecting bid/proposals. Bidders /Proposers must have selected enough subcontracting item to meet the goal.

C. Counting SBE Participation

MTA will count the SBE participation on the contract, expressed as an estimated dollar value.

D. Adding SBE Subcontractors

If contractors determine that there are additional opportunities for SBEs not originally listed, they may exercise efforts by requesting to add SBE firm(s) to their contract. Metro shall authorize the addition of SBE subcontractor(s) for credit toward the contract commitment upon verification of certification. Prior to adding SBE subcontractors, written requests must be submitted to DEOD and Contract Administration for approval. This request must include scope of work, dollar amount, period of performance, and a SBE certification letter.

The request to add a new certified firm to the contract is to be submitted to DEOD for approval, prior to any commencement of work. The Prime Contractor request must include the following documentation:

1. Scope of work to be performed by the added firm(s) and applicable North American Industry Classification System (NAICS) code(s);
2. Written justification for adding additional firm(s) to contract team;
3. Provide subcontract agreement for added firm(s) with dollar amount of scope of work, period of performance, and required flow down provisions;
4. Provide certified letter evidencing certification status of firm(s) to be added;
5. Documentation of prime contractor outreach efforts and selection process undertaken for the scope of work to be performed by the proposed added firm(s);
6. Identify if the added firm(s) replacing another originally listed certified firm or is a result of reducing scope of work originally listed. (The prime contractor shall comply with substitution requirements when making changes to originally scope committed to another certified firm).

Enforcement: Failure by the contractor to comply with the “request to add requirements,” shall constitute a material breach of the contract and may result in termination of contract or imposition of administrative sanctions for non-compliance.

After formal approval by Metro, the contractor may add the subcontractor to the Form 103 and must provide a copy of the Subcontract Agreement.

E. Substituting or Terminating SBE Subcontractors

Pursuant to the California Public Contract Code Section 4100, no contractor at any tier may terminate a SBE subcontractor for convenience and then perform that work with its own workforce or that of its affiliate. The contractor shall provide written request to DEOD to substitute a SBE subcontractor.

1. Metro shall only authorize the substitution of a subcontractor for one or more of the following reasons:
 - a. The listed SBE, after having had a reasonable opportunity, fails or refuses to execute a written contract.
 - b. The listed SBE becomes bankrupt or has credit unworthiness.
 - c. The listed SBE fails or refuses to perform his subcontract with normal industry standard.
 - d. The listed SBE subcontractor, after having had a reasonable opportunity, fails or refuses to meet the contractor’s non-discriminatory bond requirements.
 - e. The prime contractor demonstrates to Metro, pursuant to Public Contract Code, Section 4107.5, that the name of the subcontractor was listed as the result of an inadvertent clerical error.
 - f. The listed subcontractor is not licensed pursuant to the Contractors License Law.
 - g. It was determined that the work performed by the listed subcontractor is substantially unsatisfactory and is not in accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work
 - h. The SBE is ineligible to work because of suspension and debarment.
 - i. It has been determined that the SBE is not a responsible contractor.
 - j. The SBE voluntarily withdraws, with written notification, from the contract.
 - k. The SBE is ineligible to receive credit for the type of work required.
 - l. The SBE owner dies or becomes disabled resulting in the inability to perform the work on the contract.
 - m. Other documented compelling reasons.
2. DEOD shall send written notice to the listed SBE subcontractor of the Contractor’s request for substitution, including the reasons for the request. The SBE subcontractor shall have five (5) working days to submit written objections to the substitution to DEOD. Failure to respond to a written objection may constitute the listed SBE subcontractor’s consent for substitution.

3. If written objections are filed by a SBE subcontractor, Metro shall give written notification within at least five (5) working days, to the prime contractor and the listed subcontractor of an informal mediation regarding the request for substitution.
4. Contractor(s) shall replace a SBE subcontractor with another SBE firm, after following dispute resolution procedures, pursuant to the provisions of the California Public Contracts Code.
5. If no written objections are filed by the SBE subcontractor, the prime's request to substitute shall be approved. A new SBE listing shall include the commitment amount and the type of work covered by each Subcontractor. All substitutions and additions are subject to Metro's approval.
6. If substitution with another SBE firm is not viable, the Contractor shall submit a written request for a substitution with a non-SBE. This request must include documentation of the contractor's attempt to substitute the SBE firm with another SBE firm for Metro's review and approval. The Contractor's good faith effort document shall be submitted to Metro within 7 days.

The Contractor shall obtain the written consent prior to making any substitutions. If adding SBE firms for credit toward the goal, verification of certification is required prior to receiving credit toward the contract specific goal. SBEs must be certified at the time of the substitution or addition.

Failure to comply with this or any other SBE requirement may result in assessment of appropriate administrative sanctions.

F. Prompt Payment

The prime contractor is required to incorporate the Prompt Payment Clause referenced in Section 302 above, in all subcontract, broker, dealer, vendor, supplier or other source agreements or Purchase Orders (at all tiers) issued to both SBEDVBE and non-SBE firms. Contractor shall reference the following contract clauses: General Terms and Conditions concerning Prompt Payment to Subcontractors and Prompt Payment of Withheld Funds to Subcontractors.

G. Progress Payments

Prompt Payment and Progress Payment language must be included in all non-SBE and SBE subcontract agreements verbatim. Pursuant to the California Business and Professions Code Section 7108.5, the Contractor shall pay each subcontractor under this Contract for satisfactory performance of its subcontract work no later than seven (7) days after its receipt of each Progress Payment from Metro.

H. Final Payment to Subcontractor (Retainage)

The Contractor and all subcontractors shall pay to each subcontractor all amounts it has retained from payments under the Subcontractor within seven (7) days after the Subcontractor's Work is satisfactorily completed.

Prompt Payment of Retention to Subcontractors (Required in all SBE and non-SBE subcontract agreements verbatim):

With respect to retention that Metro withholds from the Contractor, Metro shall make prompt and regular incremental inspection(s) and upon approval of the Contractor's work at various stages of the Project, Metro shall pay a percentage of retention to the Contractor. The Contractor shall, within 30 days after Metro has made such payment, promptly pay all retention owed to Subcontractor(s) who has satisfactorily completed all of its work and whose work is covered by Metro inspection(s) and approval(s). For the purposes of this section, a subcontractor's work is satisfactorily completed when the Contractor certifies to Metro that all the tasks called for in the subcontract have been satisfactorily accomplished and that subcontractor's retention may now be paid. Any delay or postponement of prompt release of retention beyond the 30 day time limit shall be for good cause, and only upon prior written approval by Metro.

I. Work Satisfactorily Completed

Satisfactory completion of a subcontractor's work is when all the tasks called for in the subcontract have been accomplished and documented as required by Metro.

J. Delay or Postponement of Payment

Any delay or postponement of payment beyond the 7-day time limit shall take place only for good cause, and only upon prior written approval of Metro.

K. Non-Progress or Retainage Payment Inquiries

If Subcontractor (at any tier) is not paid within 7 days according to prompt payment and or retainage. The subcontractor must notify the prime contractor in writing within 30 calendar days from the time payment should have been received. The subcontractor shall copy the Metro DEOD Representative and Contract Administrator. The prime contractor (or lower tier direct subcontractor) has 7 calendar days to respond in writing back to the inquiring subcontractor. The prime contractor shall also copy the Metro DEOD Representative and Contract Administrator.

L. Violation of Prompt Payment

The Contractor and all subcontractors, consultants and suppliers shall comply with all prompt payment requirements in the Contract. Any violation of the prompt payment provision 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 contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor.

M. Failure to Comply with Prompt Payment

If it is determined that the contractor is non-compliant with prompt payment provisions, the contractor will receive written notification from Metro with details of this deficiency. If additional clarification is required, the contractor must respond to the request within five (5) working days. Failure to comply may result in the assessment of appropriate administrative sanctions and/or penalties. Failure of the Contractor and/or its listed subcontractors to comply with any part of the mentioned may result in non-compliance determination and administrative sanctions may be imposed as prescribed in SBE Assessment of Non-compliance and Administrative Sanctions.

N. Final Reporting

Contractor shall submit to Metro, along with invoice for final payment, a signed and notarized statement that the Contractor will pay all outstanding payments including retention 10 days after it receives final payment from Metro. Please see General Terms and Conditions concerning "Prompt Payment to Subcontractors and Prompt Payment of Withheld Funds to Subcontractors." The Contractor shall submit the final Form 103 report within 14 calendar days of final payment.

SUBPART E – CERTIFICATION STANDARDS AND PROCEDURES

A. Certification Process

The SBE certification process begins with a desk audit of an SBE application submitted by an applicant firm. The desk audit, performed by a Small Business Certification Analyst, initially determines whether all information required to be submitted by applicant firms have been received and all forms have been properly completed. Any additional information needed to assess certification eligibility is requested from the applicant firm. When all required information has been submitted, the Small Business Certification Analyst assesses applicant firm eligibility under the SBE Program Certification requirements.

Following the desk audit, the Small Business Certification Analyst will send the SBE questionnaire to the owner(s) and/or key personnel of the applicant firm. If warranted, the Analyst may ask for additional information and documents from the applicant firm. All submitted documentation, along with the completed SBE questionnaire, are aggregated in a certification file for the applicant firm.

Upon completion of the certification review process, the Small Business Certification Analyst prepares a report of his/her findings along with a recommendation to grant or deny SBE certification. This report is submitted to the Small Business Certification Supervisor for review and determination of certification action to be taken (certify or deny).

To qualify as an SBE, a firm must satisfy each of the SBE Program certification standards. SBE certification decisions rendered by the Small Business Certification Unit are based on the contents of the SBE certification file, considering the facts as a whole. MTA grants SBE certification when all requirements have been satisfied and documented in the certification file. When it is determined that SBE certification requirements have not been met, MTA will deny SBE certification. The Small Business Certification Unit notifies firms of the certification determination by letter sent via U.S. mail. The letter notifying firms will specifically state the reasons for the denial and will inform the firm that it may request administrative reconsideration of the decision. If an application for SBE Certification is denied, the applicant may reapply for SBE Certification twelve months after the date of the denial letter.

Certification Application

MTA uses the same application form for SBE certification as that used by the California Unified Certification Program (CUCP) for DBE certification. Although certification requirements differ between the SBE program and the DBE program, both share many of the same subject matter to be examined. The CUCP certification application package, found at ATTACHMENT 8 of this SBE program, consists of the following components:

Application Components		Applicable Program	
		SBE	DBE
1	METRO cover letter directed to the business owner	✓	✓
2	SBE Certification Introduction and Instructions	✓	N/A
3	SBE Affidavit of Certification	✓	N/A
4	CUCP cover letter directed to the business form	N/A	✓
5	Roadmap for Applicants	N/A	✓
6	Uniform certification application form	✓	✓
7	Supplementary questionnaire	N/A	✓
8	Roster of Certifying Agencies	N/A	✓

1. All SBE applicants must submit the following:
 - a. License to do business (Local/Professional); Statement of Sole Proprietorship (if applicable);
 - b. Completed Federal Tax Returns for the last 3 years:
 - (1) Form 1040 for Sole Proprietorship;
 - (2) Form 1065 with Schedule K-1 for a Partnership, including Form 1040 for qualifying partner;
 - (3) Form 1120 or 1120s for Corporations, including Form 1040 for qualifying partner;
 - c. Resumes of principals and key personnel;
 - d. Third Party agreements such as rentals, lease agreements and professional services agreements;
 - e. Proof of U. S. Citizenship or permanent residency (clear copy of birth certificate, passport, military I.D., etc.).
 - f. Company profile including a description of the firm's product or services;
 - g. Copy of bank signature card or statement from bank listing account signatories and conditions.
 - h. Statement of Personal Net Worth (SPNW). **All firms must complete the Statement of Personal Net Worth for qualifying principal only.**
2. Partnerships must submit the following items in addition to those items require in Section A (1-8) above:
 - a. Partnership agreements and any amendments thereto;
 - b. Profit sharing agreements;
 - c. Buy-out agreements;
 - d. Proof of capitalization.
 - e. Statement of Personal Net Worth (SPNW). **All firms must complete the Statement of Personal Net Worth for qualifying principal only.**
3. Corporations must submit the following items in addition to those required in section A
 - a. Articles of Incorporation;
 - b. Bylaws;
 - c. Stockholders options;
 - d. Stockholder agreements;
 - e. Stock certificates of each holder;
 - f. Stock transfer ledger;
 - g. Stock voting rights;
 - h. Minutes of first organizational meeting;
 - i. Statement of Foreign Corporation Designation, if incorporated outside the U. S.;
 - j. Identification of the Corporate Officers and the Board of Directors with dates of service;
 - k. Minutes from three annual shareholder's meeting;
 - l. Statement of Domestic Stock Corporation;
 - m. Statement of Qualification, if incorporated outside the State of California;

- n. Proof of capitalization for each shareholder;
- o. Completed Federal Tax Returns for qualifying shareholder;
- p. Statement of Personal Net Worth (SPNW). **All firms must complete the Statement of Personal Net Worth for qualifying principal only.**

Your company must support any claims of prior certification with documentary evidence. Where banks or business references are required to be identified, you must provide the full address and name of contact person.

For additional information about the certification process or to request a certification application, please contact the Small Business Certification Unit:

- (1) By US Mail: Small Business Certification Unit
 Diversity and Economic Opportunity Department
 Mail Stop: 99-8-4
 Metropolitan Transportation Authority
 One Gateway Plaza
 Los Angeles, CA 90012-2952
- (2) Certification Hotline: (213) 922-2600
- (3) Fax: (213) 922-7660
- (4) Email: CertificationUnit@metro.net
- (5) Internet: www.metro.net

B. Certification Standards

An SBE is a for-profit business that has demonstrated, by a preponderance of the evidence, that it satisfies the following four (4) SBE program certification standards:

1. Business Size

- a. An SBE is a small business. The SBE Program at MTA defines small business using the Small Business Administration size standards at 13 CFR Part 121.
- b. Applicant SBE firms must demonstrate that their business, over the last consecutive three years, has a gross receipts average of less than \$23.98 million per year. This figure may be periodically adjusted to be consistent with the DOT size standards established for the DBE Program.
- c. Other elements of business size of a technical nature may be relevant and will be taken into account, as needed, on a case-by-case basis.

2. Owner's Personal Net Worth

- a. An SBE firm must be owned and controlled by one or more individuals whose Personal Net Worth (PNW) is less than \$1,320,000 (\$1.32 million). Each qualifying owner of an SBE applicant business must submit a notarized PNW statement. This PNW statement must show that the individual business owner's or owners' personal net worth is less than \$1.32 million, excluding equity in their primary residence and in the SBE applicant business. The PNW statement must include appropriate supporting documentation (i.e. tax returns and other relevant documents) as the MTA may request.

3. Quality of Ownership

- a. The ownership must be at least 51% owned and controlled by one or more individuals each with a PNW less than \$1.32 million.
- b. The ownership enjoyed by each of these individuals must be real, substantial and continuing, going beyond pro forma ownership, as represented in merely the ownership documents.
- c. Owner(s) contributions of capital or expense must be real and substantial.
- d. Other elements of quality of ownership of a technical nature may be relevant and will be taken into account, as needed, on a case-by-case basis.

4. Ownership Discretion and Control

- a. The owner(s) should be able to demonstrate that basic decisions pertaining to the daily operations of the business are independently made.
- b. The owner(s) should have some technical competence in the industry for which certification is sought. Technical competence does not mean expert knowledge. It does mean the qualifying owners should have a working knowledge of the technical requirements of the business needed to operate in the industry.
- c. The business must be independent. Its viability must not depend on a relationship with another firm or firms.
- d. The owner(s) should be able to demonstrate that basic decisions pertaining to the daily operations of the business are independently made.
- e. The owner(s) should have some technical competence in the industry for which certification is sought. Technical competence does not mean expert knowledge. It does mean the qualifying owners should have a working knowledge of the technical requirements of the business needed to operate in the industry.
- f. The business must not be subject to any formal or informal restrictions that limit the customary discretion of the owner(s).
- g. The owner(s) must possess the power to direct or change the direction of the management and policies of the firm, and to make day-to-day as well as major and long-term decisions on matters of management, policy and operations.
- h. The owner(s) may delegate authority, but such delegations must be revocable and the owners must retain a managerial role and the power to hire and fire the person to whom they delegate.
- i. The owner(s) must have an overall understanding of (and managerial, technical competence & experience directly related to) the type of work in each industry the firm is doing business in and the firm's operations.
- j. Owners must possess all state or locally required licenses or credentials.
- k. Differences in remuneration between the owner(s) and other participants in the firm may be considered in determining the owner(s)' level of control.
- l. Owner(s) must work in the business in order to be considered as controlling the firm. They cannot engage in outside employment or other business interests that conflict with managing the firm, unless the firm is itself a part-time business.
- m. Other elements of ownership discretion and control of a technical nature may be relevant and will be taken into account, as needed, on a case-by-case basis.

5. Subsequent Changes in Ownership and/or Control:

Applicants are evaluated on the basis of documentation submitted at the time of certification. Any changes contemplated in the ownership and/or control of the firm or the documentation submitted with the application for certification, including but not limited to those set forth below, must be fully disclosed at the time of application:

- a. Changes in ownership, amendments, modifications, additions, deletions, revisions;
- b. Execution of new agreements, board and/or shareholders' resolutions, memoranda of understanding;
- c. Consolidation, liquidation, reorganization, merger;

- d. Election of new officers and/or directors, appointment of new principals and/or key personnel;
- e. The purchase and/or sale of shares, new issues of shares; and
- f. The purchase or sale of the entire business.

6. Standards of Proof

SBE certification requires proof with respect to all elements to be demonstrated by the applicant by a "Preponderance of the Evidence."

7. Notice of Change

SBEs shall promptly inform MTA by a written notice of any change in the information provided with their application for certification or in its circumstances affecting its ability to meet the SBE program certification requirements with respect to:

- a. Business Size;
- b. Owner(s)' Personal Net Worth;
- c. Quality of Ownership;
- d. Ownership Discretion and Control.

8. Recertification

Every five years, each SBE certified firm is required to have its SBE certification status examined. The firm will be re-certified if it continues to meet the SBE program certification standards. If the firm fails to meet the SBE certification standards, its SBE certification will be removed. Previously certified SBE firms are required to submit a SBE Renewal application, and may be subject to an on-site interview.

9. Certification Removal

In the event that an SBE firm's circumstances change to the point where it no longer meets the SBE program certification eligibility standards, the MTA will notify the firm via U.S. mail of the decision to remove the firm's SBE certification. The letter notifying firms of the action will specifically state the reasons for the removal and will inform the firm that it may request administrative reconsideration of the decision.

C. Right of Administrative Reconsideration

1. Appeal Procedure

- a. If denied SBE certification, the applicant will be so notified and given an opportunity to submit a written appeal for administrative reconsideration to Metro's Certification Appeals Board (CAB), chaired by a Certification Reconsideration Officer (CRO). This has been done to separate the Small Business Certification Unit from appeals and the administrative reconsideration process. An administrative firewall separates the CAB and CRO and any delegate from having participated in any way in any prior SBE certification decision involving the firm submitting an appeal and requesting administrative reconsideration. The CRO will conduct an independent review of the entire file. Determinations of the CRO will be the final administrative decision in the case of the applicant for SBE certification. Appeal is limited to the grounds stated in the Notice of Certification Denial. The applicant will have fifteen (15) working days after receipt of the Notice of Certification Denial to respond. If the applicant does not respond within the allowed period, the appeal process is ended.
- b. Upon receipt of the applicant's written timely appeal the applicant will be scheduled for a hearing on the matter with the Certification Appeals Board (CAB).

If the applicant requests a hearing, the CAB's CRO Officer will notify the applicant in writing, within fifteen (15) working days from receipt of the request, of the date, time, and place of the

hearing. The date set for the hearing shall be within a reasonable time. The hearing shall take place at LACMTA's Headquarters, One Gateway Plaza, Los Angeles, CA. Failure of the applicant to appear at the hearing shall constitute consent of the CRO to render a decision based upon the applicant's written appeal.

- c. At the time and place set for the hearing, the CRO shall conduct an informal hearing on the denial. The hearing shall be limited to the grounds stated in the Notice of Certification Denial. Technical rules of evidence shall not apply and a written transcript of the proceedings shall not be required.

The Small Business Certification Analyst and the firm appealing the determination of ineligibility for certification shall present their respective statements and evidence before the CRO. The CRO shall have the opportunity to ask questions of the parties and shall have the ability to request additional information. Each side shall be allowed 10 minutes (may be extended at the discretion of the CRO) to present opposing facts and evidence which supports his/her contention that certification has been wrongly denied. The firm may bring counsel, witnesses and other interested parties to the hearing, however, unless other parties at the hearing are questioned directly it is the owner of the firm seeking administrative reconsideration that is expected to respond to the questions asked at the hearing. The hearing will be tape recorded, but a written transcript of the proceeding will not be required.

At the close of the hearing the firm will be informed that a final written decision shall be rendered by the CRO within twenty-one (21) working days of the hearing date. If the denial is sustained, the written decision shall inform the applicant that it will not be allowed to reapply for certification until one (1) year from the date of the final decision.

- d. Pending a response to the request for administrative reconsideration of the matter, the certification decision of the Small Business Certification Unit shall remain in effect.

D. Administrative Reconsideration Office

The Executive Officer, DEOD, heads the Certification Appeals Board / Administrative Reconsideration Office. This Office receives information, correspondence and other deliveries on behalf of the CRO. It tracks firms that have had their SBE certification removed or denied which seek to challenge the unfavorable determination. The Small Business Certification Unit notifies the Reconsideration Office when a firm has been denied SBE certification or a firm's SBE certification has been removed. The CRO receives mail at the following address:

Certification Appeals Board
Certification Reconsideration Officer
c/o Executive Officer, DEOD
One Gateway Plaza, 99-8-2
Los Angeles, CA 90012-2952

Scope of Administrative Reconsideration

The parties must limit their appeal to the scope of the Notice of Certification Denial. The eligibility of the firm on or before the date of the notice of denial/removal is what is relevant to the determination to be made by the CRO. Changes in the form and/or status of the firm that occur after that date shall not be considered evidence and even if such information were to be considered evidence it would not be relevant to this determination. The CRO in review of the entire file and at their discretion, may determine that one or more areas not placed in issue by the Small Business Certification Unit, should have been raised. Any such area(s) will be placed in issue by the CRO and included in the final administrative decision. This may include additional information, including an on-site visit. The CRO may, in their discretion, return the file to the Small Business Certification Unit with one or more specific requests for additional information. The

Small Business Certification Unit will provide the CRO the information called for and promptly return the file within the time set by the CRO.

Waiver of Hearing/Determination without Oral Argument

The firm seeking a hearing may request that the oral argument and questions and answers portion of the hearing be waived, thereby consenting to the CAB's determination being based solely on the documents then submitted to the CAB and any additional documentation that may be requested by the CAB. The firm seeking a waiver to a hearing shall do so in writing to the CAB. The CAB has sole discretion to approve or deny this request.

Disposition of Withdrawn Requests for Reconsideration

A firm seeking administrative reconsideration may withdraw its request for reconsideration at any time. The firm must do so by sending a written notice, titled, "Notice of Withdrawal," by Certified Mail, to:

Certification Appeals Board
Certification Reconsideration Officer
c/o Executive Officer, DEOD
One Gateway Plaza, 99-8-2
Los Angeles, CA 90012-2952

A copy of the Notice of Withdrawal shall also be sent Certified Mail, to the Small Business Certification Unit. The CRO will send notice of their approval of the Notice of Withdrawal. Thirty 30 days after the date of either (1) the CRO's determination letter or (2) the letter notifying the firm of the CRO's approval of the Notice of Withdrawal, the firm's certification files will be closed and no further action will be taken by MTA.

E. Consequence of SBE Certification Being Denied or Removed

A firm whose SBE certification was denied or removed shall not reapply for SBE certification before 12 months from the later of the following two dates: (1) the date of the CRO's determination letter or (2) the date of the notice of SBE certification denial/removal.

SUBPART F – COMPLIANCE AND ENFORCEMENT

A. Information, Confidentiality, Cooperation

MTA will safeguard from disclose 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. (Government Code, §6250) The California legislature states public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as provided at Government Code §6253. A broad range of exceptions is provided in consideration of an individual's right to privacy or where otherwise excluded from disclosure by law.

Nothing shall be construed to require disclosure of records that are specifically identified as not to be disclosed in the Public Records Act, including, "Records Whose Disclosure Is Exempted or Prohibited," (Government Code §2654 (k). This provision identifies as exempt from disclosure under California law, "records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege. Federal Regulations state, that MTA must not release an individual's personal net worth statement nor any documentation supporting it to any third party without the written consent of the submitter (49 CFR §26.67(a)(2)(ii)). Therefore, personal net worth statements are protected under the SBE program.

Notwithstanding any contrary provisions of state or local law, MTA shall not release personal financial information submitted in response to the personal net worth requirement to a third party without the written consent of the submitter.

Monitoring Payments to SBEs

MTA will require prime contractors to maintain records and documents of payments to SBEs for three years following the performance of the contract. These records will be make available for inspection upon request by any authorized representative of MTA. This reporting requirement also extends to any certified SBE subcontractor.

MTA will perform interim audits of contract payments to SBEs. The audit will review payments to SBE subcontractors to ensure that the actual amount paid to SBE subcontractors equals or exceeds the dollar amounts states in the schedule of SBE participation.

ATTACHMENTS

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ATTACHMENT 1

DEFINITION OF TERMS

Attachment 1

DEFINITION OF TERMS

Appeals – A formal filing by a business entity who has been denied certification by MTA as a Small Business Enterprise (SBE).

Broker – An entity that charges fees or commissions for providing a bona fide service, such as professional, technical, consultant, contract negotiation or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract, provided that the fee or commission is determined by the Department to be reasonable and not excessive when compared with fees ranging from 5 to 20% which are customarily allowed for similar services.

Challenge – A formal filing by a third party to rebut the presumption that a particular individual is socially and economically disadvantaged.

Commercially Useful Function – Work performed by a SBE firm in a particular transaction that in light of industry practices and other relevant considerations, has a necessary and useful role and the firm's role is not a superfluous step added in an attempt to obtain credit toward goals. If, in MTA's judgment, the firm (even though an eligible SBE) does not perform a commercially useful function in the transaction, no credit toward the goal may be awarded.

Contracting Opportunity – Any decision by MTA or its contractors to institute a procurement action to obtain a product or service commercially (as opposed to intergovernmental actions)

Department – A functional unit of MTA or its contractors to institute a procurement action to obtain a product or service commercially (as opposed to intergovernmental actions).

SBE Directory – MTA's list of Certified and Denied Firms which is used by MTA and its contractors to identify SBE potential prime and subcontractors and suppliers.

Goal – A numerically expressed objective which MTA or its contractors are required to make good faith efforts to achieve.

Good Faith Efforts – Specific affirmative actions required to be taken by MTA and its contractors and subcontractors to maximize opportunities for SBEs to compete for and perform on contracting opportunities.

Joint Venture – Specific affirmative actions required to be taken by MTA and its contractors and subcontractors to maximize opportunities for SBEs to compete for and perform on contracting opportunities.

Manufacturer – Means a business that operates, or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.

Non-compliance – The condition existing when a contractor has failed to implement or meet the requirements of MTA policy or procedure pertaining to SBE participation

Pre-Bid/Pre-Proposal Conference – A meeting held by MTA prior to the bid/proposal closing date of a particular project, at which prospective bidders/proposers are advised of MTA specification requirements which include SBE provisions.

Pre-Construction Conference – A meeting held by MTA after award of contract on a particular construction project, but prior to the beginning of any work, at which the prime contractor is advised of its federal compliance obligations and any final technical requirements

Regular Dealer – A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this definition.

Small Business Enterprise:

- (1) Which is least 51 percent owned by one or more individuals, or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more individuals whose PNW is less than \$1.32 million
- (2) Whose management and daily business operations are controlled by one or more of the individuals whose PNW is less than \$1.32 million who own it.
- (3) Whose combined PNW of the individuals that own and control the firm does not exceed \$1.32 million excluding the value of their personal residence(s) and the value of the applicant firm.

ATTACHMENT 2

MINORITY-OWNED FINANCIAL INSTITUTIONS

MINORITY-OWNED FINANCIAL INSTITUTIONS

AMERICAN PLUS BANK

630 West Duarte Road
Arcadia, CA 91007
(626) 821-9188

AMERICAS UNITED BANK

801 N. Brand Boulevard, Suite 1150
Glendale, CA 91203
(818) 637-7000

ASIAN PACIFIC NATIONAL BANK

333 West Valley Boulevard
San Gabriel, CA 91776
(626) 457-4888

BANK OF THE ORIENT

233 Sansome Street
San Francisco, CA 94104
(415) 338-0672

BANK OF WHITTIER, N.A.

15141 East Whittier Boulevard
Whittier, CA 90603
(562) 945-7553

BORREGO SPRINGS BANK

7777 Alvarado Road, Suite 114
La Mesa, CA 91941
(619) 668-5159

COMMUNITY COMMERCE BANK

398 West Foothill Boulevard
Claremont, CA 91711
(909) 626-0750

EASTERN INTERNATIONAL BANK

688 New High Street
Los Angeles, CA 90012
(213) 687-7228

EVERGREEN INTERNATIONAL BANK

850 Long Beach Boulevard
Los Angeles, CA 90813
(562) 216-6388

FIRST CHOICE BANK

17414 Carmenita Road
Cerritos, CA 90703
(562) 345-9244

FIRST GENERAL BANK

1744 South Nogales Street
Rowland Heights, CA 91748
(626) 820-1099

METRO UNITED BANK

7320 Clairemont Mesa Boulevard
San Diego, CA 92111
(858) 496-3800

METROPOLITAN BANK

250 East Eighteenth Street
Oakland, CA 94606
(510) 834-1933

MISSION NATIONAL BANK

3060 16th Street
San Francisco, CA 94103
(415) 826-3627

NEW OMNI BANK, N.A.

1235 South Garfield Avenue
Alhambra, CA 91801
(626) 284-5555

PACIFIC ALLIANCE BANK

8400 East Valley Boulevard
Rosemead, CA 91770
(626) 773-8888

PAN AMERICAN BANK

3626 East First Street
Los Angeles, CA 90063
(323) 264-3310

PREMIER BUSINESS BANK

700 South Flower Street, Suite 2000
Los Angeles, CA 90017
(213) 443-4853

PROAMERICA BANK

888 South Figueroa Street, Suite 100
Los Angeles, CA 90071
(213) 613-5000

SAEHAN BANK

3580 Wilshire Boulevard, Unit 1500
Los Angeles, CA 90010
(213) 388-5550

SAIGON NATIONAL BANK

15606 Brookhurst Street, Suite C
Westminster, CA 92683
(714) 338-8700

US METRO BANK

9866 Garden Grove Boulevard
Garden Grove, CA 92844
(714) 620-8888

ATTACHMENT 3

MONITORING AND ENFORCEMENT MECHANISMS

Attachment 3

MONITORING AND ENFORCEMENT MECHANISMS

The following sections contain the standards, policies, practices and procedures MTA uses to assess whether a contractor is in compliance with regulatory and contract requirements applicable to non-federally funded contracts:

(1) **REGULATORY PROVISIONS**

Including but not limited to:

- A. Public Utility Code
- B. MTA Debarment Ordinances

(2) **CONTRACT REQUIREMENTS AND REMEDIES**

Contract requirements and remedies are provided in this SBE program and by administrative policies, practices and procedures requirements in each contract. All contractors, as a condition of participation in any non-federally funded contract, shall agree to the terms of this SBE program, and shall incorporate the SBE program and the SBE administrative policies, practices and procedures requirements into their contracts and subcontracts at all tiers.

A. **CONTRACTS MANUAL PROVISIONS**

MTA's Diversity and Economic Opportunity Department requires each project supported by non-federally funds to include in its contract terms and conditions, the MTA's Contracts Manual, whose program and administrative requirements include, but not limited to:

B. **AUDITING AND INSPECTION**

MTA reserves the right to audit the records and inspect the facilities of its Contractors and any Subcontractors of any tier for the purpose of verifying the SBE participation and / or adherence to the SBE Program requirements. Contractors and Subcontractors shall permit access to their records at the request of MTA. Notice is here by given that state, local and federal authorities may initiate or cooperate with MTA in auditing and inspecting such records

C. **PROCUREMENT PROVISIONS**

In addition to contracts manual provisions required by the Diversity and Economic Opportunity Department, MTA's Procurement Department requires selected policies, practices and procedures to be defined in contract provisions in response to the circumstances associated with those categories of procurements. These policies, practices and procedures likewise provide the Deputy Executive Officer, Diversity and Economic and Opportunity Department with monitoring and enforcement alternatives.

(3) **FINDINGS OF NON-COMPLIANCE AND ADMINISTRATIVE SANCTIONS**

Contractors found not to be compliant with any part of the SBE program requirements shall be notified of MTA's finding of Non-Compliance, in writing, by certified mail. The notice shall cite the SBE program requirement under which the contractor is non-compliant, state the date of the findings and the grounds on which the finding was made and state the category of sanctions being imposed. Upon a finding of non-compliance, MTA may choose to impose sanctions including, but not limited to:

A. **MANDATORY SBE TRAINING**

Attendance at a SBE Training program shall be mandatory for the owners, partners, or officers, and staff member of each firm, responsible for the management of SBE

businesses and for the preparation of SBE related records and reports. Contractors shall be responsible for all travel, meals, lodging and similar expenses. The Contract Compliance Unit of the Diversity and Economic Opportunity Department will conduct the program.

B. ASSESSMENT FOR NON-COMPLIANCE

If the Contractor fails to comply with the SBE Program requirements, contract payments shall be reduced by one or more of the following methods:

1. A penalty of five thousand dollars (\$5,000) per day, from the date the Contractor is determined to be in non-compliance with the SBE Program requirements until compliance is determined.
2. Penalties of ten percent (10%) of the total contract value, including any approved change orders, for failure to meet SBE commitments or to demonstrate efforts.
3. Penalties may be deducted from payments due the Contractor, from any funds retained.

C. SUSPENSION OF PAYMENT

MTA will suspend payment to the contractor of any monies held by it, as retained on the contract.

D. TERMINATION OF THE CONTRACT FOR DEFAULT

If the Board of Directors approves the action, MTA may terminate the contract for default.

E. MTA DEBARMENT ORDINANCES

Information concerning the existence of a cause for suspension or debarment shall be reported, investigated and referred, when appropriate, to the proper official for consideration. After consideration, the official will issue the appropriate notice of proposed action.

(4) RESOLUTION OF DISPUTES BETWEEN CONTRACTOR AND SUBCONTRACTORS

Disputes arising out of or related to this contract between the Contractor and any lower tier SBE subcontractors which cannot be settled by discussions between the parties involved shall be settled as described herein. These provisions shall not apply to disputes between the Contractor and the MTA. These provisions do not alter in any way or waive compliance with any provisions in Section GC36 SUBMITTAL OF CLAIMS of the Contract Documents.

The Contractor and Subcontractors shall include in their contract a provision indicating that in the event of a dispute to their contract they agree to proceed through informal meetings, mediation, or arbitration, or any combination thereof, specifying the terms under which disputes are to be submitted, the service or assistance to be employed, and the timing or submission of disputes.

A. Informal Meetings

MTA's Diversity and Economic Opportunity Department shall conduct informal meetings with parties to a dispute at the request of any party to the contract, but all parties must agree to the procedure on a voluntary basis. Interested parties should contact the Manager of Contract Compliance at (213) 922-2128. DEOD may require the parties to meet in an attempt to resolve the perceived differences.

B. Mediation

The parties to a contract may agree to endeavor to settle a dispute through informal mediation under independent third party organizations. Individuals appointed to be mediators by MTA's Manager of Contract Compliance can also be considered another source of independent third parties. Submission to informal mediation is voluntary by the parties, is not binding and offers advisory opinions only.

C. Arbitration

Should the parties fail to resolve any SBE related dispute arising out of or related to the contract via informal meetings or mediation, the parties are contractually obligated to submit the claims for arbitration. Arbitration conducted pursuant to the contract shall be binding upon all parties to the arbitration. All arbitration is to be conducted in a manner consistent with section 1020 et seq. of the Public Contract Code and Section 1296 of Code of Civil Procedure.

The Contractor shall incorporate this Section into each SBE subcontract related to work arising under this contract and shall not incorporate by reference.

Only when resolution of SBE disputes attempted through informal meetings, mediation, and/or arbitration has failed may the Contractor formally request substitution of a SBE subcontractor.

D. Timeliness

Should the parties proceed to arbitration, monies due, if any, shall be placed in a trust account. Such funds shall be released to the appropriate party within five (5) working days of a determination being issued by the arbitrator.

NOTE: Arbitration findings are binding upon the parties. However, the findings do not in any way relieve the contractor of its obligation to meet the SBE goals.

ATTACHMENT 4

CERTIFICATION APPLICATION FORMS



Metro

Firm: _____

METRO SMALL BUSINESS CERTIFICATION APPLICATION

How did you learn of Metro's Certification Programs? (Please circle one and give information.)

1. Metro Event? Event name: _____
2. Metro Workshop? Workshop name: _____
3. TBAC Organization? Member organization: _____
4. Metro Print ad/flyer? Describe: _____
5. Metro Staff? Name/Department: _____
6. Another Agency? City of LA Caltrans OCTA Other: _____
7. Other? Describe: _____

THE ATTACHED CUCP APPLICATION IS USED BY THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (METRO) TO PROCESS

- DISADVANTAGED BUSINESS ENTERPRISE (DBE) CERTIFICATIONS
- SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATIONS. **(SUBMIT THE SAME APPLICATION)**

Please check below all the certification(s) your firm is applying for:

- DBE Yes No *(Submit all required documents – see DBE Document Checklist in application)*
- SBE Yes No *(Submit all required documents – see SBE Instructions in SBE Program)*

When completed, please return, ***with all the supporting documents***, to:

Diversity & Economic Opportunity Department (DEOD)
Certification Unit, Mail Stop 99-8-4
One Gateway Plaza
Los Angeles, CA 90012

NOTE: Failure to provide ALL required documentation will delay the processing of your certification application. No action will be taken on your application until all items have been submitted.

If you are pursuing a Metro contract opportunity and would like to request expedited certification, please provide us the following information:

IFB / RFP No.: _____ Due Date: _____

Project Title: _____

Comments: _____

If you have any questions, please contact us at the Metro DEOD Hotline at 213-922-2600 or fax at 213-922-7660.
Email (preferable): CertificationUnit@metro.net



Metro

SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATION

I. INTRODUCTION

The Small Business Enterprise (SBE) Certification is a race and gender neutral effort specifically designed to increase the availability of contracting opportunities for small businesses on Metro's state or locally funded negotiated contracts.

The SBE Certification applies to contracts funded exclusively with state and local dollars. Small businesses deemed eligible for participation in the SBE Certification are those meeting the size standard promulgated in 13 CFR Part 121 and whose owners possess a personal net worth not exceeding \$1,320,000 individually.

II. SBE CERTIFICATION

Certification is the process by which all businesses seeking to participate in the Los Angeles County Metropolitan Transportation Authority's (Metro's) Small Business Enterprise (SBE) are determined to be legitimate SBE's as defined by Small Business Administration (SBA), 13 CFR Parts 121 and 124. All certification determinations are evidenced with an SBE Certification letter issued by the Diversity & Economic Opportunity (DEO) Certification Unit. Certification is granted for a five-year period.

III. REQUESTS FOR AND SUBMISSION OF ADDITIONAL INFORMATION

Metro may request additional information if there is insufficient evidence upon which to base a determination. The certification process will not proceed until all items have been submitted. Failure or refusal of the applicant to comply with requests for additional information or submission of deadlines shall result in an administrative closure. Applications and requests for re-certification that are administratively closed may require the submission of a new application and will not be eligible for expedited handling.

Firms will be denied certification for misrepresenting the status of any concern or small business owned and controlled by economically disadvantaged individuals (as an SBE) in order to obtain for oneself or another a prime contract or subcontract to be awarded.

SUBSEQUENT CHANGES IN OWNERSHIP AND/OR CONTROL

1. Applicants are evaluated on the basis of documentation submitted at the time of certification. Any changes contemplated in the ownership and/or control of the firm or the documentation submitted with the application for Certification, including but not limited to those set forth below, must be fully disclosed at the time of application:
 - a. Changes in ownership, amendments, modifications, additions, deletions, revisions;
 - b. Execution of new agreements, board and/or shareholders' resolutions, memoranda of understanding;
 - c. Consolidation, liquidation, reorganization, merger;
 - d. Election of new officers and/or directors, appointment of new principals and/or key personnel;
 - e. The purchase and/or sale of shares, new issues of shares; and
 - f. The purchase or sale of the entire business.

SMALL BUSINESS ENTERPRISE Certification (Continued)

2. Such disclosure must provide the facts surrounding the effective dates of any changes subsequent to filing for Certification.
3. All changes in the ownership and/or control of the firm subsequent to granting certification should be immediately reported to the DEO Department. Failure to do so may result in de-certification where appropriate.

INCOMPLETE SUBMISSION

1. Applicants who fail or refuse to submit information deemed necessary for a certification determination shall have their application administratively closed. If any information requested is not available or applicable, it is incumbent upon the applicant to provide a written explanation.
2. Files of those firms administratively closed for a period of six (6) months shall be archived.
3. Any applicant who wishes to re-apply for certification and whose file has been archived must follow the procedures for initial application.

IV. REMEDIES FOR BREACH OF SBE REQUIREMENTS

All intended Bidders/Proposers and successful Contractors are hereby notified that, should a Contractor be found in violation of any part of Metro's SBE requirements during the performance of an awarded contract, such Contractor will be required to correct its deficiencies or be subjected to Administrative Sanctions.



Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

INSTRUCTIONS FOR SBE CERTIFICATION

A. ALL SBE applicants must submit the following:

1. License to do business (Local/Professional); Statement of Sole Proprietorship (if applicable);
2. Completed Federal Tax Returns (including schedules) for the last three (3) years:
 - a) Form 1040 for Sole Proprietorship – ALL APPLICANTS *MUST SUBMIT 3 YEARS.*
 - b) Form 1065 with Schedule K-1 for a Partnership, including Form 1040 for qualifying partner;
 - c) Form 1120 or 1120s for Corporations, including Form 1040 for qualifying partner;
3. Resumes of principals and key personnel;
4. Third Party agreements such as rentals, lease agreements and professional services agreements;
5. Proof of U. S. Citizenship or permanent residency (clear copy of birth certificate, passport, military I.D., etc.).
6. Company profile including a description of the firm's product or services;
7. Bank disclosure letter (authorize access to review bank information); copy of bank signature card or statement from bank listing account signatories and conditions.
8. Statement of Personal Financial Statement (Net Worth). All firms must complete the Statement of Personal Net Worth for qualifying principal only.

B. Partnerships must submit the following items in addition to those items require in section A (1-8) above:

1. Partnership agreements and any amendments thereto;
2. Profit sharing agreements;
3. Buy-out agreements;
4. Proof of capitalization.
5. Statement of Personal Financial Statement (Net Worth). All firms must complete the Statement of Personal Net Worth for qualifying principal only.

C. Corporations must submit the following items in addition to those required in section A (1-8) above:

1. Articles of Incorporation;
2. Bylaws;
3. Stockholders options;
4. Stockholder agreements;
5. Stock certificates of each holder;
6. Stock transfer ledger;
7. Stock voting rights;

SMALL BUSINESS ENTERPRISE CERTIFICATION INSTRUCTIONS (Continued)

8. Minutes of first organizational meeting;
9. Statement of Foreign Corporation Designation, if incorporated outside the U. S.;
10. Identification of the Corporate Officers and the Board of Directors with dates of service;
11. Minutes from annual shareholder's meetings *FOR LAST 3 YEARS*
12. Statement of Domestic Stock Corporation (Statement of Information);
13. Statement of Qualification, if incorporated outside the State of California;
14. Proof of capitalization for each shareholder;
15. Completed Federal Tax Returns for qualifying shareholder;
16. Statement of Personal Financial Statement (Net Worth). All firms must complete the Statement of Personal Net Worth for qualifying principal only.

Your company must support any claims of prior certification with documentary evidence. Where banks or business references are required to be identified, you must provide the full address and name of contact person.

No action will be taken on your application until all items have been submitted.

Certification applicants are evaluated on the basis of the documentation submitted to the MTA for review. Any anticipated changes in the ownership and/or control of the firm, or in the documentation submitted with the application for Certification must be fully disclosed **AT THE TIME OF APPLICATION**. Such disclosures must provide the facts and the effective dates of any changes proposed to take effect subsequent to filing for Certification. Any changes not disclosed will not be considered for granting certification nor will it be accepted as an argument on an appeal if the firm is denied certification. The above information should be forwarded to the address given below:

Los Angeles County Metropolitan Transportation Authority
Diversity & Economic Opportunity Department
One Gateway Plaza, Mail Stop 99-8-4
8th Floor, Certification Unit
Los Angeles, CA 90012-2952

Certification is valid for a period of five (5) years and must be renewed by submitting a signed and notarized Renewal Application as well as other information which may be requested. It is the responsibility of the firm to maintain a current certification status.

Firms denied certification may request an appeal hearing or re-apply one year from the date of the denial.



Metro

Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

AFFIDAVIT OF CERTIFICATION
For METRO SBE Certification Application Only

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I, _____ (PRINT FULL NAME), swear or affirm under penalty of law that I am _____ (TITLE) of applicant firm _____ (FIRM NAME) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the recipient agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, personal net worth exceeding \$1.32 million, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am an economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Small Business Enterprise.



Metro

Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

AFFIDAVIT OF CERTIFICATION

FOR METRO SBE APPLICATIONS ONLY – PAGE 2

I certify that I am an economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Small Business Enterprise.

I further certify that my personal net worth does not exceed \$1,320,000.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Executed on _____
(Date)

Signature _____
(Applicant)

NOTE: NOTARY SEAL/CERTIFICATE MUST BE AFFIXED BELOW OR ATTACHED AS SEPARATE DOCUMENT



Section 1: CERTIFICATION INFORMATION

A. Basic Contact Information

(1) Contact person and Title: _____ (2) Legal name of firm: _____

(3) Phone #: (____) _____ - _____ (4) Other Phone #: (____) _____ - _____ (5) Fax #: (____) _____ - _____

(6) E-mail: _____ (7) Firm Websites: _____

(8) Street address of firm (No P.O. Box): _____ City: _____ County/Parish: _____ State: _____ Zip: _____

(9) Mailing address of firm (if different): _____ City: _____ County/Parish: _____ State: _____ Zip: _____

B. Prior/Other Certifications and Applications

(10) Is your firm currently certified for any of the following U.S. DOT programs?

DBE ACDBE Names of certifying agencies: _____

⊗ If you are certified in your home state as a DBE/ACDBE, you do not have to complete this application for other states. Ask your state UCP about the interstate certification process.

List the dates of any site visits conducted by your home state and any other states or UCP members:

Date ___/___/___ State/UCP Member: _____ Date ___/___/___ State/UCP Member: _____

(11) Indicate whether the firm or any persons listed in this application have ever been:

(a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm? Yes No

(b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity? Yes No

If yes, explain the nature of the action. (If you appealed the decision to DOT or another agency, attach a copy of the decision,

Section 2: GENERAL INFORMATION

A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.

(2) Applicable NAICS Codes for this line of work include: _____

(3) This firm was established on ___/___/___ (4) I/We have owned this firm since: ___/___/___

(5) Method of acquisition (Check all that apply):

- Started new business Bought existing business Inherited business Secured concession
 Merger or consolidation Other (explain) _____



(6) Is your firm "for profit"? Yes No → **⊗ STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application.
 Federal Tax ID# _____

(7) Type of Legal Business Structure: (check all that apply):

- Sole Proprietorship
- Partnership
- Limited Liability Company
- Applying as an ACDBE
- Limited Liability Partnership
- Corporation
- Joint Venture (Identify all JV partners _____)
- Other, Describe _____

(8) Number of employees: Full-time _____ Part-time _____ Seasonal _____ Total _____
 (Provide a list of employees, their job titles, and dates of employment, to your application).

(9) Specify the firm's gross receipts for the last 3 years. (Submit complete copies of the firm's Federal tax returns for each year. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of these firms' Federal tax returns).

Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____

B. Relationships and Dealings with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity? Yes No
 If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared.

(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?
 Yes No If Yes, explain _____

- (3) At present, or at any time in the past, has your firm:
- (a) Ever existed under different ownership, a different type of ownership, or a different name? Yes No
 - (b) Existed as a subsidiary of any other firm? Yes No
 - (c) Existed as a partnership in which one or more of the partners are/were other firms? Yes No
 - (d) Owned any percentage of any other firm? Yes No
 - (e) Had any subsidiaries? Yes No
 - (f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts? Yes No

(If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues).



Section 3: MAJORITY OWNER INFORMATION

A. Identify the majority owner of the firm holding 51% or more ownership interest.

(1) Full Name: _____ (2) Title: _____ (3) Home Phone #: _____

(4) Home Address (Street and Number): _____ City: _____ State: _____ Zip: _____

(5) Gender: Male Female

(6) Ethnic group membership (Check all that apply):
 Black Hispanic
 Asian Pacific Native American
 Subcontinent Asian
 Other (specify) _____

(7) U.S. Citizenship:
 U.S. Citizen
 Lawfully Admitted Permanent Resident

(8) Number of years as owner: _____
(9) Percentage owned: _____%
Class of stock owned: _____
Date acquired _____

Table with 3 columns: (10) Initial investment to acquire ownership interest in firm, Type, Dollar Value. Rows include Cash, Real Estate, Equipment, and Other.

Describe how you acquired your business:
 Started business myself
 It was a gift from: _____
 I bought it from: _____
 I inherited it from: _____
 Other _____

(Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:

(2) Does this owner perform a management or supervisory function for any other business? Yes No
If Yes, identify: Name of Business: _____ Function/Title: _____

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) Yes No
Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification ? \$ _____

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? Yes No
(If Yes, you may be asked to provide a copy of the trust instrument).

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? Yes No
If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: (Please attach extra sheets, if needed): _____



Section 3: OWNER INFORMATION, Cont'd.

A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm (Attach separate sheets for each additional owner)

(1) Full Name: _____ (2) Title: _____ (3) Home Phone #: () _____ - _____

(4) Home Address (Street and Number): _____ City: _____ State: _____ Zip: _____ - _____

(5) Gender: Male Female

(6) Ethnic group membership (Check all that apply)
 Black Hispanic
 Asian Pacific Native American
 Subcontinent Asian
 Other (specify) _____

(7) U.S. Citizenship:
 U.S. Citizen
 Lawfully Admitted Permanent Resident

(8) Number of years as owner: _____
(9) Percentage owned: _____ %
Class of stock owned: _____
Date acquired _____

Table with 3 columns: Initial investment to acquire ownership interest in firm, Type, Dollar Value. Rows include Cash, Real Estate, Equipment, and Other.

Describe how you acquired your business:
 Started business myself
 It was a gift from: _____
 I bought it from: _____
 I inherited it from: _____
 Other _____

(Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:

(2) Does this owner perform a management or supervisory function for any other business? Yes No
If Yes, identify: Name of Business: _____ Function/Title: _____

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) Yes No
Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? Yes No
(If Yes, you may be asked to provide a copy of the trust instrument).

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? Yes No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: (Please attach extra sheets, if needed): _____



Section 4: CONTROL

A. Identify your firm's Officers and Board of Directors (If additional space is required, attach a separate sheet):

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				

(3) Do any of the persons listed above perform a management or supervisory function for any other business?

Yes No If Yes, identify for each:

Person: _____ Title: _____
 Business: _____ Function: _____

Person: _____ Title: _____
 Business: _____ Function: _____

(4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)

Yes No If Yes, identify for each:

Firm Name: _____ Person: _____
 Nature of Business Relationship: _____

B. Duties of Owners, Officers, Directors, Managers, and Key Personnel

1. (Identify your firm's management personnel who control your firm in the following areas (Attach separate sheets as needed).)

A = Always F = Frequently	S = Seldom N = Never	Majority Owner (51% or more)				Minority Owner (49% or less)			
		Name: _____	Title: _____	Percent Owned: _____		Name: _____	Title: _____	Percent Owned: _____	
Sets policy for company direction/scope of operations		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Bidding and estimating		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Major purchasing decisions		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Marketing and sales		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Supervises field operations		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Attend bid opening and lettings		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Perform office management (billing, accounts receivable/payable, etc.)		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hires and fires management staff		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hire and fire field staff or crew		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Designates profits spending or investment		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Obligates business by contract/credit		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Purchase equipment		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Signs business checks		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>

2. Complete for all Officers, Directors, Managers, and Key Personnel who control the following functions for the firm. (Attach separate sheets as needed).

A = Always S = Seldom F = Frequently N = Never	Officer/Director/Manager/Key Personnel				Officer/Director/Manager/ Key Personnel			
	Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____				Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____			
Sets policy for company direction/scope of operations	A	F	S	N	A	F	S	N
Bidding and estimating	A	F	S	N	A	F	S	N
Major purchasing decisions	A	F	S	N	A	F	S	N
Marketing and sales	A	F	S	N	A	F	S	N
Supervises field operations	A	F	S	N	A	F	S	N
Attend bid opening and lettings	A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)	A	F	S	N	A	F	S	N
Hires and fires management staff	A	F	S	N	A	F	S	N
Hire and fire field staff or crew	A	F	S	N	A	F	S	N
Designates profits spending or investment	A	F	S	N	A	F	S	N
Obligates business by contract/credit	A	F	S	N	A	F	S	N
Purchase equipment	A	F	S	N	A	F	S	N
Signs business checks	A	F	S	N	A	F	S	N

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, the business, and their title/function: _____

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) If Yes, describe the nature of the business relationship: _____

C. Inventory: Indicate your firm's inventory in the following categories (Please attach additional sheets if needed):

1. Equipment and Vehicles

Make and Model	Current Value	Owned or Leased by Firm or Owner?	Used as collateral?	Where is item stored?
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				

2. Office Space

Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease



3. Storage Space (Provide signed lease agreements for the properties listed)

Street Address

Owned or Leased by
Firm or Owner?

Current Value of Property or Lease

D. Does your firm rely on any other firm for management functions or employee payroll? Yes No

E. Financial/Banking Information (Provide bank authorization and signature cards)

Name of bank: _____ City and State: _____
The following individuals are able to sign checks on this account: _____

Name of bank: _____ City and State: _____
The following individuals are able to sign checks on this account: _____

Bonding Information: If you have bonding capacity, identify the firm's bonding aggregate and project limits:
Aggregate limit \$ _____ Project limit \$ _____

F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you the owner and any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner. (Provide copies of signed loan agreements and security agreements).

Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years (Attach additional sheets if needed):

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

H. List current licenses/permits held by any owner and/or employee of your firm (e.g. contractor, engineer, architect, etc.) (Attach additional sheets if needed):

Name of License/Permit Holder	Type of License/Permit	Expiration Date	State
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____



I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

J. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

AIRPORT CONCESSION (ACDBE) APPLICANTS ONLY MUST COMPLETE THIS SECTION

Identify the following information concerning the ACDBE applicant firm:

<u>Concession Space</u>	<u>Address / Location at Airport</u>	<u>Value of Property or Lease</u>	<u>Fees/Lease Payments Paid to the Airport</u>

Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of concession

<u>Name of Concession</u>	<u>Location</u>	<u>Type of Concession</u>	<u>Start Date of Concession</u>



AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed),
swear or affirm under penalty of law that I am
_____ (title) of the applicant firm
_____ and that I
have read and understood all of the questions in this
application and that all of the foregoing information and
statements submitted in this application and its attachments
and supporting documents are true and correct to the best of
my knowledge, and that all responses to the questions are full
and complete, omitting no material information. The responses
include all material information necessary to fully and
accurately identify and explain the operations, capabilities and
pertinent history of the named firm as well as the ownership,
control, and affiliations thereof.

I recognize that the information submitted in this application is
for the purpose of inducing certification approval by a
government agency. I understand that a government agency
may, by means it deems appropriate, determine the accuracy
and truth of the statements in the application, and I authorize
such agency to contact any entity named in the application, and
the named firm's bonding companies, banking institutions,
credit agencies, contractors, clients, and other certifying
agencies for the purpose of verifying the information supplied
and determining the named firm's eligibility.

I agree to submit to government audit, examination and review
of books, records, documents and files, in whatever form they
exist, of the named firm and its affiliates, inspection of its
places(s) of business and equipment, and to permit interviews
of its principals, agents, and employees. I understand that
refusal to permit such inquiries shall be grounds for denial of
certification.

If awarded a contract, subcontract, concession lease or
sublease, I agree to promptly and directly provide the prime
contractor, if any, and the Department, recipient agency, or
federal funding agency on an ongoing basis, current, complete
and accurate information regarding (1) work performed on the
project; (2) payments; and (3) proposed changes, if any, to the
foregoing arrangements.

I agree to provide written notice to the recipient agency or
Unified Certification Program of any material change in the
information contained in the original application within 30
calendar days of such change (e.g., ownership changes,
address/telephone number, personal net worth exceeding \$1.32
million, etc.).

I acknowledge and agree that any misrepresentations in this
application or in records pertaining to a contract or subcontract
will be grounds for terminating any contract or subcontract
which may be awarded; denial or revocation of certification;
suspension and debarment; and for initiating action under
federal and/or state law concerning false statement, fraud or
other applicable offenses.

I certify that I am a socially and economically disadvantaged
individual who is an owner of the above-referenced firm seeking
certification as a Disadvantaged Business Enterprise or Airport
Concession Disadvantaged Business Enterprise. In support of my
application, I certify that I am a member of one or more of the
following groups, and that I have held myself out as a member of
the group(s): (Check all that apply):

- Female Black American Hispanic American
 Native American Asian-Pacific American
 Subcontinent Asian American Other (specify)

I certify that I am socially disadvantaged because I have been
subjected to racial or ethnic prejudice or cultural bias, or have
suffered the effects of discrimination, because of my identity
as a member of one or more of the groups identified above,
without regard to my individual qualities.

I further certify that my personal net worth does not exceed
\$1.32 million, and that I am economically disadvantaged
because my ability to compete in the free enterprise system has
been impaired due to diminished capital and credit
opportunities as compared to others in the same or similar line
of business who are not socially and economically
disadvantaged.

I declare under penalty of perjury that the information
provided in this application and supporting documents is true
and correct.

Signature _____ (Date) _____
(DBE/ACDBE Applicant)

NOTARY CERTIFICATE



UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following **REQUIRED** documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.

Required Documents for All Applicants

- Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- Personal Net Worth Statement for each socially and economically disadvantaged owners comprising 51% or more of the ownership percentage of the applicant firm.
- Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
- Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 3 years.
- Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks)
- Signed loan and security agreements, and bonding forms
- List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.
- Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- Licenses, license renewal forms, permits, and haul authority forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
- DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertifications, if applicable; and any U.S. DOT appeal decisions on these actions.
- Bank authorization and signatory cards
- Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- List of all employees, job titles, and dates of employment.
- Proof of warehouse/storage facility ownership or lease arrangements

Partnership or Joint Venture

- Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

- Official Articles of Incorporation (signed by the state official)
- Both sides of all corporate stock certificates and your firm's stock transfer ledger
- Shareholders' Agreement(s)
- Minutes of all stockholders and board of directors meetings

- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

Optional Documents to Be Provided on Request

The UCP to which you are applying may require the submission of the following documents. If requested to provide these document, you must supply them with your application or at the on-site visit.

- Proof of citizenship
- Insurance agreements for each truck owned or operated by your firm
- Audited financial statements (if available)
- Personal Federal Tax returns for the past 3 years, if applicable, for other disadvantaged owners of the firm.
- Trust agreements held by any owner claiming disadvantaged status
- Year-end balance sheets and income statements for the past 3 years (or life of firm, if less than three years)

Suppliers

- List of product lines carried and list of distribution equipment owned and/or leased



U.S. Department of
Transportation

**Personal Net Worth Statement
For DBE/ACDBE Program Eligibility**

As of _____

OMB APPROVAL NO:

EXPIRATION DATE:

This form is used by all participants in the U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) Programs. Each individual owner of a firm applying to participate as a DBE or ACDBE, whose ownership and control are relied upon for DBE certification must complete this form. Each person signing this form authorizes the Unified Certification Program (UCP) recipient to make inquiries as necessary to verify the accuracy of the statements made. The agency you apply to will use the information provided to determine whether an owner is economically disadvantaged as defined in the DBE program regulations 49 C.F.R. Parts 23 and 26. **Return form to appropriate UCP certifying member, not U.S. DOT.**

Name		Business Phone
Residence Address (As reported to the IRS) City, State and Zip Code		Residence Phone
Business Name of Applicant Firm		
Spouse's Full Name (Marital Status: Single, Married, Divorced, Union)		

ASSETS		(Omit Cents)	LIABILITIES		(Omit Cents)
Cash and Cash Equivalents	\$		Loan on Life Insurance (Complete Section 5)	\$	
Retirement Accounts (IRAs, 401Ks, 403Bs, Pensions, etc.) (Report full value minus tax and interest penalties that would apply if assets were distributed today) (Complete Section 3)	\$		Mortgages on Real Estate Excluding Primary Residence Debt (Complete Section 4)	\$	
Brokerage, Investment Accounts	\$		Notes, Obligations on Personal Property (Complete Section 6)	\$	
Assets Held in Trust	\$		Notes & Accounts Payable to Banks and Others (Complete Section 2)	\$	
Loans to Shareholders & Other Receivables (Complete section 6)	\$		Other Liabilities (Complete Section 8)	\$	
Real Estate Excluding Primary Residence (Complete Section 4)	\$		Unpaid Taxes (Complete Section 8)	\$	
Life Insurance (Cash Surrender Value Only) (Complete Section 5)	\$				
Other Personal Property and Assets (Complete Section 6)	\$				
Business Interests Other Than the Applicant Firm (Complete Section 7)	\$				
Total Assets	\$		Total Liabilities	\$	
			NET WORTH		

Section 2. Notes Payable to Banks and Others

Name of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

Section 3. Brokerage and custodial accounts, stocks, bonds, retirement accounts. (Full Value) (Use attachments if necessary).

Name of Security / Brokerage Account / Retirement Account	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

Section 4. Real Estate Owned (Including Primary Residence, Investment Properties, Personal Property Leased or Rented for Business Purposes, Farm Properties, or any Other Income Producing property). (List each parcel separately. Add additional sheets if necessary).

	Primary Residence	Property B	Property C
Type of Property			
Address			
Date Acquired and Method of Acquisition (purchase, inherit, divorce, gift, etc.)			
Names on Deed			
Purchase Price			
Present Market Value			
Source of Market Valuation			
Name of all Mortgage Holders			
Mortgage Acc. # and balance (as of date of form)			
Equity line of credit balance			
Amount of Payment Per Month/Year (Specify)			

Section 5. Life Insurance Held (Give face amount and cash surrender value of policies, name of insurance company and beneficiaries).

Insurance Company	Face Value	Cash Surrender Amount	Beneficiaries	Loan on Policy Information

Section 6. Other Personal Property and Assets (Use attachments as necessary)

Type of Property or Asset	Total Present Value	Amount of Liability (Balance)	Is this asset insured?	Lien or Note amount and Terms of Payment
Automobiles and Vehicles (including recreation vehicles, motorcycles, boats, etc.) Include personally owned vehicles that are leased or rented to businesses or other individuals.				
Household Goods / Jewelry				
Other (List)				
Accounts and Notes Receivables				

Section 7. Value of Other Business Investments, Other Businesses Owned (excluding applicant firm) Sole Proprietorships, General Partners, Joint Ventures, Limited Liability Companies, Closely-held and Public Traded Corporations

Section 8. Other Liabilities and Unpaid Taxes (Describe)

Section 9. Transfer of Assets: Have you within 2 years of this personal net worth statement, transferred assets to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust? Yes No If yes, describe.

I declare under penalty of perjury that the information provided in this personal net worth statement and supporting documents is complete, true and correct. I certify that no assets have been transferred to any beneficiary for less than fair market value in the last two years. I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application and this personal net worth statement, and I authorize such agency to contact any entity named in the application or this personal financial statement, including the names banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility. I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

NOTARY CERTIFICATE:
(Insert applicable state acknowledgment, affirmation, or oath)

Signature (DBE/ACDBE Owner) Date

In collecting the information requested by this form, the Department of Transportation complies with Federal Freedom of Information and Privacy Act (5 U.S.C. 552 and 552a) provisions. The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Disadvantaged Business Enterprise (DBE) Program or Airport Concessionaire DBE Programs as defined in 49 C.F.R. Parts 23 and 26. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).



General Instructions for Completing the Personal Net Worth Statement for DBE/ACDBE Program Eligibility

Please do not make adjustments to your figures pursuant to U.S. DOT regulations 49 C.F.R. Parts 23 and 26. The agency that you apply to will use the information provided on your completed Personal Net Worth (PNW) Statement to determine whether you meet the economic disadvantage requirements of 49 C.F.R. Parts 23 and 26. If there are discrepancies or questions regarding your form, it may be returned to you to correct and complete again.

An individual's personal net worth according to 49 C.F.R. Parts 23 and 26 includes only his or her own share of assets held separately, jointly, or as community property with the individual's spouse and excludes the following:

- Individual's ownership interest in the applicant firm;
- Individual's equity in his or her primary residence;
- Tax and interest penalties that would accrue if retirement savings or investments (e.g., pension plans, Individual Retirement Accounts, 401(k) accounts, etc.) were distributed at the present time.

Indicate on the form, if any items are jointly owned. If the personal net worth of the majority owner(s) of the firm exceeds \$1.32 million, as defined by 49 C.F.R. Parts 23 and 26, the firm is not eligible for DBE or ACDBE certification. If the personal net worth of the majority owner(s) exceeds the \$1.32 million cap at any time after your firm is certified, the firm is no longer eligible for certification. Should that occur, it is your responsibility to contact your certifying agency in writing to advise that your firm no longer qualifies as a DBE or ACDBE. You must fill out all line items on the Personal Net Worth Statement.

If necessary, use additional sheets of paper to report all information and details. If you have any questions about completing this form, please contact one of the UCP certifying agencies.

Assets

All assets must be reported at their current fair market values as of the date of your statement. *Assessor's assessed value for real estate, for example, is not acceptable.* Assets held in a trust should be included.

Cash and Cash Equivalents: On page 1, enter the total amount of cash or cash equivalents in bank accounts, including checking, savings, money market, certificates of deposit held domestic or foreign. Provide copies of the bank statement.

Retirement Accounts, IRA, 401Ks, 403Bs, Pensions: On page 1, enter the full value minus tax and interest penalties that would apply if assets were distributed as of the date of the form. Describe the number of shares, name of securities, cost market value, date of quotation, and total value in section 3 on page 2.

Brokerage and Custodial Accounts, Stocks, Bonds, Retirement Accounts: Report total value on page 1, and on page 2, section 3, enter the name of the security, brokerage account, retirement account, etc.; the cost; market value of the asset; the date of quotation; and total value as of the date of the PNW statement.

Assets Held in Trust: Enter the total value of the assets held in trust on page 1, and provide the names of beneficiaries and trustees, and other information in Section 6 on page 3.

Loans to Shareholders and Other Receivables not listed: Enter amounts loaned to you from your firm, from any other business entity in which you hold an ownership interest, and other receivables not listed above. Complete Section 6 on page 3.

Real Estate: The total value of real estate excluding your primary residence should be listed on page 1. In section 4 on page 2, please list your primary residence in column 1, including the address, method of acquisition, date of acquired, names of deed, purchase price, present fair market value, source of market valuation, names of all mortgage holders, mortgage account number and balance, equity line of credit balance, and amount of payment. List this information for all real estate held. Please ensure that this section contains all real estate owned, including rental properties, vacation properties, commercial properties, personal property leased or rented for business purposes, farm properties and any other income producing properties, etc. Attach additional sheets if needed.

Life Insurance: On page 1, enter the cash surrender value of this asset. In section 5 on page 2, enter the name of the insurance company, the face value of the policy, cash surrender value, beneficiary names, and loans on the policy.

Other Personal Property and Assets: Enter the total value of personal property and assets you own on page 1. Personal property includes motor vehicles, boats, trailers, jewelry, furniture, household goods, collectibles, clothing, and personally owned vehicles that are leased or rented to businesses or other individuals. In section 6 on page 3, list these assets and enter the present value, the balance of any liabilities, whether the asset is insured, and lien or note information and terms of payments. For accounts and notes receivable, enter the total value of all monies owed to you personally, if any. This should include shareholder loans to the applicant firm, if those exist. If the asset is insured, you may be asked to provide a copy of the policy. You may also be asked to provide a copy of any liens or notes on the property.

Other Business Interests Other than Applicant Firm: On page 1, enter the total value of your other business investments (excluding the applicant firm). In section 7 on page 3, enter information concerning the businesses you

hold an ownership interest in, such as sole proprietorships, partnerships, joint ventures, corporations, or limited liability corporations (other than the applicant firm). Do not reduce the value of these entries by any loans from the outside firm to the DBE/ACDBE applicant business.

Liabilities

Mortgages on Real Estate: Enter the total balance on all mortgages payable on real estate on page 1.

Loans on Life Insurance: Enter the total value of all loans due on life insurance policies on page 1, and complete section 5 on page 2.

Notes & Accounts Payable to Bank and Others: On page 1, section 2, enter details concerning any liability, including name of noteholders, original and current balances, payment terms, and security/collateral information. The entries should include automobile installment accounts. This should not, however, include any mortgage balances as this information is captured in section 4. Do not include loans for your business or mortgages for your properties in this section. You may be asked to submit copy of note/security agreement, and the most recent account statement.

Other Liabilities: On page 1, enter the total value due on all other liabilities not listed in the previous entries. In section 8, page 3, report the name of the individual obligated, names of co-signers, description of the liability, the name of the entity owed, the date of the obligation, payment amounts and terms. Note: Do not include contingent liabilities in this section. Contingent liabilities are liabilities that belong to you only if an event(s) should occur. For example, if you

have co-signed on a relative's loan, but you are not responsible for the debt until your relative defaults, that is a contingent liability. Contingent liabilities do not count toward your net worth until they become actual liabilities.

Unpaid Taxes: Enter the total amount of all taxes that are currently due, but are unpaid on page 1, and complete section 8 on page 3. Contingent tax liabilities or anticipated taxes for current year should not be included. Describe in detail the name of the individual obligated, names of co-signers, the type of unpaid tax, to whom the tax is payable, due date, amount, and to what property, if any, the tax lien attaches. If none, state "NONE." You must include documentation, such as tax liens, to support the amounts.

Transfers of Assets:

Transfers of Assets: If you checked the box indicating yes on page 3 in this category, provide details on all asset transfers (within 2 years of the date of this personal net worth statement) to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust. Include a description of the asset; names of individuals on the deed, title, note or other instrument indicating ownership rights; the names of individuals receiving the assets and their relation to the transferor; the date of the transfer; and the value or consideration received. Submit documentation requested on the form related to the transfer.

Affidavit

Be sure to sign and date the statement. The Personal Net Worth Statement must be notarized

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



Supplemental Document Checklist

Firm Name: _____

In order to complete your application for DBE certification, you must also attach copies of all of the following documents:

- Documentation of Group Membership. Please comply with one of the following: (1) For each owner seeking social disadvantaged status on the basis of Ethnic membership, please provide a document (e.g., birth certificate, U.S. Passport, Green Card, parents' birth certificate, etc.) evidencing Ethnic heritage or similar document evidencing Ethnic community affiliation. (2) For each owner seeking social disadvantaged status on the basis of Gender, please provide a document evidencing gender (e.g., birth certificate, driver's license, etc.). (3) For each owner seeking an individual showing of social disadvantage, please provide documents you deem appropriate for consideration.
- Documentation of U.S. citizenship or lawful permanent residence, e.g., U.S. birth certificate, Green Card, etc.

Supplemental Questionnaire

1. Is the firm's principal place of business in California? Yes _____ No _____

If no, instead of this application please forward the following, pursuant to 49 CFR Part 26.85: CUCP Out of State Declaration form, a copy of the approval letter, a complete copy of the application form, all supporting documents and any other information you have submitted (to-date) to your home state or any other state related to your firm's certification. The CUCP cannot process a new application for DBE/ACDBE certification from a firm having its principal place of business in another state unless the firm has already been certified in that state.

2. Is the firm authorized to do business in the State of California? Yes _____ No _____

3. List all office locations in California: _____

4. Has the firm ever done business with any U.S. DOT Grantees of California? Yes _____ No _____

If yes, please indicate the agency name(s) and latest year(s):

Agency	Latest Year

Agency	Latest Year

5. Is there an upcoming project in which the firm is interested and therefore, would need to be certified prior to a specific date in order to be counted toward DBE participation? Yes _____ No _____

If yes, please provide the following information:

Agency letting contract: _____

Contract Number and Name: _____ Bid Opening date or Request for Proposal due date: _____

6. Indicate areas where you prefer to do your work.

- | | | | | | |
|--|---|---------------------------------------|---|---|--------------------------------------|
| <input type="checkbox"/> 01 Alameda | <input type="checkbox"/> 11 Glenn | <input type="checkbox"/> 21 Marin | <input type="checkbox"/> 31 Placer | <input type="checkbox"/> 41 San Mateo | <input type="checkbox"/> 51 Sutter |
| <input type="checkbox"/> 02 Alpine | <input type="checkbox"/> 12 Humboldt | <input type="checkbox"/> 22 Mariposa | <input type="checkbox"/> 32 Plumas | <input type="checkbox"/> 42 Santa Barbara | <input type="checkbox"/> 52 Tehama |
| <input type="checkbox"/> 03 Amador | <input type="checkbox"/> 13 Imperial | <input type="checkbox"/> 23 Mendocino | <input type="checkbox"/> 33 Riverside | <input type="checkbox"/> 43 Santa Clara | <input type="checkbox"/> 53 Trinity |
| <input type="checkbox"/> 04 Butte | <input type="checkbox"/> 14 Inyo | <input type="checkbox"/> 24 Merced | <input type="checkbox"/> 34 Sacramento | <input type="checkbox"/> 44 Santa Cruz | <input type="checkbox"/> 54 Tulare |
| <input type="checkbox"/> 05 Calaveras | <input type="checkbox"/> 15 Kern | <input type="checkbox"/> 25 Modoc | <input type="checkbox"/> 35 San Benito | <input type="checkbox"/> 45 Shasta | <input type="checkbox"/> 55 Tuolumne |
| <input type="checkbox"/> 06 Colusa | <input type="checkbox"/> 16 Kings | <input type="checkbox"/> 26 Mono | <input type="checkbox"/> 36 San Bernardino | <input type="checkbox"/> 46 Sierra | <input type="checkbox"/> 56 Ventura |
| <input type="checkbox"/> 07 Contra Costa | <input type="checkbox"/> 17 Lake | <input type="checkbox"/> 27 Monterey | <input type="checkbox"/> 37 San Diego | <input type="checkbox"/> 47 Siskiyou | <input type="checkbox"/> 57 Yolo |
| <input type="checkbox"/> 08 Del Norte | <input type="checkbox"/> 18 Lassen | <input type="checkbox"/> 28 Napa | <input type="checkbox"/> 38 San Francisco | <input type="checkbox"/> 48 Solano | <input type="checkbox"/> 58 Yuba |
| <input type="checkbox"/> 09 El Dorado | <input type="checkbox"/> 19 Los Angeles | <input type="checkbox"/> 29 Nevada | <input type="checkbox"/> 39 San Joaquin | <input type="checkbox"/> 49 Sonoma | |
| <input type="checkbox"/> 10 Fresno | <input type="checkbox"/> 20 Madera | <input type="checkbox"/> 30 Orange | <input type="checkbox"/> 40 San Luis Obispo | <input type="checkbox"/> 50 Stanislaus | |