



RTD

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

FOR THE

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

Submitted in fulfillment of:

Surface Transportation and Uniform Relocation Assistance Act of 1987  
and  
49 CFR Part 23

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Southern California Rapid Transit District 425 South Main Street, Los Angeles, California 90013 (213) 972-6000

STATEMENT OF POLICY

It is the policy of the Southern California Rapid Transit District (hereinafter referred to as the District) to:

1. Ensure that Disadvantaged Business Enterprises (DBEs) have the maximum opportunity to participate in all of the District's business activities through contracts, subcontracts, leases, banking arrangements, joint development projects, and other agreements.
2. Ensure that DBEs have the maximum opportunity to compete for and perform contracts and subcontracts financed in whole or in part with Federal funds.
3. Ensure that discrimination in the award and performance of contracts does not occur on the basis of race, color, national origin, or gender.
4. Ensure that the District's contractors and subcontractors conform with these policies.

As evidence of the District's commitment to pursue these objectives, the Board of Directors has adopted this DBE Program and the General Manager has designated the Assistant General Manager for Equal Opportunity as the DBE liaison officer. This officer shall be responsible for the development, administration, and monitoring of the program which implements this policy, and for periodically reporting to the General Manager, Board of Directors and U.S. Department of Transportation on its progress.

Other District executive and management personnel, especially those responsible for procurement and contracting, shall give their full cooperation to the DBE liaison officer and staff in the implementation of this program.

The DBE Program, which has been developed pursuant to this policy, outlines the specific actions which are and will be taken by the District to ensure that DBEs have maximum opportunity to participate in business opportunities resulting from the District's activities. This program will be distributed to all District departments, public entities, and interested community groups.

The District's achievement of its DBE Program goals will significantly contribute to the economic and social progress of every community within its jurisdiction.

  
Interim General Manager

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## 1.0 PROGRAM PURPOSE AND AUTHORITY

### 1.1 PURPOSE

The District receives federal funds from the U.S. Department of Transportation, Urban Mass Transportation Administration (U.S. DOT-UMTA). As a condition of assistance, and in accordance with federal regulations published at 49 CFR 23.43(b), the District is required to submit to UMTA for approval, a Disadvantaged Business Enterprise affirmative action program which it agrees to carry out. This Program is incorporated into the District's financial assistance agreements by reference, and shall be treated as a legal obligation. Failure to carry out its terms shall be treated as a violation of the financial assistance agreements.

This program sets forth the policies and procedures to be implemented by the District to ensure that DBEs have maximum opportunity to participate in all of the District's business opportunities.

### 1.2 AUTHORITY

Authority and reference for the District's DBE Program is derived from, but not limited, to the following:

- a. Executive Order 11458, "Prescribing Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise," dated March 7, 1969;
- b. Executive Order 11625 "Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise," dated October 14, 1971;
- c. Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100-17;
- d. Section 105(f) of the Surface Transportation Assistance Act of 1982, Public Law 97-424;
- e. OMB Circular A-102, "Uniform Requirements for Assistance to State and Local Governments" (Attachment O), revised 1-81.
- f. OMB Circular A-128, "Audits of State and Local Governments," April 12, 1985;
- g. 49 CFR Part 23, "Participation by Minority Business Enterprises in Department of Transportation Programs," dated March 31, 1980, April 27, 1981, July 21, 1983, and October 21, 1987;

- h. 49 CFR Part 29, "Suspension and Debarment of Participants in DOT Financial Assistance Program," dated April 18, 1984.
- i. 13 CFR Part 121, Small Business Size Standards, Emergency Interim Final Rule, dated January 1, 1987;
- j. UMTA Order 4220.1A, "Third-Party Contracting Guidelines," dated June 8, 1982;
- k. UMTA Circular 4716.1A, "Disadvantaged Business Enterprise Requirements for Recipients and Transit Vehicle Manufacturers";
- l. Part II, Section 110(a) of the UMTA Standard Grant contract, dated August 15, 1985;
- m. "Consolidated Omnibus Budget Reconciliation Act of 1985," Public Law 99-272;
- n. False Claims Amendments Act of 1986, Public Law 99-562;
- o. Program Fraud Civil Remedies Act of 1986, Public Law 99-509;
- p. California Public Contract Code 20231-20233; Article VIII of the District's "Rules and Regulations" dated January 14, 1988; and the District's "OCPM Procedures Manual";
- q. District "Policies and Procedures for Implementing Joint Development" dated November 1983; and District "Policies and Procedures for Implementing Joint Development of Metro Rail and Bus Facilities", dated August 1987;
- r. "District Investment Policies and Operating Procedures Manual", Section II, Investment Guidelines, dated January 31, 1988; and
- s. "DBE Bond Guarantee Program Specifications and Questions and Answers", dated June 1988.

### 1.3 PROGRAM ELEMENTS

Recipients of U.S. Department of Transportation capital or operating assistance in excess of \$500,000, or planning assistance in excess of \$200,000 are required to adopt DBE Programs which contain the elements listed in "a." through "k." below. The elements listed in "l." through "n." below are recommended. The authority (federal regulation) for each required element, and the section(s) where each element is contained or referenced in this Program are identified in the table below.

<u>Program Element</u>	<u>Authority</u>	<u>Section(s)</u>
a. A Policy Statement expressing a commitment to use DBEs in all aspects of contracting to the maximum extent feasible.	49CFR 23.45(a)	Statement of Policy
b. Designation of a liaison officer and a description of the authority, responsibility, and duties of the liaison officer and support staff.	49CFR 23.45(b)	2.0
c. Procedures to ensure that DBEs have an equitable opportunity to compete for contracts and sub-contracts.	49CFR 23.45(c)	4.0, 6.0 and 8.0
d. Opportunities for use of DBE banks.	49CFR 23.45(d)	4.3
e. A DBE Directory or source list to facilitate identifying DBEs with capabilities relevant to specific contract opportunities.	49CFR 23.45(e)	2.2(b)(7) 2.3(b)(9) 7.0
f. Procedures to ascertain the eligibility of DBEs.	49CFR 23.45(f) Appendices B and C	7.0
g. Percentage goals for the dollar value of products and/or services to be awarded to DBEs including the methodology for developing contract goals.	49CFR 23.45(g) Subpart D	3.0 and Appendices III-A, III-B and III-C

<u>Program Element</u>	<u>Authority</u>	<u>Section(s)</u>
h. Procedures to require that competitors of contracts with DBE goals are committed to meeting the goal or satisfy the recipient that they made good faith efforts to meet the goal.	49CFR 23.45(h) as amended	4.4 and Appendices IV-A and IV-B
i. Procedures by which the recipient will achieve DBE set-asides where permissible under local law.	49CFR 23.45(k)	4.5
j. Challenge procedures.	49CFR 23.69	7.16
k. Definitions of Terms.	49CFR 23.5; 23.62	Appendix I
l. General Requirements (DBE Obligations and Lessee Goals).	49CFR 23.43	Appendices IV-A & IV-B and 6.0
m. Counting DBE Participation Toward Meeting Goals.	49CFR 23.47	9.6 and Appendices IV-A & IV-B
n. Maintenance of Records and Reports.	49CFR 23.49	9.0

#### 1.4 DEFINITION OF TERMS

Appendix I contains definitions of terms used in this Program.



## 2.0 RESPONSIBILITIES AND DUTIES

### 2.1 General Manager (GM)

The District's General Manager has the overall responsibility for directing the development and implementation of the DBE Program.

Pursuant to 49 CFR 23.45(b), the General Manager has designated the Assistant General Manager-Equal Opportunity as the DBE liaison officer, and authorized support staff as described below and on Appendix II (Organization Chart) to administer the DBE Program.

### 2.2 Assistant General Manager-Equal Opportunity (AGM-EO)

The AGM-EO shall be the DBE liaison officer and shall be responsible for ensuring implementation of the DBE Program throughout all District departments.

The following support staff shall be authorized under the office of the AGM-EO to administer the program.

#### (a) Disadvantaged Business Enterprise (DBE) Director

The DBE Director is responsible for the following activities, and shall be authorized support staff to carry out these duties:

- (1) Analyze and recommend revisions to the DBE Program policies and procedures as necessary.
- (2) Survey DBE community for development of goal setting data and to outreach to them about business opportunities.
- (3) Analyze District contract opportunities, availability of DBEs, and develop annual DBE goals and methodology document.
- (4) Participate at trade fairs targeted for DBEs.
- (5) Conduct training seminars for DBEs and prime contractors.
- (6) Publish a newsletter informing DBEs of upcoming contract opportunities and other District business information.
- (7) Publish and distribute resource material to DBEs containing technical assistance information on competing for and performing District contracts.

- (8) Consult with the District's chief financial officer about the District's minority banking program and ways to increase investment of funds with minority financial institutions.
- (9) Monitor the implementation of the DBE Transit Bond Guarantee Program (TBGP) by the District Insurance Administrator; provide training to prime contractors and DBEs on the Program; screen potential participants; coordinate release of authorization to issue letters of credit with the District's chief financial officer; and report BGP progress to local funding agencies.
- (10) Coordinate development and implementation of policies and procedures for DBE participation on joint development projects with District Real Estate and Planning departments; participate in the proposal evaluation process.
- (11) Establish contract-specific goals.
- (12) Implement outreach programs for DBEs.
- (13) Participate at pre-bid/proposal conferences to inform potential competitors of DBE requirements.
- (14) Participate on proposal evaluation and negotiation Committees.
- (15) Evaluate bids and proposals for compliance with DBE requirements, including bidders' good faith efforts.
- (16) Make recommendation to District's Director, OCPM concerning DBE compliance or non-compliance of competitors.
- (17) Brief AGM-EO concerning any recommendations to reject bidders for DBE non-compliance, attend board meetings at which time these matters are considered, and respond to queries from Board members.
- (18) Compile DBE statistical and narrative reports for UMTA, the Board, and other public agencies. Advise AGM-EO's Data Technician during the development of these reports.

(b) Contract Compliance (CC) Director

The CC Director is responsible for the following activities and shall be authorized appropriate support staff to carry out these duties:

- (1) Analyze and recommend revisions to the DBE policies and procedures for granting and denying DBE certification, monitoring contractors compliance with DBE requirements, and imposing sanctions for violation of these requirements.
- (2) Conduct on-site visits to DBE certification applicants' business facilities and job sites.
- (3) Consult counterparts at other transit properties nationwide concerning background investigations on business concerns located within their respective geographic jurisdictions who have applied to the District for DBE certification.
- (4) Grant or deny DBE certification.
- (5) Brief AGM-EO concerning certification denials and participate at appeals hearings before the AGM-EO.
- (6) Respond to potential bidders' inquiries concerning DBE certification or denial of their prospective DBEs.
- (7) Compile, update and distribute a directory of DBE certified and denied firms.
- (8) Participate at pre-construction conferences.
- (9) Monitor contractor's compliance with:
  - o DBE utilization goals
  - o Labor standards provisions
  - o EEO goals and timetables
- (10) Conduct preliminary investigation of potential DBE certification fraud, and refers information to appropriate Inspector General.
- (11) Provide data to the DBE Director from contractor's DBE utilization reports for compilation of DBE reports to UMTA.
- (12) Review the contractor's good faith efforts to meet his/her DBE goal committed to in the bid or proposal throughout the performance of the contract.
- (13) Review and recommend to the Director, OCPM approval or disapproval of prime contractors' request to substitute a DBE.
- (14) Investigate/conciliate disputes between prime contractor and DBE.

- (15) Review Contractor's violation of DBE utilization requirements; recommend any appropriate administrative sanction to be imposed through the Assistant General Manager-Equal Opportunity in accordance with 8.5(d); and coordinate imposition of administrative sanctions with the District's General Counsel and Director, OCPM.

### 2.3 Other Support Personnel

District Personnel from other Departments share the responsibility for ensuring the effective implementation of the DBE Program. They shall give their full cooperation and active support to the AGM-EO and designees in this effort. Their performance in this area shall be evaluated by their superiors as part of their task and standards. This support personnel and examples of their respective responsibilities follow.

(a) The General Counsel(GC) of designee(s) shall:

- (1) Address legal matters relating to DBE program implementation.
- (2) Render legal opinions regarding the interpretation of DBE bid specifications and contract provisions.
- (3) Advise the AGM-EO and OCPM Director regarding matters dealing with imposition of administrative sanctions against contractors who violate DBE provisions.
- (4) Represent the District in all legal actions involving DBE issues.
- (5) Provide the CC Director with legal opinions concerning DBE certification involving complex issues of ownership and control.

(b) The Director, Office of Contracts, Procurement and Materiel (OCPM) or designee(s) shall:

- (1) With input from the DBE Director, recommend revisions to procurement procedures for submittal of data to the DBE Director to assist in the establishment of contract-specific goals.  
(See Appendix III-C)
- (2) Obtain the Subcontract Planning Form from the requesting department for procurements subject to this procedure and refer the information to the DBE Director for determination of contract-specific DBE goal.

- (3) Provide the DBE Director with draft scopes of work for Invitations to Bid (IFBs) and Requests for Proposals (RFPs) to enable goal-setting, outreach to DBEs, and where applicable, development of appropriate DBE language.
- (4) Provide the DBE Director with copies of all final IFBs, RFPs, mailing list, and advanced notices.
- (5) Incorporate DBE goal and appropriate DBE language into IFBs and RFPs.
- (6) Inform the DBE Director of any changes to IFBs and RFPs.
- (7) Send IFBs and RFPs to DBEs referred by the DBE Director.
- (8) Place IFB and RFP Notices in minority-focused newspapers.
- (9) Notify the DBE Director of the scheduled pre-bid conferences.
- (10) Maintain a computerized vendor listing by commodity code and race/ethnic/gender data (See APPENDIX IV-A, Exhibit "A") which will assist OCPM and DBE staff to identify potential DBE competitors.
- (11) Appoint E.O. Department's designated representative to serve on selected formal Proposal Evaluation/Negotiation Committees (PENCs).
- (12) Forward copies of bids to the DBE Director for evaluation of compliance with DBE requirements.
- (13) Incorporate analysis prepared by the DBE Department concerning bidders' and proposers' conformance with DBE requirements into PENC report or Board report for all procurements with DBE goals.
- (14) Maintain computerized data on purchase orders and contracts to enable compilation of UMTA quarterly and ad hoc DBE progress reports.
- (15) Allocate funds in Department's budget for placement of legal notices informing the public of the District's annual DBE goal pursuant to 49 CFR

23; place ads in majority and minority newspapers, and provides the DBE Director with copies of the publisher's affidavits for submittal to UMTA.

- (16) Allocate appropriate resources (budget and staff) to participate with DBE Department staff at major trade fairs targeted for DBEs.
- (17) Order Dun and Bradstreet reports requested by the CC Director for select DBE certification applicants.
- (18) Ensure that all OCPM managers, buyers, and contract administrators:
  - o Receive orientation on DBE policies and procedures.
  - o Receive a copy of the District's current DBE program, annual DBE goals, and current DBE certified directory
  - o Refer all vendors who purport to be a DBE but who are not in the District's Directory to the CC Department to apply for certification.
  - o Utilize the District's DBE Directory to seek potential vendors.
  - o Solicit quotes from at least one DBE (in commodities or services where DBEs are identified) for informal procurements.
  - o For small procurements where formal, public bids are not required and where three or more qualified DBEs exist, solicit quotes pursuant to section 4.6 of this Program.
- (19) In conjunction with the E.O. Department, conduct periodic training of all District project managers on contract procurement and administration, and DBE policies and procedures.
- (20) Incorporate into the contract, all applicable DBE provisions for contracts with goals.
- (21) Alert the CC Director of any potential problems concerning DBE utilization during contract administration.
- (22) Refer all requests for DBE substitution to the CC Director and consider his/her recommendation in final determination for granting or denying the request.

- (23) Ensure that RFPs and IFBs do not contain unnecessary requirements which could unduly restrict or eliminate DBEs from the competition.

(c) The Controller-Treasurer or designee(s) shall:

- (1) Consult with the AGM-EO to maximize investment of District funds with DBE financial institutions, and periodically report the District's progress to the Board of Directors.
- (2) Assist the DBE Director in compiling data to develop the federal funding base for calculation of the annual DBE goals pursuant to Section 3.0 of this Program.
- (3) Ensure maximum participation by DBE financial advisors, investment bankers, and bond counsel through the sale of Revenue Anticipation Notes, Equipment Trust Certificates and other investment instruments.
- (4) Review and approve authorization for DBE Transit Bond Guarantee (TBG) Program participating banks to issue irrevocable letters of credit to participating sureties which guarantee the payment and/or performance bonds for DBEs participating in the TBG Program.

(d) All District Project Managers shall:

- (1) Become familiar with the District's DBE policies and procedures.
- (2) Attend orientation sessions conducted by OCPM and E.O. Department concerning contract procurement and administration, and DBE policies and procedures.
- (3) Provide OCPM with a completed Subcontract Planning Form, along with the Purchase Requisition, for procurements subject to this requirement (See Appendix III-C).
- (4) Utilize the DBE directory to search for potential DBE vendors.
- (5) Provide maximum opportunity to DBEs to compete for contracts within their respective jurisdiction which do not require solicitation of formal, public bids or proposals.
- (6) Refer all firms who purport to be DBEs but who are not on the District's DBE Directory to the CC Department to apply for certification.

- (7) Ensure that for contracts with DBE goals:
  - o DBEs participating in the contract maintain current DBE certification by verifying their status against the most current DBE directory.
  - o DBEs are utilized in accordance with the terms of the contract.
  - o Potential DBE utilization problems are referred to the CC Director.
  - o The prime contractor outreaches to DBEs for additional business opportunities which may result during the performance of the contract.

- (7) Package individual contracts in a manner to maximize the ability of DBEs to compete favorably. Efforts in this area include:
  - o Breaking contract work scope into smaller parts to enable DBEs to compete as prime contractors.
  - o Where not prohibited by State law, waive or reduce insurance bonding requirements, or allow for incremental bonding.

- (8) For construction contracts, inform the CC Director of the scheduled pre-Construction conference.

(e) The Inspector General (IG) shall:

- (1) Provide audit or investigatory assistance to the CC Director in particularly complex or difficult cases involving potential fraud or false statements on the part of certified DBEs in order to obtain certification.
- (2) Provide audit or investigatory assistance to the CC Director in particularly complex or difficult cases involving fraud or false statements on the part of District contractors and subcontractors in carrying out their DBE contract obligations.



### 3.0 DBE GOAL DEVELOPMENT

The DBE Director shall supervise the development of the District's annual and contract-specific goals as described in Sections 3.1 and 3.2 below.

#### 3.1 Annual DBE Goals

- (a) Pursuant to 49 CFR 23.43, 23.45 (g), and 23.64, the District will establish annual goals for participation of DBEs in District contract opportunities.
- (b) Pursuant to Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act 1987, this annual goal will be no less than 10%.
- (c) The annual goals will be submitted to the Board of Directors and UMTA for approval and will become part of all UMTA financial assistance agreements.
- (d) The following factors will be considered in developing the annual goals.
  - (1) The number, types and dollar value of contracting opportunities expected to be financed with UMTA assistance and to be awarded during the fiscal year.
  - (2) The number of known and projected DBEs available, based on the type and size of contract opportunities, to compete for such contracts.
  - (3) The past results of the District with similar contracting opportunities, and the reasons for the level of those results.
  - (4) The methods used by the District to increase DBE participation in UMTA assisted contracts.
  - (5) The demographics and business activity of the geographical area in which the District will solicit bids or proposals.
  - (6) The forms and methodology used to compute the UMTA funding base and calculate the annual goals are contained in Appendices III-B and III-C.
  - (7) The following departments will assist the DBE Director in the development of the annual goal by providing budget, financial and procurement information which will be used to develop the federal funding base against which the annual DBE goals are calculated:

- o Office of Management and Budget.
  - o Controller-Treasurer
  - o Office of Contracts, Procurement and Materiel.
  - o All District departments who intend to purchase goods and services during the reporting period.
- (g) Data sources used to develop the annual goals include:
- (1) The District's fiscal year budget.
  - (2) Grant-funded capital lists.
  - (3) Specific capital Project (i.e. Metro Rail) financial plan and schedule.
  - (4) Input from user departments concerning upcoming contract opportunities.
  - (5) Survey of DBE availability.
  - (6) DBE certified lists from the District and other DOT recipients.
- (h) The DBE Director will circulate to all executive staff and department heads the draft annual DBE goals document for comments.
- (i) The annual goals will be submitted to UMTA for approval 60 days prior to the beginning of the federal fiscal year (by August 1st).
- (j) Concurrent with this submittal, the District will publish a notice in major and minority-focused newspapers announcing the goal, and providing the public an opportunity to review the annual goals document and submit comments to the District and/or UMTA.

### 3.2 Contract-Specific DBE Goals

- (a) Pursuant to 49 CFR 23.45(g), the District shall set DBE goals for each contract (excluding those for purchase of transit vehicles) with subcontracting possibilities.
- (b) The methodology used to establish these goals follows.
  - (1) The DBE Department will receive from the OCPM Department a Subcontract Planning Form (see Appendix III-C) for each purchase requisition over \$25,000.

- (2) If necessary, DBE Department staff will consult with the project manager for a specific contract and review the draft scope of work to determine the level and type of subcontracting opportunities.
- (3) The DBE Department staff will conduct an in-depth analysis of the DBE availability within the identified contract opportunities and will contact other transit properties to determine their past experience on similar procurements.
- (4) For contracts that have very distinct subcontract opportunities (i.e. construction) for which the project manager can discretely assign values, the following is an example of computation of DBE goals for such a case.

Take the hypothetical case of a major bus maintenance facility to be built at an estimated cost of \$6,700,000.

District's estimate.....\$6,700,000  
 Prime contractor bid-items..\$2,230,000  
 Subcontractor bid-items.....\$4,470,000

$$\frac{4,470,000}{6,700,000} \times 100 = 66.7\%$$

Therefore 66.7% of this work is available for subcontracting.

Next, the DBE Department does an item-by-item reduction in the number of sub-elements for which available DBEs cannot be identified.

\$4,470,000  
~~-3,250,000~~ (no available DBEs for this work)  
\$1,220,000 (can be performed by DBEs)

Factored as a percentage of the total value of the contract:

$$\frac{1,220,000}{6,700,000} \times 100 = 18.2\%$$

For this contract, a 18% DBE goal is recommended to the OCPM Director.

- (5) For contracts that may generate subcontracting opportunities, but for which the project manager may not be able to discretely assign dollar values to these subcontract or joint venture

opportunities (i.e. architectural & engineering or other professional service contracts), the DBE goal will be established based on past experience by the District or other public agencies with similar contracts.

- (c) The DBE Director will recommend the contract-specific goal to the OCPM Director for incorporation into the IFB or RFP documents.

#### 4.0 PROCEDURES TO ENSURE DBE MAXIMUM PARTICIPATION

- 4.1 Pursuant to 49 CFR 23.45(c), 23.45(d), 23.45(h), and 23.45(k), the District is required to:
- (a) Establish procedures to ensure that DBEs have an equitable opportunity to compete for contracts and subcontracts.
  - (b) Provide opportunities for use of DBE banks.
  - (c) Establish procedures to require that competitors of contracts with DBE goals satisfy the District that they are committed to meeting the goal or that they made good faith efforts to meet the goal in order to be eligible for contract award.
  - (d) Establish procedures to implement DBE set-asides where not prohibited by State or local law and determined necessary to meet the annual DBE goal.
- 4.2 Procedures to ensure that DBEs have an equitable opportunity to compete for contracts and subcontracts include the following:
- (a) Outreach to DBEs to inform them of upcoming contract opportunities through the following methods:
    - (1) Trade fairs
    - (2) Newsletter
    - (3) Seminars
    - (4) One-on-one meetings
    - (5) Minority and women business associations
    - (6) Business development centers
  - (b) Remove barriers which may limit DBE participation, such as:
    - (1) Ensuring IFB and RFP do not contain unduly restrictive requirements.
    - (2) Waiving or allowing incremental bonding where not prohibited by State law.
  - (c) Require active participation of a representative from the Equal Opportunity Department on Proposal Evaluation and Negotiating Committees (PENCS) for selected formal procurements.

(d) Provide technical assistance to DBEs which will include:

- (1) Publication and distribution of a comprehensive guide which contains information about the District's DBE and procurement policies and procedures, name and telephone numbers of key contact persons, a listing of all District departments and the types of goods and services they may purchase, and tips on how to prepare bids and proposals.
- (2) Facilitate release to DBEs of public documents which provide information on prior winning bids or proposals.
- (3) Link interested DBEs with appropriate buyers, contract administrators and project managers to inquire about short and long-range needs of the district for procurement of goods and services within their areas of specialization.
- (4) Facilitate debriefing of unsuccessful DBE proposer by the Proposal Evaluation/Negotiation Committee to discuss strengths and weaknesses of his/her proposal.
- (5) Assist DBEs in applying to the CC Department for certification.
- (6) Refer DBEs to Minority Business Development Centers for more indepth "hands on" technical and financial assistance (i.e. preparing bids, proposals, business plans, financial statements; and accessing working capital and bonding).
- (7) For the Metro Rail Project, administer a surety bond guarantee and working capital loan program for DBE subcontractors.

4.3 Concerning maximum utilization of DBE financial institutions, the District's Controller-Treasurer shall:

- (a) Consult with the AGM-EO to develop strategies to increase District investment of funds with these institutions.
- (b) Thoroughly investigate the full extent of services offered by DBE banks within the District's jurisdiction and make the greatest feasible use of these banks.

- (c) Report periodically to the Board of Directors on the District's progress in this area.
- (d) In accordance with the District's "Investment Policy and Operating Procedures Manual," Chapter II, Investment Guidelines, the section on Selection of Financial Institutions, Investment Managers, and Security Dealers states:

In pursuing local policy objectives regarding minority business enterprises (MBE) or women-owned business enterprises (WBE), the District may invest in non-negotiable certificates of deposit of MBE and WBE financial institutions. However, rating criteria may not be strictly applied in cases where the financial institutions are selected in order to further local policy objectives of the District's Board of Directors. Uninsured amounts of non-negotiable certificates of deposit in excess of \$100,000 in any one institution shall be collateralized.

- 4.4 Procedures to require firms competing for District contracts to commit to meeting the DBE goal or satisfying the District that good faith efforts have been made are described in the following Appendices.
  - (a) Appendix IV-A for all competitive low bid procurements (i.e. construction contracts) that have DBE goals.
  - (b) Appendix IV-B for all negotiated procurements (i.e. professional services) that have DBE goals.
  - (c) Appendix IV-C for all competitive low bid procurements where the District has not established DBE goals (due to small size of contract or lack of identifiable subcontract opportunities) but where, nevertheless, competitors are encouraged to maximize utilization of DBEs if they plan to use subcontractors or suppliers.
  - (d) Appendix IV-D for all negotiated procurements where the District has not established DBE goals, but where, nevertheless, competitors are encouraged to maximize utilization of DBEs if they plan to use subcontractors or suppliers.

#### 4.5 DBE Set-Asides

The preamble to the DBE Regulations (49 CFR Part 23) published in the Federal Register on March 31, 1980, states the following with regard to set-asides.

- (a) The U.S. Department of Transportation takes a position that set-asides (a procurement technique that limits consideration of bids on a given contract to those

submitted by DBEs) are a tool that recipients should use, where not prohibited by State or local law, to meet their overall annual goals, particularly when other means of meeting those goals are unsuccessful.

- (b) If a recipient concludes that state or local law prevents using set-asides, the U.S. Department of Transportation may examine the validity of the legal rationale upon which this conclusion is based.
- (c) If a recipient fails to meet its overall goals, is not prohibited by state or local law from using set-asides, and chooses not to use set-asides, the recipient may be subject to being found in noncompliance with this regulation on the grounds of having failed to make all reasonable and necessary efforts to meet its goals.

To date, the District has been able to meet its overall annual DBE goal without the implementation of set-asides.

#### 4.6 Other Good Faith Efforts to Maximize DBE Participation

For small procurements where formal, public bids or proposals are not required, the District will undertake the following efforts to increase the possibility for DBEs to compete for, and perform contracts:

- (a) Where less than three DBEs with capabilities consistent with the contract requirements exist, at least one of these DBEs will be included among those firms from whom quotes, bids, or proposals are solicited.
- (b) Where three or more DBEs with capabilities consistent with the contract requirements exist, the District may solicit quotes, bids or proposals exclusively from these three or more DBEs.



## 5.0 TRANSIT VEHICLE MANUFACTURERS

- 5.1 Pursuant to 49 CFR 23.67(b), transit vehicle manufacturers (TVMs) are required to submit directly to the UMTA Administrator for approval, an annual percentage overall goal for the utilization of DBEs.
- 5.2 Pursuant to 49 CFR 23.67(a), the District will require that each TVM, as a condition of being authorized to bid on UMTA-funded transit vehicle procurements, certify that:
  - (a) It has submitted the required annual percentage overall DBE goal to UMTA; and
  - (b) UMTA has either approved or not disapproved the goal.
- 5.3 Pursuant to 49 CFR 23.64(b), UMTA funds for procurement of transit vehicles will be exempt from:
  - (a) The federal funding base used to calculate the overall District annual DBE goal.
  - (b) The total contract award figures reported to UMTA on a quarterly basis (TVMs report directly to UMTA).
  - (c) Contract-specific goal-setting at the District level (TVMs submit annual goals for all anticipated yearly work directly to UMTA).

6.0 PARTICIPATION BY DISADVANTAGED, MINORITY, AND  
WOMEN'S BUSINESS ENTERPRISES (DBEs, MBES AND WBEs)  
IN JOINT DEVELOPMENT PROJECTS

- 6.1 Policy: The District is required by Board policy to ensure active participation by Disadvantaged, Minority, and Women's Business Enterprises (DBEs, MBEs, and WBEs) throughout various aspects of all joint development projects, including but not limited to project planning, design, financing, equity participation, construction, management, and leaseholds.
- 6.2 Goals: For each joint development project, the District will establish goals for participation by DBEs, MBEs, and WBEs to include but not be limited to the areas listed in (a) through (h), below.

The District is required by federal laws and regulations to provide maximum participation in all federally-funded business opportunities to DBEs. Therefore, the District will establish goals exclusively for DBEs (excluding MBEs and WBEs) in those areas where sufficient DBEs exist to enable competition. However, in large joint development projects where the financial resources required to participate are beyond those of DBEs (i.e., equity participation, development team, financing), the District will establish goals which can be met with either DBEs, MBEs, or WBEs.

Goals for participation by DBEs and/or MBEs/WBEs will be established for available business opportunities, including but not limited to:

- (a) Equity participation;
- (b) Development team;
- (c) Financing, including but not limited to consulting, brokerage services, construction, or permanent financing (MBEs or DBEs);
- (d) Project design, including but not limited to architectural and engineering services;
- (e) Project construction, including but not limited to general and specialty contractors and subcontractors, construction management, and suppliers;
- (f) Initial leasing, including but not limited to marketing, advertising, and brokerage services;
- (g) Project management, including but not limited to property management, maintenance, security, accounting, legal, and other services; and

(h) Leasehold arrangements.

- 6.3 Certification: All DBEs, MBEs, and WBEs whom the successful developer plans to involve in the project to meet the above-stated goals, must be certified by the District prior to execution of Agreement/Lease.
- 6.4 Developer's DBE Commitment: Proposals must include a plan for how the developer intends to meet each of the DBE/MBE/WBE participation goals set forth in the RFP or prospectus. This plan must include at a minimum the following information:
- (a) The name of each DBE, MBE, or WBE who will participate in the project.
  - (b) The area or scope of work in which the DBE, MBE or WBE will participate.
  - (c) The estimated level of financial participation to be derived from the project by each DBE, MBE, or WBE.
  - (d) The name, address, telephone number of the person responsible for the DBE/MBE/WBE plan implementation and reporting.
- 6.5 District Roles and Responsibilities
- (a) The Board of Directors will establish overall joint development policies and provide direction to the General Manager.
  - (b) The General Manager will direct and oversee all staff activities and report to the Board. He/she will designate an inter-departmental staff team to review joint development proposals, formulate negotiating positions for consideration and approval by the Board. A representative of the Equal Opportunity Department shall serve on this team.
  - (c) The Assistant general Manager-EO (as supported by the DBE and CC Directors) will:
    - (1) Assist developers in identifying potential DBE, MBE, and WBE participants.
    - (2) Conduct joint development workshops on development potential for specific projects and to bridge communication between developers and DBEs/MBEs/WBEs.

- (3) Participate on interdepartmental teams to evaluate proposals and formulate negotiating positions for consideration by the Board.
  - (4) Analyze potential business opportunities for each joint development project and establish DBE and MBE participation goals.
  - (5) Participate at pre-proposal conferences to discuss DBE/MBE/WBE policies and procedures.
  - (6) Certify potential DBE, MBE, and WBE joint development project participants.
  - (7) Monitor the developers' fulfillment of his/her DBE/MBE/WBE plan.
- (d) The Planning Department Director will identify development potential at each site and prepare alternative design solutions for particular projects in conjunction with appropriate local jurisdictions. In coordination with the AGM-EO or designee, he/she will conduct workshops on development potential at each station with particular emphasis placed on the involvement of DBE, MBE and WBE developers.
- (e) The Real Estate Department Director will be responsible for initiating property owner/developer contacts and for administration and monitoring of the joint development agreement. He/she will assist the AGM-EO or designee in identifying minority and women property owners within the proposed joint development project area, and in monitoring the DBE/MBE/WBE Plan.

## 7.0 DBE CERTIFICATION

Certification is the process by which all businesses seeking to participate in the District's DBE Program are determined to be legitimate DBEs as defined by USDOT at 49 CFR 23, as amended. All certification determinations are evidenced by a letter of DBE certification issued by the Contract Compliance Department.

The name, address, telephone number and a description of the goods or services offered by the firm are maintained in the District's List of Certified and Denied Companies (DBE directory) for all businesses who have been certified or denied certification. This list is published quarterly supplemented by monthly updates.

The District's listing of a business concern in this directory as a DBE-certified firm in no way represents or implies the degree of the firm's capability to perform the type of work identified thereon. This listing merely verifies that the District has investigated the business concern and determined that it meets the DBE ownership/control eligibility criteria. Users of this Directory (Bidders, prime contractors, District buyers and project managers) are responsible for determining the DBE's capability to perform the work for which it is being solicited based upon an evaluation of the specific work scope, the DBE's capability and resources to perform the work at the time of solicitation, and the DBE's business references.

Certification applications (Schedules A and B, attached hereto as Appendix IV-A Exhibit A and Exhibit B, respectively) and supporting documentation are evaluated for conformity with the certification Eligibility Standards of USDOT (attached as Appendix VI); the Definitions contained in Appendix I; and the District's Interpretative Rules which follow.

### 7.1 Operational Control

The primary consideration in determining operational control and the extent to which the disadvantaged person actually operates the business will rest upon the peculiarities of the industry of which the business is a part.

Accordingly, in order to clarify the level of operational involvement of the disadvantaged person in the business to be deemed as a DBE, the following examples are put forth and are not intended to be all inclusive.

- (a) The disadvantaged person should have education or experience or both in the industry for which certification is sought.
- (b) The disadvantaged person should be able to demonstrate that basic decisions pertaining to the daily operations of the business are independently made.
- (c) The disadvantaged person should have some technical competence in the industry for which certification is sought. Technical competence in this sense does not mean expert knowledge. It does mean the disadvantaged person should have a working knowledge of the technical requirements of the business needed to operate in the industry.

## 7.2 Managerial Control

Control in this instance means that the disadvantaged person has the demonstrable ability to make independent and unilateral business decisions needed to guide the future and destiny of the business.

The disadvantaged person should be able to show clearly, through documentary evidence, the areas of control such as, but not limited to:

- (a) Authority and responsibility to sign pay checks and letters of credit.
- (b) Authority for negotiations and signature responsibility for insurance and/or bonds.
- (c) Authority for negotiations for banking services.
- (d) Authority for contractual negotiations with signature responsibility.

Agreements for support services that do not impair the disadvantaged person's control of the company are permitted as long as the owner's power to manage the company is not restricted or impaired.

## 7.3 Control Through Stock Ownership

- (a) Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it.
- (b) The term party or parties includes, but is not limited to, two or more persons with an identity of interest such as members of the same family or persons with common investments in more than one concern. In

determining who controls or has the power to control a corporation, persons with an identity of interest may be treated as though they were one person.

- (c) A party is considered to control or have the power to control a corporation if he/she controls or has the power to control 51 percent or more of its voting stock; however,
- (d) A party is considered to control or have the power to control a corporation even though he/she owns, controls or has the power to control less than 51 percent of the corporation's voting stock if the block of stock he/she owns, controls or has the power to control is large as compared with any other outstanding block of stock. If two or more parties each owns, controls or has the power to control less than 51 percent of the voting stock of the corporation, and such minority block is (1) equal or substantially equal in size and (2) large as compared to any other block outstanding, there is a presumption that each of such parties control or has the power to control the corporation. However, such presumption may be rebutted by showing that such control does not, in fact, exist.

#### 7.4 Control Through Common Management

A business concern is considered as controlling or having the power to control another concern when one or more of the following circumstances are found to exist and it is reasonable to conclude that such concern is directing or influencing, or has the power to direct or influence the management and/or daily operations of such other concern.

- (a) Interlocking Management. Officers, directors, employees or principal stockholders of one concern serve as a working majority of the board of directors or officers of another concern.
- (b) Common Facilities. One concern shares common office space and/or employees and/or other facilities with another concern (whether or not for a purported fee or other consideration) particularly where both concerns are in the same or related industry or field of operation or where such concerns were formerly affiliated.
- (c) Recently Formed Concern. Former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees and one concern is furnishing or will

furnish the other with subcontracts, financial or technical support and/or other facilities whether or not for a purported fee or other consideration.

#### 7.5 Small Business Administration Size Standards

- (a) In order to be certified, a business must qualify as a small business concern as defined by the U.S. Small Business Administration (SBA) at 13 CFR 121, as amended.
- (b) The applicable size standard for each applicant shall be determined by the Contract Compliance Department by identifying the firm's primary area of work; locating the applicable Standard Industrial Classification (SIC) code; and applying the corresponding size standard. The number and types of licenses held by the firm will not be determinative of business size.
- (c) Businesses holding a valid 8(a) certification from SBA shall be presumed to be disadvantaged. However, any business which fails to qualify under SBA size standards as a small business, including a firm certified by SBA under the 8(a) program cannot be certified as a DBE even though it is owned and controlled by socially and economically disadvantaged individuals. Firms granted 8(a) certification by the SBA shall, nevertheless, be required to submit additional information to verify business size, ownership and control.
- (d) No business shall be considered small if its average annual gross receipts for the past three years exceeds \$14 million eventhough it does not exceed the threshold for its respective SIC code. A certified DBE firm whose average annual gross receipts exceeds \$14 million will be graduated from the District's DBE Program.

#### 7.6 Application Procedure

Submission of Schedule A/B and Supporting Documentation.

All applicants for certification as an individual business concern must submit a signed and notarized Schedule A which may be obtained from the Disadvantaged Business Enterprise or the Contract Compliance Departments. All joint venture applicants must complete a Schedule B for the joint venture and each DBE joint venture partner must complete a Schedule A. All firms must submit, as applicable, the following items:

- (a) All Schedule A applicants must submit the following items:



- (1) License to do business and/or fictitious name statement for sole proprietorship;
  - (2) Federal tax returns for the past 3 years, which must include Schedule E-Form 1040 for Corporations. Schedule K-Form 1040 for Partnerships; and Schedule C-Form 1040 for Sole Proprietorships.
  - (3) Resumes of principals and key personnel; and
  - (4) Third party agreements such as rentals, lease agreements and professional service agreements which show the degree to which contracting relationships between majority and minority owners conform to normal industry practice.
- (b) Partnerships: Must submit the following items in addition to those items required in 7.6(a) above:
- (1) Partnership agreements and any amendments thereto;
  - (2) Profit sharing agreements; and
  - (3) Buy-out rights if not contained in the partnership agreement.
- (c) Corporations: Must submit the following items in addition to those required in 7.6(a) above:
- (1) Articles of incorporation;
  - (2) By-Laws;
  - (3) Stockholder option agreements;
  - (4) Stockholder agreements;
  - (5) Stock certificates of each holder for closely held corporations;
  - (6) Record of first organization meeting;
  - (7) Statement of Foreign Corporation Designation (if incorporated outside of California).

The applicant must support any claim of prior certification with documentary evidence. Where banks or business references are required to be identified on Schedule A, the full address and name of contact person must be provided. In the case of construction subcontractors, and all non-certified DBEs listed on other types of competitive low bids, the required information must be provided within five days of the request of DBE Department. The above information should be forwarded to:

Southern California Rapid Transit District  
Contract Compliance Department (6200)  
425 South Main Street, 6th Floor  
Los Angeles, CA 90013

## 7.7 Requests for and Submission of Additional Information

The District may request additional information if there is insufficient evidence upon which to base a determination. No action will be taken on an application until all items have been submitted. Applicants should not wait for a conditional contract commitment prior to applying for a certification, but shall apply as soon as it is determined that its participation as a DBE is sought. It is the prime contractor's or competitor's responsibility to ensure that all of its current or potential DBE subcontractors, suppliers, and joint venture partners submit a timely application for certification with supporting documentation. Failure or refusal of an applicant to comply with requests for information or submission deadlines shall result in the denial of certification and adversely impact the prime contractor's or competitor's ability to meet the District DBE goals.

## 7.8 Subsequent Changes in Ownership and/or Control

- (a) Applicants are evaluated on the basis of documentation in existence at the time of application for certification. Therefore, any changes contemplated in the ownership and/or control of the firm, or in the documentation submitted in the application for certification, including but not limited to those set forth below, must be fully disclosed at the time of application:
- (1) Amendments, modifications, additions, deletions, revisions;
  - (2) Execution of new agreements, board and/or share-holders' resolutions, memoranda of understanding;
  - (3) Consolidation, liquidation, reorganization, merger;
  - (4) Election of new officers and/or directors, appointment of new principals and/or key personnel; and
  - (5) The purchase and/or sale of shares, new issues of shares.
- (b) Such disclosure shall provide the facts surrounding and the effective dates of any changes to be made subsequent to filing for certification.
- (c) Any changes in the ownership and/or control of the firm subsequent to the granting of certification must

be immediately reported to the Contract Compliance Department. Failure to comply with this provision will be handled in accordance with 7.9(b).

#### 7.9 Incomplete Submissions

- (a) Applicants who fail or refuse to submit information deemed necessary for certification review will not be certified. All applicants will be contacted twice by letter after initial submission for supporting documentation, if such was not included therein. If any information requested is not available or applicable, the applicant must provide a written explanation therefor.
- (b) After being contacted twice by letter for supporting documentation without a response, the applicant's file shall be closed and placed in an inactive file for a period of three (3) years, after which it shall be destroyed.
- (c) Any applicant who wishes to apply for certification whose file has been destroyed must follow the procedures for initial application.

#### 7.10 Initial Review: Desk Audit

The desk audit is that part of the certification procedure at which all of the applicant's submissions are reviewed for internal consistency, accuracy and conformity with the DOT Eligibility Standards.

- (a) All documents will be reviewed by staff for completeness and accuracy. Applicants will be promptly informed by staff of any deficiencies in the documentation submitted and given a timetable for corrective action.
- (b) All documents will then be scrutinized for internal consistency. Any discrepancies in the documentation submitted should be explained in writing by the applicant at the time of application for certification or upon request by the Contract Compliance Department.
- (c) The District is required by Section 106(c) of the Surface Transportation and Uniform Relocation and Assistance Act of 1987 to implement minimum steps in the certification process. These steps are personal interviews, on-site visits, review of licences, analysis of stock ownership, listing of equipment, analysis of financial capacity and the identification of the type work preferred in the District's DBE Program.

### 7.11 On-Site Visit

- (a) An on-site visit will be scheduled at which the principals will be given an opportunity to explain and answer any questions relative to ownership and control of the firm.
- (b) All data gathered at the on-site visit will be analyzed off-site and used as the basis for a determination.

### 7.12 Staff Recommendation

- (a) All data pertaining to the firm's eligibility will be forwarded together with a recommendation to the Assistant General Manager - Equal Opportunity.
- (b) The Assistant General Manager - Equal Opportunity will either concur with the recommendation and give approval for release of a letter of certification, or disagree with the recommendation and give approval for release of a Notice of Denial of Certification.
- (c) If certified, the firm will be so notified and included in the District's Certified and Denied Companies list and shall be certified for a period of one year from the date of the letter of certification. The District may withdraw this certification if at any time it is determined certification was knowingly obtained by false, misleading or incorrect information. Such false information may be the basis for investigation by the District's Inspector General or the Inspector General-USDOT and prosecution in accordance with the provisions of 49 CFR 23.87. The District may request additional information or conduct on-site visits or both at any time during the certification period to verify any documentation submitted in application for certification. By applying for certification, the firm consents to the examination of its books, records and documents by the District.

### 7.13 Appeal to the Assistant General Manager - Equal Opportunity

- (a) If denied certification, the applicant will be so notified and given an opportunity to submit a written appeal to the Assistant General Manager - Equal Opportunity which at the discretion of the applicant may include a request for a hearing. Appeal is limited to the grounds stated in the Notice of Denial of Certification.

- (b) Upon receipt of the applicant's written appeal, the Assistant General Manager - Equal Opportunity shall review the matter and render a decision, supported by the evidence, within 21 days of receipt thereof. He/she shall inform the applicant of the decision, in writing within the 21 day period; if certification denial is sustained, the applicant will be informed of its right to a hearing on the matter, if such was not requested with the written appeal.
- (c) All hearings will be conducted by the Assistant General Manager - Equal Opportunity in an informal manner and shall be recorded. Both the applicant and The District may have counsel present at the hearing. The applicant may present opposing facts and evidence which supports his/her contention that certification has been wrongly denied. At the close of the hearing the firm will be informed that a final written decision shall be rendered by the Assistant General Manager - Equal Opportunity within 21 days of the hearing date and advised of the right of further appeal to the U. S. Department of Transportation.

#### 7.14 Re-Certification

- (a) All firms certified by the District must be re-certified at the expiration date of the one-year certification period. All certified firms must inform the Contract Compliance Department of any change in ownership or control during the certification period. They shall attest to the accuracy of their original submissions or update those submissions or both, as appropriate, as a condition of re-certification.
- (b) Any firm which fails to so attest or submit additional information may be denied certification. Appeal to denial of certification on this ground shall be limited to an explanation of the unavailability or applicability of the requested information. Similarly, failure to notify the District of changes in ownership and control may be grounds for denial of re-certification and appeal shall be limited to an explanation of why the required notice was not given. Re-certification hearing and appeal procedures shall be the same as that of denial of certification.
- (c) It shall be the applicants' sole responsibility to maintain its certification status with the District.

#### 7.15 De-Certification

- (a) If at anytime during the certification period it is determined that certification was obtained by false,

misleading or incorrect information, or that changes in the firm subsequent to certification make it no longer eligible, the District shall immediately schedule a hearing at which the firm must show cause why certification should not be withdrawn. The firm shall be notified of this proceeding in writing by the Assistant General Manager - Equal Opportunity. De-Certification hearing and appeal procedures shall be the same as that of denial of certification. However, if it is determined that certification was granted on the basis of erroneous information, the Assistant General Manager - Equal Opportunity shall, in his discretion, recommend to the General Manager and the District's Inspector General that the matter be referred to the Office of the Inspector General U. S. Department of Transportation.

- (b) If a firm that has been denied certification or has been decertified appeals the District's action to U.S. DOT under 49 CFR 23.55, or if a third party challenges the District's decision to certify the firm under 49 CFR 23.55, the District's action shall remain in effect regardless of the determination by any other public agency, unless U.S. DOT makes a determination under 49 CFR 23.55 revising the District's action. The District's action is not stayed during the pendency of a section 23.55 appeal.

#### 7.16 Challenge Procedure

This Challenge Procedure is required to be established under and is consistent with the provisions of 49 CFR Section 23.64.

- (a) Any third party may challenge the socially and economically disadvantaged status of any individual (except an individual who has a current 8 (a) certification from the Small Business Administration) presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the District as a disadvantaged business. The challenge shall be made in writing the District's Contract Compliance Department.
- (b) With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.
- (c) The Contract Compliance Department shall determine, on the basis of the information provided by the

challenging party, whether there is reason to believe that the challenged party is in fact not socially and economically disadvantaged.

- (1) If the Contract Compliance Department determines that there is not reason to believe that the challenged party is socially and economically disadvantaged, the Contract Compliance Department shall so inform the challenging party in writing. This terminates the proceeding.
  - (2) If the Contract Compliance Department determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the Contract Compliance Department shall begin a proceeding as provided below.
- (d) The Contract Compliance Department shall notify the challenged party in writing that his or her status as a socially and economically disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the Contract Compliance Department, within a reasonable time, information sufficient to permit the Contract Compliance Department to evaluate his or her status as a socially and economically disadvantaged individual.
  - (e) The Contract Compliance Department shall evaluate the information available to it and make a proposed determination of the social and economic disadvantage of the challenged party. The Contract Compliance Department shall notify both parties of this proposed determination in writing, setting forth the reasons for its proposed determination. The Contract Compliance Department shall provide an opportunity to the parties for an informal hearing, at which time they can respond to this proposed determination in writing and in person.
  - (f) Following the informal hearing, the Contract Compliance Department shall make a final determination. The Contract Compliance Department shall inform the parties in writing of the final determination, setting forth the reasons for its decision.
  - (g) In making the determinations called for in paragraphs 7.16(c), 7.16(e), and 7.16(f) the Contract Compliance Department shall use the standards set forth in Appendix C of 49 CFR Subpart D.

- (h) During the pendency of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.
- (i) The final determination of the District under subparagraphs 7.16(c)(1) and 7.16(f) may be appealed to the U.S. Department of Transportation by the adversely affected party pursuant to the proceeding under the procedures of 49 CFR Section 23.55.



## 8.0 CONTRACT COMPLIANCE

### 8.1 Review and Monitoring System

This section describes the reviewing and monitoring system to ensure that all contractors, subcontractors, vendors, and all District departments comply with the DBE utilization requirements and all other contract specifications related to DBE participation. This aspect of the DBE Program shall be implemented by the Contract Compliance Department.

Noncompliance by the Contractor with the requirements of the DBE regulations constitute a breach of contract and may result in termination of the contract, liquidated damages or other appropriate remedy as set forth in Section 8.5.

### 8.2 Notification of Reporting Responsibilities

Prior to execution of all contracts containing DBE goals, the Contract Compliance Department shall direct the prime contractor to the contract specification for the District's specific DBE reporting and record keeping requirements.

### 8.3 DBE Activity Reporting Forms

All prime contractors shall submit monthly progress reports on DBE utilization to the Contract Compliance Department. Failure to submit these reports in a timely manner shall result in a penalty of \$10 per day per report.

### 8.4 Compliance Review and Evaluation Procedure

- (a) CC Staff shall review the contractor's monthly progress reports to determine whether the utilization of DBE firms is consistent with the commitment of the contractor as stated in its bid or proposal.
- (b) If it is determined that the contractor's DBE utilization is not consistent with the commitment thereto, the contractor shall be requested, in writing, to submit evidence of its good faith efforts to meet the goal. The contractor shall be given 10 working days to submit this documentation. Failure to respond shall place the contractor in non-compliance, subject to sanctions as provided at 8.5.
- (c) The contractor's good faith efforts documentation shall then be renewed for accuracy, sufficiency and internal consistency. Staff shall make a

determination as to the adequacy of the contractor's good faith efforts documentation and so inform the contractor. If it is determined that the contractor's good faith efforts documentation is acceptable, the contractor shall be deemed to be in compliance with the DBE utilization goals.

- (d) If it is determined that the contractor's good faith efforts documentation is not acceptable, the contractor shall be notified and be deemed to be in non-compliance with the DBE utilization goals.

#### 8.5 Administrative Sanctions

- (a) All contractors deemed to be in non-compliance shall be informed in writing, by certified mail, by the Director of OCPM that sanctions shall be imposed for failure to meet DBE utilization goals and/or submit documentation of good faith efforts. The contractor shall be given five working days from the date of the notice to file a written appeal to the General Manager. Failure to respond within the 5 day period shall constitute a waiver of appeal. The notice shall state the specific sanction to be imposed and inform the Contractor of his/her right to a hearing on the merits before the Assistant General Manager-Equal Opportunity and the Director of OCPM.
- (b) The General Manager, shall issue a final determination on the matter within 5 working days of receipt of the written appeal. There shall be no right of appeal to the Board of Directors.
- (c) Sanctions shall include, but not be limited to:
  - (1) Liquidated damages, as explained more completely at 8.5(e);
  - (2) The suspension of payment to the contractor of any monies held by the District as retained on the contract;
  - (3) The denial of the contractor (including its principals and key personnel) of the right to participate in future contracts of the District for a period of up to three years; and
  - (4) Contract termination.
- (d) The Assistant General Manager-Equal Opportunity shall recommend to the Director of OCPM which sanction to apply.

(e) The contract payments shall be reduced by an amount equal to the difference between the contractor's DBE goal commitment and the actual DBE goal attainment multiplied by the liquidated damage assessment as set forth in the following sliding scale:

<u>CONTRACT AMOUNT</u>	<u>ASSESSMENT</u>
\$ 1- \$ 49,000	\$1,000
\$ 50,000-\$149,000	\$1,500
\$150,000-\$249,000	\$2,000
\$250,000-and over	\$2,500

(Example: Contractor committed to 15% DBE participation on a \$500,000 contract. Contractor achieved only 10% at contract close-out and did not submit good faith efforts documentation. The liquidated damages would be 15 minus 10, or 5, multiplied by \$2,500 for a total of \$12,500.)

## 9.0 RECORD KEEPING AND REPORTING

- 9.1 The District will develop and maintain a recordkeeping system which will identify and assess DBE contract awards, prime contractors' progress in achieving DBE goals, and other DBE affirmative actions in order to monitor the progress of the DBE program.
- 9.2 Altogether, these records will document the following:
- (a) Procedures adopted by the District to comply with the U.S. DOT regulations.
  - (b) Background documentation used to compile UMTA reports which includes the following data for each contract and subcontract awarded to a DBE:
    - (1) type of contract;
    - (2) name and address of each DBE;
    - (3) a current certification file for each DBE credited toward the goal;
    - (4) the dollar amount of each contract and subcontract; and
    - (5) reports from prime contractors and suppliers with an accounting of actual expenditures to DBEs and the progress to date in meeting their DBE participation commitment (See Appendix IV-A, Form C).
  - (c) Efforts made by the District to locate and make available contracting opportunities to DBEs and demonstrate good faith efforts to maximize the participation of DBEs in all district contract opportunities including the following:
    - (1) Technical assistance efforts and referrals made by the District on behalf of the DBE firms attempting to do business with the District.
    - (2) Outreach program efforts including seminars, for DBEs.
    - (3) A file for each contract in which the District established DBE goals, outreached to DBEs, evaluated the successful competitor's compliance with the DBE goal, and monitored the contractor's performance to meet the DBE goal.
- 9.3 The District will submit to the U.S. DOT-UMTA quarterly reports which reflect the dollar value of contracts and subcontracts awarded to DBEs and are an assessment of the District's progress toward reaching the UMTA-approved annual goal. The report will be on a format developed by U.S. DOT. (See Appendix V).

- 9.4 Upon UMTA's request, the District will compile and submit ad hoc DBE contract award and progress reports for specific UMTA-funded capital projects.
- 9.5 The District shall also periodically submit DBE progress reports to the Board of Directors.
- 9.6 The standards for counting DBE participation toward a DBE goal imposed on competitors as described in Appendices IV-A and IV-B will also apply to the District when compiling the DBE reports for UMTA and the Board of Directors
- 9.7 A DBE may enter into subcontracts, whose value may be counted toward its DBE goal. Where, however, a DBE subcontracts a significantly greater portion of the work than is usual according to industry practices, it is presumed not to be performing a commercially useful function and neither the value of the DBE contract nor lower tier subcontracts may be counted. The DBE may present evidence to the district to rebut this presumption.

## DEFINITION OF TERMS

- I. "Appeal" A formal filing by a business entity who has been denied certification by the District as a Disadvantaged Business Enterprise.
- II. "Challenge" A formal filing by a third party to rebut the presumption that a particular individual is socially and economically disadvantaged.
- III. "Commercially Useful Function" Work performed by a DBE firm in a particular transaction that in light of industry practices and other relevant considerations, has a necessary and useful role in the transaction, i.e., the firm's role is not a superfluous step added in an attempt to obtain credit toward goals. If, in the District's judgement a certified DBE does not perform a commercially useful function in the transaction, no credit toward the goal may be awarded.
- IV. "Contracting Opportunity" Any decision by the District or its contractors to institute a procurement action to obtain a product or service commercially (as opposed to intergovernmental actions).
- V. "Department" A functional unit of the District responsible for management and administration of specific projects included within the capital and operating budget.
- VI. "Disadvantaged Business Enterprise" or DBE a Small business concern:
- (1) Which is at least 51 percent owned by one or more socially and economically disadvantaged 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 socially and economically disadvantaged individuals; and
  - (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- VII. "District" The Southern California Rapid Transit District.

- VIII. "DBE Directory" The District's List of Certified and Denied Companies which is used by the District and its contractors to identify DBE potential prime and subcontractors and suppliers.
- IX. "DOT" The U. S. Department of Transportation.
- X. "DOT Assisted Contract" Any contract or modification of a contract between the District and a contractor which is paid for in whole or in part with DOT financial assistance.
- XI. "Economic Disadvantage" Criteria which the District applies on a case-by-case basis to applicants who are not members of a racial, ethnic or gender group presumed to be socially and economically disadvantaged. These criteria includes the following:
- (1) The individual's 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 line of business and competitive market area who are not socially disadvantaged.
  - (2) The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:  
  
With respect to the individual:
    - o availability of financing
    - o bonding capability
    - o availability of outside equity capital
    - o available markets  
With respect to the individual and the business concern:
    - o personal and business assets
    - o personal and business net worth
    - o personal and business income and profits
- XII. "Goal" A numerically expressed objective which the District or its contractors are required to make good faith efforts to achieve.
- XIII. "Good Faith Efforts" Affirmative actions required to be taken by the District (as specified by U.S. DOT) and its contractors and subcontractors (as specified in the IFB or RFP) to maximize opportunities for DBEs to compete for and perform on contracting opportunities.

- XIV. "Joint Development" The planning and implementation of an income producing real estate development which is adjacent to or physically related to an existing or proposed public transportation facility (e.g. Metro Rail transit station, Park and Ride, or bus facility).
- XV. "Joint Venture" An association of two or more businesses of limited scope and duration created to effect a single business purpose for profit in which their combined property, capital, efforts, skill, and knowledge are invested.
- XVI. "Manufacturer" A business that operates, or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
- XVII. "Metro Rail Project" The design, engineering and construction of the high-capacity, high-speed conventional rapid rail system, currently proposed as an 18 mile subway system with multi-car trains, steel rails and at least 16 stations serving the Los Angeles, Regional Core.
- XVIII. "Minority Business Enterprise (MBE)" A business concern that meets the following criteria:
- (1) Is at least 51 percent owned by one or more members of any of the racial/ethnic groups defined in section XXVII(1)-(5), below.
  - (2) Its management and daily business operations are controlled by one or more of these individuals who own it.
  - (3) The small business size standards applicable to DBEs and defined in section XXV, below, do not apply to MBEs.
  - (4) In this Program, MBEs are applicable only within the context of Joint Development Projects as described in chapter 6.0.
- XIX. "Non-Compliance" The condition existing when a contractor has failed to implement or meet the requirements of 49 CFR 23 or District policy or procedure pertaining to DBE participation.
- XX. "Other Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are



determined by the Small Business Administration or the District to meet the social and economic disadvantage criteria defined in this Section.

- XXI. "Pre-Bid/Pre-Proposal Conference" A meeting held by the District, prior to the bid/proposal closing date of a particular contract, at which prospective bidders/proposers are advised of District specification requirements which include DBE provisions.
- XXII. "Pre-construction Conference" A meeting held by the District 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 including DBE, EEO, and labor standards requirements, and any final technical requirements.
- XXIII. "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.
- XXIV. Secretary" The Secretary of U.S. Department of Transportation or any person whom he/she has designated to act for him/her.
- XXV. "Small Business Concern" A small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$14 million over the previous three fiscal years.
- XXVI. "Social Disadvantage" Criteria which the District applies on a case-by-case basis to applicants for DBE

status who are not members of a racial, ethnic or gender group presumed to be socially and economically disadvantaged. This criteria includes the following:

- (1) The individual's social disadvantage stems from his/her color, national origin, gender, physical handicap, long term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.
- (2) The individual must demonstrate that he/she has personally suffered social disadvantage.
- (3) The individual's social disadvantage must be rooted in treatment which he/she has experienced in American society, not in other countries.
- (4) The individual's social disadvantage must be chronic, long-standing, and substantial, not fleeting or insignificant.
- (5) The individual's social disadvantage must have negatively affected his/her entry into, and/or advancement in, the business world.
- (6) A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

XXVII. Socially and Economically Disadvantaged Individuals"

Those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:

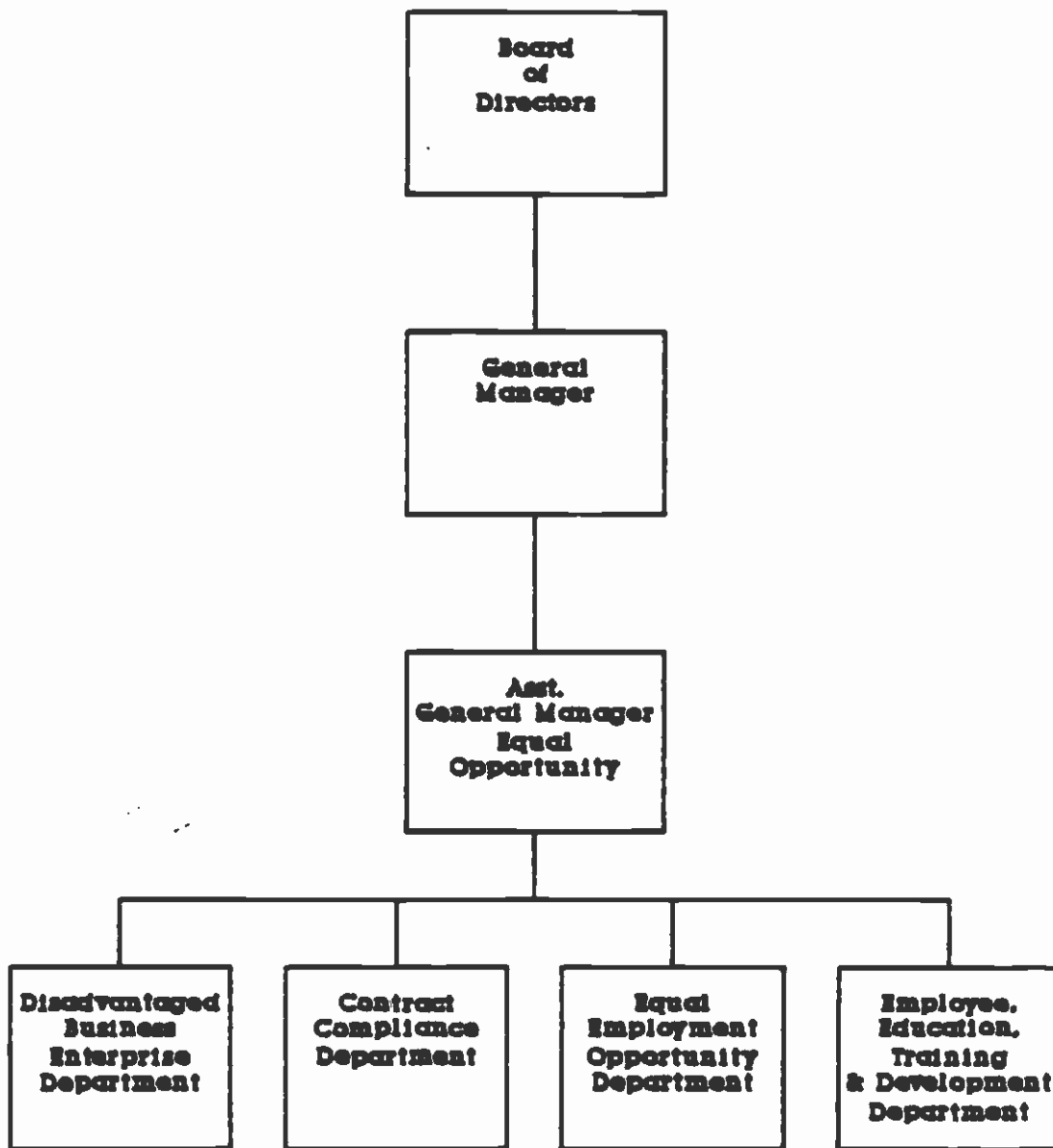
- (1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- (3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and
- (5) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh;

- (6) "Women," regardless of race, ethnicity or origin; and
- (7) Any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act or by the District on a case-by-case basis.

Recipients shall make a rebuttable presumption that individuals in the above groups are socially and economically disadvantaged.

- XXVIII. "Transit Vehicle" is a vehicle used by the District, e.g., bus, railcar or van, for the primary program purpose of public mass transportation.
- XXIX. "Transit Vehicle Manufacturer (TVM)" is a manufacturer of vehicles used by UMTA recipients for the primary program purpose of public mass transportation (e.g., buses, railcars, vans). The term does not apply to firms which rehabilitate old vehicles or to manufacturers of locomotives or ferry boats. The term refers to distributors of or dealers in transit vehicles with respect to requirements 49 CFR 23.67.
- XXX. "UMTA" Urban Mass Transportation Administration, an agency of the U.S. Department of Transportation.
- XXXI. "U.S. Department of Transportation Regulation (49 CFR 23)" Federal rules and regulations published in the Federal Register dated March 31, 1980; amended April 27, 1981, July 21, 1983, and October 21, 1987 by the Department of Transportation, Office of the Secretary; entitled "Participation by Minority Business Enterprise in Department of Transportation Programs"; and codified at Title 49, Code of Federal Regulations, Part 23.
- XXXII. "Women's Business Enterprise (WBE)" A business concern that meets the following criteria:
- (1) Is at least 51 percent owned by one or more women.
  - (2) Its management and daily business operations are controlled by one or more women who own it.
  - (3) The Small business size standards applicable to DBEs and defined in section XXV, above, do not apply to WBEs.
  - (4) In this Program, WBEs are applicable only within the context of Joint Development Projects as described in chapter 6.0.

ORGANIZATION CHART  
SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT  
OFFICE OF EQUAL OPPORTUNITY



**UMTA FUNDING BASE  
PROJECTED AWARDS FOR FISCAL YEAR: 19\_\_\_**

Applicant/Recipient: **S.C.R.T.D.**  
Address: **425 S. Main Street,**  
**Los Angeles, CA 90013**

Months Covered: **Oct. 1, 19 \_\_\_ to Sept. 30, 19 \_\_\_**

Prepared by: \_\_\_\_\_  
**(DBE Director)**

APPENDIX III-A

<b>CONTRACT/ PROCUREMENT CATEGORY</b>	<b>(1) TOTAL UMTA CAPITAL FUNDS .75(MR) + .90(N-MR)</b>	<b>(2) TOTAL UMTA OPERATING FUNDS .091 x OPER. FUNDS</b>	<b>(3) TOTAL UMTA PLANNING FUNDS .80 x Sec. 8</b>	<b>(4) TOTAL OTHER UMTA FUNDS Sec. 8</b>	<b>(5) TOTAL UMTA FUNDS</b>	<b>(6) UMTA FUNDS W/ CONTRACTING OPPORTUNITIES</b>
<b>A. NON-CONTRACTING OPPORTUNITIES</b>						
<b>B. CONSTRUCTION</b>						
<b>C. PROFESSIONAL SERVICES</b>						
<b>D. MATERIALS/SUPPLIES EQUIPMENT</b>						
<b>E. OTHER SERVICES</b>						
<b>F. TOTALS</b>						

Signature: \_\_\_\_\_ Date \_\_\_\_\_  
**(AGM-EO)**

Certified by: \_\_\_\_\_ Date \_\_\_\_\_  
**(Controller-Treasurer)**

NARRATIVE TO APPENDIX III-A

The preceding form will be completed for each fiscal year and submitted to UMTA for approval as part of the DBE Annual Goals document.

This form is used by the District to compute the "UMTA FUNDING BASE"; an estimate of total UMTA funds projected to be obligated during a specific federal fiscal year (October 1st to 31st). The methodology used to compute the UMTA funding Base follows.

Step 1: TOTAL CAPITAL FUNDS (line F, Column 1) are derived from the District's FY Budget, the Grants Department's FY 88 Grants Capital List, and the Metro Rail MOS-1 Financial Plan and Schedule.

To obtain the UMTA share of the capital funds, 80% and 75% factors are applied to the estimated total cost of Capital Non-Metro Rail and Metro Rail contracts, respectively.

Step 2: TOTAL OPERATING FUNDS (Line F, Column 2) are obtained from the District's FY Budget. These are verified by the District's Controller-Treasurer.

To obtain the UMTA share, the estimated total cost of contract opportunities is multiplied by a factor equal to the estimated UMTA share of the District's Operating Budget for each specific fiscal year.

Step 3: TOTAL PLANNING FUNDS (Line F, Column 3) represents Section 8, planning grant dollars, which will not generate contracting opportunities.

Step 4: TOTAL OTHER FUNDS (Line F, Column 4) represents funds from discretionary grants (i.e. Sec. 6 R & D grant, etc).

Step 5: CONTRACT OPPORTUNITIES by contract category (Lines B, C, D, and E) represents the federal share of all dollars available for procurement of goods and services (exclusive of rail passenger vehicles and bus procurements) during the District's fiscal year (for Non-Rail) and during the federal fiscal year (for Metro Rail). these figures are based on input provided by each user department to the DBE Department.

Step 6: NON CONTRACTING OPPORTUNITIES (Line A) are calculated by subtracting all contract opportunities (lines B, C, D, and E) from TOTAL UMTA FUNDS (Line F).

These non-contracting opportunities include, but are not limited to, the federal share allocated to the following accounts:

- o Hardware lease (sole source)
- o Force Account
- o Utility Relocation performed by Utility companies
- o Master Agreements with local jurisdictions
- o Right-of-Way
- o Relocation Expenses

Non-contracting opportunities also represent labor, fringe benefits, taxes, interest, utilities, rent, insurance premiums, etc.

**CALCULATION OF ANNUAL GOALS FOR FEDERAL FISCAL YEAR: 19\_\_\_\_**  
**(000)**

Recipient: S.C.R.T.D.  
 Address: 425 S. Main Street,  
 Los Angeles, CA 90013

Months Covered: Oct. 1, 19\_\_\_\_ to Sept. 30, 19\_\_\_\_

Prepared by: \_\_\_\_\_  
 (DBE Director)

APPENDIX III-B

(1) CATEGORY	(2) UMTA FUNDS W/ CONTRACTING OPPORTUNITIES	(3) UMTA ADJUSTED DOLLARS		(4) TOTAL UMTA DBE DOLLARS	(5) DBE PERCENTAGES
		(a) CREDIT	(b) DBE		
I. CONSTRUCTION					
II. PROFESSIONAL SERVICES					
III. SUPPLIES CONTRACTS		100%			
		60%			
IV. OTHER					
V. TOTALS					

Signature: \_\_\_\_\_ Date \_\_\_\_\_  
 (DBE Director)



NARRATIVE TO APPENDIX III-B

The preceding form will be completed for each fiscal year and submitted to UMTA for approval as part of the DBE Annual Goals document.

This form is used by the District to calculate the annual DBE goals for a specific federal fiscal year (October 1st to September 31st). The methodology used to calculate these goals follows.

Step 1: UMTA FUNDS WITH CONTRACTING OPPORTUNITIES, Column (2), are the same numbers as those reflected in Column (6) of the "UMTA FUNDING BASE" preceding table.

Step 2: Column (3) (b) represents the aggregate projected level of participation by DBEs in contracts anticipated to be awarded in FY 1988. These figures are computed by applying interim DBE percentage goals to procurements:

- (1) that are expected to generate subcontracting opportunities in areas where sufficient DBEs exist, or
- (2) that are currently awarded to DBE prime contractors and contain contract renewal options.

Step 3: Column (4) further refines the data described in Step 2, above. Only 60% of the dollars awarded to DBE suppliers may be reported to UMTA if these vendors do not manufacture the product or substantially alter it before resale but meet the "regular dealer" definition. Therefore, the dollars anticipated to be spent with DBE suppliers reflected under Column (3) (b) Line III are separated into two categories for those where 100% credit can be counted (manufacturers) and those where only 60% credit can be counted (regular dealers).

Step 4: The figure in Line III under Column 4 represents the sum of the "100%" and "60%" figures in Line III under Column (3) (b).

Step 5: DBE PERCENTAGE GOALS reflected under column (5) are computed by dividing the figures under Column (4) by the figures in column (2) and multiplying by 100.

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT  
OFFICE OF CONTRACTS, PROCUREMENT AND MATERIEL  
INTERDEPARTMENTAL MEMORANDUM

\*\*\*\*\*

DATE: September 11, 1987  
TO: Executive Staff and Department Heads  
FROM: Maynard Z. Walters  
SUBJECT: Procedure - DBE/WBE Goal for District Contracts

RECEIVED  
SEP 16 1987  
DBE/WBE OFFICE

\*\*\*\*\*

The attached procedure defines the process for setting DBE/WBE goals on procurement contracts.

This procedure is to be effective immediately.

RAB:anb  
rab3

Attachment



OFFICE OF CONTRACTS, PROCUREMENT AND MATERIEL

TITLE:

DBE/WBE Goal for District Contracts

1.0 AUTHORITY

- 1.1 49 CFR Part 23.
- 1.2 UMTA Circular 4220.1A
- 1.3 District's DBE/WBE Policies and Procedures

2.0 OBJECTIVE

To document the setting of DBE/WBE goals on individual contracts.

3.0 APPLICABILITY

This procedure will be followed on all requests for goods and services that exceed \$25,000.

4.0 PROCEDURE

Departments initiating a purchase requisition that is subject to Section 3.0 above shall complete and include with the requisition, Form No. OCPM-132. (Sub-contract Planning Form).

- 4.1 Upon receipt in OCPM, the buyer/contract administrator who is assigned the requisition shall forward a copy of form OCPM-132 and a copy of the requisition to the Equal Opportunity Department.
- 4.2 E. O. staff shall review the potential subcontracting opportunities in relation to available DBE/WBE firms to perform the proposed work and shall assess whether there are sufficient available DBE or WBE firms to establish contract goals. Such assessment shall be performed independently for both DBE and WBE, and shall include both the number of firms available and their capacity and capability to take on additional work at the time of contract solicitation. If it is determined that either there are no subcontracting opportunities in the procurement or there are no available DBE or WBE firms to perform the subcontracting opportunities, a "good faith efforts" clause shall be assigned for DBE, WBE, or both, and so certified in writing by the E. O. staff to OCPM.



OFFICE OF CONTRACTS, PROCUREMENT AND MATERIEL

TITLE:

DBE/WBE Goal for District Contracts

4.3 If the E. O. staff determine that a procurement goal is to be set for either DBE or WBE, or both, they shall meet with the responsible project manager and review their assessment of subcontract opportunities and firms available to perform the work to ensure a clear understanding of all aspects of the procurement. Subsequent to such meeting, two separate goals shall be certified in writing to OCPM, one for DBE, and another for WBE. Based upon the availability assessment, it is possible to have a goal for one and "good faith efforts" clause for the other in the same contract solicitation.

4.4 The certification of contract goals to OCPM shall include the identification of work scope, the names of available subcontractors, and the calculation methodology used by the E. O. staff in setting the goal or goals for the subject procurement. These documents shall become part of the contract file for subsequent public review and scrutiny.

DB:anb  
db(1.4)

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT  
**SUBCONTRACT PLANNING FORM**

SUMMARY OF GOODS OR SERVICES, SCOPE OF WORK, AND ESTIMATED VALUE.

OPPORTUNITY FOR SUBCONTRACTING?      YES \_\_\_\_\_      NO \_\_\_\_\_

IF YES, LIST ELIGIBLE TASKS OR ELEMENTS AND ESTIMATED VALUE.

IF NO, EXPLAIN.

LIST OF POTENTIAL SOURCES. IDENTIFY AS PRIME (P), SUB (S), OR SUPPLIER (SP). USE  
ADDITIONAL PAGES AS NECESSARY.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
BID SPECIFICATIONS  
FOR COMPETITIVE LOW BID PROCUREMENTS (IFBs)  
WITH DBE GOALS

1.0 POLICY AND OBLIGATION

- 1.1 Policy - it is the policy of the Southern California Rapid Transit District (District) and the United States Department of Transportation that Disadvantaged Business Enterprises (DBEs), as defined herein and in the Federal regulations published at 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Contract.
- 1.2 DBE Obligation - Contractor agrees to ensure that DBEs as defined herein have the maximum opportunity to participate in the performance of the District's contracts and subcontracts. In this regard, Contractor shall take all necessary and reasonable steps in accordance with these provisions and 49 CFR Part 23 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Contractor shall not discriminate on the basis of race, religion, color, sex, age, or national origin, in the award or performance of DOT-assisted Contracts.

2.0 DBE GOAL

- 2.1 The District has established a goal for participation by DBEs of (\_\_\_\_\_)percent of the total contract value.
- 2.2 Only DBEs who meet the definitions contained in Section 3.0 of these provisions and who have been certified by the District prior to contract award may be credited toward the goal.

3.0 DEFINITIONS

The following definitions apply to the terms as used in this Contract.

- 3.1 "Disadvantaged Business Enterprise (DBE)" means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged 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 socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

- 3.2 "Manufacturer" means a firm that operates, or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
- 3.3 "Regular Dealer" means 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 brought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product 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.
- 3.4 "Owned and Controlled" means a business: (a) which is at least 51 percent owned by one or more "socially and Economically Disadvantaged Individuals" or, in the case of a publicly owned business at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals"; and (b) whose management and daily business operations are controlled by one or more such individuals.
- 3.5 "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$14 million over the previous three fiscal years.
- 3.6 "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific American, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration

pursuant to Section 8 (a) of the Small Business Act, or by the District pursuant to 49 CFR 23.62. Member of the following groups are presumed to be socially and economically disadvantaged

- 3.6.a "Black Americans which includes persons having origins in any of the Black racial groups of Africa;
  - 3.6.b "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portugese culture or origin, regardless of race;
  - 3.6.c "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - 3.6.d "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and
  - 3.6.e "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.
  - 3.6.f Women.
- 3.7 "Other Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by Small Business Administration or the District to meet the social and economic disadvantage criteria described below.
- 3.7.a Social Disadvantage
    - 3.7.a.(1) The individual's social disadvantage stems from his/her color, national origin, gender, physical handicap, long term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.



- 3.7.a.(2) The individual must demonstrate that he/she has personally suffered social disadvantage.
- 3.7.a.(3) The individual's social disadvantage must be rooted in treatment which he/she has experienced in American society, not in other countries.
- 3.7.a.(4) The individual's social disadvantage must be chronic long-standing, and substantial, not fleeting or insignificant.
- 3.7.a.(5) The individual's social disadvantage must have negatively affected his/her entry into, and/or advancement in the business world.
- 3.7.a.(6) A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

3.7.b Economic Disadvantage

- 3.7.b.(1) The individual's 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 line of business and competitive market area who are not socially disadvantaged.
- 3.7.b.(2) The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- o availability of financing
- o bonding capability
- o availability of outside equity capital
- o available markets

With respect to the individual and the business concern:

- o personal and business assets
- o personal and business net worth
- o personal and business income and profits

#### 4.0 BIDDERS' OBLIGATION

4.1 Bidders' DBE Commitment.- Bidders shall identify in their Bid (On the LIST OF PROPOSED DBEs), all of the DBEs proposed to participate in the contract, regardless of their percent of participation. The LIST OF PROPOSED DBEs shall be completed as follows:

- 4.1.a The Bidder shall identify how DBE firms will participate in this contract. The DBE goal may be satisfied by a commitment to DBE participation in the contract as a prime contractor, joint venture partner, subcontractor, trucker, or supplier.
- 4.1.b The Bidder shall list the name of each DBE prime contractor, joint venture partner, subcontractor, trucker, or supplier which the bidder intends to credit toward the DBE goal. The complete legal business name as used for DBE certification shall be identified on the form.
- 4.1.c The Bidder shall identify location of business for each DBE.
- 4.1.d The Bidder shall list items of work to be performed or materials supplied by each DBE.
- 4.1.e The Bidder shall state each DBE's participation in the Contract, expressed as an estimated dollar value.
- 4.1.f The Bidder shall state the estimated percent of the total Bid for each DBE. The percentage allocated for each DBE must be in accordance with the following provisions:
  - 4.1.f(1) A DBE must perform a commercially useful function, that is, must be responsible for the execution of a distinct element of the work and must carry out its responsibility by

actually performing, managing and supervising the work. In light of standard industry practices and other relevant considerations, the DBE must have a necessary and useful role in the transaction, of a kind for which there is a market outside the context of the DBE Program.

- 4.1.f.(2) Credit for the participation of DBE vendors of materials and supplies is to be counted as follows:
- o Sixty (60) percent of expenditures for materials and supplies required under the Contract and obtained from a "regular dealer" as defined in Section 3.3 above.
  - o One-hundred (100) percent of expenditures for materials and supplies obtained from a DBE "manufacturer" as defined in Section 3.2 above, or from a DBE supplier who substantially alters the material before resale.
- 4.1.f.(3) The following types of fees or commissions paid to DBE consultants, brokers, and packagers may be counted toward the goal, provided that the fee or commission is reasonable and not excessive as compared with fees or commissions customarily allowed for similar services.
- o The fees or commissions charged for providing a bona fide service such as professional and technical, or procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract.
  - o The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials or supplies themselves) when the hauler, trucker or delivery service is not also the manufacturer of, or a regular dealer, in the materials and supplies.

- o The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract.

4.1.g The bidder shall state the total estimated dollar participation for all DBEs.

4.1.h The bidder shall state the total estimated participation for all DBEs expressed as a percentage of the total bid price. These totals shall include the sum of the following:

4.1.h(1) The value of all proposed DBE subcontracts.

4.1.h(2) The dollar value of all materials and supplies to be provided by DBEs (to be credited as noted in section 4.1.f above).

4.1.h(3) The dollar value of all work performed with the Bidder's own forces, if the Bidder is a DBE. If the bidder is a DBE joint venture, it shall include only the value of the commercially useful function performed, managed, and supervised by the DBE partner.

4.2 Good Faith Efforts Certificate - Bidders who fail to meet the DBE goal must complete and submit this form with the bid. Any of the following conditions constitute failure to meet the goal:

4.2.a The total percentage participation by DBE firms reflected on the LIST OF PROPOSED DBEs is less than the DBE goal set forth in Section 2.0 above.

4.2.b Firms listed on the LIST OF PROPOSED DBEs whose participation is being credited toward meeting the DBE goal are not certified by the District as a DBE as of the bid opening date.

4.3 Responsive Bidder

4.3.a To be responsive, a Bidder must have either:

(1) met the DBE goal set forth in Section 2.0, above or,

(2) if the goal was not met, satisfy the District that it exercised good faith efforts to meet the goal.

- 4.3.b Documentation of a bidder's good faith efforts must be submitted to the District within 48 hours after request by the District.
- 4.3.c A bidder shall be deemed to have exercised good faith efforts only if the bidder satisfies the District that it literally complied with each of the good faith efforts enumerated below in Section 4.4.
- 4.3.d A bidder shall complete and submit with the Bid, the GOOD FAITH EFFORT CERTIFICATE referenced in Section 4.2 above, if the DBE goal is not met.
- 4.4 Good Faith Efforts - to be determined responsive, a bidder who fails to meet the DBE goal must present evidence to satisfy the District that the bidder has met every one of the good faith efforts enumerated below. Literal compliance in the exercise of these good faith efforts is mandatory. The following are the minimum required good faith efforts and the types of documentation necessary to evidence such efforts.
- 4.4.a Advertised in at least one newspaper of general circulation, at least one trade association publication, and at least two minority focus media. The advertisements shall be placed in the business, classified or request for sub-bid section. The initial advertisement shall appear in these publications no later than 20 calendar days prior to the originally-specified bid opening date. A list of minority focus newspapers is contained in the District's DBE Directory.
- 4.4.a(1) Advertisements shall include at a minimum the following information:
- o Project Name and Location;
  - o Indication of SCRTD as Owner;
  - o Location where Plans and specifications may be obtained or viewed;
  - o Sub-Bid Due Date;
  - o Trades or Scopes of Work for which Sub-Bids are being solicited;
  - o Statement that Bid solicitation is in response to the District DBE Program; and

- o Statement that Bidder intends to seriously negotiate with DBE firms for participation on the project.

4.4.a(2) Documentation - Proof of publication or copies of tear sheets showing dates and names of publications.

4.4.b Selected portions of the work for which interest from DBEs was solicited in a manner to increase the likelihood of achieving the stated goals. When economically feasible, dividing work into small tasks or quantities to permit maximum participation of DBE businesses.

To be competitive in the face of a DBE goal specification, a bidder with total in-house manufacturing capabilities may have to try to subcontract out or obtain by joint venture arrangements various functions or components which the bidder could otherwise do or furnish itself. Good faith effort constitutes comparing prices from DBEs to those of other non-DBEs in the same trade or industry, and not solely to those of the bidder.

4.4.b(1) Documentation - Submit a list of work items and estimated dollar value of each item. Separate work which the Bidder intends to perform with its own workforce apart from areas of work which the Bidder identified for DBE participation. State whether or not the Bidder gave consideration to dividing the contract into economically feasible units of work. If this was not done, explain why it could not be done.

4.4.c Extended written invitations to bid to at least (\_\_\_\_\_) DBEs no later than 20 calendar days prior to the originally specified bid due date. The District will credit toward this threshold only the following DBEs:

- o DBEs certified by the District;
- o Firms certified as DBE by any other Federal Highway Administration (FHWA) or Urban Mass Transportation Administration (UMTA) recipient agency pursuant to 49CFR, Part 23, Subpart D;

- o Firms certified as DBE or WBE by the Los Angeles County Transportation Commission; and,
- o Any other potential DBE firms identified by the District from other sources and published in a supplemental list provided to planholders.

The invitation/solicitation shall provide at least the following information:

- o Date of Correspondence, invitation/solicitation;
- o Project Name and Location;
- o Indication of the District as owner;
- o A description of work for which bids/proposals are being solicited;
- o Copies of technical specifications or information where plans and specifications may be obtained or viewed;
- o Sub-Bid/Proposal Due Date.
- o Statement that solicitation is in response to the District's DBE Program; and
- o Statement that Bidder intends to seriously consider and negotiate with capable, competitive DBE firms for participation in the Contract.

4.4.c(1) Documentation - A list of DBE firms which the Bidder identified to solicit interest in the contract. Identify the source of this list (i.e., RTD, CALTRANS, LACTC, other transit property, supplemental list, etc). Copies of letters, Request for Bids/Proposals, mail receipts, addressed postcards sent to DBEs.

4.4.d Follow-up orally or in writing, with all DBE firms who were initially sent the invitation/solicitation described in good faith effort above, by evidence of attempting to contact them to determine with certainty

whether they were interested in submitting a sub-bid, quotation, or participating as a joint venture partner, and the response by the DBE firms.

4.4.d(1) Documentation - A written record of any oral follow-up is required. Records which can be verified to document contact with these DBE firms (e.g. letters; minutes or notes of meetings held with DBE firms; copies of correspondence, including undeliverable mail, to and from DBEs; solicitation call sheets or telephone logs). This documentation must reflect the following:

- o Name and address of firm contacted.
- o Person contacted, telephone number (if follow-up is by phone), and date contacted.
- o Response from these firms as to their interest in bidding on the contract.

4.4.e Outreached to DBEs through the minority and women contractor, trade and professional associations listed in the District's DBE certified directory referenced in good faith effort 4.5.b, below, at least 20 calendar days prior to the specified bid opening date. Notices to these associations shall include at least the same information listed in good faith effort 4.4.c, above.

4.4.e(1) Documentation - Records or correspondence which confirm notification to the associations, and any response thereto.

4.4.f Assisted DBE who requested assistance in obtaining lines of credit or bonding, if bonding was required by the Bidder.

4.4.f(1) Examples of assistance are:

- (1) Contact bonding companies, lenders, on behalf of the DBE firm;



- (2) Arrange with sureties incremental or phased bonding for the DBE;
- (3) Pay for the cost of the bond;
- (4) Waive bonding requirements; and/or
- (5) Refer the DBE to Business Development Centers or other resource agencies who may assist DBE in obtaining bonding or lines of credit and referenced in good faith effort 4.4.e, above.

4.4.f(2) Documentation - If the Bidder required bonding, etc., provide a list of DBEs who requested assistance in these areas and any assistance provided by the Bidder; or a statement of the bidder's decision to waive bonding requirements.

4.4.f(3) Transit Bond Guarantee Program - On the Metro Rail Project only, if the Bidder required DBE subcontractors to provide payment or performance bonds, he/she shall advise the DBE of the Transit Bond Guarantee Program for DBE subcontractors. The Program Specifications are available to planholders under separate cover. DBE subcontractors will be referred by the District to the District Insurance Administrator as potential participants of this program only after contract award.

4.4.g Verified the DBE Status of those firms listed on the bid as DBEs who were not listed on the District's List of Certified DBEs referenced in Subarticle 4.5.b below. Encourage those firms not certified to seek certification with the District.

4.4.g(1) This good faith effort is applicable only to those bidders listing firms on their bids who are not certified on or before the bid due date.

4.4.g(2) Documentation - Evidence that the Bidder contacted the District prior to the bid date in order to ascertain

certification status of its proposed subcontractors or suppliers. This documentation should include copies of letters sent to the District's Contract Compliance Department (or evidence of other forms of communication), and replies thereto. Provide other evidence to support the Bidder's claim of encouraging uncertified firms listed on the bid as a DBE to apply to the District for certification prior to the bid date.

4.4.h Negotiated in good faith with interested, capable, and competitive DBEs, not rejecting DBEs as unqualified without sound reasons.

4.4.h(1) Documentation:

- (1) correspondence between the Bidder and DBEs;
- (2) Internal logs, forms, or memoranda used by the Bidder to record communication between the Bidder and DBEs concerning the DBE's participation in the contract, terms and conditions of their participation, the scope of work to be bid by DBEs;
- (3) Telephone quotations and follow-up written subbids from DBEs to confirm their verbal quote.
- (4) A chart summarizing the outcome of the bidder's efforts to negotiate in good faith with interested DBE. This chart shall contain the following information for each DBE responding:
  - o Name of DBE
  - o Work items or scope of work bid;
  - o Dollar amount of bid or proposal;
  - o If negotiations were held but no contract resulted, reasons therefor; and
  - o If Sub-bid/proposal was rejected by the Bidder, reasons therefor.

#### 4.5 DBE Certification

4.5.a DBE firms need not be certified by the District as of the bid date, but must be certified prior to contract award.

4.5.b The District's List of DBE CERTIFIED AND DENIED COMPANIES which is in effect on the date of advertisement for bids on this Contract will be provided to all planholders along with the bid documents.

4.5.b(1) This list is updated monthly; therefore, planholders interested in bidding on this Contract are responsible for contacting the office listed below to obtain monthly updates to this list and to verify the current status of any firm purporting to be a DBE but not included in this list.

Southern California RTD  
Contract Compliance Dept.  
425 S. Main Street, 6th Floor  
Los Angeles, CA 90013  
(213) 972-6454

4.5.b(2) This list does not represent all DBEs available in the trades or specialty areas required by this Contract, but merely those firms that have applied to the District and have been granted or denied certification.

4.5.c Application for certification by the District may be obtained by submitting Schedule A (for individual business concerns) or Schedule B (for joint ventures). These forms are attached hereto as Exhibits A and B.

4.5.c(1) Within five working days of request by the District, a Bidder, who is requested to do so, shall cause each of its purported DBE firms not currently certified to submit to the District information to confirm DBE status. Each firm applying for certification shall submit Schedule A or Schedule B with the required supporting documentation.

4.5.c(2) If the Bidder is a DBE the firm must have current DBE status with the District or submit a Schedule A form prior to or with the bid.

4.5.c(3) If the DBE is a joint venture partner, a Schedule B form and a copy of the joint venture agreement must be submitted prior to or with the bid.

4.6 "FRAUDS" AND "FRONTS" - Bidders are hereby cautioned against knowingly and willfully using "fronts" to meet the DBE goal of this Contract. Only legitimate DBEs are eligible to participate in this federally-funded Contract. The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Any indication of fraud, waste, abuse, or mismanagement of these funds should be immediately reported to the District or to the Office of Inspector General, U.S. Department of Transportation at the toll free hotline (800-424-9071); or to the following field office: UMTA Special Agent-in-Charge; 211 Main Street, Suite 1022; San Francisco, CA 94105; (415) 974-9875.

#### 5.0 CONTRACTOR'S OBLIGATION

5.1 During the term of the Contract, the Contractor shall continue to make good faith efforts to ensure that DBE committed to in the bid have maximum opportunity to successfully perform in the Contract, and that the Contractor meets its DBE goal. These efforts when applied in conjunction with the currently-approved schedule, shall include but not be limited to the following:

5.1.a Negotiating in good faith to attempt to finalize and execute a subcontract agreement with the DBEs committed to in the Bid.

5.1.b For Contractors who fell short of meeting the DBE goal set for this Contract but who were determined by the District to have made good faith efforts to meet the goal, exerting efforts that can be documented to seek out and utilize additional DBE suppliers and DBE subcontractors whose participation is less than 1/2 on one percent of the Contract value, to make up for the shortfall.

5.1.c Continuing to provide assistance to DBE subcontractors or suppliers in obtaining bonding, lines of credit, etc., if required by the Contractor.

- 5.1.d Notifying a DBE in writing of any potential problem and attempt to resolve the problem prior to formally requesting District approval to substitute the DBE.
  - 5.1.e As with all subcontractors, timely payment of all monies due and owing to DBE subcontractors and suppliers.
  - 5.1.f Timely submittal of complete and accurate DBE monthly reports in accordance with Article 5.3. below.
  - 5.1.g Alerting the District's Contract Compliance Department in a timely manner of any problems anticipated in attaining the DBE participation goal committed to in the bid.
- 5.2 Substitution of Subcontractors - If a Contractor requests a substitution of DBE subcontractors or suppliers, the Contractor shall exert good faith efforts to replace a DBE subcontractor with another DBE subcontractor subject to the approval of the District.
- 5.3 Contract Compliance Reporting Requirements - The Contractor shall submit monthly progress reports to the District, in conformance with the currently approved schedule, reflecting its DBE participation. The Summary Subcontracts Award and Paid Report (attached hereto as Exhibit C) shall be submitted to comply with this reporting requirement. Failure to submit this report in a timely manner shall result in the imposition of administrative sanctions pursuant to the District's DBE Policy and U.S. Department of Transportation regulations (49 CFR 23).
- 5.4 Change in Contract Amount - The dollar amount of Change Orders or any other Contract modifications that increase or decrease the work area in which DBEs participation has been committed to in the BID, shall be commensurately added to or subtracted from the total Contract base figure used to compute actual dollars paid to DBEs. Revised total Contract dollar values shall be reflected in the monthly progress report submitted to the District and referenced in Section 5.3 above.
- 5.5 Noncompliance - Failure to carry out the requirements of this article constitutes a breach of contract and, after notification to the U.S. Department of Transportation, may result in termination of the Contract by the District or imposition of other appropriate sanctions. this notice is given pursuant to 49 CFR Section 23.43(c).



# SCHEDULE A

## Disadvantaged Business Enterprise (DBE)

### Certification Application Form

**Introduction:** Please type or print legibly and return completed application form, along with supporting documentation to:

**SCRTD**  
**Attn: Contract Compliance Dept.**  
**425 S. Main St.**  
**L.A., CA 90013**  
**(213) 972-6454**

**Are you Bidding/Proposing on an RTD sollicitation?**

**YES**                       **NO**

**If yes, please complete the following:**

**RTD Project Name:** \_\_\_\_\_

**Proposal/Bld No.:** \_\_\_\_\_

**Proposal/Bld Due Date:** \_\_\_\_\_

## INSTRUCTIONS

All firms seeking DBE certification are required to submit copies of the following items in addition to a signed and notarized Southern California Rapid Transit District Schedule A (no copies of Schedule A will be accepted):

- A. All disadvantaged businesses must submit the following items:
1. License to do business and/or fictitious name statement for sole proprietorship.
  2. Federal tax returns for the last 3 years.
  3. Resumes of principals and key personnel.
  4. Third party agreements such as rentals, lease agreements and professional services agreements.
  5. Proof of ethnicity/gender (birth certificate, passport, etc.).
  6. Company profile including a description of the firm's product or services.
- B. Partnerships: Must submit the following items in addition to those items required in A (1-6) above:
1. Partnership agreements and any amendments thereto.
  2. Profit sharing agreements.
  3. Buy-out rights.
- C. Corporations: Must submit the following items in addition to those required in A (1-6) 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.
  8. Record of first organization meeting.,
  9. Statement of Foreign Corporation Designation, if incorporated outside the state of California.

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. Applicant firms are evaluated on the basis of documentation submitted to SCRTD for review. Any changes anticipated in the ownership and/or control of the firm or in the documentation submitted in the application for certification must be fully disclosed AT THE TIME OF APPLICATION. Such disclosure shall provide the facts surrounding and the effective dates of any changes to be made subsequent to filing for certification. Any such changes not so disclosed will not be considered as the basis for granting certification nor will they be accepted as the basis for arguments on appeal if the firm is denied certification. The above information should be forwarded to the address given below.

Certification status is valid for a period of one year and must be renewed annually by submitting a signed and notarized re-certification affidavit provided by SCRTD. It is the responsibility of the firm to maintain its certification status with SCRTD.

Firms denied certification may re-apply one year from the date of the denial.

Southern California Rapid Transit District  
Equal Opportunity - Contract Compliance Department  
425 South Main Street  
Los Angeles, CA 90013

# Introduction

## 1.0 Policy and Purpose

1.1 It is the policy of the Southern California Rapid Transit District (SCRTD) that Disadvantaged Business Enterprises (DBE) shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. This is in compliance with the requirements of section 106 (c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 and U.S. Department of Transportation regulations published at 49 CFR Part 23.

1.2 SCRTD conducts a review of all business concerns who wish to participate in SCRTD's DBE Program to ensure that these business concerns meet the DBE eligibility criteria set forth in the US DOT regulations. Attached is the form to apply to SCRTD for DBE status.

## 2.0 Definitions

For the purpose of SCRTD's DBE Program and certification process, the following definitions apply to the terms which are used throughout the application form:

### 2.1 Disadvantaged Business Enterprise (DBE)

A small business concern that is (a) at least 51 percent owned by one or more socially and economically disadvantaged 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 socially and economically disadvantaged individuals, and (b) the management and daily business operations of which are controlled by one or more socially and economically disadvantaged individuals who own it.

### 2.2 Economic Disadvantage

a. The individual's 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 line of business and competitive market area who are not socially disadvantaged.

b. SCRTD will consider the following when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

(1) With respect to the individual:

- (a) availability of financing
- (b) bonding capability
- (c) availability of outside equity capital
- (d) available markets

(2) With respect to the individual and the business concern:

- (a) personal and business assets
- (b) personal and business net worth
- (c) personal and business income and profits

### 2.3 Socially and Economically Disadvantaged Individuals

Those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8 (a) of the Small Business Act or by SCRTD pursuant to 49 CFR Section 23.62. The racial and ethnic groups named herein are further defined below:

a. Black Americans, which includes persons having origins in any of the Black racial groups of Africa;



2.3 Socially and Economically Disadvantaged Individuals (cont'd)

- b. Hispanic Americans, which include persons of Mexican, Puerto Rican, Cuban, Portuguese, Central or South American, or other Spanish culture or origin, regardless of race;
- c. Native Americans, which include persons who are American Indians, Eskimo, Aleuts, or Native Hawaiians;
- d. Asian-Pacific Americans, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
- e. Asian-Indian Americans, which includes persons whose origins are from India, Pakistan, and Bangladesh.
- f. Women, regardless of ethnicity or race.

Membership in any of the above listed groups shall be established on the basis of the individual's claim and proof that he/she is a member of that group and is so regarded by that group and the non-minority community. However, SCRTD is not required to accept this claim if it determines the claim to be invalid.

Even after an applicant has established membership in any of the above groups, on a case-by-case basis, SCRTD may inquire further into the individual's social and economic status if it has reason to believe that the individual may not in fact be socially and/or economically disadvantaged.

2.4 Social Disadvantage

- a. The individual's social disadvantage stems from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.
- b. The individual must demonstrate that he/she has personally suffered social disadvantage, not merely claim membership in a group which could be considered socially disadvantaged.
- c. The individual's social disadvantage must be rooted in treatment which he/she has experienced in American society, not in other countries.
- d. The individual's social disadvantage must be chronic, long-standing, and substantial, not fleeting or insignificant.
- e. The individual's social disadvantage must have negatively affected his/her entry into, and/or advancement in the business world.
- f. A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

**WARNING:**

Public Law 99-272, the "Consolidated Omnibus Budget Reconciliation Act of 1985", which amends Section 16 of the Small Business Act, establishes penalties of up to a \$50,000 fine or imprisonment of up to five years, or both, for misrepresenting, in writing, the status of any concern or person as a small business concern or small business owned and controlled by socially and economically disadvantaged individuals (a "DBE") in order to obtain for oneself or another any prime or subcontract to be awarded as a result or in furtherance of any other provision of federal law that specifically references Section 8 (d) of the Small Business Act for a definition of eligibility.

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT  
DEPARTMENT OF EQUAL OPPORTUNITY  
DISADVANTAGED BUSINESS ENTERPRISE DISCLOSURE AFFIDAVIT



- 1. \_\_\_\_\_ DBE
- 2. Business Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone Number (    ) \_\_\_\_\_  
Contact Person \_\_\_\_\_  
Title \_\_\_\_\_  
Nature of Business \_\_\_\_\_  
Type of work preferred with RTD \_\_\_\_\_

- 3. The business is organized as a:  
\_\_\_\_\_ Proprietorship    \_\_\_\_\_ Partnership  
\_\_\_\_\_ Joint Venture    \_\_\_\_\_ Corporation  
Date Established \_\_\_\_\_

- 4. Person(s) qualifying firm as a DBE:

<u>Name</u>	<u>Length of Time with Firm</u>	<u>Date Controlling or Qualifying Interest Acquired</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. The business is 51 percent owned and controlled by one or more socially and economically disadvantaged individuals who are:

\_\_\_\_\_ White \_\_\_\_\_ Hispanic \_\_\_\_\_ Black \_\_\_\_\_ Native American  
 \_\_\_\_\_ Asian-Pacific American \_\_\_\_\_ Asian-Indian American  
 \_\_\_\_\_ Women Other (specify) \_\_\_\_\_

6. The business is a small business concern as defined by the Small Business Administration in 13 CFR Part 121.

\_\_\_\_\_ Yes \_\_\_\_\_ No

If Firm is SBA Section 8 (a) certified, attach copy.

6a. Total Number of employees for the business and its affiliates

\_\_\_\_\_

6b. Average annual gross receipts for the past three years. Please provide copies of U.S tax returns for the last three years.

7. Ownership:

Identify below those who possess ownership of 5% or more of the firm

<u>Name</u>	<u>U.S. Citizen Yes / No</u>	<u>Ethnicity</u>	<u>Sex</u>	<u>% Owned</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

IF OWNED LISTED ABOVE IS NOT A U.S. CITIZEN, PROOF OF LEGAL RESIDENCE MUST BE SUBMITTED.

8. Identify below all corporate officers or key personnel of the firm.

<u>Name</u>	<u>Ethnicity</u>	<u>Sex</u>	<u>Title</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

9. Are there any:

a. Outstanding stock purchase options, warrants or agreements for the issuance of such options or warrants? If yes, explain fully.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Shares pledged, subject to lien or agreement or beneficially owned by anyone other than the person in whose name it stands? If yes, explain fully.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. State Contractor License or Professional Registration Number: \_\_\_\_\_

a. Construction firms must list classification of all licenses held (e.g.B-1,C-4, etc.):

\_\_\_\_\_

11. Local business License Number:

\_\_\_\_\_

ATTACH COPIES OF ALL APPLICABLE LICENSES

12. Federal Employer Tax Identification Number:

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13. Does the firm own its offices?

Yes  No

a. If the firm rents its offices, identify by name and address the owner of the premises and provide a copy of the rental agreement.

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b. Identify any firm with whom you share office space.

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14. State the total number of employees and the number of minority persons now employed by the firm in each of the following categories:

	<u>Total Employees</u>	<u>Minority Employees</u>
Management	<hr/>	<hr/>
Professional & Technical	<hr/>	<hr/>
Administrative	<hr/>	<hr/>
Supervisory	<hr/>	<hr/>
Clerical	<hr/>	<hr/>
Craftsmen & Laborer	<hr/>	<hr/>

15. Identify by name, address and employer, all persons who provided management or financial consulting services to the firm during the past 12 months.

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16. Identify the individuals responsible for day to day management and policy decision making:

a. Financial Decisions

<u>Name</u>	<u>Title</u>	<u>Ethnicity</u>	<u>Sex</u>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>

b. Management Decisions

<u>Name</u>	<u>Title</u>	<u>Ethnicity</u>	<u>Sex</u>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>

c. Hiring and Firing of Management Personnel

<u>Name</u>	<u>Title</u>	<u>Ethnicity</u>	<u>Sex</u>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>

d. Marketing and Sales

<u>Name</u>	<u>Title</u>	<u>Ethnicity</u>	<u>Sex</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

e. Purchase of Major Items or Supplies

<u>Name</u>	<u>Title</u>	<u>Ethnicity</u>	<u>Sex</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

f. Supervisor of Field Operations

<u>Name</u>	<u>Title</u>	<u>Ethnicity</u>	<u>Sex</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

17. Identify any outstanding loans greater than \$10,000:

<u>Amount</u>	<u>Lender</u>	<u>Guarantor(s)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

18. List Major equipment owned or leased by the firm:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

a. If any equipment is leased identify owner.

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19. Identify the firm's bonding or Business Insurance Carrier.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Bonding Limit \_\_\_\_\_

Type and Amount of Coverage \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

20. Identify the firm's bank

Name: \_\_\_\_\_

Branch: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Contact Person: \_\_\_\_\_

21. Have any of the officers or owners of the firm conducted business under another business name?

\_\_\_\_\_ Yes \_\_\_\_\_ No

a. If so, please provide the following:

<u>Business Name</u>	<u>Officer/Owner</u>	<u>Dates of Operarion</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



22. If any owner of the firm is a business entity please provide the following:

<u>Business Name</u>	<u>Address</u>	<u>Owner(s)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

23. Has the firm been previously certified as a DBE/MBE or SBA Section 8(a)?

Certifying Authority \_\_\_\_\_

Date Certified \_\_\_\_\_

**ATTACH EVIDENCE OF PREVIOUS CERTIFICATION.**

a. Has the firm ever been denied certification?

\_\_\_\_\_ Yes \_\_\_\_\_ No

**ATTACH EVIDENCE OF DENIAL OF CERTIFICATION.**

24. Describe or attach a copy of any stock options or other ownership options that are outstanding, and any agreements between owners, or between owners and third parties which restrict ownership or control of disadvantaged owners.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

25. Identify any owner, or management official, of firm who is or has been an employee of another firm that has an ownership interest in, or a present business relationship with the named firm:

a. Owner/Management Official.

\_\_\_\_\_

b. Describe the nature of the ownership interest or present business relationship with the named firm.

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c. Name of the firm which has an ownership interest or present business relationship with named firm.

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26. Please provide a comprehensive list of past and current projects completed within the last 2 years. Include prime contractors' names, subcontract dollar amounts and scope of work. If work was performed as a prime contractor, please provide owner's name, scope of work and dollar amount.

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**AFFIDAVIT**

I/We, the undersigned swear that the foregoing statements are true and correct and include all material information necessary to identify and explain the operations of \_\_\_\_\_

\_\_\_\_\_  
(Name of Firm)

Further, I/We the undersigned agree to provide through the prime contractor or, if no prime directly to the Southern California Rapid Transit District current, complete and accurate information regarding actual work performance on the project, the payment therefor and any proposed changes, if any, of the foregoing arrangement and to permit the audit and examination of books, records and files of the named firm. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State Laws concerning false statements.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Corporate Seal (where appropriate)

Date \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, before me appeared \_\_\_\_\_

\_\_\_\_\_, proved to me on the basis of satisfactory evidence who being duly sworn, did execute the foregoing affidavit, and did state that he/she was properly authorized by \_\_\_\_\_ (Name of Firm) to execute the affidavit and did so as his or her free act and deed.

Notary Public \_\_\_\_\_

Commission Expires \_\_\_\_\_

GENERAL: A fully completed Application/Information Sheet is requested for your firm to receive solicitations. Please enter all data applicable to your firm. Also complete the attached Items Supplied Listing by placing an "X" in front of each item your firm can provide and write the corresponding code number(s) in item 20 below. Where noted, please refer to reverse side for instructions and definitions. Return this Sheet and the attached Lists to the above address. For additional information, please call the office of Contracts Procurement at (213) 273-0270.

1.  Initial Submittal      2. Date \_\_\_\_\_  
 Revision

3. Federal Employer Identification No. \_\_\_\_\_

4. Name of Firm \_\_\_\_\_  
Street Address \_\_\_\_\_  
(Main Office)  
City/State/Zip Code \_\_\_\_\_  
Principal Contact \_\_\_\_\_ Phone No. ( ) \_\_\_\_\_

5. Solicitation Mailing Address (if different from Item 4)  
\_\_\_\_\_  
\_\_\_\_\_  
City/State/Zip Code \_\_\_\_\_

6. Nearest Plant Location Address \_\_\_\_\_

7. Floor Space (in Square Feet)  
Office      Manufacturing      Warehouse

8. NAMES OF OFFICERS, OWNERS OR PARTNERS

A. President \_\_\_\_\_      B. Vice President \_\_\_\_\_      C. Secretary \_\_\_\_\_  
D. Treasurer \_\_\_\_\_      E. Owners or Partners \_\_\_\_\_

9. Affiliates of Applicant (Names, Locations and Nature of Affiliation) \*

10. Persons Authorized to Sign Offers and Contracts in Your Company Name (Indicate of Agent)

Name	Official Capacity	Telephone No. (Include Area Code)
_____	_____	_____
_____	_____	_____

11. Type of Business (Check One)

1  Manufacturer or Producer      3  Regular Dealer      5  Construction Concern  
2  Service Establishment      4  Consultant      6  Research and Development  
7  Surplus Dealer

12. Type of Organization (Check One)\*

1  Sole Proprietor      4  Corporation, incorporated under the laws of the State of \_\_\_\_\_  
2  Partnership      6  Other  
3  Joint Venture

13. Years in Operation

1  Under 1      2  1-3      3  4-6      4  7-10      5  11-15  
6  16-20      7  21 and above

14. Date Business Established (Month, Day and Year)

15. Average Number of Employees for Last Four Calendar Quarters \*

1  1-4      2  5-9      3  10-19      4  20-49      5  50-99  
6  100-249      7  250-599      8  600-999      9  Over 1,000

16. Bonding Capacity (Check Highest Amount)

Under 49,999	50,000-99,999	100,000-249,999	250,000-499,999
1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>
500,000-999,999	1,000,000-4,999,999	5,000,000-9,999,999	Over 10,000,000
5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input type="checkbox"/>

17. Gross Sales in Dollars (Check Each Line) (FY - Fiscal Year)

	Up to 9,999	10,000-19,999	20,000-29,999	30,000-49,999	50,000-99,999	100,000-299,999	300,000-499,999	500,000-999,999	1,000,000-4,999,999	Over 5,000,000
Last FY	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input type="checkbox"/>	9 <input type="checkbox"/>	10 <input type="checkbox"/>
FY 2 Yrs. Ago	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input type="checkbox"/>	9 <input type="checkbox"/>	10 <input type="checkbox"/>
FY 3 Yrs. Ago	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input type="checkbox"/>	9 <input type="checkbox"/>	10 <input type="checkbox"/>

18. Current Assets in Dollars (Check One)

Under 49,999	50,000-99,999	100,000-249,999	250,000-499,999	500,000-999,999
1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
1,000,000-4,999,999	Above 5,000,000			
6 <input type="checkbox"/>	7 <input type="checkbox"/>			

19. Disadvantaged Business Status (If your firm is at least 51% owned, managed and controlled by minority person(s) DBE or by a woman/women (WBE), please note your Disadvantaged Business Status):

1  Black      2  Hispanic      3  American Indian  
4  Asian American      5  Women      6  Other \_\_\_\_\_

If your firm is certified as DBE/WBE with any public agencies (excluding SCRTD), please list them below (include certification number(s) if known).

20. Refer to the attached items Supplied Listing and place an "X" in front of the equipment, supplies or services you can realistically furnish. Transcribe only corresponding code numbers below.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CERTIFICATION — I certify that information supplied herein (including all pages attached) is correct and that neither the applicant nor any person (or concern) in any connection with the applicant as a principal or officer, so far as is known, is now debarred or otherwise declared ineligible by any Local, State or Federal governmental agency of or located in the United States of America, from making offers or furnishing materials, supplies or services to any government agency thereof.

Name and Title of Person Authorized to Sign (Type or Print) \_\_\_\_\_ Signature \_\_\_\_\_ Date Signed \_\_\_\_\_

## INSTRUCTIONS

Persons or concerns wishing to be added to the Southern California Rapid Transit District Solicitation Mailing List shall forward this properly completed and certified Solicitation Mailing List Application/Business Information Sheet, together with such other lists as may be attached to this application form, to the address at the top of the reverse side of this form. Identify by code in Item 20, the equipment, supplies and/or services on which you desire to bid which have been transcribed from the items Supplied Listings attached to the form. Place your company name in the space provided on each of the attached forms and return all pages whether they contain entries or not with your completed application. The application shall be submitted and signed by the principal as distinguished from an agent, however submitted.

After placement on the bidder's mailing list by SCRTD, your failure to respond (submission of a bid or proposal or notice, in writing, that you are unable to bid on that particular transaction, but wish to remain on the active bidders' mailing list for the particular item) to solicitations on three (3) separate occasions will be understood by SCRTD to indicate lack of interest and concurrence in the removal of your name from SCRTD's Solicitation Mailing List for the items concerned.

To keep information current at SCRTD, you should furnish written updates, signed by a principal, as changes occur in your business.

### GENERAL DEFINITIONS

- a. **AFFILIATES**—Business concerns are affiliates of each other when either directly or indirectly (i) one concern controls or has the power to control the other, (ii) a third party controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration is given to all appropriate factors, including common ownership, common management, and contractual relationship (See Item 9).
- b. **NUMBER OF EMPLOYEES**—(Item 15) In connection with the determination of small business status, "Number of Employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary or other basis during each of the pay periods of the preceding 12 months. If a concern has not been in existence for 12 months, "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period that such concern has been in business.
- c. **FISCAL YEAR**—(Item 17) Fiscal Year as used herein is to be construed as your company's fiscal year period(s).

### TYPE OF ORGANIZATION DEFINITIONS

- a. **MANUFACTURER OR PRODUCER**—Means a person (or concern) owning, operating, or maintaining a store, warehouse or other establishment that produces, on the premises, the materials, supplies, articles, or equipment of the general character of those listed in Item 20, or in the attached Items Supplied Listings.
- b. **SERVICE ESTABLISHMENT**—Means a concern (or person) which owns, operates, or maintains any type of business which is principally engaged in the furnishing of nonpersonal services, such as (but not limited to) repairing, cleaning, redecorating, or rental of personal property, including the furnishing of necessary repair parts or other supplies as part of the services performed (See Item 12).
- c. **REGULAR DEALER**—Means a person (or concern) who owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, articles or equipment of the general character listed in item 20, or in the attached Items Supplied Listings are bought, kept in stock and sold to the public in the usual course of business.

**DETERMINATION OF SOCIAL AND ECONOMIC ADVANTAGE**—(Item 19) "Disadvantaged business," consistent with 49 CFR Part 23 and related laws, means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged 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 socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. "Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act. Recipients shall make a rebuttable presumption that individuals in the following groups are socially and economically disadvantaged. Recipients also may determine, on a case-by-case basis, that individuals who are not a member of one of the following groups are socially and economically disadvantaged.

- (a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- (c) "American Indian," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (d) "Asian-Pacific/Asian-Indian Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas, and includes persons whose origins are from India, Pakistan and Bangladesh.

### DETERMINATIONS OF BUSINESS SIZE

Businesses should apply the following size standards:  
1. Subcontracts of \$10,000 or less: A business is small if, including its affiliates, it does not have more than 500 employees.  
2. Subcontracts over \$10,000 and prime contracts: A business is regarded as small if it meets the following criteria:

- (a) Construction.
  - (1) General Construction (in which less than 75 percent of the work falls into one of the categories in paragraph 2: The firm's average annual receipts for the three preceding fiscal years do not exceed \$12 million.

TYPE OF FIRM	MAXIMUM AVERAGE ANNUAL RECEIPTS IN PRECEDING 3 FISCAL YEARS
Plumbing, heating (except electric) and air conditioning	<b>\$5 million</b> for all types of contractors on this list.
Painting, paperhanging and decorating	
Masonry, stone setting and other stonework	
Plastering, drywall, acoustical and insulating work	
Terrazzo, tile, marble and mosaic work	
Carpentering and flooring	
Floor laying and other floorwork	
Roofing and sheet metal work	
Concrete work	
Water well drilling	
Structural steel erection	
Glass and glazing work	
Excavating and foundation work	
Wrecking and demolition work	
Installation or erection of buildings equipment	
Special trade contractors, not elsewhere classified	
(b) Suppliers of manufactured goods: the firm, including its affiliates, must not have more than 500 employees	
(c) Service contractors	

TYPE OF FIRM	MAXIMUM AVERAGE ANNUAL RECEIPTS IN PRECEDING 3 FISCAL YEARS (IN MILLIONS OF DOLLARS)
Engineering	\$7.5
Janitorial and custodial	4.5
Computer programming or data processing	4
Computer maintenance	7
Protective services	4.5
Others not mentioned in 13 CFR 121.3-8(e)	2

**FIRM NAME**

**POINT OF CONTACT (INCLUDE TELEPHONE NO.)**

**ITEMS SUPPLIED LIST**

Please place an "X" in the blank space preceding each product or service that your firm is capable of providing to METRO. Enter your firm name and point of contact in the space provided at the top of each item supplied and return all pages with the Solicitation Mailing List Application form to the address at the top of such form. Return all pages.

**A. BUYERS LESSEES OF SURPLUS EQUIPMENT**

- A501210 BUSES SURPLUS
- A501220 BUYERS. SURPLUS CARS
- A501280 RAIL CARS SURPLUS
- A508130 OFFICE MACHINE SURPLUS
- A508170 EQUIPMENT LESSEES
- A508180 VEHICLE LESSEES
- A508199 FUNCT EQUIPMENT SURPLUS
- A509360 MISC SCRAP SURPLUS
- A509370 WASTE OILS
- A591210 SURPLUS BUSES

**B. CONSTRUCTION AND BUILDING TRADES**

- B154100 INDUST BLDGS. WREHOUS.
- B154200 GENERAL CONTRACT
- B161000 HWY. STREET CONST.
- B162000 HIGHWAY CONSTRUCTION
- B162300 POWER IN CONSTRUCTION
- B162910 TRACKWORK
- B162920 DREDGING WORK
- B162930 EARTHMOVING WORK
- B162931 HAULING
- B162999 HEAVY CONSTRUCTION
- B171100 PLUMBING, HEATING
- B172100 PAINT, PAPER HANGING
- B173100 ELECTRIC WORK
- B174100 MASONRY
- B174200 DRY WALL
- B174300 TILE
- B175100 CARPENTERING
- B175200 FLOORWORK
- B176100 ROOFING
- B177100 CONCRETE WORK
- B177101 PAVING
- B179100 STRUCTURAL STEEL
- B179300 GLASS
- B179400 EXCAVAT FOUNDATION
- B179500 DEMOLITION
- B179600 ERECTION OF BLDG. EQUIP.
- B179910 METAL FENCE
- B179920 HOUSE MOVING WORK
- B179999 TRADE CONTRACTORS
- B243900 STRUCTURAL WOOD
- B325300 CERAMIC WLL FLR TILE
- B327100 CONCRETE WORK
- B344100 FABRSTRUCTURAL MTAL
- B36 FIRE PROTECTION
- B37 SAND BLASTING
- B38 THERM INSUL MECH SYS
- B39 ASPHALT PAVING
- B399302 CONST SIGNAGE
- B40 CONCRETE SAWING
- B41 FIBERGLS SUPPLY FAB

- B429302 WATER BLASTING
- B43 MACH INSTALLATION
- B44 MATERIAL HAND INST
- B45 SHAP FAB STEEL MACH
- B46 PILE DRILLING MACH
- B47 MARINE CONSTRUCTION
- B48 TELEPHONE CONSTRUCTION
- B49 MOST OF B1-B35 CAT
- B50 EARTHQUAKE SEISMIC
- B503900 CONST. MATERIALS
- B51 IRRIGATION INSTALL

**C. CONSULT PROFESS SPECIAL SERVICES**

- C078100 LANDSCAPE COUNSELING
- C23 SECURITY PLANNING
- C24 JOINT DEVELOPMENT
- C25 DESIGN & CONST MANGT
- C26 SPRAY CONCRETE CONST
- C27 PARKING MANG OPER
- C28 FEASIBILITY STUDIES
- C29 SAFETY ENGINEERING
- C30 CORROSION CONTROL
- C31 FIRE ALARM MONT TEST
- C32 TEMP PERSONNEL GENRL
- C33 CALIB & REPR TEST EQ
- C34 URBAN PLAN & DESIGN
- C35 CONS MTLs TEST/INSP
- C36 SOCIOECONOMIC CONST
- C37 MAINT & MATL MANG
- C38 TRANS MANG & PLAN
- C39 TEMP ERV ENG DRAFT
- C40 CONSTRUCTION DISPUTE
- C41 CPM SCHEDULING
- C42 CLAIMS ANALYSIS
- C43 HAZDWASTE MGR CONST
- C44 SOIL. GROWTR MON TEST
- C45 ENVRNMTL TEST & ENG
- C46 MARKET RESEARCH
- C47 OFFSHORE ENGR
- C49 SITE SEL SCR N STUDY
- C50 CONFIGURATION CNTL
- C51 DOCUMENT CONTROL
- C52 TECH DOC WRIT EDIT
- C53 TECH TRANSLATING
- C54 SPECIFICATION WRITING
- C55 CITIZEN PRTN/COM INV
- C56 TECH/EXEC RECRUITMENT
- C57 SOCIOENVNMT. CONSULT
- C58 FIBER OPTICS
- C59 UNGRD/UNBRDG CON SYS
- C599900 CONCESSIONAIRES
- C60 OPERATIONS PLANNING
- C609900 FINANCIAL SERVICES
- C61 HUMAN RESOURCE MGRT

- C62 LABOR PRODUCTIVITY
- C63 MGRT CONSULTING
- C639900 INSURANCE SERVICES
- C64 CHEMICAL ANALYSIS
- C65 INDUSTRIAL HYGIENE
- C653110 REAL ESTATE MGMT
- C653120 REAL ESTATE SVC
- C659900 REAL ESTATE SVC
- C66 PVT INVESTIGATIONS
- C67 ENVIRONMENTAL IMP STD
- C68 TRANSIT SYS MGRT CON
- C69 AUDITING
- C70 OPERATIONS IMPRVMT
- C71 RISK ASSESSMENT
- C72 PROJECT CNTL BDGT AN
- C73 DEMOGRAPHIC ANALYSIS
- C731100 ADVERTISING
- C739200 ORGANIZ CONSULT SVC
- C739910 DECORATING SERVICES
- C739920 INVENTORY SERVICES
- C739940 MAP MAKING SVC
- C74 ECO/FISCAL IMPACT AN
- C75 ASSESSMENT DIST NAA
- C76 SECURITY SERVICES
- C77 TELECOM CONSULT
- C78 LAND USE PLANNING
- C79 INTERGOVERNMENTAL
- C799900 RECREATION SERVICES
- C80 GRANTS MANAGEMENT
- C809100 MEDICAL SERVICES
- C81 RESEARCH
- C811100 LEGAL SERVICES
- C82 CONSULT SV BROKER
- C829900 EDUCATIONAL SVC
- C83 MARKETING RESEARCH
- C891110 ARCHITECTURAL SVC
- C891120 ENGINEERING SVC
- C891139 SURVEYING SVC
- C893100 ACCOUNTING SVC
- C899900 MISCELLANEOUS SVC
- C899901 ACTRARIES

**D. FACILITIES MAINTENANCE SERVICES**

- D078200 GARDEN SVC
- D078300 SCRUB AND TREE SVC
- D25 OVERHEAD DR SERV REP
- D26 GENERATOR INST/REPR
- D27 ENT DR SER/REP/INST
- D28 LOCKSMITH SERVICE
- D29 CAFETERIA SERVICE
- D30 PLANT/MAINT./INDOORS

**A. FACILITIES MAINTENANCE SERVICES (Cont'd)**

- D342901 CYLINDER, MASTER KEY
- D342901 CARPET UPHOL CLEAN
- D721900 LAUNDRY SVC
- D734100 WINDOW CLEANING SVC
- D734200 EXTERMINATION SVC
- D734905 A/C MAINT SVC
- D734910 ELECTRICAL SVC
- D734915 ELEVATOR SVC
- D734920 PLUMBING SVC
- D734925 ROOFING SVC
- D734930 JANITORIAL SVC
- D734935 PAINTING SVC. INTER
- D734936 PAINTING SVC. INTER
- D734940 PARKING LOT CLEANING
- D734945 SIGNAGE SVC
- D734950 WASTE, DISPOSAL, SVC
- D734960 DRAPERY CLEANING SVC
- D734970 CARPET CLEANING
- D734975 FIRE INSPECTION SVC
- D734980 FIRE EQUIP SVC
- D738300 PROTECTIVE SERVICES
- D764100 UPHOLSTERY REPAIR

**E. FACILITIES MAINTENANCE AND SUPPLY**

- E148810 SAND & GRAVEL
- E238201 PAIL, MOP WRINGER
- E238202 MOPS
- E239210 DUSTPANS
- E248100 WOOD PRESERVING
- E252201 BENCHES, WORK
- E252202 BENCHES, MACHINIST
- E254101 BENCHES, WOODWORKING
- E254250 BENCHES, PLUMBING
- E284201 FLOOR CLEANER
- E322720 CONCRETE STOP POSTS
- E342101 CLIPPERS
- E342302 KNIVES
- E342344 VICE
- E342350 HAND TOOLS
- E342360 STRETCHER, FENCE
- E343201 ROOTER, DRAIN
- E348802 LADDER, STEP
- E358802 ASPHALT
- E353730 TRUCK, HAND
- E354620 TOOLS
- E355302 LATHE, LARGE
- E355310 LATHE
- E358802 VACUUM
- E358910 SWEEPERS, PORTABLE
- E368810 CORRUGATED STL/PIP/FIT
- E362902 CHARGER, PORTABLE
- E362982 CHARGER, BATTERY
- E372910 BK FLOW PREVENTR VAL
- E382910 ALL E NUMBERS
- E399102 BROOMS, PUSH TREATED

- E399103 BROOMS, PUSH UTILITY
- E399110 BROOMS, PUSH UNTREATED
- E499901 LADDERS
- E508300 GARDEN EQUIPMENT
- E509930 FLAG POLES
- E521100 LUMBER BUILDING MTRL
- E528100 NURSERY PRODUCTS

**F. MISCELLANEOUS EQUIPMENT**

- F221101 CANVAS
- F238501 RAIN COATS
- F242501 NOISE CONTROL EQMT
- F243501 SPRAYED CONCRETE S/G
- F244501 ICE OF DRY ICE
- F244101 TOOL CHESTS
- F244800 PALLETS, SKIDS
- F245800 PUMP STAN/POWR HOUSE
- F246800 DRAINAGE
- F247800 TREATMENT PLANTS
- F248800 PRE-CAST CONCRETE
- F249800 GENERATORS
- F249800 WOOD PRODUCTS
- F250900 COLLISION REPAIR EQ
- F251900 SECURITY SYSTEMS
- F252900 PLASTIC STOR/SHIP CN
- F253900 SOIL TEST EQUIP
- F254900 TENSILE TEST MACHINE
- F254201 RACK, BIN TOOL/PART
- F255201 RUBBER FABRICATION
- F256201 FENCING
- F257201 FIRE/EMGRY ENCLSRs
- F258201 TELEPHONE ENCLOSURES
- F258201 CRANE SYSTEM
- F260201 MOVING SIDEWALKS
- F261201 TURNTABLES
- F262201 LIFTS
- F263201 PASSENGERS LD BRDGE
- F264201 ACCOUSTICAL TITLE
- F265201 SUSPENDED T BAR CEIL
- F268201 SPRAYED FIREPROOFING
- F267201 MANY F CATEGORIES
- F268201 ALUM/STL WINDW STRFR
- F269201 TUNNEL LINERS
- F270201 SKYLIGHTS
- F271201 LINEN & TRASH CHUTES
- F272201 FARE COLLECTION SYS
- F273201 INDUST/GLASS DOORS
- F274201 ROOM DIV/CURT WALL
- F275201 MIRRORS
- F276201 DETERGENTS
- F277201 FAB ASME CD PRESS VES
- F278201 ROOF HATCH SMKE VENT
- F302101 BOOTS, RUBBER
- F304101 GARDEN HOSE
- F306901 APRONS
- F306902 GLOVES
- F319901 VESTS, SAFETY
- F326100 VITREOUS CHINA PLUMB

- F261001 TOILET PLUMBING FIX
- F329101 HONE, SUNNEN
- F329300 SEALING DEVICES
- F331201 SHUNT STRAP
- F341101 CANS, OIL
- F341102 CAN, GASOLINE
- F342102 UNISHEAR
- F342110 SHEAR, METAL
- F342301 POSTHOLE DIGGER, HAND
- F342303 AWIS
- F342304 ADZES
- F342308 IRON, SOLDERING
- F342309 NUT DRIVER
- F342310 PICKS, DIGGING, DIRT
- F342311 PLIERS
- F342312 SHOVELS, LONG
- F342313 SHOVELS, POINTED DIRT
- F342314 HAMMERS, SPIKING
- F342315 SPIKE STARTERS
- F342317 SOLDERING IRON
- F342318 SCREW DRIVER SETS
- F342319 STRIPPERS, WIRE
- F342320 SOLDER SUCKER
- F342321 SOLDERING AID
- F342322 STA-STRAP TOOL
- F342323 SOLDER POT
- F342324 WRENCH SETS
- F342325 WRENCH SETS
- F342325 WRENCH, IMPACT
- F342326 WRENCH, TORQUE
- F342327 WIRE, UNWRAP TOOL
- F342328 WIRE SPOOL RACK
- F342329 WRENCH, ADJUSTABLE
- F342330 WRENCH, SWITCH MACHIN
- F342331 WRENCH, OPEN END
- F342332 WRENCH, BOX
- F342333 WRENCH, ADJUSTABLE
- F342334 PUNCH PRESS
- F342355 GUN, MANUAL
- F342366 HAMMERS, SLEDGE
- F342377 HAMERS, BALL PEN
- F342380 AXES
- F342910 LOCK-OUT DEVICES
- F344300 FABRIC PLATE WORK
- F344301 COOLING TOWERS
- F344302 STORAGE TANK, GASOL
- F344303 STORAGE TANK, DIESEL
- F344304 STROAGE TANK, MINERL
- F344305 STROAGE TANK, WASTE
- F344602 SCAFFOLD
- F344800 BUS STOP SHELTERS
- F346200 IRON, STEEL FORGINGS
- F346901 TRASH RECEP INTERIOR
- F346999 METAL STAMPING
- F347101 SAND BLASTER, PORTBL
- F349600 WIRE AND CABLE
- F349900 FABRICATED PRODUCTS
- F352301 FERTILIZER DISTRIB

**F. MISCELLANEOUS EQUIPMENT  
(Cont'd)**

- F353101 POSTHOLD DIGGER SELF
- F353102 LOCK SPIKE TOOL
- F353199 CONST MACHINE
- F353401 ESCALATORS
- F353402 ELEVATORS
- F353403 LIFTS, PASSENGER
- F353601 HOISTS
- F353602 HI-LIFT PLATFORM
- F353604 SPEED SWING HOIST
- F353699 HOISTS AND CRANES
- F353710 CRATS
- F353725 PUSH TRUCKS, PORTABLE
- F354102 CUTTERS, PIPE
- F354103 MILLING MACHINE
- F354110 DRILL PRESSES
- F354115 SAWS, HACK
- F354199 MACHINE TOOLS
- F354201 METAL BRAKE
- F354302 DRILL BITS
- F354303 DRILLS
- F354304 DIE SET
- F354505 THREADER
- F354506 TOOL SETS
- F354507 VISE, HEAVY DUTY, PIPE
- F354509 PORTA POWER
- F354510 WHEEL TRUING
- F354599 MACHINE ACCESSORIES
- F354601 POWER TORQUE WRENCH
- F353402 JACK HAMMERS
- F354603 CHAIN SAWS
- F354604 GRINDER, TOOLS
- F354605 GUN, STUD
- F354606 GRINDER, SANDER
- F354607 GRINDER, PEDESTAL
- F354608 GRINDER, BENSH
- F354611 MITRE BOX SAW
- F354612 TOOL, MISCELLANEOUS
- F354640 CONCRETE SAWS
- F354650 CONCRETE SAWS
- F354660 SAWS, JIG
- F354670 SAWS, CIRCULAR
- F354675 TOOL PNEUMATIC
- F354680 SAW, SABRE
- F354685 BUFFERING MACHINES
- F354690 TOOL, ELECTRIC
- F354699 POWER HAND TOOLS
- F354901 WELDING EQUIP
- F354999 METALWORK MACHINERY
- F355301 BANDSAWS
- F355303 SAWS, RADIAL ARM
- F355304 JOINTER-PLANER
- F355305 PLANER
- F355306 ROUTER
- F355320 SAWS, TABLE
- F355910 WASHRACK EQUIP
- F356100 TANKS, PUMPS
- F356101 WASHERS

- F356300 COMPRESSORS
- F356301 GUN, PAINT
- F356400 BLOWERS AND FANS
- F356401 DUST COLLECTOR STS
- F356500 INDUSTRIAL PATTERNS
- F356902 TOOL BOXES
- F356903 LUBRICATION EQUIP
- F346904 PRESS HYDRAULIC
- F356910 STEAM CLEANING EQUIP
- F356920 FIRE HOSE CABINETS
- F356999 GENERAL MACHINERY
- F357302 TAPE RECORDER
- F357320 COMPUTING EQUIP
- F358501 WATER CHILLERS
- F358599 A/C HEATER EQUIP
- F358600 DISPENSING PUMPS
- F358901 CLEAN EQUIP, AUTO VAC
- F358903 SAND, PORT, ELECT BELT
- F358905 VACUUM, SCRUB, FLOOR
- F358906 VACUUM
- F358907 VACUUM, WET/DRY
- F358920 SCRUBBER, HI-PRESSURE
- F358930 SANDER, BENCH
- F358940 SANDER, ORBIT VIBRAT
- F358950 POWER CLEANING EQUIP
- F358999 SERVICE MACHINES
- F361299 TRANSFORMER
- F362101 PORTABLE GENERATOR
- F362199 MORTORS, GENERATORS
- F362210 POUILLUTION CONTROL EQ
- F362299 INDUSTRIAL CONTROLS
- F362399 WELDING EQUIP
- F362912 BATTERY CHARGES
- F362999 ELECT APPARATUS
- F363601 SEWING MACHINE
- F363901 COMPACTOR, TRASH
- F364300 WIRING DEVICE
- F364601 LUMINAIRES
- F364602 FIXTURES LIGHTING
- F364699 ELECT LGHT FIXT
- F364801 FLOOD LIGHTS
- F364802 LIGHTS, FLASH
- F364803 LIGHTS, WATERPROOF
- F364810 LIGHT, HAND PORTABLE
- F364899 LIGHTING EQUIP
- F365110 MUSIC, APPARATUS
- F365120 SPEAKERS/SYSTEMS
- F365299 RADIO & TV TRANSMIT
- F366101 PHONE SHSTEM
- F366102 EMERGENCY TELEPHONE
- F366103 PHONE CABINETS
- F366120 PC BOARD
- F366199 PHONE APPARATUS
- F366203 RADIO SYSTEM
- F366205 TV CLOSED CIRCUIT
- F366207 SMOKE DETECTORS
- F366208 SIGNALS
- F367501 CAPACITOR BOXES
- F367901 HEATERS

- F367999 ELECT COMPONENTS
- F371120 FIRE UNIT
- F382201 DAMPERS
- F382229 AUTO CONTROL
- F382301 TEMPOERATURE RECORDER
- F382302 THERMOMETER
- F382330 TEST UNIT, TENS COMP
- F382340 VAPOR, GAS DETECTOR
- F382401 TACHOMETER
- F382502 METER, VOLT-OHM
- F382504 METER, NOISE LEVEL
- F382505 OSCILLOSCOPE
- F382507 OSCILLOSCOPE
- F382508 OSCILLOSCOPE, B & W
- F382508 OSCIL CHART RECORDER
- F382509 SIGNAL GENERATOR
- F382510 SCOPE, GENERATOR
- F382511 SCOPE, PORTABLE
- F382512 TEST EQUIPM VOM'S
- F382513 TRANS CURVE TRACTOR
- F382414 TEST EOKUIP, DIGITAL
- F382512 HYPOT JR.
- F382516 TEST UNIT, MEGAMETER
- F382517 TEST UNIT, OHMETER
- F382518 TEST UNIT, VOLTMETER
- F382519 TEST UNIT, VOLTMETER
- F382520 TEST UNIT, AMMETER
- F382521 TEST UNIT, WALTMETER
- F382523 TEST UNIT, BATTERY
- F382524 TEST UNIT, "MEGGER"
- F382525 TEST UNIT, "Themper"
- F382526 ANALYZER GAS ENGINE
- F382527 ANALYZER DIESEL ENGN
- F382528 ANALYZER, BATTERY
- F382529 CONTINUITY CHECKER
- F382530 HYPOT TESTER
- F392531 PROBE, LOGIC
- F382545 METER, LIGHT
- F382548 METER, VOLT/AMPERE
- F382902 TRANSFER MACHINE
- F382999 MEASURE CONTROL DEVC
- F384101 STEGHSCOPE
- F384201 GLOVES, SAFETY
- F384202 FIRST AID KITS
- F384202 GOGGLS SAFETY
- F387310 WATCH, STOP
- F387399 WATCHES
- F399101 BRUSHES, INDUSTRIAL
- F399120 WASHER, WINDOW
- F399901 FIRE EXTINGUISH EQUI
- F481100 PHONE, WIRE OR RADIO
- F508400 MACHINERY AND EQUIP
- F508410 MATERIAL HAND EQUIP

**G. MOTOR VEHICLE MAINTENANCE SVCS**

- G17 LASER MEAS SYS CHSIS
- G18 SRCE INSP BUS/MAT EQ
- G347100 METAL PLATING, POLISH



**G. MOTOR VEHICLE MAINTENANCE SVCS (Cont'd)**

- G359900 MACHINE SHOP SVC
- G421200 MOTOR FREIGHT SVC, LCL
- G421300 MOTOR FREIGHT SVC
- G422500 WAREHOUSING SVC
- G721300 LINEN SUPPLY SVC
- G739400 EQUIP RENTAL
- G739700 COMMERCIAL TEST SVC
- G751200 CAR RENTAL
- G751300 TRUCK RENTAL, LEASING
- G753910 ENGINE COMPON REPAIR
- G753920 RECLAMA COACH PARTS
- G753930 AUTO, TRUCK REPAIR
- G753940 RADIATOR REPAIR SVC
- G754200 CAR WASH SVC
- G769200 WELDING REPAIR SVC

**H. VEHICLE MAINTENANCE SPLYS**

- H229600 UPHOLSTERY MATERIALS
- H229900 TEXTILE GOODS
- H231100 COVERALL, UNIFORMS
- H265101 MIXER, PAINT
- H265110 PAINT, NON-POLYURETH
- H265120 PAINT, POLYURETHANE
- H269100 ADHESIVES, SEALANTS
- H269805 EXTERIOR COACH DETER
- H269910 ENGINE WHEEL CLEANER
- H269915 INTERIOR COACH DETER
- H269920 STEAM CLEANER
- H269925 MENERAL, SPIRIT, SOLVT
- H269930 ANTI-FREEZE
- H269980 MISCELLANEOUS
- H299200 LUBRICANTS, GREASES
- H321100 GLASS, VEHICLES
- H329100 ABRASIVES
- H33 ALL H CATEGORIES
- H34 ENG FILTRATION SYS
- H342330 JACKS FLOOR, 5 TON
- H342360 JACKS FLOOR, 2 TON
- H343395 JACK HANDLES
- H342902 SMALL TOOL SUPPLIES
- H344400 STEEL, ALLMIN, METAL
- H353130 JACK RLECT CAR
- H353720 STAND, SAFETY, VEHCL
- H356801 LUBRICATION EQUIP
- H369100 BATTERIES, ALL, VEHCL
- H371450 FILTERS — OIL, FUEL
- H482500 MIX, LIQU PETRO GAS
- H507500 A/C REFRIGERANT
- H509810 SAFETY EQUIP
- H598630 DIESEL FUEL—
- H598310 DIESEL FUEL-
- H598320 GASOLINE

**J. MOTOR VEHICLE PARTS & ACCESSORIES**

- J301110 TIRES, TUBES
- J301120 TIRES FOR COACHES

- J307910 DECALS
- J307920 PLASTIC WNDWPANE PNL
- J34 DIESEL ENG PT & SERV
- J342999 HARDWARE
- J35 WHEELCHAIR LIFTS
- J36 MOST J CATEGORIES
- J371401 AUTO, TRUCK PARTS
- J371402 AXLE, COMPMT FR COACH
- J371203 BRAKE LINING COACHES
- J371404 BRAKE COACHES
- J371405 CLUTCH COMPONENTS
- J371408 HYDRAULIC TRANSMISSN
- J371407 COOLING SYSTEM
- J371408 ELECT COMPONENT
- J371409 DIESEL ENGINE COMPNT
- J371410 FUEL EXHAUST COMPNT
- J371411 FRAME COMPNT COACHES
- J371412 AIR SUSPEN COMPONENT
- J371413 BODY COMPNT GMC
- J371414 A/C COMPONENTS
- J371415 BODY COMPNT FEXIBLE
- J371416 BODY COMPNT OTHER CCH
- J371417 FLOOR COVERING
- J371418 BRAKE DRUM COACHES
- J371439 BEARINGS
- J371499 COACH COMPONENT
- J382501 TEST, AC-DC 1000 VOLTS
- J382546 TEST UNIT, AC, RECORD
- J382549 VARIAC
- J382550 POWER SUPPLY, DC
- J503100 PLYWOOD
- J508300 AC/DC ELECTRICAL
- J507220 FASTENING HDWRE
- J507230 PIPE FITTINGS
- J509920 SEAT CUSHIONS

**K. OFFICE EQUIPMENT AND SUPPLIES**

- K259900 FURNITURE, FIXTURES
- K264500 DIE-CUT PAPER
- K32 COMPUTER SOFTWARE
- K33 COMPUTER SUPPLIES
- K34 AIR CLN DIST INST MT
- K35 ALL/MOST K CATGES
- K355500 PRINTING MACHINERY
- K357200 TYPEWRITERS
- K357310 CALCULATING MACHINES
- K357910 DICIAION EQUIP
- K357920 TAPE RECORDING
- K357930 PROJECTION EQUIP
- K357940 PHOTOGRAPHIC EQUIP
- K357999 OFICE MACHINE
- K36 DATA COMM EQUIPMT
- K37 COMPUTER SPARE PARTS
- K371310 CARPET, FURNISH ONLY
- K394420 PLAQUES
- K399600 FLOOR COVERING
- K508110 COPYING MACHINES
- K508120 MICROFILE EQUIP
- K508150 REC STORG RETRVL

- K508160 FILING EQUIP
- K508420 PRINTING, REPROD SUP
- K511100 PAPER, STOCK
- K511200 OFFICE SUPPLIES, MISC
- K514900 GROCERIES
- K519900 GRAPHIC SUPPLIES
- K571210 FURNITURE, WOOD
- K571220 FURNITURE, METAL
- K571230 FURNITURE, ALL OTHER
- K571240 SHELV, LOCKR, PARTTTN
- H571320 CARPET
- K571330 CARPET, INSTALL ONLY
- K571400 DRAPERIES, SHADES
- K594400 JEWELRY (SVC PINS)
- K594600 PHOTOGRAPHIC SUPPLS

**L. OFFICE, ADMINISTRATIVE & MIS. SERV**

- L257207 COMM PRINT DUP TYPE
- L257209 ENVELOPE PRINTING
- L275100 COMMER PRINT, LTRPRS
- L277110 PRINT TRANSFR TICKET
- L275200 LITHOGRA 1 COLOR PRS
- L275201 LITHOGRA 2 COLOR PRS
- L275202 LITHOGRA 4 COLOR PRS
- L275203 LITHOGRA 8 COLOR PRS
- L275204 XEROGRAPHIC
- L275205 WEB OFFSET
- L275206 HEAT-SET WEB OFFSET
- L275207 DUPLICATE TYPE PROCS
- L275208 SCREEN PRINTING SILK
- L275209 JACK ELECT CAR
- L275300 ENGRAVING SVC ,
- L276100 BUSINESS FORMS
- L276101 FORMS MANAGEMENT
- L279100 TYPESETTING
- L279500 LITHOGRA PLATEMAKING
- L36 TEMP PERSL ADM/CL
- L37 KPHOTOGRAMMETRIC SERV
- L38 FREIGHT FORWARDING—
- L39 VIDEO PRODUCTION
- L40 COURT REPORTING
- L41 MICROFILMFICHE PROD
- L42 SYSTEM ANALYSIS SERV
- L421410 MOVING SVC
- L43 D.P.AUDITS/FEAS STD
- L44 MULTI IMAGE PRODUCTN
- L45 TRAINING/ORIENTATION
- L451100 AIR TRANSPORTATION
- L598200 WENDING MACHINE
- L733200 BULEPRINTING
- L733310 COMMERCIAL PHOTOGRPHY
- L733320 PHOTOGRAPHIC SVC
- L733900 STENOGRAPHIC SVC
- L733901 ANSWERING SVC
- L738800 PERSONNEL SVC
- L737900 COMPUTER SVC
- L737901 WORD PROCESSING SVC
- L739401 FURNITURE RENTAL
- L739500 PHOTOFINISHING SVC

**L. OFFICE, ADMINISTRATIVE & MIS.SERV (Cont'd)**

- L739950 MESSENGER DELIVERY
- L739960 MAILING SVC
- L769900 TYPEWRITER MAINT
- L781300 MOTION PICTR. NOT TV
- L781400 MOTION PICTURE PROD

**M. RAILCAR ELECTRICAL**

- M26 DC & AC INVERTERS
- M27 AC PROPULN SYS CONT
- M28 ALL/MOST M CATEGRES
- M343301 AIR DIFFUSER
- M349801 WIRING, ELECTRIC
- M362220 RESISTOR GRID
- M362230 TRACTION MOTOR
- M362914 CURRENT COLLECTOR
- M365120 SPEAKERS/SYSTEMS
- M366211 LIGHTING/FIXTURES
- M366212 OPERATORS CONSOLE
- M367401 INPUT INDUCTOR
- M367902 BLOWERS, TRACTION MTR
- M367903 COMPRESSOR CONDENSER
- M367904 CIRCUIT BREAKER
- M367905 SERVOTROL
- M367906 SMOOTHING INDUCTOR
- M369901 AIR CONTROL UNIT
- M374312 CONTROL EQUIP. POWER
- M374313 COUPLER, ELECTRIC
- M374315 JUNCTION BOXES
- M374316 KNIFE SWITCH
- M374317 PICKUP-COIL ATP
- M374318 POWER SUPPLY
- M374319 PROGRAM STOP
- M374320 RESERVOIR-MAIN, SUPLY
- M382360 CONTROL EQUIP, ELECT
- M382370 CONTROL PANELS

**N. RAILCAR MECHANICAL**

- N19 ALL/MOST N CATEGRES
- N304102 PNEUMATIC PIPING
- N343302 DUCTS
- N344401 CAR BODY STRUCTURE
- N34602 GEAR BOX
- N349401 VENT VALVE
- N349910 CABINETS-EQUIP
- N364301 CONNECTOR, SEMI-PERMT
- N366209 AIR COMPRESSOR
- N366210 EVAPORATOR UNIT
- N369902 DOOR OPERATORS
- N374309 AXLE, WHEEL ASSEMBLY
- N374310 BOLSTER ASSEMBLY
- N374311 BRAKE EMERGENCY UNIT
- N374314 COULER, MECHANICAL
- N374321 TREAD BRAKE
- N374322 TRIP COCK
- N374323 TRUCK ASEMBLY
- N389303 DESTINATION SIGNS

**Q. RAILCAR MISCELLANEOUS AND TRCK**

- Q179930 INSIDE LINING
- Q253101 SEATS-ATTENDANT'S
- Q331204 RAIL BONDS
- Q331205 RAIL WELDS
- Q331206 TIEPADS
- Q356701 TUBULAR HEATERS
- Q366213 SIGNAL EQUIP
- Q366214 TRANSMITTER ANTENNA
- Q369200 BATTERIES, DRY & WET
- Q369201 BATTERY, A-CAR
- Q503910 WINDOWS AND GLAZING
- Q739701 TRACT TESTING
- Q762300 A/C COMPRESSR REPAIR
- Q762901 ELECT MOTOR REPAIR
- Q762902 HEAVY DUTY CRANE SVC
- Q762903 ELECT EQUIP REPAIR
- Q762904 RAIL GRINDING SVC
- Q762905 RAIL TRACT MOTOR REP

**R. RAPID RAIL EQUIPMENT**

- R252210 BLOCKS, SWITCH PT
- R327201 CROSTIES, CONCRETE
- R331202 RAILS, RUNNING
- R331203 RAIL, FASTENERS
- R331210 RAIL, CONTACT
- R335701 TRACT PWR FDER CABLE
- R335720 NONFERROUS WIRE
- R342305 WRNCH, TRACK BOLT, HND
- R342306 WRNCH, TRACK, LEG BOLT
- R342307 WRENCHES, RAIL ANCHOR
- R342345 WRNCH, TORQUE, AIR TRK
- R342370 RAIN TONGS
- R342385 RAIL FORKS
- R342391 CHISEL, RAIL
- R346201 TRACKWORK, SPECIAL
- R349101 CROSSTIES, TIMBER
- R353101 RAIL EXPANDER
- R353104 BRIDGE CRANES
- R353105 WORK LOCOMO 50 TON
- R353106 HYDRAULIC RERAILER
- R353107 TRACK TAMPER VEHICLE
- R353108 BALLAST REGUL BROOM
- R353109 BALLAST COMPACTOR
- R353110 TIE HANDLER, INSERTER
- R353111 TIE BED SCARIFIER
- R353112 BALLAST FORKS
- R353113 DOLLIES, RAIL
- R353114 DOLLIER, LOW LEVEL
- R353115 GRINDERS, RAIL SURFC
- R353115 GRINDERS, GASOLINE
- R353116 JACKS, BABY TRACK
- R353118 JACKS, LARGE TRACK
- R353119 SHOVELS, TRACK
- R353120 TAMPER, HAND,GAS,OPER
- R353121 TAMPING GUN AIR OPER

- R353140 BURRO CRANE
- R353610 LIFT CRANE-MANU. PORT
- R353101 RAIL SAW
- R354501 GKAUGE, TRACK
- R354609 GRINDERS, AIR
- R354610 GRINDERS, WHEEL
- R354630 RAIL DRILLS
- R356925 TOOL BOXES, TRACK
- R358904 TRACK VACUM CLEANER
- R358919 VAC CLNR CAR RL MOUN
- R358935 TUNNEL WSHR, DRN CLN
- R361201 SUBSTATION EQUIP
- R361202 FIXTURES, SUBWAY LGHT
- R361203 STATION ELECT TRANSF
- R361300 SWITCHGR, SWITCH BRO AP
- R362102 EMERG POWER SYSTEM
- R366202 SUPERVIS, CONTRL SYS
- R366204 STATION COMMUNICAT
- R371101 ROAD, RAIL TRUCKS
- R371102 TRUCK MOUNT
- R374301 RAPID TRANSIT CARS
- R374301 BALLASTCARD
- R374303 FLATCARS
- R374304 TRACK ANALYZER VEHCL
- R374305 SWITCHER, KAL TRAK
- R374306 CART, PORTABLE RAIL
- R374307 LOCOMOTIN, 50 TON
- R374308 CAR MOVER, PORTABLE
- R374399 RAILROAD EQUIP
- R382303 GAGES, SWITCH POINT
- R382304 GAGES, FROG
- R382305 GAGE, SWITCH MACHINE
- R382310 THERMOMETERS, RAIL
- R382320 GAGES, TRACK
- R382503 TEST UNIT, TWC
- R382540 TEST UNIT, ATC
- R382547 TEST UNIT, DIS
- R382555 FREQUENCY COUNTER
- R382901 FARE COLLECTIN EQUI
- R387301 CLOCKS STATION
- R78 FERROS FASTENERS
- R79 NON FERROS FASTENERS
- R80 TRACKSIDE RAIL LUBE
- R81 RAIL ANCHORS
- R82 COMMUNICATION SYSTEM
- R83 MOST/ALL CATERGORIES
- R84 LVR
- R85 MONORAILS
- R86 PEOPLE MOVERS
- R87 TURNKEY EQUIPMENT

**S. VEHICLES (OTHER THAN RAIL)**

- S20 MOTOR GRADER
- S21 ROUGH TERRAIN CRANE
- S22 SKIP LOADER
- S23 RUBBER TIRE LOADER
- S24 1800 GAL WATER TANK





(This form is being revised to include Women in the "DBE" definition)

## **SCHEDULE B**

### **Disadvantaged Business Enterprise (DBE)**

**and**

### **Women's Business Enterprise (WBE)**

### **Joint Venture Disclosure Affidavit**

**Introduction:** Please type or print legibly and return completed application form, along with supporting documentation to:

**SCRTD  
Attn: Contract Compliance Dept.  
425 South Main Street  
Los Angeles, CA 90013  
(213) 972-6465**

**Are you Bidding/Proposing on an RTD solicitation?**

**YES**     **NO**

**If yes, please complete the following:**

**RTD Project Name:**

**Proposal/Bid No:**

**Proposal/Bid Due Date:**

## Introduction

### 1.0 Policy and Purpose

1.1 It is the policy of the Southern California Rapid Transit District (SCRTD) that Disadvantaged Business Enterprises (DBE) and Women's Business Enterprises (WBE) shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. This is in compliance with the requirements of section 105 (f) of the Surface Transportation Assistance Act of 1982 and U.S. Department of Transportation regulations published at 49 CFR Part 23.

a. Joint Venture (JV) is eligible under 49 CFR Part 23 if:

- (1) The DBE/WBE partner of the JV meets the standards for an eligible DBE/WBE per Department of Transportation rules and regulations.
- (2) The DBE/WBE partner is responsible for a clearly defined portion of the work to be performed.
- (3) The DBE/WBE shares in the ownership, control, management responsibilities, risks and profits of the joint venture.

In addition, a business wishing to be certified as a DBE/WBE JV by the SCRTD shall cooperate with this office in supplying additional information which may be requested in order to make a determination.

- (4) A copy of the Joint Venture Agreement must accompany Schedule B.

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT  
DEPARTMENT OF EQUAL OPPORTUNITY

OFFICE OF DISADVANTAGED/WOMEN-OWNED BUSINESS ENTERPRISE  
DISADVANTAGED AND WOMAN-OWNED BUSINESS ENTERPRISE  
DISCLOSURE AFFIDAVIT



SCHEDULE B

1. Name of Joint Venture Business \_\_\_\_\_

Business Address \_\_\_\_\_

City State & Zip Code \_\_\_\_\_

2. Nature of Joint Venture Business \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. List Products and/or Service Rendered: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Identify firms which comprise joint venture and provide a copy of joint venture agreement. The JV agreement must be approved by the Office of Contract Compliance.

Name of Firm	DBE	WBE	NON DBE/WBE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

A. Describe the role of the DBE/WBE firm in the joint venture:

\_\_\_\_\_

\_\_\_\_\_

B. Briefly describe the experience and business qualifications of each Non-DBE/WBE Joint Venture Partner:

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5. What is the percentage of DBE/WBE Ownership:

                     %                                                       %  
DBE    WBE

6. Please fill in this part if ownership is not described in joint venture agreement:

Name of Joint Venture Partners	Profit & Loss Sharing	Capital Contributions Including Equip.	Other Ownership Interest
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>

7. Control of Joint Venture:

Name	Title	Business Name	Race	Sex
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A. Financial Decisions: 

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B. Management Decisions:

1. Estimating 

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2. Marketing & Sales 

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	<u>Name</u>	<u>Title</u>	<u>Business Name</u>	<u>Race</u>	<u>Sex</u>
3. Hiring & Firing	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
C. Supervision of Field Operations	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____

Note: The DBE Joint Venture Partner must complete Schedule A.

8. Provide the following information of the Escrow agent of the Joint Venture

Name \_\_\_\_\_ Contact person \_\_\_\_\_

Address \_\_\_\_\_

Telephone # \_\_\_\_\_

9. Disclose the following information on all persons authorized to withdraw funds from the Escrow account:

Name \_\_\_\_\_ Name \_\_\_\_\_

Address \_\_\_\_\_ Address \_\_\_\_\_

Telephone # \_\_\_\_\_ Telephone # \_\_\_\_\_



AFFIDAVIT

I/We, the undersigned swear that the foregoing statements are true and correct and include all material information necessary to identify and explain the operations of \_\_\_\_\_

\_\_\_\_\_  
(Name of Firm)

as the ownership thereof.

Further, I/We, the undersigned agree to provide through the prime contractor or, if no prime directly to the Southern California Rapid Transit District current, complete and accurate information regarding actual work performance on the project, the payment therefor and any proposed changes, if any, of the foregoing arrangement and to permit the audit and examination of books, records and files of the named firm. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State Laws concerning false statements.

DBE/WBE Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Corporate Seal (where appropriate)

Corporate Seal (where appropriate)

Date \_\_\_\_\_

Date \_\_\_\_\_

State of \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, before me appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence who being duly sworn, did execute the foregoing affidavit, and did state that he/she was properly authorized by \_\_\_\_\_ (Name of Firm) to execute

the affidavit and did so as his or her free act and deed.

Notary Public \_\_\_\_\_

101

Commission Expires \_\_\_\_\_

REV. 8/84

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT  
EQUAL OPPORTUNITY DEPARTMENT  
CONTRACT COMPLIANCE SECTION  
426 SOUTH MAIN STREET  
LOS ANGELES, CALIFORNIA 90013

SUMMARY SUBCONTRACTS AWARD AND PAID REPORT  
REPORTING PERIOD \_\_\_\_\_, 19\_\_

PROJECT NAME _____ LOCATION _____ PRIME CONTRACTOR _____ ADDRESS _____ CITY, STATE, ZIP CODE _____	REPORT NUMBER: _____ CONTRACT NUMBER: _____ CONTRACT AWARD AMOUNT \$: _____ CONTRACT AWARD DATE: _____ PROJECT GRANT NUMBER: _____ PURCHASE ORDER NUMBER: _____ AUDIT NUMBER: _____	REPORT PREPARED BY: _____ TITLE _____ TELEPHONE NUMBER (213) _____ SIGNATURE _____ DATE REPORT PREPARED: _____
--	---	--

SUBCONTRACTORS	SUBCONTRACT DOLLAR AMOUNT PAID TO DATE (Include Street Cans)	IS FIRM A DBE OR MBE	INDR ASSIGNMENT	DBE DOLLARS COMMITTED	MBE DOLLARS COMMITTED	% OF INDR COMMITTED	DOLLAR PAID DURING	DBE * DOLLARS PAID TO DATE / DOLLARS COMMITTED
NAME _____ ADDRESS _____ CITY, STATE, ZIP CODE _____ TELEPHONE NUMBER: _____								
NAME _____ ADDRESS _____ CITY, STATE, ZIP CODE _____ TELEPHONE NUMBER: _____								
NAME _____ ADDRESS _____ CITY, STATE, ZIP CODE _____ TELEPHONE NUMBER: _____								

Summary Subcontracts Award and Paid Report

**(Contract Name) FOR THE  
SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT  
LIST OF PROPOSED DBES**

APPENDIX IV-A, EXHIBIT C

DBE firms will participate in this contract as follows (check all options applicable to this bid):

- The Bidder is a DBE firm (List below the firm name, business location, and work items, dollar value and percent of the total bid price which the bidder intends to perform with its own workforce.)
- The Bidder is a joint venture. One or more of the joint venture partners is a DBE (Submit Schedule "B" certification with the bid and state below the proportionate dollar value and percent of total bid price of the work to be performed, managed and supervised with the DBE partner's own workforce).
- The Bidder intends to meet the DBE goals by sub-contracting to the DBE/WBE firms listed below:

NAME OF DBE	LOCATION OF BUSINESS (CITY, STATE)	WORK TO BE PERFORMED OR MATERIAL SUPPLIED	ESTD. DOLLAR PARTICIPATION	% OF CONTRACT TOTAL VALUE
<b>TOTAL DBE COMMITMENT:</b>				

List all DBE subcontractors and suppliers, regardless of the percentage of participation. Refer to Sec. 4.1.f of these specifications for instructions on calculation of goal. Information disclosed on this form must be legible and complete in order to make a determination of bid responsiveness.

(CONTRACT NAME)  
FOR THE  
SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

GOOD FAITH EFFORTS CERTIFICATE

The bidder or offeror hereby certifies that while the DBE goal was not met as reflected on the LIST OF PROPOSED DBES, the good faith efforts listed in Section 4.4 of the DBE Specifications were made.

The bidder or offeror further certifies that the documentation to support the undertaking of these good faith efforts will be submitted to the District within forty-eight (48) hours after request by the District.

\_\_\_\_\_  
BIDDER'S NAME

\_\_\_\_\_  
SIGNATURE OF BIDDER'S AUTHORIZED  
REPRESENTATIVE

\_\_\_\_\_  
NAME AND TITLE OF BIDDER'S  
AUTHORIZED REPRESENTATIVE

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

This certificate is not required to be submitted if the bidder meets or exceeds the specified goal by utilizing DBE who have already been certified by the District.

DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS  
FOR NEGOTIATED PROCUREMENTS WITH DBE GOALS

## 1.0 POLICY AND OBLIGATION

- 1.1 Policy - It is the policy of the Southern California Rapid Transit District (District) and the United States Department of Transportation that Disadvantaged Business Enterprises (DBEs), as defined herein and in the Federal regulations published at 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Contract.
- 1.2 DBE Obligation - Contractor agrees to ensure that DBEs as defined herein have the maximum opportunity to participate in the performance of the District's contracts and subcontracts. In this regard, Contractor shall take all necessary and reasonable steps in accordance with these provisions and 49 CFR Part 23 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Contractor shall not discriminate on the basis of race, religion, color, sex, age, or national origin, in the award or performance of DOT-assisted contracts.

## 2.0 DBE GOAL

- 2.1 The District has established a goal for participation by DBEs of ( \_\_\_\_\_ ) percent of the total contract value.
- 2.2 Only DBEs who meet the definitions contained in Section 3.0 of these provisions and who have been certified by the District prior to contract award may be credited toward the goal.
- 2.3 Competitors shall submit with their proposal information as required in Section 4.0 of these provisions to reflect how this goal will be met.

## 3.0 DEFINITIONS

The following definitions apply to the terms as used in this Contract.

- 3.1 "Disadvantaged Business Enterprise (DBE) "means a small business concern:
- (a) which is at least 51 percent owned by one or more socially and economically disadvantaged 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 socially and economically disadvantaged individuals; and
  - (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 3.2 "Manufacturer" means a firm that operates, or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
- 3.3 "Regular Dealer" means 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 brought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product 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.
- 3.4 "Owned and Controlled" means a business:
- (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals" or, in the case of a publicly owned business at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals"; and
  - (b) whose management and daily business operations are controlled by one or more such individuals.
- 3.5 "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$14 million over the previous three fiscal years.

3.6 "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific American, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8 (a) of the Small Business Act, or by the District pursuant to 49 CFR 23.62. Member of the following groups are presumed to be socially and economically disadvantaged.

3.6.a "Black Americans which includes persons having origins in any of the Black racial groups of Africa;

3.6.b "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portugese culture or origin, regardless of race;

3.6.c "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

3.6.d "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

3.6.e "Asian-Indian Americans," which includes persons whose origins are form India, Pakistan, and Bangladesh; and

3.6.f Women regardless of race or ethnicity.

3.7 "Other Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by Small Business Administration or the District to meet the social and economic disadvantage criteria described below.

3.7.a Social Disadvantage

3.7.a(1) The individual's social disadvantage stems from his/her color, national origin, gender, physical handicap,

long term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.

- 3.7.a(2) The individual must demonstrate that he/she has personally suffered social disadvantage.
- 3.7.a(3) The individual's social disadvantage must be rooted in treatment which he/she has experienced in American society, not in other countries.
- 3.7.a(4) The individual's social disadvantage must be chronic long-standing, and substantial, not fleeting or insignificant.
- 3.7.a(5) The individual's social disadvantage must have negatively affected his/her entry into, and/or advancement in the business world.
- 3.7.a(6) A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

### 3.7.b Economic Disadvantage

- 3.7.b(1) The individual's 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 line of business and competitive market area who are not socially disadvantaged.
- 3.7.b(2) The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- o availability of financing
- o bonding capability
- o availability of outside equity capital
- o available markets



With respect to the individual and the business concern:

- o personal and business assets
- o personal and business net worth
- o personal and business income and profits

#### 4.0 DBE COMMITMENT

The competitor shall submit with its proposal the following information for each DBE who will participate in the project:

- 4.1 The name of each DBE who will participate in the project as a prime contractor, joint venture partner, subcontractor, or supplier.
- 4.2 The names of each DBE's key personnel to be assigned to the project and resumes.
- 4.3 A clearly defined scope of work to be performed by each DBE.
- 4.4 The estimated dollar value of the work to be performed by each DBE, to be counted in accordance with the following provisions:
  - 4.4.a A DBE must perform a commercially useful function, that is, must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work. In light of standard industry practices and other relevant considerations, the DBE must have a necessary and useful role in the transaction, of a kind for which there is a market outside the context of the DBE Program.
  - 4.4.b Credit for the participation of DBE vendors of materials and supplies is to be counted as follows:
    - o Sixty (60) percent of expenditures for materials and supplies required under the Contract and obtained from a "regular dealer" as defined in Section 3.3 above.
    - o One-hundred (100) percent of expenditures for materials and supplies obtained from a DBE "manufacturer" as defined in Section 3.2 above, or from a DBE supplier who substantially alters the material before resale.

4.4.c The following types of fees or commissions paid to DBE consultants, brokers, and packagers may be counted toward the goal, provided that the fee or commission is reasonable and not excessive as compared with fees or commissions customarily allowed for similar services.

- o The fees or commissions charged for providing a bona fide service such as professional and technical, or procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract.
- o The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials or supplies themselves) when the hauler, trucker or delivery service is not also the manufacturer of, or a regular dealer, in the materials and supplies.
- o The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract.

## 5.0 GOOD FAITH EFFORTS

- 5.1 To remain in competition, proposers are expected to meet or exceed the DBE goal stated in section 2.0 or demonstrate to the satisfaction of the District that, despite their good faith efforts, they could not meet the goal.
- 5.2 The proposer must submit evidence to demonstrate good faith efforts upon request by the District.
- 5.3 The proposer must start his/her good faith efforts during development of his/her team and proposal, and accomplish these prior to submittal of best and final offer.
- 5.4 the District's criteria for determining whether or not a competitor made good faith efforts to meet the goal include, but are not limited, to the following:
  - 5.4.a Attendance at pre-proposal meetings scheduled by the District to inform prospective competitors and DBEs of contracting and subcontracting opportunities;

- 5.4.b Advertisement in general circulation, professional association and minority-focus media concerning subcontracting opportunities;
- 5.4.c Written notice to a reasonable number of specific DBE that their interest was being solicited, in sufficient time to allow the DBEs to participate effectively;
- 5.4.d Follow-up of initial solicitations of interest by contracting DBEs to determine with certainty whether they were interested;
- 5.4.e Selection of portions of work to be performed by DBEs in a manner to increase the likelihood of meeting DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
- 5.4.f Provide interested DBEs with adequate information about the plans, specifications and requirements of the contract;
- 5.4.g Negotiate in good faith with interested DBEs, not rejecting them as unqualified without sound reasons;
- 5.4.h Effectively using the services of available minority and women trade and professional organizations, as well as government-funded Minority Business Development Centers(BDCs) to identify interested DBEs.
- 5.4.i Provide assistance to DBEs who request assistance in obtaining bonding, lines of credit, or insurance.

## 6.0 DBE CERTIFICATION

- 6.1 DBE firms need not be certified by the District as of the proposal due date, but must be certified prior to contract award.
- 6.2 The District's List of DBE CERTIFIED AND DENIED COMPANIES which is in effect on the date of advertisement for proposals on this Contract is available to all interested parties.
  - 6.2.a This list is updated monthly; therefore, firms interested in proposing on this contract are responsible for contacting the office listed

below to obtain monthly updates to this list and to verify the current status of any firm purporting to be a DBE but not included in this list.

Southern California Rapid Transit District  
Contract Compliance Department (6200)  
425 S. Main Street, 6th Floor  
Los Angeles, CA 90013  
(213) 972-6454

- 6.2.b This list does not represent all DBEs available in the trades or specialty areas required by this Contract, but merely those firms that have applied to the District and have been granted or denied certification.
- 6.3 Application for certification by the District may be obtained by submitting Schedule A (for individual business concerns) or Schedule B (for joint ventures). These forms are attached hereto as Exhibits A and B, respectively.
- 6.3.a Within five working days of request by the district, a proposer, who is requested to do so, shall cause each of its DBE firms not currently certified to submit to the District information to confirm DBE status. Each firm applying for certification shall submit Schedule A or Schedule B with the required supporting documentation.
- 6.3.b If the proposer is a DBE, the firm must have current DBE status with the District or submit a Schedule A form with the proposal.
- 6.3.c If the DBE is a joint venture partner, a Schedule B form and a copy of the joint venture agreement must be submitted with the proposal.
- 7.0 "FRAUDS" AND "FRONTS" - Proposers are hereby cautioned against knowingly and willfully using "fronts" to meet the DBE goal of this Contract. Only legitimate DBEs are eligible to participate in this federally-funded Contract. The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Any indication of fraud, waste, abuse, or mismanagement of these funds should be immediately reported to the District or to the Office of Inspector General, U.S. Department of Transportation at the toll free hotline (800-424-9071); or to the following field office: UMTA Special Agent-in-Charge; 211 Main Street, Suite 1022; San Francisco, CA 94105; (415) 974-9875.

## 8.0 CONTRACTOR'S OBLIGATION

- 8.1 During the term of the Contract, the Contractor shall continue to make good faith efforts to ensure that DBEs have maximum opportunity to successfully perform in the Contract, and that the Contractor meets its DBE goal. these efforts shall include but not be limited to the following:
- 8.1.a Negotiating in good faith to attempt to finalize and execute a subcontract agreement with the DBEs committed to in the proposal or in the Best and Final offer.
  - 8.1.b For Contractors who fell short of meeting the DBE goal set for this Contract but who were determined by the District to have made good faith efforts to meet the goal, exerting efforts that can be documented to seek out and utilize additional DBE suppliers and DBE subcontractors.
  - 8.1.c Continuing to provide assistance to DBE subcontractors or suppliers in obtaining bonding, lines of credit, etc., if required by the Contractor.
  - 8.1.d Notifying a DBE in writing of any potential problem and attempting to resolve the problem prior to formally requesting District approval to substitute the DBE.
  - 8.1.e As with all subcontractors, timely payment of all monies due and owing to DBE subcontractors and suppliers.
  - 8.1.f Timely submittal of complete and accurate DBE monthly reports in accordance with Article 8.3. below
  - 8.1.g Alerting the District's Contract Compliance Department in a timely manner of any problems anticipated in attaining the DBE participation goal committed to in the proposal.
- 8.2 Substitution of Subcontractors - If a Contractor requests a substitution of DBE subcontractors or suppliers, the Contractor shall exert good faith efforts to replace a DBE with another DBE subject to the approval of the District.
- 8.3 Contract Compliance Reporting Requirements - the contractor shall submit monthly progress reports to the District, in conformance with the currently

approved contract performance schedule reflecting its DBE participation. The Summary Subcontracts Award and Paid Report (attached hereto as Exhibit C) shall be submitted to comply with this reporting requirement. Failure to submit this report in a timely manner shall result in the imposition of administrative sanctions pursuant to the District's DBE Policy and U.S. Department of Transportation regulations (49 CFR 23).

- 8.4 Change in Contract Amount - The dollar amount of Change Orders or any other Contract modifications that increase or decrease the work area in which DBEs participation has been committed to in the proposal, or Best and Final Offer, shall be commensurately added to or subtracted from the total Contract base figure used to compute actual dollars paid to DBEs. Revised total Contract dollar values shall be reflected in the monthly progress report submitted to the District and referenced in Section 5.3 above.
- 8.5 Noncompliance - Failure to carry out the requirements of this article constitutes a breach of contract and, after notification to the U.S. Department of Transportation, may result in termination of the Contract by the District or imposition of other appropriate sanctions. This notice is given pursuant to 49 CFR Seciton 23.43(c)

Exhibits to Appendix IV-B

Instructions to OCPM: The Contract Administrator shall attach the following forms to this specification as stated therein:

Exhibit "A" - Schedule A

Exhibit "B" - Schedule B

Exhibit "C": - Summary Subcontractors  
Award and Paid Report

DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS  
FOR COMPETITIVE LOW BID PROCUREMENTS  
WITH NO DBE GOAL

1.0 POLICY

It is the policy of the Southern California Rapid Transit District (District) and the United States Department of Transportation that Disadvantaged Business Enterprises (DBEs), as defined herein and in the Federal regulations published at 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 23 apply to this contract.

2.0 DBE GOAL

- 2.1 The District has not established a specific goal for participation by DBEs in this contract due to the size of contract or unknown availability of subcontract opportunities.
- 2.2 If, however, a bidder proposes to use the services of subcontractors or purchase goods from suppliers during the performance of this contract, he/she is expected to afford maximum opportunities to DBEs in these areas. In this respect, a bidder must either identify the following information for each DBE on the LIST OF SUBCONTRACTORS to fulfill these needs, or upon the District's request, submit documentation to satisfy the District that good faith efforts were made to provide DBEs an opportunity to compete for these opportunities.
- 2.2.a The name of each DBE who will participate in the project.
- 2.2.b The location (city; state) of each DBE.
- 2.2.c A clearly defined scope of work to be performed by each DBE.
- 2.2.d The estimated dollar value of the work to be performed by each DBE.

3.0 GOOD FAITH EFFORTS

Good faith efforts to maximize opportunities to DBEs include but are not limited to the following:



- 3.1 Attendance at pre-solicitation meetings scheduled by the District to inform prospective competitor and DBEs of contracting and subcontracting opportunities;
- 3.2 Advertisement in general circulation, professional association and minority-focus media concerning subcontracting opportunities;
- 3.3 Written notice to a reasonable number of specific DBEs that their interest was being solicited, in sufficient time to allow the DBEs to participate effectively;
- 3.4 Follow-up of initial solicitations of interest by contracting DBEs to determine with certainty whether they were interested;
- 3.5 Selection of portions of work to be performed by DBEs in a manner to increase the likelihood of meeting DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
- 3.6 Provide interested DBEs with adequate information about the plans, specifications and requirements of the contract;
- 3.7 Negotiate in good faith with interested DBEs, not rejecting them as unqualified without sound reasons;
- 3.8 Effectively using the services of available minority and women trade and professional organizations, as well as government-funded Minority Business Development Centers (BDCs) to identify interested DBEs.
- 3.9 Provide assistance to DBEs who request assistance in obtaining bonding, lines of credit, or insurance.

#### 4.0 DEFINITIONS

The following definition apply to the terms as used in this Contract.

- 4.1 "Disadvantaged Business Enterprise (DBE)" means a small business concern:
  - (a) which is at least 51 percent owned by one or more socially and economically disadvantaged 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 socially and economically disadvantaged individuals; and

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

4.2 "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$14 million over the previous three fiscal years.

4.3 "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific American, Asian-Indian Americans, women, and any other minorities or individuals found to be disadvantaged by the Small business Administration pursuant to Section 8 a) of the Small Business Act, or by the District pursuant to 49 CFR 23.62. Member of the following groups are presumed to be socially and economically disadvantaged.

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

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

"Native Americans" which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

"Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and

"Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.

Women regardless of race or ethnicity.

5.0 DBE CERTIFICATION

- 5.1 DBE firms need not be certified by the District as of the bid date, but must be certified prior to contract award.
- 5.2 Interested bidders may obtain the District's LIST OF DBE CERTIFIED AND DENIED COMPANIES from the office listed below:

Southern California RTD  
Contract Compliance Department (6200)  
425 S. Main Street (6th Floor)  
Los Angeles, CA 90013  
(213) 972-6454

- 5.3 Application for certification by the District may be obtained by submitting Schedule A (for individual business concerns) or Schedule B (for joint ventures). These forms are available from the office identified in section 5.2, above.
- 5.4 Within five working days of request by the District, a Bidder, who is requested to do so, shall cause each of its DBE firms not currently certified to submit to the District information to confirm DBE status. Each firm applying for certification shall submit Schedule A or Schedule B with the required supporting documentation.

DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS  
FOR NEGOTIATED PROCUREMENTS  
WITH NO DBE GOAL

1.0 POLICY

It is the policy of the Southern California Rapid Transit District (District) and the United States Department of Transportation that Disadvantaged Business Enterprises (DBEs), as defined herein and in the Federal regulations published at 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 23 apply to this contract.

2.0 DBE GOAL

- 2.1 The District has not established a specific goal for participation by DBEs in this contract due to the size of contract or unknown availability of subcontract opportunities.
- 2.2 If, however, a proposer intends to use the services of subcontractors or purchase goods from suppliers during the performance of this contract, he/she is expected to afford maximum opportunities to DBEs in these areas. In this respect, a proposer must either identify the following information for each DBE in the proposal to fulfill these needs, or upon the District's request, submit documentation to satisfy the District that good faith efforts were made to provide DBEs an opportunity to compete for these opportunities.
- 2.2.a The name of each DBE who will participate in the project.
- 2.2.b Resume for each DBE.
- 2.2.c A clearly defined scope of work to be performed by each DBE.
- 2.2.d The estimated dollar value of the work to be performed by each DBE.

### 3.0 GOOD FAITH EFFORTS

Good faith efforts to maximize opportunities to DBEs include but are not limited to the following:

- 3.1 Attendance at pre-solicitation meetings scheduled by the District to inform prospective competitor and DBEs of contracting and subcontracting opportunities;
- 3.2 Advertisement in general circulation, professional association and minority-focus media concerning subcontracting opportunities;
- 3.3 Written notice to a reasonable number of specific DBEs that their interest was being solicited, in sufficient time to allow the DBEs to participate effectively;
- 3.4 Follow-up of initial solicitations of interest by contracting DBEs to determine with certainty whether they were interested;
- 3.5 Selection of portions of work to be performed by DBEs in a manner to increase the likelihood of meeting DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
- 3.6 Providing interested DBEs with adequate information about the plans, specifications and requirements of the contract;
- 3.7 Negotiate in good faith with interested DBEs, not rejecting them as unqualified without sound reasons;
- 3.8 Effectively using the services of available minority and women trade and professional organizations, as well as government-funded Minority Business Development Centers (BDCs) to identify interested DBEs.
- 3.9 Provide assistance to DBEs who request assistance in obtaining bonding, lines of credit, or insurance.

### 4.0 DEFINITIONS

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  - (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 4.2 "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$14 million over the previous three fiscal years.

- 4.3 "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific American, Asian-Indian Americans, women, and any other minorities or individuals found to be disadvantaged by the Small business Administration pursuant to Section 8 a) of the Small Business Act, or by the District pursuant to 49 CFR 23.62. Member of the following groups are presumed to be socially and economically disadvantaged.

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Women regardless of race or ethnicity.

5.0 DBE CERTIFICATION

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425 S. Main Street, 6th Floor  
Los Angeles, CA 90013  
(213) 972-6454

5.3 Application for certification by the District may be obtained by submitting Schedule A (for individual business concerns) or Schedule B (for joint ventures). These forms are available from the office identified in section 5.2, above.

5.4 Within five working days of request by the District, a proposer, who is requested to do so, shall cause each of its DBE firms not currently certified to submit to the District information to confirm DBE status. Each firm applying for certification shall submit Schedule A or Schedule B with the required supporting documentation.



US Department of Transportation

Quarterly Report of MBE/DBE/WBE Awards and Commitments

1. Administration	4. Name of Recipient:	7. Annual MBE/DBE Goal %
2. Fiscal Year:	5. Address:	8. Annual WBE Goal %
3. Quarter:	6. City/State/Zip:	

9. Total prime contracts/procurements awarded this quarter to all contractors: (a) Number \_\_\_\_\_ (b) \$ Value \_\_\_\_\_

	(a) MBE/DBE		(b) WBE	
	Number	\$ Value	Number	\$ Value
10. MBE/DBE/WBE prime contracts-procurements awarded this quarter				
11. MBE/DBE/WBE subcontracts-procurements awarded this quarter				
12. Subcontracting-procurement commitments to MBEs/OBEs/WBEs this quarter				

13. MBE/DBE prime and subcontract-procurement awards by ethnic group:

	Black American	Hispanic American	Native American	Asian-Indian American	Asian-Pacific American	Other	TOTAL
Number							
\$ Value							

14. Number and dollar value of MBE/DBE/WBE prime and subcontract-awards by type of work:

Type of Work	MBE/DBE		WBE	
	Number	\$ Value	Number	\$ Value
<b>a. Professional/Consultant Services:</b>				
(1)				
(2)				
(3)				
(4)				
(5)				
<b>b. Construction:</b>				
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
<b>c. Supplies:</b>				
(1)				
(2)				
<b>d. Equipment:</b>				
(1)				
(2)				
(3)				
<b>e. Other:</b>				
<b>TOTAL</b>				

UMTA WILL REVISE THIS FORM TO CONFORM TO DBE CHANGES

SECRETARY



## NARRATIVE TO APPENDIX V

The preceding form is an example of the format used to compile UMTA quarterly reports which reflect dollars awarded to DBE prime and subcontractors. This report is submitted to UMTA on a format prescribed by that agency.

Following are the procedures used to compile this report.

### 1. Data Gathering

All purchase orders and contracts are entered by the OCPM Department into computerized mainframe management information system.

The DBE Department submits a request to the Data Processing Department to download the following information for each transaction during the reporting period:

- o P.O. Number
- o AFE Number (grant funded or not)
- o Vendor Name
- o P. O. Total Dollar
- o P.O. Date

### 2. Delete Non-Contract Opportunities

The Data Processing Department automatically deletes all entries for District employee reimbursements (i.e. transactions whose P. O. Number are preceded by the letter "E").

All other non-contract opportunities (such as the ones listed below) cannot be automatically eliminated from the data base, and are, therefore, reviewed and manually deleted by the DBE Department.

- o leases
- o master agreements
- o insurance premiums
- o subscriptions
- o membership fees
- o utilities
- o sole source procurements

### 3. Total Dollar Value of Procurements

The total dollar value reported in item 9(b) of the form represents the federal share of all procurements awarded during the reporting period. this figure is computed as follows:

- a. Separate Contract Opportunities by funding source (i.e. Capital vs. operating budget). P.O.s with AFE Numbers represent grant-funded (capital) procurements.
- b. Apply a factor to each funding source which represents the federal share. (\*The variable factor for each fiscal year's operating budget depends on the UMTA share and has fluctuated from 8% to 10.5% in FY's 1985 to 1988.) These factors are as follows:

Capital Budget

Metro Rail : Total \$ X 75% = x  
Non-Metro Rail: Total \$ X 80% = y

OPERATING BUDGET

Total \$ X (variable factor)\* = z

- c. Add the three figures above (x, y, and z) to get a cumulative federally-funded dollars awarded during the reporting period. This is the base figure against which dollar value of DBE prime and subcontracts will be computed to determine % dollars awarded to DBEs.

4. Breakdown of DBE Awards

Contracts and subcontracts awarded to DBEs will be listed under item 14 by type of contract, in item 13 by racial/ethnic/gender group, and in items 10 and 11 by total number of procurements and dollar value.

5. Transmittal Letter

This report will be sent to the UMTA Regional Manager in San Francisco with a letter which will summarize the year-to-date accomplishments toward meeting the District's annual DBE goal.

U.S. DOT DBE ELIGIBILITY STANDARDS

49 CFR Part 23, Subsection 23.53, reproduced here verbatim:

1. The following standards shall be used by recipients in determining whether a firm is owned and controlled by one or more disadvantaged individuals or women and shall therefore be eligible to be certified as a DBE. Businesses aggrieved by the determination may appeal in accordance with procedures set forth in 23.55.
  - (a) Bona fide minority group membership shall be established on the basis of the individual's claim that he or she is a member of a minority group and is so regarded by that particular minority community. However, the recipient is not required to accept this claim if it determines the claim to be invalid.
  - (b) An eligible Disadvantaged Business Enterprise under this part shall be an independent business. The ownership and control by minorities or women shall be real, substantial and continuing and shall go beyond the pro forma ownership of the firm as reflected in its ownership documents. the minority share in the risks and profits commensurate with their ownership interests as demonstrated by an examination of the substance rather than form of arrangements. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as an DBE. In determining whether a potential DBE is an independent business, DOT recipients shall consider all relevant factor, including the date the business was established, the adequacy of its resources for the work of the contract, and the degree to which financial, equipment leasing, and other relationships with non disadvantaged firms vary from industry practice.
  - (c) The disadvantaged or women owners shall also possess the power to direct or cause the direction of the management and policies of the firm and to make the day-to-day major decisions on matters of management, policy, and operations. The firm shall not be subject to any formal or informal restrictions through, for example, by-law provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevent the disadvantaged or women owners from making a business decision of the firm without the cooperation or vote of any owner who is not disadvantaged or a women.

- (d) If the owners of the firm who are not disadvantaged or women are disproportionately responsible for the operation of the firm, then the firm is not controlled by disadvantaged individuals or women and shall not be considered DBE within the meaning of this Part. Where the actual management of the firm is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers can, for the purpose of this Part, be considered as controlling the business.
  - (e) All securities which constitute ownership and/or control of a corporation for purposes of establishing it as an DBE under this Part shall be held directly by disadvantaged individuals or women. No securities held in trust, or by any guardian for a minor, shall be considered as held by disadvantaged individuals or women in determining the ownership or control of a corporation.
  - (f) The contributions of capital or expertise by the disadvantaged individuals or women owners to acquire their interests in the firm shall be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not socially and economically disadvantaged, or the mere participation as an employee, rather than as a manager.
2. In addition to the above standards, DOT recipients shall give special consideration to the following circumstances in determining eligibility under this Part.
- (a) Newly formed firms and firms whose ownership and/or control has changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation or change in the firm.
  - (b) A previous and/or continuing employer/employee relationship between or among present owners is carefully reviewed for management responsibilities and capabilities discussed in this section.
  - (c) Any relationship between a DBE and a business which is not an DBE which has an interest in the DBE is carefully reviewed to determine if the interest of the non-DBE conflicts with the ownership and control requirements of this section.
3. A joint venture is eligible under this part if the DBE partner of the joint venture meets the standards for an eligible DBE set forth above and the DBE partner is

responsible for a clearly defined portion of the work to be performed and shares in the ownership, control, management responsibilities, risks and profits of the joint venture.

4. A joint venture is eligible to compete in a DBE set-aside under this Part if the DBE partner of the joint venture meets the standards of an eligible DBE set forth above, and the DBE partner's share in the ownership, control and management responsibilities, risks and profits of the joint venture is at least 51 percent and the DBE partner is responsible for a clearly defined portion of the work to be performed.
5. A business wishing to be certified as a DBE or joint venture DBE by a DOT recipient shall cooperate with the recipient in supplying additional information which may be requested in order to make a determination.
6. Once certified, a DBE shall update its submission annually by submitting a new Schedule A or certifying that the Schedule A on file is still accurate. At any time there is a change in ownership or control of the firm, the DBE shall submit a new Schedule A.
7. Except as provided in section 23.55, the denial of a certification by the department or a recipient shall be final for that contract and other contracts being let by the recipient at the time of the denial of certification. DBEs and joint ventures denied certification may correct deficiencies in their ownership and control and apply for certification only for future contracts.
8. Recipients shall safeguard disclosure to unauthorized persons information that reasonably may be regarded as confidential business information, consistent with Federal, State and local law.