
EXHIBIT 9-B LOCAL AGENCY DBE ANNUAL SUBMITTAL FORM

TO: CALTRANS DISTRICT 12
District Local Assistance Engineer

The information for Exhibit 9-B presented herein, in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California Department of Transportation (Caltrans) Disadvantaged Business Enterprise (DBE) Program Plan.

The City of Costa Mesa submits our annual 9-B information for the Federal Fiscal Year 2015/2015, beginning on October 1, 2015 and ending on September 30, 2016.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Larry Dreiman
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Planned Race Neutral Measures

The City of Costa Mesa will implement race-neutral measures to meet DBE program objectives for the upcoming Federal Fiscal Year (per C49 CFR Part 26.51 and Section V of the California Department of Transportation Race-Conscious DBE Program Implementation Agreement), including but not limited to:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation.
2. Unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces.
3. Providing information and communications programs on contracting procedures and specific contract opportunities designed to promote equitable access and participation of all small businesses including DBEs.
4. Provide DBE information and quick access to the CUCP DBE database on the City of Costa Mesa website to bidders and other interested parties.
5. Providing DBE information handouts to bidders on federally funded projects.

Prompt Pay

Federal regulation (49 CFR 26.29) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor. (Attached is a listing of the three methods. On the attachment, please designate which prompt payment provision the local agency will use.)

Prompt Pay Enforcement Mechanism

49 CFR, Part 26.29(d) requires providing appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause with the local agency's prior written approval. **Please briefly describe the monitoring and enforcement mechanisms in place to ensure that all subcontractors, including DBEs, are promptly paid**

The City of Costa Mesa has included contract provisions regarding the prompt payment of funds withheld to subcontractors including Section 7108.5 of the Business and Professions Code and Section 10262 of the Public Contract Code and in concurrence with the method indicated to be used in federal-aid contracts to ensure prompt and full payment of any retention payments kept by the prime contractor or subcontractor to a subcontractor or supplier.

Once payments are processed by the City to the prime contractor, the Engineer routinely follows up with subcontractors and suppliers to ensure that the prime contractor has made prompt progress payments to each as required per the contract provisions.

The Engineer responds to inquiries and complaints about prompt payment deficiencies and investigates immediately to determine whether any contractual provisions have been violated.

The Engineer takes prompt action upon notification of any reports of delays or failures on behalf of the prime contractor to make scheduled payments to any subcontractor or supplier.

Upon determination that prompt payments have not been made by the prime contractor, the Engineer will warn the prime contractor in writing that failure to meet contract provisions will incur penalties per B&P Code 7108.5 if payments are not immediately processed. Penalties are withheld from contractors for failure to make prompt payments.

(Signature)

8-26-16

(Date)

Ernesto Munoz, Public Services Director

(Print Name and Title)

714.761-5943

(Phone Number)

ADMINISTERING AGENCY

(Authorized Governing Body Representative)

(Signature of Caltrans District Local Assistance Engineer)

2-1-16

(Date)

Distribution: (1) Original - DLAE
(2) Signed copy by the DLAE - Local Agency

(Attachment)

**Prompt Payment of Withheld Funds to
Subcontractors**

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 2:** No retainage will be held by the agency from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.