



**PARATRANSIT, INC.
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
FFY 2010**

**This Program is in accordance with Title 49 of the Code of
Federal Regulations Part 26.**

And

Caltrans Local Assistance Procedures Manual

I. Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR §26.5.

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

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

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

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

- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by Paratransit, Inc. in its financial assistance agreements with the California Department of Transportation (Caltrans).

Paratransit Inc. has disseminated this policy statement to the Paratransit, Inc. Board of Directors and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

III Nondiscrimination (§26.7)

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

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

IV DBE Program Updates (§26.21)

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

V Quotas (§26.43)

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

VI DBE Liaison Officer (DBELO) (§26.25)

Paratransit, Inc. has designated the following individual as the DBE Liaison Officer: Linda Parker, Chief Administrative Officer, P.O. Box 231100, Sacramento, CA 95823, (916) 868-6216. In that capacity, Linda Parker is responsible for implementing all aspects of the DBE program and ensuring that Paratransit, Inc. complies with all provisions of 49 CFR Part 26. This is available on the Internet at osdbuweb.dot.gov/main.cfm and attached as Exhibit 1. The DBELO has direct, independent access to the Executive Director of Paratransit, Inc. concerning DBE program matters. The DBELO has 3 members as support staff as well as s members of the Agency legal counsel when needed. An organization chart displaying the DBELO's position in the organization is found in Exhibit 2 to this program.

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

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBE's in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes Paratransit, Inc.'s progress toward goal attainment and identifies ways to improve progress.
7. Advises the CEO/governing body on DBE matters and achievement.
8. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
9. Provides DBE's with information and assistance in preparing bids.
10. Plans and participates in DBE training seminars.
11. Provides outreach to DBE's and community organizations to advise them of opportunities.

VII Federal Financial Assistance Agreement Assurance (§26.13)

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

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

VIII DBE Financial Institutions

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

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

IX Directory (§26.31)

Paratransit, Inc. will refer interested persons to the DBE directory available from the Caltrans Disadvantaged Business Enterprise Program website at www.dot.ca.gov/hq/bep.

X Overconcentration (§26.33)

Paratransit, Inc. has not identified any types of work in DOT-assisted contracts that have an overconcentration of DBE participation. If in the future Paratransit, Inc. identifies the need to address overconcentration, measures for addressing overconcentration will be submitted to the DLAE for approval.

XI Business Development Programs (§26.35)

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

XII Required Contract Clauses (§§26.13, 26.29)

Contract Assurance

Paratransit, Inc. ensures that the following clause is placed in every DOT-assisted contract and subcontract:

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

Prompt Payment

Paratransit, Inc. ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

Satisfactory Performance

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from PARATRANSIT, INC. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Paratransit, Inc. This clause applies to both DBE and non-DBE subcontractors

Release of Retainage

The prime contractor agrees further to release retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Paratransit, Inc. This clause applies to both DBE and non-DBE subcontractors.

XIII Monitoring and Enforcement Mechanisms (§26.37)

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

After Contract Award

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

Preconstruction Conference

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

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

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

Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). Local agencies will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4114. FPA requires the contractor to list all subcontractors in excess of one half of one percent (0.5%) of the contractor's total bid or \$10,000, whichever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except with the approval of the awarding authority.

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

Construction Contract Monitoring

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

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

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

Substitution

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

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

Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

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

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

When a contract has been completed, the contractor will provide a summary of the records stated above. The DBE utilization information will be documented on the form "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" (Exhibit 17-F) and will be submitted to the DLAE attached to the Report of Expenditures. The RE will compare the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form to the contractor's completed "Local Agency Bidder-DBE-Information" (Exhibit 15-G) and, if applicable, to the completed "Subcontracting Request" (Exhibit 16-B). The DBE's shown on the completed "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" form should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBE's and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed "Local Agency Bidder-DBE-Information" form when:

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

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

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

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

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

XIV OVERALL GOAL AND METHODOLOGY (26.45)

Relevant Market Area

Analysis of availability begins with the determination of a relevant geographic market for Paratransit, Inc. There are no firm guidelines for defining the relevant geographical market area. In general, this area should describe the region from which Paratransit, Inc. normally awards a bulk of their contracts. Paratransit, Inc. performs the vast majority of its operations within the Sacramento Urbanized Area and therefore defines its relevant geographic market as such.

Establishment of Overall Goal

Paratransit, Inc. will establish an overall goal on a Federal Fiscal year basis (Oct. 1 – Sept. 30) for the participation of DBE's in all DOT-assisted contracts *exclusive* of FTA funds to be used for the acquisition of transit vehicles. Paratransit, Inc.'s overall annual goal represents the amount of ready, willing, and able DBE's that are available to participate in contracting opportunities. Paratransit, Inc. intends to meet this goal to the maximum extent feasible through race and gender-neutral means.

Base Figure for Relative Availability

To establish Paratransit, Inc.'s base figure of the relative availability of DBE's in relation to all comparable firms available for Paratransit, Inc.'s FFY 2008/2009 DOT assisted contracting program, the DBE directory from the California Department of Transportation was utilized to cite certified DBE's for the defined relevant market. To cite the overall number of firms for each category, the 2000 Economic Census was utilized for this purpose.

Paratransit, Inc.'s overall goal for Disadvantaged Business Enterprise (DBE's) participation in U.S. Department of Transportation assisted contracts is based on the demonstrable evidence of the availability of ready, willing, and able DBE's relative to all businesses ready, willing, and able (49 CFR Part 26.45). These contracts are exclusive of FTA funds to be used for the purchase of transit vehicles. The following is a breakdown of the federally funded projects anticipated to be let between October 1, 2009 and September 30, 2010.

| Project Name | Federal Amount | Responsible Agency |
|--|-----------------------|---------------------------|
| Arika's Village (Community Design/CMAQ) | 303,000 | FHWA |
| Upgrade Reservation Center-New Phone Lines | 405,000 | FTA |
| Mobile Data Terminal | 17,352 | FTA |
| Cable Assembly Mounts | 1,204 | FTA |
| Travel Training Program | 83,000 | FTA |
| Mobility Management Program | 156,250 | FTA |
| TOTAL AVAILABLE | \$965,806 | |

DBE Percentage Calculation Methodology

A DBE percentage calculation is made for various sectors. The following types of services, by NAICS code, are included in this calculation.

| | |
|--------|--|
| 238220 | Plumbing, Heating, and Air-Conditioning Contractors |
| 323119 | Other Commercial Printing |
| 423110 | Automobile and Other Motor Vehicle Merchant Wholesalers |
| 423140 | Motor Vehicle Parts (Used) Merchant Wholesalers |
| 423620 | Electrical and Electronic Appliance, Television, and Radio Set Merchant Wholesalers |
| 423840 | Industrial Supplies Merchant Wholesalers |
| 424120 | Stationery and Office Supplies Merchant Wholesalers |
| 424720 | Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals) |
| 424990 | Other Miscellaneous Nondurable Goods Merchant Wholesalers |
| 441310 | Automotive Parts and Accessories Stores |
| 441320 | Tire Dealers |
| 442110 | Furniture Stores |
| 443120 | Computer and Software Stores |
| 453210 | Office Supplies and Stationery Stores |
| 485113 | Bus and Other Motor Vehicle Transit Systems |
| 485310 | Taxi Service |
| 485991 | Special Needs Transportation |
| 491110 | Postal Service |
| 511110 | Newspaper Publishers |
| 517110 | Wired Telecommunications Carriers |
| 522110 | Commercial Banking |
| 523120 | Direct Life Insurance Carriers |
| 524114 | Direct Health and Medical Insurance Carriers |
| 524210 | Insurance Agencies and Brokerages |
| 524292 | Third Party Administration of Insurance and Pension Funds |
| 531312 | Nonresidential Property Managers |
| 532420 | Office Machinery and Equipment Rental and Leasing |
| 532490 | Other Commercial and Industrial Machinery and Equipment Rental and Leasing |
| 541110 | Offices of Lawyers |
| 541199 | All Other Legal Services |
| 541213 | Tax Preparation Services |
| 541549 | Other Computer Related Services |
| 541611 | Administrative Management and General Management Consulting Services |

| | |
|--------|---|
| 541930 | Translation and Interpretation Services |
| 541990 | All Other Professional, Scientific, and Technical Services |
| 561439 | Other Business Service Centers (including Copy Shops) |
| 561621 | Security Systems Services (except Locksmiths) |
| 561622 | Locksmiths |
| 561710 | Exterminating and Pest Control Services |
| 561720 | Janitorial Services |
| 561730 | Landscaping Services |
| 561790 | Other Services to Buildings and Dwellings |
| 562111 | Solid Waste Collection |
| 611430 | Professional and Management Development Training |
| 621511 | Medical Laboratories |
| 722310 | Food Service Contractors |
| 722320 | Caterers |
| 811111 | General Automotive Repair |
| 811121 | Automotive Body, Paint, and Interior Repair and Maintenance |
| 811192 | Car Washes |
| 811198 | All Other Automotive Repair and Maintenance |
| 811212 | Computer and Office Machine Repair and Maintenance |
| 811213 | Communication Equipment Repair and Maintenance |
| 811219 | Other Electronic and Precision Equipment Repair and Maintenance |

NAICS Code—2000 Economic Census

The Economic Census and the California Department of Transportation's DBE Directory were used to determine the number of firms for each category. There are 86 DBE firms that fall into the above NAICS classifications. In the Economic Census there were 5,249 firms in the Sacramento Urbanized Area in the aforementioned classifications. Dividing the number of DBE's by the total number of firms in the Sacramento Urbanized Area yields 1.6 percent. With this number ($[1.6\%] \times \$[726,556]$) as our established base figure, Paratransit, Inc. has set a goal of expending a minimum of \$15,453 with DBE's during FFY 2009/10.

Adjustment to Base Figure

The second step in developing the overall goal is intended to adjust the base figure to reflect as accurately as possible, the DBE participation Paratransit, Inc. would expect in the absence of discrimination. The current capacity of DBE's to perform work on Paratransit, Inc.'s DOT-assisted projects was reviewed to determine if the relative availability of DBE's needed to be adjusted upward or downward.

The analysis of weighted annual anticipated disadvantaged business enterprise participation level (whether race-neutral or race-conscious) shows that Paratransit's use of DBEs is significantly below the 1.6 percent figure identified above. Paratransit Inc.'s FY 2009 overall weighted DBE calculation is 0.49 percent, and its overall weighted UDBE calculation is 0.10 percent. These figures were calculated based on the detailed guidance provided by the California Department of Transportation (Caltrans) issued on March 25, 2009. This guidance, and the results of the calculation methodology, are contained in Exhibits 3 and 4, respectively.

To date, Paratransit, Inc. has not been subject to compliance with 49 CFR Part 26 and has therefore not developed a full outreach program to potential DBE firms in Paratransit's market area. To increase DBE participation in Paratransit Inc. contracts, Paratransit, Inc. staff will develop procedures to ensure that contracts are advertised in publications that are most likely to reach UDBE and DBE firms. In the meantime, Paratransit Inc. has established an overall goal DBE goal of 0.49 percent and a UDBE goal of 0.10 percent for FFY 2010. Paratransit, Inc. staff will re-evaluate this goal in preparation of the FY 2011 goal-setting process to determine if the goal can be increased as a result of DBE outreach procedures to be developed by Paratransit Inc.

Utilization of Race –Neutral and Race-Conscious Methods

Of the overall annual 0.49 percent goal of DBE participation, Paratransit, Inc. projects meeting 100% of the goal using race neutral methods, including making efforts to ensure that bidding and contract requirements facilitate participation by DBE's and other small businesses. The use of race conscious measures, which includes establishing contract specific goals on contracts with contracting possibilities, may be used when needed to meet Paratransit, Inc.'s overall DBE goal.

Process

Starting with the federal fiscal year 2010, the amount of overall goal, the method to calculate the goal, and the breakout of estimated race-neutral and race-conscious participation will be required annually by June 1 in advance of the federal fiscal year beginning October 1 for DOT-assisted contracts. Submittals will be to the Caltrans' DLAE. An exception to this will be if FTA or FAA recipients are required by FTA or FAA to submit the annual information to them or a designee by another date. FHWA recipients will follow this process:

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

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

XV Contract Goals (§26.51)

Paratransit, Inc. will use contract goals to meet any portion of the overall goal Paratransit, Inc. does not project being able to meet by the use of race-neutral means. Contract goals are established so that, over the period to which the overall goal applies,

they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.

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

XVI Good Faith Efforts (§26.53)

Information to be Submitted

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

Each solicitation for which a contract goal has been established will require the bidders'/offerors to submit the following information to 2501 Florin Road, Sacramento CA 95822 no later than 4:00 p.m. on or before the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening:

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

Demonstration of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26 which is attached as Exhibit A, and in Caltrans "Guidance for Bidders Completing the Good Faith Effort Submittal, which is included in Exhibit 5.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: Paratransit, Inc. Legal Counsel.

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

Administrative Reconsideration

Within 10 days of being informed by Paratransit, Inc. that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

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

Good Faith Efforts when a DBE is Replaced on a Contract

Paratransit, Inc. will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor is required to notify the RE immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

XVIII Counting DBE Participation (§26.55)

Paratransit, Inc. will count DBE participation toward overall and contract goals as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of material or supplies. See the Caltrans' Sample Boiler Plate Contract Documents. Also, refer to XIII. "After Contract Award."

XIX Certification (§26.83(a))

Paratransit, Inc. will ensure that only DBE firms currently certified on the Caltrans' DBE directory will participate as DBEs in the program.

XX Information Collection and Reporting

Bidders List

Paratransit, Inc. will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

Monitoring Payments to DBE's

Prime contractors are required to maintain records and documents of payments to DBE's for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of Paratransit, Inc., Caltrans, FHWA, or DOT. This reporting requirement also extends to any certified DBE subcontractor.

Payments to DBE subcontractors will be reviewed by Paratransit, Inc. to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to Caltrans

Paratransit, Inc. - Final utilization of DBE participation will be reported to the DLAE using Exhibit 17-F of the Caltrans' LAPM.

Confidentiality

Paratransit, Inc. will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local laws.

Linda Deavens, Chief Executive Officer

Date: _____

This Disadvantaged Business Enterprises Program is accepted by:

[Signature of DLAE]

Date: _____

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

- I. When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
- II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
- III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.
- IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBE's who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE's to respond to the solicitation. The bidder must determine with certainty if the DBE's are interested by taking appropriate steps to follow up initial solicitations.
 - B. Selecting portions of the work to be performed by DBE's in order to increase the likelihood that the DBE goals will be achieved. This

includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

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

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE's is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBE's if the price difference is excessive or unreasonable.
- E. Not rejecting DBE's as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- F. Making efforts to assist interested DBE's in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- G. Making efforts to assist interested DBE's in obtaining necessary equipment, supplies, materials, or related assistance or services.
- H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE's.

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

EXHIBIT 2 PARATRANSIT, INC. ORGANIZATIONAL CHART

PARATRANSIT, INC. ORGANIZATIONAL CHART

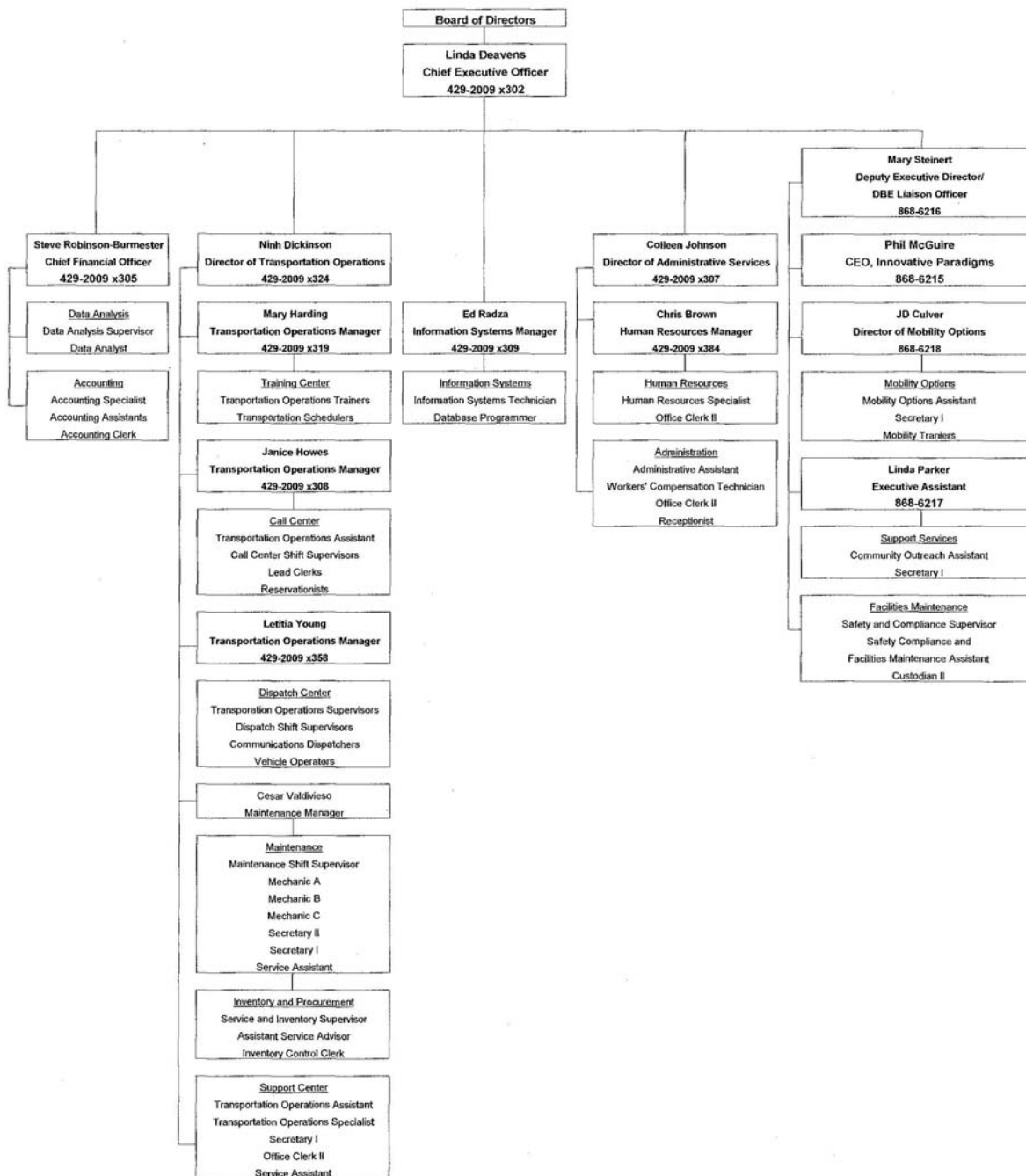


EXHIBIT 3 CALTRANS AADPL CALCULATIONS INCLUDING UDBEs



AADPL Calculations Including UDBEs

Definitions:

- **DBE** – Disadvantaged Business Enterprise. A for-profit small business concern that is at least 51 percent owned and controlled by one or more socially and economically disadvantaged individuals. These individuals must be citizens of the United States (or lawfully admitted permanent residents) and be: (1) an individual whom a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis, or (2) either Black American, Hispanic American, Native American, Asian-Pacific American, Subcontinent Asian American, female, or any other group found to be socially and economically disadvantaged by the U.S. Small Business Administration. (See 49 CFR Part 26.)
- **UDBE** – Underutilized DBE. DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. Underutilized DBEs include: Black Americans, Native Americans, Asian Pacific Americans, and females.
- **Non-UDBE** – The two DBE classes (Hispanic American and Subcontinent Asian American) that have been determined in the 2007 Caltrans Disparity Study to not have a statistically significant disparity in their utilization in previously awarded transportation contracts.
- **AADPL** – Annual Anticipated DBE Participation Level. This is the overall Local Agency goal based on demonstrated evidence of the availability of DBEs relative to all businesses that are ready, willing and able to participate on Federally funded contracts.
- **RC AADPL** – Race-Conscious portion of AADPL.
- **RN AADPL** – Race-Neutral portion of AADPL.
- **Market Area** – Counties in the agency's geographic area where contractors have historically bid on similar contracts.

Introduction:

Agencies shall use Exhibit 9B from the Local Assistance Procedures Manual (LAPM) to report the Annual Anticipated DBE Percentage Level (AADPL) and methodology to Caltrans. The Race-Conscious portion of the AADPL is the portion the agency believes it will not be able to meet using Race-Neutral means alone. In the absence of information relating to an agency's ability to meet the Race-Neutral portion, the Race-Conscious portion should be the same as the entire AADPL, and the Race-Neutral portion should be zero. As always, individual contract goals should be adjusted throughout the year as the agency's progress in attaining DBE participation is assessed.

There are several ways to calculate an AADPL. A method other than what is shown below may be used, as approved by the District DBE Coordinator. One such alternate method is the use of a current bidders list.

****Important Note:** While the determination of an AADPL utilizes the same calculation as before (during the Race-Neutral mode), the Race-Conscious / Race-Neutral breakdown should always include consideration of not only the availability of UDBEs (Race-Conscious), but also the specific non-UDBEs and the likelihood that they will be used on these contracts. If the likelihood is high that these non-UDBEs would not be used on the contracts, they should be removed from consideration. This would result in a higher RC AADPL and a lower



RN AADPL. Periodically throughout the contracting year, these methods and assumptions should be revisited to more accurately tailor future contract goals.

AADPL Calculation:

First, determine the projects that the agency anticipates awarding in the upcoming federal fiscal year (FFY). List these projects, including both construction and consultant contracts. Next, determine the various work types and amounts of work that will be involved, using the work categories and codes that can be found on the California Unified Certification Program (CUCP) website, as explained below. For each Work Category, calculate the percentage (Weight) of the total contract work to be performed.

To determine the number of DBE firms (for the *numerator* in the calculation):

1. For each NAICS Work Category, determine total number of DBEs in the agency's Market Area that can perform that type of work. To do this, use the CUCP website, which can be accessed by going to

http://www.dot.ca.gov/hq/bep/dbe_query.htm

and clicking on the "Click here to Access the DBE Query Form" link.

2. On the resulting page, go to the "County" box and highlight all the counties in the agency's Market Area. The control key can be used to highlight more than one county at a time.

3. Click on the appropriate 2-digit code in the "NAICS Categories" box. This will automatically bring up the more detailed 6-digit NAICS Work Category codes in a new box. Highlight the appropriate 6-digit code. Scroll down to "License Type" and highlight the appropriate license (e.g., Electrical Contractor). Finally, click the "Start Search" button at the bottom of the page. This will give the number of DBE firms available to do work in that NAICS Work Category, followed by a list of individual firms.

4. To narrow it down to the agency's Market Area, print out the list and cross off any firms that are not located within the Market Area counties. This will result in a list of DBE firms that are in the agency's Market Area. The number of firms remaining on the list becomes the numerator for that Work Category.

5. Repeat this process for each Work Category.

To determine the total number of firms (for the *denominator* in the calculation):

1. For each NAICS Work Category, determine the total number of firms in the agency's Market Area that are willing to perform that type of work. To do this, go to the following website:

<http://censtats.census.gov/cbpnaic/cbpnaic.shtml>

2. At the top of the page, select "California" and click on the "Go" button.



3. On the next page, use the drop-down menu to select one of the counties in the agency's Market Area, and click the "Select" button. The "Industry Codes" listed are the same as the NAICS codes. For each 2-digit category that is being used, click on the "Detail" button. This will bring up a list of all of the 6-digit Work Category codes contained within that category.

4. For each 6-digit Work Category to be used, click the "Detail" button to get a county-by-county list of the total number of establishments. Add the numbers for each county in the Market Area to get the total number of firms for this type of work, which becomes the denominator for that Work Category.

5. Repeat this process for each Work Category.

After completing the above tasks, make a table showing the following information for each NAICS Work Category:

- A. Number of DBE Firms (numerator)
- B. Number of Total Firms (denominator)
- C. Percentage of total contract funding in the NAICS Work Category (Weight).

Use this information as shown in the example that follows.

AADPL Calculation Example:

An agency has \$200,000 in Total Project Funding (both Federal and local/state \$), broken down into the following Work Categories:

Contract #1 – Main Street Re-paving: (\$100,000 contract)
 (NAICS Code) 237310 - Highway and Street Construction = \$80,000 = 40% Funding
 238210 - Electrical Work = \$20,000 = 10% Funding
 Contract #2 – 4th Street Design: (\$100,000 contract)
 541330 - Civil Engineering Services = \$100,000 = 50% Funding

In order to determine the AADPL base figure, first compute the AADPL formula for each Work Category:

$$\text{AADPL (per Work Category)} = \left[\sum \frac{\text{No. of DBEs in a Work Category}}{\text{No. of All Firms in same Work Category}} \times \text{Weight} \right] \times 100$$

Each Work Category AADPL is then multiplied by its percentage (Weight) of the total work to be performed. The resulting numbers are then added up to obtain the overall AADPL Base Figure:

AADPL (Base Figure) =

$$\left[\frac{\text{\# of DBEs in 237310}}{\text{\# of all firms in 237310}} \times 0.4 + \frac{\text{\# of DBEs in 238210}}{\text{\# of all firms in 238210}} \times 0.1 + \frac{\text{\# of DBEs in 541330}}{\text{\# of all firms in 541330}} \times 0.5 \right] \times 100$$



Race-Conscious Portion of AADPL (Using UDBE's):

To obtain the **RC AADPL**, use the same method shown above, except substitute UDBEs for DBEs in the formula.

To get the number of UDBE firms (UDBE firms = male-owned UDBE firms + all female-owned firms), eliminate all firms on the DBE lists from the CUCP database that are not designated as either female-owned or male-owned with the UDBE-designated ethnicities (see definitions above).

As before, make a table showing the number of UDBE firms, number of total firms, and Work Category Weights. Insert these as appropriate in the formula below:

$$RC\ AADPL = \left[\sum \frac{No.\ of\ UDBEs\ in\ a\ Work\ Category}{No.\ of\ All\ Firms\ in\ same\ Work\ Category} \times Weight \right] \times 100$$

Race-Neutral Portion of AADPL:

The Race-Neutral portion of the AADPL is the overall AADPL minus the Race-Conscious portion.

$$RN\ AADPL = AADPL - RC\ AADPL$$

Entering Information onto Exhibit 9-B:

After adjusting the AADPL and RC/RN breakdowns determined above for other factors as needed (see **Important Note on Page 1), enter the adjusted AADPL figure, as well as the adjusted Race-Conscious and Race-Neutral AADPLs, onto Exhibit 9-B.

EXHIBIT 4 DBE/UDBE CALCULATION METHODOLOGY

PARATRANSIT, INC.
CALCULATION OF ANNUAL ANTICIPATED DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION LEVEL
FISCAL YEAR 2009

| NAICS Code | Number of DBE Firms in Market Area | Number of Total Firms in Market Area | Percentage of Total Contract Funding in the NAICS Work Category | Funding in NAICS Work Category | Percentage of Funding Compared to Total Funding | Weighted AADPL Base Figure |
|------------|------------------------------------|--------------------------------------|---|--------------------------------|---|----------------------------|
| (D * F) | | | | | | |
| 238220 | 1 | 312 | 0.32% | 14,877.86 | 0.14% | 0.0005% |
| 323119 | 2 | 6 | 33.33% | 4,236.62 | 0.04% | 0.0135% |
| 423110 | 0 | 23 | 0.00% | 144,698.18 | 1.38% | 0.0000% |
| 423140 | 0 | 12 | 0.00% | 274,556.19 | 2.63% | 0.0000% |
| 423620 | 0 | 5 | 0.00% | 11,907.03 | 0.11% | 0.0000% |
| 423840 | 0 | 21 | 0.00% | 81,397.91 | 0.78% | 0.0000% |
| 424120 | 0 | 26 | 0.00% | 65,042.51 | 0.62% | 0.0000% |
| 424720 | 0 | 4 | 0.00% | 1,837,575.73 | 17.57% | 0.0000% |
| 424990 | 0 | 48 | 0.00% | 4,243.40 | 0.04% | 0.0000% |
| 441310 | 0 | 183 | 0.00% | 199,045.68 | 1.90% | 0.0000% |
| 441320 | 0 | 96 | 0.00% | 109,298.79 | 1.05% | 0.0000% |
| 442110 | 1 | 126 | 0.79% | 4,151.18 | 0.04% | 0.0003% |
| 443120 | 0 | 53 | 0.00% | 63,225.74 | 0.60% | 0.0000% |
| 453210 | 0 | 47 | 0.00% | 11,167.29 | 0.11% | 0.0000% |
| 485113 | 0 | 2 | 0.00% | 1,930.97 | 0.02% | 0.0000% |
| 485310 | 0 | 3 | 0.00% | 1,174,440.68 | 11.23% | 0.0000% |
| 485991 | 0 | 12 | 0.00% | 1,463,074.21 | 13.99% | 0.0000% |
| 491110 | 1 | 22 | 4.55% | 8,367.34 | 0.08% | 0.0036% |
| 511110 | 4 | 136 | 2.94% | 5,370.94 | 0.05% | 0.0015% |
| 517110 | 0 | 253 | 0.00% | 118,273.86 | 1.13% | 0.0000% |
| 522110 | 0 | 118 | 0.00% | 187,070.13 | 1.79% | 0.0000% |
| 523120 | 0 | 26 | 0.00% | 666,375.69 | 6.37% | 0.0000% |
| 524114 | 2 | 544 | 0.37% | 2,205,665.36 | 21.09% | 0.0775% |
| 524210 | 0 | 49 | 0.00% | 749,390.85 | 7.17% | 0.0000% |
| 524292 | 0 | 74 | 0.00% | 121,363.64 | 1.16% | 0.0000% |
| 531312 | 1 | 5 | 20.00% | 105,542.67 | 1.01% | 0.2019% |
| 532420 | 0 | 33 | 0.00% | 27,358.60 | 0.26% | 0.0000% |
| 532490 | 5 | 936 | 0.53% | 1,472.18 | 0.01% | 0.0001% |
| 541110 | 0 | 35 | 0.00% | 107,985.89 | 1.03% | 0.0000% |
| 541199 | 3 | 126 | 2.38% | 2,647.80 | 0.03% | 0.0006% |
| 541213 | 18 | 55 | 32.73% | 5,236.36 | 0.05% | 0.0164% |
| 541549 | 0 | 0 | 0 | 1,993.95 | 0.02% | 0.0000% |
| 541611 | 15 | 226 | 6.64% | 86,466.22 | 0.83% | 0.0549% |
| 541930 | 2 | 10 | 20.00% | 1,107.27 | 0.01% | 0.0021% |
| 541990 | 7 | 58 | 12.07% | 5,083.64 | 0.05% | 0.0059% |
| 561439 | 2 | 53 | 3.77% | 20,300.93 | 0.19% | 0.0073% |
| 561621 | 1 | 35 | 2.86% | 31,117.31 | 0.30% | 0.0085% |
| 561622 | 0 | 16 | 0.00% | 2,278.44 | 0.02% | 0.0000% |
| 561710 | 0 | 63 | 0.00% | 1,560.00 | 0.01% | 0.0000% |
| 561720 | 9 | 207 | 4.35% | 49,471.92 | 0.47% | 0.0206% |
| 561730 | 4 | 315 | 1.27% | 18,567.40 | 0.18% | 0.0023% |
| 561790 | 3 | 67 | 4.48% | 10,576.20 | 0.10% | 0.0045% |
| 562111 | 0 | 15 | 0.00% | 10,499.76 | 0.10% | 0.0000% |
| 611430 | 3 | 20 | 15.00% | 15,429.27 | 0.15% | 0.0221% |
| 621511 | 0 | 19 | 0.00% | 23,159.16 | 0.22% | 0.0000% |
| 722310 | 1 | 47 | 2.13% | 6,004.01 | 0.06% | 0.0012% |
| 722320 | 0 | 38 | 0.00% | 26,007.99 | 0.25% | 0.0000% |
| 811111 | 0 | 345 | 0.00% | 1,549.09 | 0.01% | 0.0000% |
| 811121 | 0 | 175 | 0.00% | 78,611.51 | 0.75% | 0.0000% |
| 811192 | 0 | 52 | 0.00% | 25,676.73 | 0.25% | 0.0000% |
| 811198 | 0 | 50 | 0.00% | 33,179.29 | 0.32% | 0.0000% |
| 811212 | 1 | 22 | 4.55% | 104,386.91 | 1.00% | 0.0454% |
| 811213 | 0 | 7 | 0.00% | 72,449.26 | 0.69% | 0.0000% |
| 811219 | 0 | 18 | 0.00% | 54,992.92 | 0.53% | 0.0000% |
| | | | | 10,457,460.46 | (0.03) | 0.4907% |

Result: 0.49 Percent of Paratransit Inc. procurements were distributed to Disadvantaged Business Enterprises in FY 2009.

PARATRANSIT, INC.
RACE-CONSCIOUS CALCULATIONS OF ANNUAL ANTICIPATED
DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION LEVEL
FISCAL YEAR 2009

| NAICS Code | Number of UDBE Firms in Market Area | Number of Total Firms in Market Area | Percentage of Total Contract Funding in the NAICS Work Category | Funding in NAICS Work Category | Percentage of Funding Compared to Total Funding | Weighted Race Conscious AADPL Figure |
|------------|-------------------------------------|--------------------------------------|---|--------------------------------|---|--------------------------------------|
| (D * F) | | | | | | |
| 238220 | 0 | 312 | 0.00% | 14,877.86 | 0.14% | 0.0000% |
| 323119 | 1 | 6 | 16.67% | 4,236.62 | 0.04% | 0.0068% |
| 423110 | 0 | 23 | 0.00% | 144,698.18 | 1.38% | 0.0000% |
| 423140 | 0 | 12 | 0.00% | 274,556.19 | 2.63% | 0.0000% |
| 423620 | 1 | 5 | 20.00% | 11,907.03 | 0.11% | 0.0228% |
| 423840 | 0 | 21 | 0.00% | 81,397.91 | 0.78% | 0.0000% |
| 424120 | 0 | 26 | 0.00% | 65,042.51 | 0.62% | 0.0000% |
| 424720 | 0 | 4 | 0.00% | 1,837,575.73 | 17.57% | 0.0000% |
| 424990 | 0 | 48 | 0.00% | 4,243.40 | 0.04% | 0.0000% |
| 441310 | 0 | 183 | 0.00% | 199,045.68 | 1.90% | 0.0000% |
| 441320 | 0 | 96 | 0.00% | 109,298.79 | 1.05% | 0.0000% |
| 442110 | 0 | 126 | 0.00% | 4,151.18 | 0.04% | 0.0000% |
| 443120 | 0 | 53 | 0.00% | 63,225.74 | 0.60% | 0.0000% |
| 453210 | 0 | 47 | 0.00% | 11,167.29 | 0.11% | 0.0000% |
| 485113 | 0 | 2 | 0.00% | 1,930.97 | 0.02% | 0.0000% |
| 485310 | 0 | 3 | 0.00% | 1,174,440.68 | 11.23% | 0.0000% |
| 485991 | 0 | 12 | 0.00% | 1,463,074.21 | 13.99% | 0.0000% |
| 491110 | 0 | 22 | 0.00% | 8,367.34 | 0.08% | 0.0000% |
| 511110 | 0 | 136 | 0.00% | 5,370.94 | 0.05% | 0.0000% |
| 517110 | 0 | 253 | 0.00% | 118,273.86 | 1.13% | 0.0000% |
| 522110 | 0 | 118 | 0.00% | 187,070.13 | 1.79% | 0.0000% |
| 523120 | 0 | 26 | 0.00% | 666,375.69 | 6.37% | 0.0000% |
| 524114 | 0 | 544 | 0.00% | 2,205,665.36 | 21.09% | 0.0000% |
| 524210 | 0 | 49 | 0.00% | 749,390.85 | 7.17% | 0.0000% |
| 524292 | 0 | 74 | 0.00% | 121,363.64 | 1.16% | 0.0000% |
| 531312 | 0 | 5 | 0.00% | 105,542.67 | 1.01% | 0.0000% |
| 532420 | 0 | 33 | 0.00% | 27,358.60 | 0.26% | 0.0000% |
| 532490 | 0 | 936 | 0.00% | 1,472.18 | 0.01% | 0.0000% |
| 541110 | 1 | 35 | 2.86% | 107,985.89 | 1.03% | 0.0295% |
| 541199 | 0 | 126 | 0.00% | 2,647.80 | 0.03% | 0.0000% |
| 541213 | 1 | 55 | 1.82% | 5,236.36 | 0.05% | 0.0009% |
| 541549 | 0 | 0 | 0 | 1,993.95 | 0.02% | 0.0000% |
| 541611 | 2 | 226 | 0.88% | 86,466.22 | 0.83% | 0.0073% |
| 541930 | 0 | 10 | 0.00% | 1,107.27 | 0.01% | 0.0000% |
| 541990 | 1 | 58 | 1.72% | 5,083.64 | 0.05% | 0.0008% |
| 561439 | 0 | 53 | 0.00% | 20,300.93 | 0.19% | 0.0000% |
| 561621 | 0 | 35 | 0.00% | 31,117.31 | 0.30% | 0.0000% |
| 561622 | 0 | 16 | 0.00% | 2,278.44 | 0.02% | 0.0000% |
| 561710 | 0 | 63 | 0.00% | 1,560.00 | 0.01% | 0.0000% |
| 561720 | 2 | 207 | 0.97% | 49,471.92 | 0.47% | 0.0046% |
| 561730 | 0 | 315 | 0.00% | 18,567.40 | 0.18% | 0.0000% |
| 561790 | 1 | 67 | 1.49% | 10,576.20 | 0.10% | 0.0015% |
| 562111 | 0 | 15 | 0.00% | 10,499.76 | 0.10% | 0.0000% |
| 611430 | 1 | 20 | 5.00% | 15,429.27 | 0.15% | 0.0074% |
| 621511 | 0 | 19 | 0.00% | 23,159.16 | 0.22% | 0.0000% |
| 722310 | 1 | 47 | 2.13% | 6,004.01 | 0.06% | 0.0012% |
| 722320 | 0 | 38 | 0.00% | 26,007.99 | 0.25% | 0.0000% |
| 811111 | 0 | 345 | 0.00% | 1,549.09 | 0.01% | 0.0000% |
| 811121 | 0 | 175 | 0.00% | 78,611.51 | 0.75% | 0.0000% |
| 811192 | 0 | 52 | 0.00% | 25,676.73 | 0.25% | 0.0000% |
| 811198 | 0 | 50 | 0.00% | 33,179.29 | 0.32% | 0.0000% |
| 811212 | 0 | 22 | 0.00% | 104,386.91 | 1.00% | 0.0000% |
| 811213 | 0 | 7 | 0.00% | 72,449.26 | 0.69% | 0.0000% |
| 811219 | 0 | 18 | 0.00% | 54,992.92 | 0.53% | 0.0000% |
| | | | | 10,457,460.46 | (0.03) | 0.0828% |

EXHIBIT 5

CALTRANS GUIDANCE FOR BIDDERS COMPLETING GOOD FAITH EFFORT SUBMITTAL



GUIDANCE FOR BIDDERS COMPLETING THE GOOD FAITH EFFORT SUBMITTAL

The specifications in Section 2 of the project Special provisions for each federally-funded project state the following about documentation of adequate good faith efforts:

“The information necessary to establish the bidder’s adequate good faith efforts to meet the contract goal should include:

- A. The names and dates of each publication in which a request for UDBE participation for this project was placed by the bidder.
- B. The names and dates of written notices sent to certified UDBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested.
- C. The items of work which the bidder made available to UDBE firms, including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate UDBE participation. It is the bidder’s responsibility to demonstrate that sufficient work to meet the UDBE goal was made available to UDBE firms.
- D. The names, address and phone numbers of rejected UDBE firms, the firms selected for that work, and the reasons for the bidder’s choice.
- E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any work which was provided to the UDBEs.
- F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the UDBE subcontractor purchases or leases from the prime contractor or its affiliate.
- G. The names of agencies contacted to provide assistance in contracting, recruiting and using UDBE firms.
- H. Any additional data to support a demonstration of good faith efforts.”

It is recommended that bidders consider the following in making efforts to obtain participation of UDBEs, and when preparing the documentation to be submitted, demonstrating their good faith efforts:

- Advertising for UDBE participation may be placed in newspapers, trade papers, minority focus papers and on the Internet.
- The more advertising the better. The wider the audience—especially in trade and focus publications—the better a prime contractor can “get the word out” they plan to bid a project, the better potential for UDBEs to know about the project and to whom they should bid.



- Solicitations and follow-up telephone contacts should occur within reasonable time before the opening bid date to allow the subcontractor time to prepare a quote to submit to the bidder. Telephone or e-mail logs, and fax receipts may be used to corroborate follow-up contacts.
- Advertisements and solicitations should state which items or portions of work are being made available. The bidder should consider making as many items of work available as possible to meet the goal, including those items normally performed by the bidder with its own forces.
- Bidders are encouraged to assist UDBE subcontractors in the areas of bonding (if required), lines of credit, and obtaining necessary equipment, supplies and materials, and inform UDBEs of this assistance in their solicitations.
- The documentation to be submitted to the local agency should clearly demonstrate all efforts made by the bidder to meet the UDBE goal. To assist in providing clear documentation, bidders should consider the following:
 - Be careful when referring to “See Attachments” without providing explicit information where to find the material. Clearly identifying these items as Attachment A, Attachment B, etc. is suggested.
 - Attachments may include copies of advertisements, solicitations and logs of telephone follow-ups, e-mail or fax receipts.
 - In documenting the work made available to UDBEs, list the bid item number, description of the work and what portion of the item was offered, if applicable.
 - Include quotes from rejected UDBEs and the quotes from the firms selected. If the bidder is doing the work at less cost, include the items to be performed and the costs.
 - Identify any contacts with agencies, organizations or groups used or contacted to provide assistance in contacting, recruiting and using UDBE firms, and any responses or assistance received from them.
 - Describe any additional information which would demonstrate that adequate good faith efforts were made to meet the goal.