

DEPARTMENT OF TRANSPORTATION

DISTRICT 3
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*Flex your power!
Be energy efficient!*

January 29, 2010

Ms. Mary Steinert
Deputy Executive Director
Paratransit, Inc.
P.O. Box 231100
Sacramento, CA 95823

Dear Ms. Steinert,

The Paratransit Disadvantaged Business Enterprise Implementation Agreement, Exhibit 9-A and Annual DBE submittal, both dated November 19, 2009 are approved.

An original Submittal is enclosed.

Prior to advertising any contracts, and to make sure you are using the latest available information, download the Caltrans Boiler Plate Contract and Specification documents from the Internet at: www.dot.ca.gov/hq/esc/oe/conststand.html. You may then modify them for your use.

If you have any questions, please contact our DBE coordinator, Jim Day, at (530) 741-5116.

Sincerely,

A handwritten signature in cursive script that reads "James P. Day".

Signed by James P. Day for:

JOHN HOOLE
District Local Assistance Engineer

CALIFORNIA
DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE
IMPLEMENTATION AGREEMENT
FOR
LOCAL AGENCIES

CALIFORNIA DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE IMPLEMENTATION AGREEMENT

For Paratransit, Inc., hereinafter referred to as "RECIPIENT."

I Definition of Terms

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

II OBJECTIVE/POLICY STATEMENT (§26/1. 26/23)

The RECIPIENT intends to receive federal financial assistance from the U. S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the RECIPIENT will sign the California Department of Transportation Disadvantaged Business Enterprise Implementation Agreement (hereinafter referred to as Agreement). The RECIPIENT agrees to implement the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan (hereinafter referred to as the DBE Program Plan) as it pertains to local agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR, Part 26 requirements.

It is the policy of the RECIPIENT to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their 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 their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in DOT-assisted contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

III Nondiscrimination (§26.7)

RECIPIENT 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 the local agency components of the DBE Program Plan, the RECIPIENT 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 Plan with respect to individuals of a particular race, color, sex, or national origin.

IV Annual DBE Submittal Form (§26.21)

The RECIPIENT will provide to the Caltrans District Local Assistance Engineer (DLAE) a completed "Local Agency DBE Annual Submittal Form (Exhibit 9-B)" by June 1 of each year for the following Federal Fiscal Year (FFY). This form includes an Annual Anticipated DBE Participation Level (AADPL), methodology for establishing the AADPL, the name, phone number, and electronic mailing address of the designated DBELO, and the choice of Prompt Pay Provision to be used by the RECIPIENT for the following FFY.

V Race-Neutral Means of Meeting the Overall Statewide Annual DBE Goal (§26.51)

RECIPIENT must meet the maximum feasible portion of its AADPL by using race neutral means of facilitating DBE participation. Race neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., 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);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs and other small businesses on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory through print and electronic means to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs and other small businesses to develop their capability to utilize emerging technology and conduct business through electronic media.

VI Race Conscious Means of Meeting the Overall Statewide Annual DBE Goal (§26.51(d))

RECIPIENT must establish contract goals for Underutilized Disadvantaged Business Enterprises (UDBE) to meet any portion of your AADPL you do not project being able to meet using race neutral means. UDBEs are limited to these certified DBEs that are owned and controlled by African Americans, Native Americans, Women, and Asian-Pacific Americans.

VII Quotas (§26.43)

RECIPIENT will not use quotas or set-asides in any way in the administration of the local agency component of the DBE Program Plan.

VIII DBE Liaison Officer (DBELO) (§26.25)

RECIPIENT has designated a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan as it pertains to the RECIPIENT, and ensures that the RECIPIENT is fully and properly advised concerning DBE Program Plan matters. The DBELO has a staff of two professional employees assigned to the DBE program on a full-time basis and procurement support personnel who devote a portion of their time to the program. The name, address, telephone number, electronic mail address, and an organization chart displaying the DBELO's position in the organization are found in Exhibit 9-B. This information will be updated annually and included on the DBE Annual Submittal Form.

The DBELO is responsible for developing, implementing, and monitoring the RECIPIENT's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine projected Annual Anticipated DBE Participation Level.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race neutral means.
6. Participates in pre-bid meetings.
7. Advises the CEO/governing body on DBE matters and DBE race neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

IX Federal Financial Assistance Agreement Assurance (§26.13)

RECIPIENT will sign the following assurance applicable to and to be included in 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.). [Note – this language is to be used verbatim, as it is stated in §26.13(a).]

X DBE Financial Institutions (§26.27)

It is the policy of the RECIPIENT 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 DBELO. The Caltrans Disadvantaged Business Enterprise Program may offer assistance to the DBELO.

XI Directory (§26.31)

RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's Web site at: www.dot.ca.gov/hq/bep.

XII Required Contract Clauses (§§26.13, 26.29)

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

A. Contract Assurance

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.

B. Prompt Payment

Prompt Progress Payment to Subcontractors

The local agency shall require contractors and subcontractors to be timely paid as set forth in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10-day is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Withheld Funds to Subcontractors

The local agency shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including either (1), (2), or (3) of the following provisions in their federal-aid contracts to ensure prompt and full payment of retainage [withheld funds] to subcontractors in compliance with 49 CFR 26.29.

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.
2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in thirty (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.
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 thirty (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.

XIII Local Assistance Procedures Manual

The RECIPIENT will advertise, award and administer DOT-assisted contracts in accordance with the most current published *Local Assistance Procedures Manual (LAPM)*.

XIV Transit Vehicle Manufacturers (§ 26.49)

If FTA-assisted contracts will include transit vehicle procurements, RECIPIENT will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements; to certify that it has complied with the requirements of 49 CFR, Part 26, Section 49.

XV Bidders List (§26.11(c))

The RECIPIENT 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 the firm.

XVI Reporting to the DLAE

RECIPIENT will promptly submit a copy of Local Agency Proposer UDBE Commitment (Consultant Contracts), (Exhibit 10-O1) or Local Agency Bidder UDBE Commitment (Construction Contracts) (Exhibit 15-G1) of the LAPM to the DLAE at the time of award of the consultant or construction contracts.

RECIPIENT will promptly submit a copy of Local Agency Proposer DBE Information (Consultant Contracts) (Exhibit 10-O2) or Local Agency Bidder DBE Information (Construction Contracts) (Exhibit 15-G2) or of the LAPM to the DLAE at the time of execution of consultant or construction contract.

RECIPIENT will promptly submit a copy of the Final Utilization of DBE participation to the DLAE using Exhibit 17-F Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors of the LAPM immediately upon completion of the contract for each consultant or construction contract.

XVII Certification (§26.83(a))

RECIPIENT ensures that only DBE firms currently certified by the California Unified Certification Program will participate as DBEs on DOT-assisted contracts.

XVIII Confidentiality

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

Date: 11/19/09
Linda Deavens
Linda Deavens, Chief Executive Officer
Paratransit, Inc.

Phone Number: (916) 429-2009 ext. 302

This California Department of Transportation's Disadvantaged Business Enterprise Program Implementation Agreement is accepted by:

[Signature]
[Signature of DLAE]

Date: 11/23/09

BEN BRAMER
[Print Name of DLAE]

**EXHIBIT 9-B
LOCAL AGENCY DBE ANNUAL SUBMITTAL FORM**

TO: CALTRANS DISTRICT 3_
District Local Assistance Engineer

The amount of the Annual Anticipated DBE Participation Level (AADPL) and methodology are presented herein, in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan.

- ✓ Paratransit, Inc. has established an AADPL of 0.49 % (0.39% Race Neutral; 0.10% Race Conscious) for the Federal Fiscal Year 2009/2010, beginning on October 1 and ending on September 30.

Methodology

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.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Mary Steinert
Deputy Executive Director
P.O. Box 231100
Sacramento, CA 95823
Phone: (916) 868-6216.
Email: marys@paratransit.org

Planned Race Neutral Measures

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.

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.

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.

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 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.

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.

Date: 11/19/09


Linda Deavens, Chief Executive Officer
PARATRANSIT, INC.

(916) 429-2009 ext. 302
Phone Number


Signature of Caltrans District Local Assistance Engineer

11/23/09
Date

PARATRANSIT, INC. ORGANIZATIONAL CHART

