



MEMORANDUM

Date: December 19, 2014

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **Disadvantage Business Enterprise (DBE) Program for Port of Tucson Project**

In accordance with US Department of Transportation TIGER 2013 Grant Agreement FR-T11-0029-14-01-00 approved by the Board of Supervisors on September 2, 2014, attached is the DBE Program Plan for the Port of Tucson project. Development of this Plan was a requirement of the grant.

The Policy Statement contained in the Plan requires that it be distributed to the Board to keep you apprised of policy requirements for this project; no action is required by the Board. The Federal Railway Administration has approved this Plan.

The Plan will also be posted on the County's Internet page for public informational purposes.

CHH/mjk

Attachment

c: John Bernal, Deputy County Administrator, Public Works
Nanette Slusser, Assistant County Administrator for Policy, Public Works
Alan Levin, Owner, Port of Tucson



PIMA COUNTY

*DBE Program Plan for
Port of Tucson Project*

Administered by:

Pima County Procurement Department

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December 2014

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I. POLICY STATEMENT

A. Objectives/Policy Statement

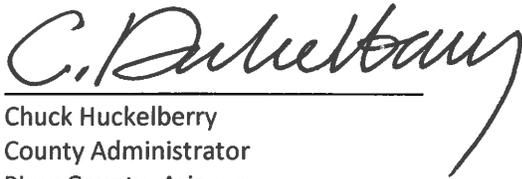
Pima County (County) has received Federal financial assistance from the United States Department of Transportation (DOT) through the Federal Railway Administration (FRA) for the Port of Tucson Project (the Project). As a condition of funding, Pima County has agreed to incorporate elements of DOT's Disadvantaged Business Enterprise (DBE) program (49 C.F.R. Part 26) into contracts and agreements for the Project.

Pima County's objectives are to:

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts for construction, procurement, and professional services for the Project;
- Create a level playing field on which DBEs can compete fairly for Project contracts;
- Ensure that only firms certified through the Arizona Unified Certification Program as fully meeting 49 CFR Part 26 eligibility standards are counted as DBEs;
- Help remove barriers to the participation of DBEs in Project contracts; and
- Encourage participation by Small Business Concerns (SBC) in Project contracts.

The County DBE program will be managed and administered by the Small Business Enterprise/Vendor Relations Division of the Pima County Procurement Department. The Division Manager has been designated as the DBE Liaison Officer (DBELO). In that capacity, the Division Manager is responsible for implementing all aspects of the DBE program. The DBE program will be accorded the same priority as all other legal obligations in the County's financial assistance agreement with FRA.

The County has disseminated this policy statement to the Pima County Board of Supervisors, affected County Departments and the Project Owner. Additionally, it will be made available through the County website to the public and DBE and non-DBE companies that may compete for Project contracts at any tier.



Chuck Huckelberry
County Administrator
Pima County, Arizona
Date: 12/16/14

II. GENERAL REQUIREMENTS

A. Applicability

Pima County normally receives DOT funding through FHWA and the Arizona Department of Transportation (ADOT) and must adhere to ADOT's program. As a consequence, Pima County does not have its own DBE program and lacks the predicates necessary to support a race-conscious DBE program.

As a recipient of funds directly from FRA, County has established this dedicated single-project race-neutral DBE program to implement key aspects of 49 CFR Part 26 for the Port of Tucson Project. The County is committed to ensuring DBE participation in this Project through encouraging race-neutral DBE participation.

B. Definitions

Day means business day; day on which the County is open for normal business.

Disadvantaged Business Enterprise or DBE means:

- A for-profit small business concern;
- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Subrecipient/Subgrantee: Any legal entity to which a sub-award of federal financial assistance is made and which is accountable to the recipient for the use of the funds provided (49 CFR 19.2).

County has adopted and uses the definitions related to the DBE program found in 49 CFR Part 26.5.

C. Non-Discrimination Requirements

County will not 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 Project or other contract on the basis of race, color, sex, national origin, age, or disability.

County 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, national origin, age, or disability.

D. Recordkeeping Requirements

1. County will report DBE participation on the Uniform Report of DBE Awards or Commitments and Payments to FRA as required.

Subrecipients/Subgrantees must report contract awards, DBE commitments, prime and subcontract payments and other requested information to County monthly. County will include subrecipient activity in its reports to FRA based on project data provided by Subrecipients/Subgrantees. Report data includes:

- Awards
- Commitments
- Payments to prime contractors and consultants
- Payments to DBE subcontractors and subconsultants
- Payments to lower-tier DBE subcontractors and subconsultants

County and its Subrecipients/Subgrantees will also monitor payments to non-DBE subcontractors and subconsultants, including lower-tier activity, to ensure prompt payment, although non-DBE information will not be included in reports.

2. Federal Financial Assistance Agreement

County has adopted the following assurances, applicable to all DOT-assisted contracts for the Project and their administration.

Assurance: 26.13(a)

“County 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. County shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. County’s DBE Program, as required by 49 CFR part 26 and as approved by FRA, 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 County 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.)”

This language will appear in all financial assistance agreements with Subrecipients/Subgrantees.

Assurance: 26.13(b)

County will ensure that the following clause is placed in every DOT-assisted contract and subcontract let by County and its Subrecipients/Subgrantees/Contractors:

“The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate. The contractor, subrecipient, or subcontractor shall ensure that all subcontract agreements contain this nondiscrimination assurance.”

III. ADMINISTRATIVE REQUIREMENTS

A. DBE Program Updates

County will update FRA/DOT regarding any significant changes in the program.

B. DBE Liaison Officer (DBELO)

County has designated the Manager of the SBE/Vendor Relations Division of the Procurement Department as its DBE Liaison Officer (DBELO).

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In this capacity, the DBELO is responsible for implementing the DBE program and ensuring that the County complies with the applicable key provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Procurement Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment "A" to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has professional and technical staff to assist in the administration of the program. The staff duties and responsibilities include the following:

County DBE Liaison Officer (DBELO)

- Advises the County Procurement Director regarding DBE matters and achievement.
- Supervises and coordinates activities of DBE Program staff.
- Serves as mediator when appropriate for issues that require escalation.

DBE Compliance Staff

- Gather and report statistical data and other information as required.
- Review third-party contracts and purchase requisitions for DBE compliance.
- Participates in prebid and preconstruction meetings.
- Conducts onsite Commercially Useful Function reviews.
- Facilitates resolution of DBE Prompt Pay related issues identified in the field.

DBE compliance staff will ensure that Subrecipients/Subgrantees/Contractors sign a Compliance Statement with County that Subrecipient/Subgrantee/Contractor will adhere to County's DBE Program Plan.

Note: County reserves the right to audit Subrecipients/Subgrantees/Contractors compliance procedures and project files and conduct onsite reviews to ensure compliance with DBE program.

C. Prompt Payment Mechanisms

Pima County and its Subrecipients/Subgrantees/Contractors will include the following clause in each DOT-assisted contract:

NB: The following article is subject to edit depending on how Port of Tucson wants to structure their contract payments. The prompt payment provisions will be retained in any edit.

ARTICLE III - PAYMENTS

A. General

1. In consideration of the services specified in this Contract, the COUNTY agrees to pay CONTRACTOR in the manner hereinafter specified. For this Article, "subcontractor" includes supplier. Payment shall be made based on **Exhibit "A" - Bid Schedule** (XX pages) submitted by Contractor in response to Solicitation No. _____ and attached hereto and made part of this contract.
2. Line items for which the "Unit" is defined as L.S. shall be paid as "Lump Sum". Other line items for which the "unit" is defined as a unit of measure (i.e., "each", "L.F.", etc.) and for which there is a Unit Price, shall be measured and paid at the unit price for the actual quantity of work performed in accordance with the Standard Specifications. The quantities of unit-priced items stated in the bid schedule are estimates only and the actual quantities may be either less or more than stated in the Bid Schedule.
3. Total Payment for this Contract shall not exceed _____ Words _____ Dollars (\$Numbers).
4. CONTRACTOR must cite the CT (Contract) number on all invoices. CONTRACTOR shall provide detailed documentation in support of requested payment. Invoices and payments must comply with A.R.S. § 34-221.

B Progress Payments to Subcontractors

1. Each line item for which payment is claimed based on the work of a subcontractor must identify the subcontractor by name. CONTRACTOR shall pay each subcontractor and supplier for which CONTRACTOR receives payment on an invoice within seven days of receipt of the progress payment for that invoice. Such payments shall be in the amount allowed by COUNTY for each subcontractor or supplier, to the extent of their interest therein. Retention by CONTRACTOR shall not exceed the actual percentage retained by COUNTY from the progress payment. COUNTY, at any time, in its sole discretion, may require that invoices be supported by evidence of payment to subcontractors and suppliers.
2. CONTRACTOR shall withhold from an invoice the application and certification for payment of a subcontractor or supplier to which payment will not be made in accordance with the preceding paragraph (B)(1) as a result of unsatisfactory job progress, defective construction work or materials not remedied, disputed work or materials, third party claims filed or reasonable evidence that a claim will be filed, failure of a subcontractor to make timely payments for labor, equipment and materials, damage to the contractor or another subcontractor, or other legitimate dispute or disagreement justifying nonpayment. On separate page(s) accompanying the invoice CONTRACTOR shall identify excluded subcontractors/suppliers and provide a brief justification for their nonpayment on the current invoice.

3. Failure to pay a subcontractor for which payment was made by COUNTY shall be deemed an unjustified failure to pay for which COUNTY may withhold from CONTRACTOR the sum of Two-Thousand Dollars (\$2,000.00) plus the amount of the payment made by COUNTY for that subcontractor, such sum(s) to be retained by COUNTY until the nonpayment issue is resolved unless CONTRACTOR provides evidence convincing to the COUNTY, in its sole discretion, that the failure to pay was justified, , Each succeeding month of unjustified nonpayment shall be deemed a new failure for which an additional Two-Thousand dollars (\$2,000.00) may be withheld. At the sole discretion of COUNTY, repeated instances of unjustified nonpayment(s) may result in withholding of progress payments until the subcontractor/supplier payment issues are resolved.

C. Subcontractor Final Payments

CONTRACTOR shall make prompt final payment to each of its subcontractors of all monies due the subcontractor, including retention, if any, after the subcontractor has satisfactorily completed all of its work, there are no outstanding issues arising from the work, and COUNTY has incrementally accepted subcontractor's work. If the final payment, including retention, if any, is not made within 7 days of COUNTY payment to CONTRACTOR for subcontractor's work, COUNTY, in its sole discretion, may withhold \$2,000 from CONTRACTOR's progress payment(s) in accordance with paragraph (B)(3) above. Notwithstanding Incremental acceptance of subcontractor's work, the warranty thereon shall begin upon acceptance of the entire project.

D. Reservation of Audit Right

For the period of record retention required under Article XXII, COUNTY reserves the right to question any payment made under this article and to require reimbursement therefor by setoff or otherwise for payments determined to be improper or contrary to the contract or law.

D. Arizona Unified Transportation Registration and Certification System (AZ UTRACS)

The County will rely on the Arizona Unified Certification (UCP) Program and will not perform any certifications. The Arizona Department of Transportation (ADOT) is the lead agency for the Arizona UCP Program and requires that firms meet all eligibility standards of Subpart D of Part 26 for DBE certification. The UCP is comprised of ADOT, City of Phoenix, and City of Tucson. Requests to the County for DBE certification will be referred to the UCP.

ADOT maintains the statewide directory (AZ UTRACS) which identifies all firms eligible to participate as DBEs. The AZ UTRACS DBE directory lists the firm's name, address, phone number, fax number, email address, gender, ethnicity, certification source, NAICS codes, and the type of work the firm has been certified to perform as a DBE.

The directory is available online at www.azdbe.org. Paper copies of the DBE directory are available upon request by contacting the ADOT Business Engagement & Compliance Office at (602) 712-7761 or via email at dbesupportiveservices@azdot.gov.

E. Overconcentration

The County is relying on ADOT's representation that overconcentration appears not to exist in the types of work that DBEs perform. [ADOT FHWA DBE Program Plan, October 2013, page 10. http://azdot.gov/docs/default-source/beco-library/adot_fhwa_dbe_plan.pdf?sfvrsn=4]

F. Fostering Small Business Participation (26.39)

The County will encourage small business participation and recognizes this as a requirement of good faith implementation of its DBE program. County will require all Subrecipients/-Subgrantees/Contractors to encourage Small Business Concern (SBC) participation in contracts where there are appropriate subcontracting opportunities.

The County will rely on an online directory of available SBCs (similar to the DBE Directory) published by ADOT as part of the AZ UTRACS web portal. Firms can register online via the AZ UTRACS web portal. County Subrecipients/Subgrantees/Contractors will encourage small firms that conduct business with them to register as an SBC via the AZ UTRACS web portal.

G. Monitoring and Enforcement Mechanisms

County will implement appropriate mechanisms, including sanctions, suspension, debarment, and application of legal and contractual remedies available under Federal, state, and local laws, as deemed appropriate and necessary, to ensure compliance with the requirements by all program participants. Such monitoring and enforcement mechanisms will apply to Subrecipients/Subgrantees, Contractors and Subcontractors.

Specifically, County will take the following monitoring and enforcement steps:

- Bring to the attention of DOT 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.
- Consider similar action under County's own legal authorities, including responsibility determinations in future contracts.
- Provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. *This will be accomplished via onsite visits conducted by County staff and construction field personnel. A written certification of compliance will be provided for each DBE performing work on the project.*
- Keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

County Subrecipients/Subgrantees and Contractors shall work collaboratively with the County to ensure monitoring and enforcement mechanisms take place.

IV. COUNTING PARTICIPATION

A. Set-asides or Quotas

The County does not, and will not, use quotas or set-asides in any way.

B. Overall Goal

This DBE Program Plan is dedicated to a single project. Consequently, the County does not have, and believes it is not required to have, an overall DBE goal because of the limited purpose and applicability of this plan.

C. Encouraging DBE Participation

- The County will encourage the use of DBEs to ensure that DBE firms have an equitable opportunity to participate in the Project. All DOT-assisted Project contracts will be assessed for subcontracting opportunities. Only the value of the work actually performed by the DBE will be credited toward DBE participation.
- Only the category of work for which the DBE is certified will be counted toward DBE participation.

The prime contractor, consultant, or vendor bears the responsibility to determine whether the DBE possesses the proper credentials to perform the work. If a DBE cannot complete its work due to failure to obtain or maintain its credentials, the prime contractor, consultant, or vendor bears the responsibility to immediately notify the SBE/Vendor Relations Division. AZ UTRACS is not a representation of a DBEs' qualifications and/or abilities. The prime contractor, consultant, or vendor bears all risks in the selection of subcontractors/consultants.

A DBE may participate as a prime contractor, subcontractor, or joint venture partner with either a prime contractor or a subcontractor, or as a vendor of materials or supplies. A DBE joint venture partner shall be responsible for a clearly defined portion of the work to be performed, in addition to meeting the requirements for ownership and control.

With the exception of bond premiums, all work must be attributed to specific bid items. Where work applies to several items, the DBE contracting arrangement must specify unit price and amount attributable to each bid item. Bond premiums may be stated separately, so long as the arrangement between the prime contractor and the DBE provides for separate payment not to exceed the price charged by the bonding company.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated into the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

If a DBE performs part of an item (for example, installation of materials purchased by a non-DBE), the DBE credit shall not exceed the lesser of (1) the DBE's contract or (2) the prime contractor's bid for the item, less a reasonable deduction for the portion performed by the non-DBE.

When a DBE performs as a partner in a joint venture, only that portion of the total dollar value of the contract which is clearly and distinctly performed by the DBE's own forces can be credited.

The contractor, consultant, or vendor may credit lower-tier subcontracts issued to DBEs by non-DBE subcontractors. Any second-tier subcontract to a DBE used to meet the goal must meet the requirements of a first-tier DBE subcontract.

All DBE and non-DBE subcontracting activity must be reported by the contractor, consultant, or vendor and counted toward participation. This includes lower-tier subcontracting regardless of whether or not the DBE is under contract with another DBE.

A prime contractor, consultant, or vendor may credit the entire amount of that portion of the contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime contractor, consultant, or vendor or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards the DBE goal only if the DBE's subcontractor is itself a DBE and performs the work with its own forces. A prime contractor, consultant, or vendor may credit the entire amount of fees or commissions charged by a DBE firm for providing a *bona-fide* service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

1. Law Enforcement Off-duty officers:

For projects on which officers are supplied, DBE credit will be given only for the broker fees charged, and will not include amounts paid to the officers. The broker fees must be reasonable.

2. Commercially Useful Function:

As a prime contractor, a DBE shall perform not less than forty percent (40%) of the contract work with its own work forces.

A prime contractor, consultant, or vendor can credit expenditures to a DBE subcontractor only if the DBE performs a commercially useful function on the contract. A DBE performs a commercially useful function when it is responsible for execution of the work of a contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the County will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the County may examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the County will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. The County will monitor and conduct on-site visits to the project to conduct commercially useful function reviews to help ensure compliance.

3. *Trucking and Materials and Supplies*

The County anticipates that neither Trucking or Materials and Supplies will play a significant role in the Port of Tucson Project or provide a substantial opportunity for DBE subcontracting. In the event that either does, the County will look to the ADOT FHWA DBE Program Plan, updated October 2013, for guidance. The ADOT plan is available at:

http://www.azdot.gov/docs/default-source/beco-library/adot_fhwa_dbe_plan.pdf?sfvrsn=4

V. **COMPLIANCE AND ENFORCEMENT**

A. *Information, Confidentiality, Cooperation*

As a result of not performing certifications, the County does not anticipate receiving any confidential business or personal financial information.

B. *Contract Performance*

Contract items of work designated by the contractor to DBEs shall be performed by the designated DBE. DBE contract work items shall not be performed by the contractor or a non-DBE subcontractor without prior written notice to the SBE/Vendor Relations Division. The DBE must perform a commercially useful function. At project initiation (preconstruction meeting, kick-off meeting, etc.), contractors shall provide copies of completed and signed DBE subcontracts, purchase orders, invoices, etc.

All subcontract agreements (DBEs and non-DBEs) shall include all required assurances. This is not meant to be an exhaustive list of County/Federal contract requirements. Contractors must refer to the full County contract for complete requirements.

The following provisions must be included in all County, Subrecipient/Subgrantee and Contractor Federal-aid contracts:

1. Assurance of Nondiscrimination

The contractor and subcontractor agreements shall include language to support the following statement:

“The contractor or subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure by the contractor to carry out these requirements is a material breach of this

contract, which may result in the termination of this contract or such other remedy as the state deems appropriate. The contractor or subcontractor shall ensure that all subcontract agreements contain this nondiscrimination assurance."

2. Subcontractor Payment Reporting

The contractor or subcontractor agreements shall include language to support the following statement:

"The contractor shall provide all such required information for the current month by the 5th of the following month."

3. Lower-Tier Activity

The contractor or subcontractor agreements shall include language to support the following statement:

"Subcontractor and lower-tier(s) of subcontractor agree to fully comply with the federal aid contract provisions which are hereby fully incorporated into and made part of this subcontract. Subcontractor shall include these required contract provisions in all its lower-tier subcontracts."

4. Prompt Payment

The contractor or subcontractor agreements shall include language to support the following statement:

"The Arizona Prompt Payment statute requires a contractor to pay within seven days of receipt by the contractor or subcontractor of each progress payment or final payment, the full amount received for such subcontractor's work and materials supplied based on work completed or materials supplied under the subcontract. See A.R.S. 32-1129.02(B). As long as a subcontractor or supplier submits an invoice or pay request, and as long as there is no dispute over the quality of the work or materials, then the law demands that payment be made within seven days after the general contractor has been paid."

6. Return of Retention Requirements

The contractor or subcontractor agreements shall include language to support the following statement:

"Contractors executing agreements with subcontractors, DBE or non-DBE, that materially modify federal regulation and state statutes, or prompt payment and retention requirements, through subcontract terms and conditions will be found in breach of contract which may result in termination of the contract, or any other such remedy as the County deems appropriate."

7. Certification of Payments to DBE Firms

The contractor or subcontractor agreements shall include language to support the following statement:

"The contractor shall submit at the completion of the project the "Certification of Payments to DBE Firms" affidavit for each DBE firm working on the project."

The Affidavit must be dated and initialed by the DBEs listed on the DBE Affidavits to be considered valid. Contractors, consultants, or vendors executing agreements with subcontractors, DBE or non-DBE, that materially modify federal regulation and state statutes, or prompt payment and retention

requirements through subcontract terms and conditions, will be found in breach of contract which may result in termination of the contract, or any other such remedy as County deems appropriate.

C. Subcontractor Payment Monitoring

The County will require prime contractors, consultants, and vendors to maintain records and documents of payments to DBE and non-DBE subcontractors for five years following performance of the contract. These records will be made available for inspection upon request by any authorized representative of the SBE/Vendor Relations Division, FRA, USDOT, and the Comptroller General of the United States. Subcontractors are required to maintain payment information for any lower tier subcontractors for the same five-year duration.

The County Subrecipients/Subgrantees, Contractors and subcontractors are required to collect data on DBE and non-DBE participation to report on federal aid projects. Contractors, consultants, and vendors are notified that such record keeping is required for tracking DBE participation.

Contractors, consultants, and vendors performing on federal aid transportation projects are required to report monthly amounts awarded and paid to all DBEs and non-DBEs. All DBE and non-DBE subcontractors working on federal aid transportation projects are required to verify receipt of payment.

Further, first-tier subcontractors are required to report amounts awarded and paid to all lower-tier DBE and non-DBE subcontractors. Lower-tier subcontractors are required to verify receipt of payment.

Contractors, consultants, and vendors shall provide the required information for the current month by the 5th of the following month.

D. Certification of Payment

The contractor, consultant, or vendor shall submit at substantial completion of the project the "Certification of Payment" affidavit for each DBE firm working on the project. This affidavit shall be signed by the prime contractor, consultant, or vendor and the relevant DBE, and submitted to SBE/Vendor Relations Division.