

Exhibit 9-B: Local Agency DBE Annual Submittal Form

TO: CALTRANS DISTRICT 8
District Local Assistance Engineer

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

The City/County/Region of San Bernardino
submits our annual 9-B information for the Federal Fiscal Year 2021 / 2022, beginning on October 1 and ending on September 30.

Disadvantaged Business Enterprise Liaison Officer (DBELO)
Mr. Andy Silao, P.E., Chief, Contracts Division, San Bernardino County Department of Public Works
825 East Third Street, Room 147, San Bernardino, CA 92415-0835, asilao@dpw.sbcounty.gov

Planned Race-neutral Measures
See Planned Race-neutral Measures Attachment

Prompt Pay

49 CFR 26.29(b) 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.

See attached indication of Method 3

Prompt Pay Enforcement Mechanism

49 CFR 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.

See Prompt Pay Enforcement Mechanism Attachment

AS
NC



(Signature)

9/30/21

(Date)

Brendon Biggs, P.E. Director, San Bernardino County DPW

(Print Name and Title)
ADMINISTERING AGENCY
(Authorized Governing Body Representative)

909-387-7906

(Phone Number)



(Signature of Caltrans District Local Assistance Engineer)

09/01/2021

(Date)

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

(Attachment)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29(b)) 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 and Section 10262 of the California Public Contract Code for construction contracts, and Section 3321 of the California Civil Code for consultant contracts. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 2:** No retainage will be held by the agency from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in seven (7) days for construction contracts and fifteen (15) days for consultant contracts 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 and Section 10262 of the California Public Contract Code for construction contracts, and Section 3321 of the California Civil Code for consultant contracts. 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 seven (7) days for construction contracts and fifteen (15) days for consultant contracts 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 or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code for construction contracts, and Section 3321 of the California Civil Code for consultant contracts. 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.

Planned Race Neutral Measures Include, but are not limited to, the following:

1. Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business 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. Provide services to help DBE firms and other small businesses improve long-term development, increase opportunities to participate in various types of work, handle increasingly significant projects, and achieve eventual self-sufficiency.
3. Hold pre-bid conferences for the County's federally-funded projects, which include a networking component to promote teaming opportunities between prospective prime contractors and the DBE and small business contracting community. Also in these prebid conferences, provide reminders about DBE requirements.
4. Refer its DBE and small business contracting community to the District's Mentor / Protégé program and Calmentor program.
5. Provide technical assistance when requested.

Prompt Pay Enforcement Mechanism

Prompt payment is enforced by the DPW division administering the contract. Subcontractors may notify the DPW division administering the contract if they are not being paid promptly in accordance with the contract terms or the law. If complaints regarding prompt payments are received, DPW staff investigates the complaint, contacts the prime contractor as necessary, and addresses the issue. If the complaint is determined to be accurate, the appropriate contractual and/or legal remedies will be applied. If DPW receives a stop payment notice, the amount of the stop payment notice is withheld from the progress payment as provided by law.