



## FTA SUBRECIPIENT PROCEDURES

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### **I. SANDAG FEDERAL TRANSIT ADMINISTRATION SUBRECIPIENT PROCESS AND PROCEDURES FOR DISADVANTAGED BUSINESS ENTERPRISE**

San Diego Association of Governments (SANDAG) receives funds from various Federal Transit Administration (FTA) sources. SANDAG awards FTA grants to various grantees (subrecipients). As a subrecipient of pass through FTA funds from SANDAG, subrecipients are required to comply with the United States Department Of Transportation (DOT) Disadvantaged Business Enterprise (DBE) program of Title 49 Code of Federal Regulations (CFR) Part 26. Direct federal recipients receiving funds for FTA planning, capital, or operating assistance projects, who get FTA-assisted contract(s) must have a DBE program and establish an overall DBE goal every three years if awarding \$250,000 or more in a federal fiscal year. As a direct recipient of federal funds, SANDAG establishes a triennial DBE overall goal every three federal fiscal years.

To comply with DOT requirements, subrecipients are not required to prepare their own DBE program. Rather, SANDAG has included provisions in the grant agreements requiring subrecipients to comply with the SANDAG DBE program and overall goal. Pursuant to the provisions, subrecipients have an obligation to track DBE participation levels achieved through the award of FTA-funded contracts and must report DBE award and administration activities. In addition, subrecipients are required to assign someone to be the DBE contact person (DBE Liaison Officer) responsible for providing SANDAG the documentation to establish the subrecipient is compliant with DBE program requirements. The DBE provisions identify the general duties and responsibilities of the DBE liaison officer.

### **II. DBE PARTICIPATION REPORTING REQUIREMENTS**

The Uniform Report of DBE Awards of Commitments and Payments, which can be obtained from the FTA website: [fta.dot.gov/documents](http://fta.dot.gov/documents) is submitted by SANDAG bi-annually based on the federal fiscal year calendar. This report includes all DOT-assisted contracts awarded during the submittal period. The first semi-annual report should cover October 1 through March 31. The second semi-annual report should cover April 1 through September 30.

Subrecipients receiving any pass-through funds from SANDAG must submit semi-annual reports to the SANDAG Contracts and Procurement Manager, Susan Paez, at [susan.paez@sandag.org](mailto:susan.paez@sandag.org), with a copy to the Manager of Small Business Development, Elaine Richardson, at [elaine.richardson@sandag.org](mailto:elaine.richardson@sandag.org), 30 days prior to the first and second semi-annual reporting periods.

### **III. CONTRACT CLAUSES**

The following clauses are located in subrecipient grant agreements, in which the term "RECIPIENT" refers to the subrecipient:

#### **DBE**

- A.** This AGREEMENT will be funded in whole or in part with federal financial assistance. Therefore, to the extent required by federal law, regulation, or directive, the RECIPIENT agrees to take the following measures to facilitate participation by DBEs:



1. The RECIPIENT agrees and assures that it will comply with Moving Ahead for Progress 21 Section 1101(b) (23 U.S.C. 101 note), which directs the Secretary of Transportation to expend not less than 10 percent of authorized federal funds with DBEs. This 10 percent national goal is aspirational and is used by the DOT to help monitor and evaluate DBE participation in DOT assisted contracting opportunities.
  2. The RECIPIENT agrees and assures that it will comply with DOT regulation, "Participation by DBE in DOT Financial Assistance Programs," 49 CFR 26. Among other provisions, this regulation requires certain recipients of DOT federal financial assistance, including RECIPIENT, to ensure that DBE firms have a level competitive playing field and opportunity to participate in DOT-assisted contracts.
  3. The RECIPIENT agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin, in the award and performance of any third-party contract, or sub-agreement supported with federal assistance derived from DOT, or in the administration of its DBE Program, and will comply with the requirements of 49 CFR 26. The RECIPIENT agrees to take all necessary and reasonable steps set forth in 49 CFR 26 to ensure nondiscrimination in the award and administration of all third-party contracts and sub-agreements supported with federal assistance derived from DOT.
  4. As required by Title 49 CFR 26 and approved by DOT, the SANDAG DBE program is incorporated by reference and made part of this AGREEMENT. The RECIPIENT agrees that implementation of this DBE program is a legal obligation, and that failure to carry out its terms shall be treated as a violation of the AGREEMENT. RECIPIENT shall designate a member of its staff to be the liaison with SANDAG for reporting and compliance on DBE matters. Upon notification by SANDAG to the RECIPIENT of a failure to implement its approved DBE program, SANDAG may impose sanctions up to and including termination of the AGREEMENT.
  5. In connection with the performance of this AGREEMENT, the RECIPIENT will cooperate with SANDAG in meeting its commitments and goals with regard to the maximum utilization of DBEs and other small businesses. It is SANDAG policy that DBEs and small businesses shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with FTA funds.
  6. The RECIPIENT shall carry out applicable requirements of 49 CFR 26, of the Code of Federal Regulations, entitled "Participation by DBE in DOT Financial Assistance Programs," (the Regulations) in the award and administration of this AGREEMENT.
- B.** Upon execution of this AGREEMENT, and annually thereafter on or before May 15, RECIPIENT shall sign and submit to SANDAG the following forms: Certificate of Civil Rights Assurances, Equal Employment Opportunity Certificate of Compliance, Subrecipient Title VI Non-Discrimination Information, available on the SANDAG website at, [sandag.org/coordinatedplan](http://sandag.org/coordinatedplan). In addition, RECIPIENT shall annually file a DBE statement including a determination of its status as a DBE.
- C.** RECIPIENT shall submit semi-annual DBE reports to the SANDAG Contracts and Procurement Manager, Susan Paez, at [susan.paez@sandag.org](mailto:susan.paez@sandag.org), with a copy to the Manager of Small Business



Development, Elaine Richardson, at [elaine.richardson@sandag.org](mailto:elaine.richardson@sandag.org), 30 days prior to the first and second semi-annual reporting periods. The first semi-annual report should cover October 1 through March 31. The second semi-annual report should cover April 1 through September 30.

- D. Within 15 days of expiration of this AGREEMENT, RECIPIENT shall submit to the SANDAG Contracts and Procurement Manager, Susan Paez, at [susan.paez@sandag.org](mailto:susan.paez@sandag.org), with a copy to the Manager of Small Business Development, Elaine Richardson, at [elaine.richardson@sandag.org](mailto:elaine.richardson@sandag.org), a final reporting of DBE utilization. Even when no DBE goal is set RECIPIENT shall have an obligation to sufficiently track and report DBE participation levels achieved in compliance with DBE Program requirements.

#### **IV. PROMPT PAYMENT**

- A. RECIPIENT shall pay its subgrantees within 10 calendar days from receipt of each payment made to RECIPIENT by SANDAG. The 10 days is applicable unless a longer period is agreed in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the prior written approval of SANDAG.
- B. RECIPIENT and its subgrantees shall return all monies withheld in retention from all subcontractors within 10 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the work by SANDAG. Any delay or postponement of payment may take place only for good cause and with the prior written approval of SANDAG. This clause applies to both DBE and non-DBE subgrantees.

#### **V. FINAL DBE REPORTING**

Within 15 days of expiration of a grant agreement subrecipients are required to submit to the SANDAG Contracts and Procurement Manager, Susan Paez, at [susan.paez@sandag.org](mailto:susan.paez@sandag.org), with a copy to the Manager of Small Business Development, Elaine Richardson, at [elaine.richardson@sandag.org](mailto:elaine.richardson@sandag.org), a final reporting of DBE utilization. Even when no DBE goal is set, subrecipients have an obligation to sufficiently track and report DBE participation levels achieved in compliance with DBE Program requirements.

#### **VI. Questions Regarding the SANDAG FTA DBE Program**

Should you have questions about the DBE Program or the DBE contract provisions required for subrecipients, please contact Elaine Richardson, Manager of Small Business Development at (619) 669-6956, or by email at [elaine.richardson@sandag.org](mailto:elaine.richardson@sandag.org).