



# **CALIFORNIA VANPOOL AUTHORITY (CALVANS)**

**FISCAL YEAR 19/20**

## **DISADVANTAGE BUSINESS ENTERPRISE PROGRAM**

## POLICY STATEMENT

### **Section 26.1, 26.23**

### **Objectives/Policy Statement**

The California Vanpool Authority (CalVans) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. CalVans has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, CalVans has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of CalVans to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Executive Director has been delegated as the DBE Liaison Officer. In that capacity, the Executive Director is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by CalVans in its financial assistance agreements with the Department of Transportation.

CalVans has disseminated this policy statement to the CalVans Board and all of 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 by posting this policy on our web site and inclusion of this policy in Request for Proposal.

  
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CalVans, Executive Director

Date: July 10, 2020

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

The objectives are found in the policy statement on the first page of this program.

### **Section 26.3 Applicability**

CalVans is the recipient of Federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

### **Section 26.5 Definitions**

CalVans will adopt the definitions contained in Section 26.5 Part 26 for this program.

### **Section 26.7 Non-discrimination Requirements**

CalVans 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, CalVans 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.

### **Section 26.11 Record Keeping Requirements**

#### **Uniform Report of DBE Awards or Commitments and Payments:26.11(a)**

CalVans will report DBE participation to the relevant operating administration [FAA, FHWA and/or FTA] using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE Regulation.

#### **Bidders List: 26.11(c)**

CalVans will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidders' list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms. CalVans will collect this information via a notice in all solicitations.

### **Section 26.13 Assurances**

CalVans has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

#### **Federal Financial Assistance Agreement Assurance: 26.13(a)**

CalVans 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 CalVans of its failure to carry out its approved program, the Department may impose sanction as provided 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 financial assistance agreements with sub-recipients.

#### Contract Assurance: 26.13b

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, 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 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 the recipient deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

Since CalVans has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a Federal fiscal year we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

### **Section 26.23 Policy Statement**

The Policy Statement is elaborated on the first page of this program.

### **Section 26.25 DBE Liaison Officer (DBELO)**

We have designated the following individual as our DBE Liaison Officer:

Georgina Cardenas  
Executive Director  
1340 North Drive  
Hanford, CA 93230  
(559) 852-2696  
georgina.cardenass@co.kings.ca.us

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that CalVans complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of 28 to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
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 DBEs 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 attainment and identifies ways to improve progress.)
6. Analyzes CalVans progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the CalVans updated directory on certified DBEs.

#### **Section 26.27 DBE Financial Institutions**

It is the policy of CalVans 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. We have included a clause in the contract encouraging prime contractors to investigate and use DBE financial institutions whenever possible.

The availability of DBE owned and operated financial institutions have been researched through the State of California's Unified Certification Program's List of Certified Vendors. There are no such institutions identified to date.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer or the Caltrans' Disadvantage Business Enterprise Program may offer assistance.

## **Section 26.29 Prompt Payment Mechanisms**

CalVans will include the following clause in each DOT-assisted prime contract:

### Prompt Payment: 26.29(a)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from CalVans. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of CalVans. This clause applies to both DBE and non-DBE subcontracts.

### Retainage: 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractors 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 CalVans. This clause applies to both DBE and non-DBE subcontracts.

## **Section 26.31 Directory**

As part of the State of California's Unified Certification Program (CUCP), the California Department of Transportation's (CALTRANS), Civil Rights Program is identified as having full responsibility for certifying any and all DBE firms that maintain their principal place of business within the State. CALTRANS maintains a directory of companies that are certified under the State's DOT-DBE program. A list of companies that have been debarred, or are excluded from Federal procurement programs, is also maintained.

The following information is provided for each DBE: the firm's name, address, phone number, e-mail address and website address, location information where the firm is willing to work. In addition, the North American Industrial Classification System (NAICS) codes, work category codes and licenses are also listed. This directory is available on CALTRAN'S website at [www.dot.ca.gov/hq/bep](http://www.dot.ca.gov/hq/bep).

## **Section 26.33 Overconcentration**

CalVans has not identified that over-concentration exists in the types of work that DBEs perform.

## **Section 26.35 Business Development Programs**

CalVans has not established a business development program.

## **Section 26.37 Monitoring and Enforcement Mechanisms**

CalVans will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation 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.

2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (i.e. payments actually made to DBE firms), including a means of comparing these attainments to commitments. This will be accomplished through the utilization of Proposed DBE Bid Participation, DBE Letter of Intent, Contractor's Statement of DBE Utilization, and Certification of Payment to the DBE Firms forms. These will be monitored and recorded as part of the Contract Management phases of each project for which DBE participation has been prescribed. Contractors will be required to maintain and furnish records of payments to DBE's as requested by CalVans.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

### **Section 26.39 Small Business Participation**

CalVans has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on FTA-assisted projects by small business concerns (both DBEs and non-DBE small businesses):

#### Definition

##### **Small Business Enterprise:**

For the purposes of this Program and in accordance with the State of California's definition of "microbusiness" as set forth in California Government Code Section 14837 and amended by the Director of General Services, "Small Business Enterprise" is defined as:

1. A small business which, together with affiliates, has average annual gross receipts of three million five hundred thousand dollars (\$3,500,000) or less over the previous three years, or
2. A small business manufacturer with 25 or fewer employees.

##### **Market Area:**

The "Market Area" for this program will be the Counties of Kings, Fresno, and Tulare.

#### Compliance with State of California Small Business Eligibility Requirements:

California Vanpool Authority (CalVans) will utilize the State of California certification to verify the status as a small business for participation in CalVans Small Business Program. Contractors will only be eligible to benefit from the Program if they are a State of California Certified Micro business. Accordingly, the definition of "Micro business" will be modified as necessary to remain consistent with the State of California's definition and certification eligibility of "Micro business".

#### Small Business for Contracts <\$5,000:

California Vanpool Authority (CalVans) will establish a race-neutral small business set-aside contracts for Small Business Enterprises (SBEs), provided that an adequate number of qualified small businesses can compete for the work.

The State of California small business directory will be consulted to determine if there is an adequate pool of certified SBE vendors in the market area that are ready, willing and able to perform. The contract opportunity will be advertised in accordance with the purchasing policy, and certified Small Businesses will be given an additional 10% of points on ranking/screening process. In those circumstances when only a single proposal or bid that has been solicited under this Program has been received, the contract will be re-solicited, unless there is a sound documented business reason to justify the lack of competition.

Contract with estimated cost >\$1,000,000

California Vanpool Authority (CalVans) will include language in bid documents to encourage prime contractors to use "Small Business Enterprise". The Language will include the definition of a small business enterprise, where to find information on how to be certified as a small business enterprise, and direct them to the State of California Small Business Directory.

CalVans will also require bidders to identify subcontractors that are certified as a "Small Business". CalVans staff will review, on an annual basis, the percentage of small business participation in subcontracts.

**SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

**Section 26.43 Set-asides or Quotas**

CalVans does not use quotas in any way in the administration of this DBE program.

**Section 26.45 Overall Goals**

In accordance with Section 26.45 CalVans will submit its triennial overall DBE goal to FTA on August 1 of the year specified by FTA Group C.(August 1, 2014)

CalVans will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE Goals as directed by FTA.

The process generally used by CalVans to establish overall DBE goals is as follows:

**Step 1: 26.45(c)**

Determine the base figure for the relative availability of DBEs.

Ready, willing, and able DBEs  
(Numerator)

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All firms ready, willing and able  
(Denominator)

- Identify the data source or demonstrable evidence used to derive the numerator.
- Identify the data source or demonstrable evidence used to derive the denominator.



## **Step 2: 26.45(d)**

After calculating a base figure, examine evidence to determine what adjustments are needed to the base figure in order to arrive at the overall goal.

CalVans will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at CalVans office located at 1340 North Drive, Hanford, California for 30 days following the date of the notice, and informing the public that you and DOT will accept comments on the goals for 45 days from the date of the notice. CalVans DBE notice of proposed overall goals is published in the Hanford Sentinel. Normally, we will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our overall goal submission to DOT will include: the goal, (including the breakout of estimated race-neutral and race-conscious participation, as appropriate) a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during the public participation process and our responses; and proof of publication of the goal in media outlets listed above.

In accordance with Section 26.45(f) CalVans will submit its overall goal to DOT on August 1 of each year. At the current time, there are no local persons or groups for consultation to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's and CalVans efforts to establish a level playing field for the participation of DBE's

We will begin using our overall goal on October 1 of the specified year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

## **Section 26.47 Goal Setting and Accountability**

If the awards and commitments shown on CalVans Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problem identified in the analysis;

## **Section 26.49 Transit Vehicle Manufacturers Goals**

CalVans will require each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, CalVans may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

## **Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation**

CalVans will meet its overall DBE goal by using a race-neutral means of facilitating DBE participation. To enhance the level of DBE participation, CalVans will attempt to direct

interested DBE's to the various organizations within the State that provides services and assistance to small, disadvantaged and minority-owned businesses. DBE contractors will be encouraged to apply on all solicitations and all solicitations and contracts will include a good-faith effort DBE goal as a race-neutral means to increase DBE participation.

#### **Section 26.51(d-g) Contract Goals**

CalVans will use race-neutral goals to meet all portions of the overall goal.

#### **Section 26.53 Good Faith Efforts Procedures**

##### Demonstration of good faith efforts (26.53(a) & (c))

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.

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:

**Georgina Cardenas**  
Executive Director

We will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

##### Information to be submitted (26.53(b))

CalVans treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of 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 participating;
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 contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

##### Administrative reconsideration (26.53(d))

Within 15 days of being informed by CalVans 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: CalVans, 1340 North Drive, Hanford, CA 93230, (559) 852-2696. The

reconsideration official will not have played any role in the original determination that the bidder/offeror did not 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 our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder/offeror 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 the Department of Transportation.

#### Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

CalVans 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. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our 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, our contracting officer 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.

#### Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of CalVans to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 0 percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5), if the contract goal is not met, evidence of good faith efforts to do so.

#### **Section 26.55 Counting DBE Participation**

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

## **SUBPART D – CERTIFICATION STANDARDS**

### **Section 26.61 – 26.73 Certification Process**

CalVans will utilize the State of California's UCP (and directory of certified contractors described in Section B of this policy) to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

For information about the certification process or to apply for certification, firms should contact:

City of Fresno  
DBE Program  
2101 G Street, Building A  
Fresno, CA 93706  
(559) 488-1069  
[www.ci.fresno.ca.us](http://www.ci.fresno.ca.us)

## **SUBPART E – CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

CalVans is a member of a Unified Certification Program (UCP) administered by the State of California Department of Transportation (CALTRANS). The UPC will meet all of the requirements of this section. The following is a description of the UCP: The California Unified Certification Program (CUCP) went into effect on January 1, 2002. It is a "One-Stop-Shopping" certification procedure that eliminates the need for DBE firms to obtain certifications from multiple agencies within the State.

Information and application forms for becoming a certified DBE with in the State of California can be found on the CUCP website at [www.californiaucp.com](http://www.californiaucp.com). To be certified as a DBE, a firm must meet all certification eligibility standards and successfully complete the DMBE certification process.

### **Section 26.83 Procedures for Certification Decisions**

#### **Re-certifications 26.83(a) & (c)**

The CUCP will review the eligibility of DBE's that were certified under former part 23, to make sure that they will meet the standards of Subpart E of Part 26. They will complete this review no later than three years from the most recent certification date of each firm.

#### **"No Change" Affidavits and Notices of Change (26.83(i))**

All DBE's are required to inform CUCP, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with [*Recipients*] application for certification.

While under contract with CalVans, we also require all owners of all certified DBE's to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The test of this affidavit is the following:

I affirm that there have been no changes in the circumstances of [*name of DBE firm*] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [*name of DBE*]'s application for certification, except for any changes about which you have provided written notice to the California Vanpool Authority under 26.83(j). [*Name of firm*] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million.

CalVans requires DBE's to submit with this affidavit documentation of the firm's size and gross receipts.

CalVans will notify all currently certified DBE firms of these obligations in writing annually. This notification will inform DBE's that to submit the "no change" affidavit, their owners must affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

#### **Section 26.85 Denials of Initial Requests for Certification**

If CUCP deny a firm's application or decertify it, it may not reapply until 6 months have passed from their action.

#### **Section 26.87 Removal of a DBE's Eligibility**

In the event CUCP propose to remove a DBE's certification; they will follow procedures consistent with 26.87. To ensure separation of functions in a de-certification, we have determined that [*name of official or office*] will serve as the decision-maker in de-certification proceedings. We have established an administrative "firewall" to ensure that [*same official or office named in previous sentence*] will not have participated in any way in the de-certification proceeding against the firm (including in the decision to initiate such a proceeding).

#### **Section 26.89 Certification Appeals**

Any firm or complainant may appeal our decision in a certification matter to DOT. Such appeals may be sent to:

Department of Transportation  
Office of Civil Rights Certification Appeals Branch  
400 7<sup>th</sup> Street, SW  
Room 2104  
Washington, D.C. 20590

The CUCP will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

We will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, State, and local law.

Notwithstanding any contrary provisions of State or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

#### **Monitoring Payments to DBE's**

We will require prime contractors 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 CalVans or DOT. This reporting requirement also extends to any certified DBE subcontractor.

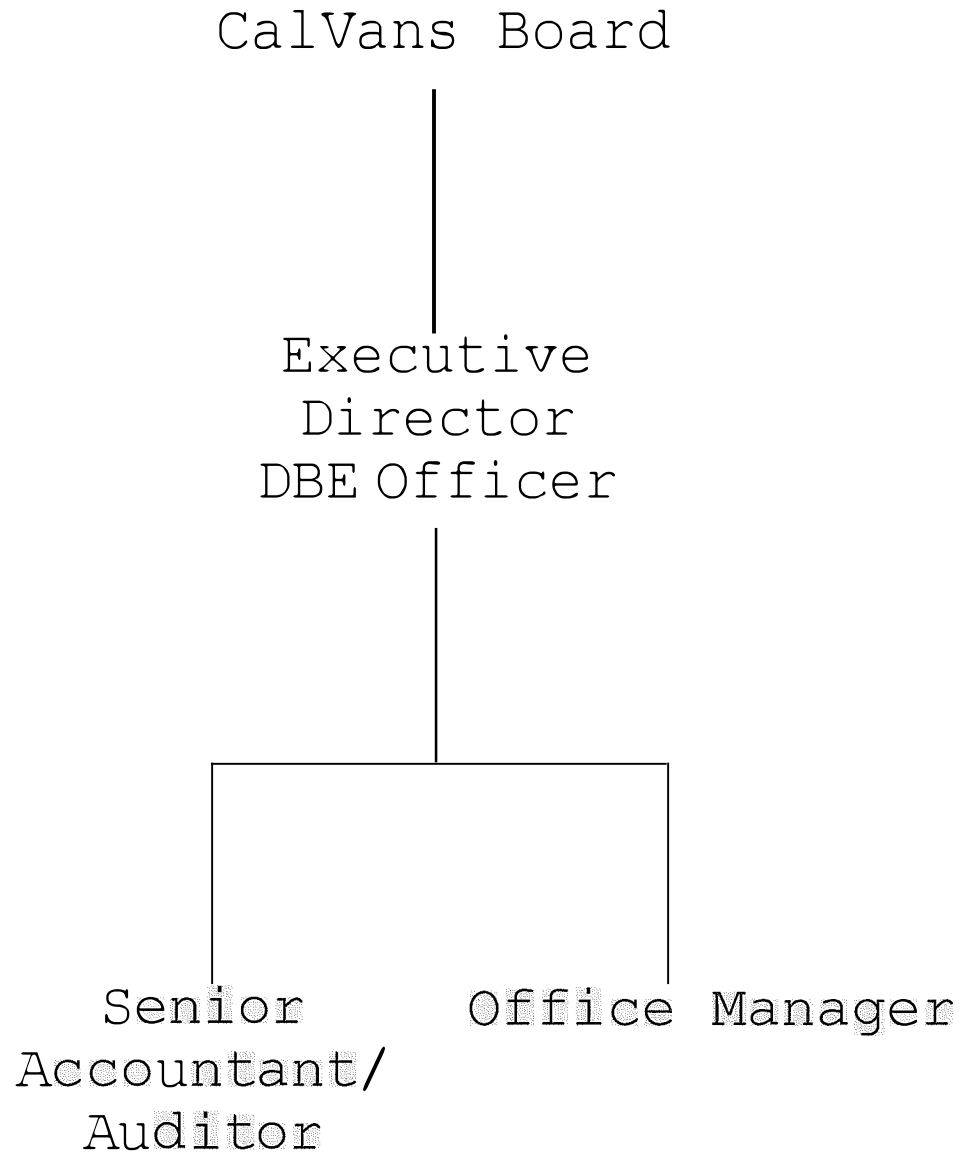
We will perform interim audits of contract payments to DBE's. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

### **ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	Overall Goal Calculations
Attachment 3	Monitoring and Enforcement Mechanisms/Legal Remedies
Attachment 4	Good Faith efforts forms

Attachment 1

Organizational Chart



## Attachment 2

### Section 26.45: Overall Goal Calculation

#### Amount of Goal

1. California Vanpool Authority's overall goal for the following time periods FFY 2013/2014 – FFY 2015/2016 is the following: 0% of the Federal financial assistance we will expend in DOT-assisted contracts.
2. \$2,000,000 is the dollar amount of DOT-assisted contracts that California Vanpool Authority expects to award during FFY 2013/2014 – FFY 2015/2016. This means that California Vanpool Authority has set a goal of expending \$0 with DBEs during the fiscal years/projects.

#### Methodology used to Calculate Overall Goal

##### **Step 1:** 26.45(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBE's was calculated as follows:

$$\begin{aligned}\text{Base figure} &= \frac{\text{Ready, willing, and able DBEs}}{22} \\ &= \frac{\text{All firms ready, willing and able}}{975}\end{aligned}$$

The data source or demonstrable evidence used to derive the numerator was:  
Total DBE in Kings, Fresno, and Tulare Counties by work category (NAICS Codes) as listed on the California Unified Certification Program.

The data source or demonstrable evidence used to derive the denominator was:  
Census Bureau's Business Pattern in Kings, Fresno, and Tulare Counties.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 2.26%

##### **Step 2:** 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the DBE participation we would expect in the absence of discrimination we have adjusted our base figure by .0%.

The data used to determine the adjustment to the base figure was:

From this data, we have adjusted our base figure to: 2.26%



## **Public Participation**

CalVans goal information is published in the following publication:  
Hanford Sentinel

### **Section 26.51: Breakout of Estimated Race-Neutral & Race Conscious Participation**

California Vanpool Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The California Vanpool Authority uses the following race-neutral means to increase DBE participation: Encourage qualified firms to be certified as DBE.

We estimate that, in meeting our overall goal of 2.26%, we will obtain 100% from race-neutral participation and 0% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation: Past participation of DBE in our procurement programs, and by encouraging businesses that qualify as a DBE to get certified, thereby increasing available DBE in our market area.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

### **Attachment 3**

#### **Monitoring and Enforcement Mechanisms/Legal Remedies**

CalVans has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract

In addition, the Federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 26
2. Enforcement action pursuant to 49 CFR Part 31
3. Prosecution pursuant to 18 USC 1001

**Attachment 4**

**Forms 1 & 2 for Demonstration of Good Faith Efforts**

*[Forms 1 and 2 should be provided as part of the solicitation documents.]*

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract.

\_\_\_\_\_ The bidder/offeror (if unable to meet the DBE goal of \_\_\_\_\_ %) is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract, submits documentation demonstrating good faith efforts to do so.

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature) Title

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

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The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_  
(Signature) (Title)

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each DBE subcontractor.)