IMPERIAL COUNTY
TRANSPORTATION COMMISSION

Disadvantaged Business Enterprise Plan (DBE) For Projects Funded Through the Federal Transit Administration (FTA) FY 2013-15

IMPERIAL COUNTY TRANSPORTATION COMMISSION

DEPARTMENT OF TRANSPORTATION
DBE PROGRAM – 49 CFR PART 26

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

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

It is the policy of the ICTC 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.

Kathi Williams has been delegated as the DBE Liaison Officer. In that capacity, Kathi Williams 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 the ICTC in its financial assistance agreements with the Department of Transportation.

ICTC has disseminated this policy statement to the ICTC Commission and all of the relative components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform, or are anticipated to perform work for our organization on DOT assisted contracts. This distribution is accomplished through 1. Adoption of the program by the Commission 2. Publication available to all interested parties via the Commission's website 3. Inclusion in all relative competitive bid documents.

Mark Baza
Executive Director

7/19/12
Date

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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

The ICTC 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

The ICTC will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The ICTC 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, the ICTC 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

Reporting to DOT: 26.11(b)

We will report DBE participation to DOT as follows:

We will report DBE participation on a quarterly basis, using DOT Form 4630 or through the FTA TEAM website. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List: 26.11(c)

The ICTC 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 bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways: requiring prime bidders to report the names/addresses and possible other information, of all firms who quote to them on subcontracts, providing a notice in solicitations and post it on the Commission website.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

> ICTC 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 ICTC 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 ICTC'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 ICTC of its failure to carry out its approved program, the Department may impose sanction 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 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, 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 the ICTC deems appropriate.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the ICTC may receive a grant of $250,000 or more for planning or development, planning capital, and or operating assistance in a federal fiscal year, by the statute for 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:

Kathi Williams, Senior Transit Planner
Imperial County Transportation Commission
1405 N. Imperial Ave. Suite 1
EL Centro, Ca, 92243
760-592-4492
kathiwilliams@mperialctc.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the ICTC complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director of ICTC 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 a staff of 0 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 components within the ICTC 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 ICTC's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Executive Director\Commission on DBE matters and achievement.
9. Participates in pre-bid meetings.
10. Provides DBEs with information and assistance in preparing bids .
11. Plans and participates in DBE training seminars.
12. Acts as liaison to the Uniform Certification Process in California.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Maintains the ICTC's updated directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the ICTC 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 contract to make use of these institutions. We have made the following efforts to identify and use such institutions: research the credit unions and commercials banks in the community through on site visits and website reviews.

To date we have identified the following such institutions: None

Section 26.29 Prompt Payment Mechanisms

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

> 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 contract receives from ICTC. The prime contractor agrees further 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 the ICTC. This clause applies to both DBE and non-DBE subcontracts.
>
> Any failure to comply with this section by the prime contractor shall be considered as a breach of the contract, subject to the provisions of the agreement. In addition, the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractors ensures that the subcontractors are promptly paid for the work that they have performed.

Section 26.31 Directory

The ICTC maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. We revise the Directory annually.

We make the Directory available online at http://www.dot.ca.gov/hq/bep/find_certified.htm.

Further information may be found about California's Uniform Certification Program at http://www.dot.ca.gov/hq/bep/ucp.htm

Section 26.33 Overconcentration

ICTC has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

ICTC has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

The ICTC 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 out own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract

remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.

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 will be accomplished via a reporting mechanism
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program. This section of the program will be updated annually.

In accordance with Section 26.45(f) the ICTC will submit its overall goal to DOT on August 1 of each year. Before establishing the overall goal each year, ICTC will consult with the Chambers of Commerce and CALTRANS Local District Offices to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the ICTCs efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rational are available for inspection during normal business hours at our office 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. The notice will be available on the Commission's website and the local newspaper of general circulation. We, we will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each 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.

Section 26.49 Transit Vehicle Manufacturers Goals

ICTC will require each transit vehicle manufacturer, 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, ICTC 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

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program. This section of the program will be updated annually when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The ICTC will use contract goals to meet any portion of the overall goal. ICTC does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

We will express our contract goals as a percentage of total amount of a DOT-assisted contract.

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 located in Appendix A to 49 CFR Part 26.

The following personnel is 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

Kathi Williams, Senior Transit Planner
Imperial County Transportation Commission
1405 N. Imperial Ave. Suite 1
EL Centro, Ca, 92243
760-592-4492
kathiwilliams@mperialctc.org

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))

ICTC 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 10 days of being informed by ICTC 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:

Mark Baza, Executive Director
Imperial County Transportation Commission
1405 N. Imperial Ave. Suite 1
El Centro Ca, 92243
760-592-4494
markbaza@imperialctc.org

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. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder 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 Transpiration.

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

ICTC 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, ICTC 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 the [*Name of ICTC*] 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 ____ percent has been

established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), 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.

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

ICTC will use the certification standards of Subpart D of Part 26 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. We will make our certification decisions based on the facts as a whole.

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

CALTRANS Civil Rights
ATTN: Certification Unit
1823 14th Street
Sacramento, Ca. 95811
(866) 810-6346
http://www.caltrans.ca.gov/hq/bep/business_forms.htm

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

ICTC adopts the California Unified Certification program (CUCP) procedures administered by the Certifying agencies of the CUCP. The ICTC is the member of a Unified Certification Program (UCP)]. The UCP meets all of the requirements of this section. The following is a description of the UCP (as provided on the CUCP website located at http://www.californiaucp.com/index.html)

> "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 Disadvantaged Business Enterprises (DBE) firms to obtain certifications from multiple agencies within the State.
>
> The CUCP is charged with the responsibility of certifying firms and compiling and maintaining a single Statewide database of certified DBEs, pursuant to 49 CFR Part 26. The database is intended to expand the use of DBE firms by maintaining complete and

current information on those businesses and the products and services they can provide to all DOT assisted grantees in California.

The CUCP has established two regional DBE certification clusters throughout the State, designated by geographical boundaries to effectively facilitate Statewide DBE certification activities.
The CUCP certifying agencies are responsible for certifying DBE firms. It is not necessary to apply for DBE certification at more than one agency. If your firm meets the general criteria for DBE certification as provided on the Application package, please submit your completed application, along with the requested documentation to one of the Certifying agencies serving the County where your firm has its principal place of business. "

Section 26.83 Procedures for Certification Decisions

Re-certifications 26.83(a) & (c)

We will review the eligibility of DBEs, to make sure that they will meet the standards of Subpart E of Part 26. We will complete this review no later than five years from the most recent certification date of each firm.

For firms that we have reviewed and found eligible under part 26, we will again review their eligibility every five years. These reviews will include the following components: filing out a new application, performing on site visits in the ICTC local area, and reviewing work history, qualifications and equipment of the firm.

"No Change" Affidavits and Notices of Change (26.83(j))

To the extent as required by the CUCP, we require all DBEs to inform us, 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 the CUCP's application for certification.

We also require all owners of all DBEs 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 swear (or 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 ICTC 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.

We require DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

We will notify all currently certified DBE firms of these obligations. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or 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 the CUCP denies a firm's application or decertify it, it may not reapply until 12 months have passed from the action.

Section 26.87 Removal of a DBE's Eligibility

In the event the CUCP proposes to remove a DBE's certification, we will follow procedures consistent with 26.87.

Section 26.89 Certification Appeals

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

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

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting

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 DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be make available for inspection upon request by any authorized representative of the ICTC or DOT. This reporting requirement also extends to any certified DBE subcontractor.

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

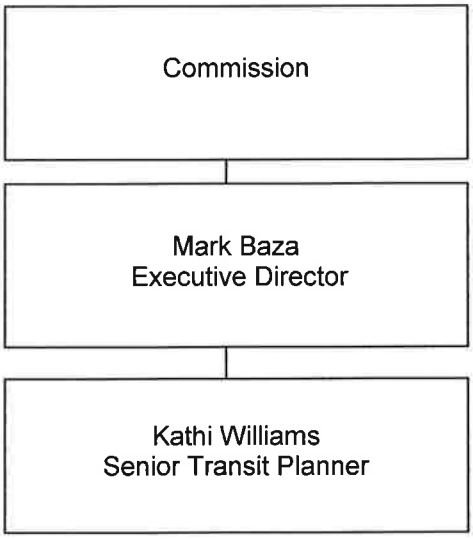
ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal Calculation
Attachment 5	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 6	Forms for Demonstration of Good Faith Efforts
Attachment 7	Certification Application
Attachment 8	Procedures for Removal of DBE's Eligibility
Attachment 9	Regulations: 49 CFR part 26

Attachment 1

Organizational Chart

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM



Attachment 2

DBE Directory

See the CUCP directory, found at http//www.dot.ca.gov/ucp/GetLicenseForm.do

ICTC encourages prime contract bidders to search this directory when seeking subcontractors that are certified as a DBE.

Attachment 3

Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action pursuant to California Civil Code S 3300, et. seq:
3. Any other enforcement mechanism in law or equity allowable in California

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

ICTC Methodology for adopting an FY 2011-12 DBE goal for FTA purposes

Pursuant to Section 49 CFR Part 26, The ICTC present the following information as it relates to the development of the ICTC Methodology for adopting a FY 2012-13 DBE goal for FTA purposes.

Anticipated ICTC contracting opportunities during FY 2012-13 utilizing FTA funds:

1. One (1) Contracts anticipated for consultant planning studies

   - Total FY 12-13 contract cost: 1 @ $100,000 = $100,000

   - Total FY 12-13 FTA 5304 funds associated with these contracts: $100,000

   These contracts are for consultant prepared transit planning studies including the design of additional future fixed route services, as well as, a feasibility study for an intermodal transit transfer terminal.

2. One (1) Contract for public fixed route transit services and One (1) Contract for ADA paratransit services

   - Total FY 12-13 contract cost (including federal and non federal funds): $5,201,687

   - Total FY 12-13 FTA funds associated with this contract: $2,013,805

   - Total FY 2012-13 FTA 5307 Funds: $1,450,936, FTA 5311 Funds: $362,869 FTA 5317 Funds: $200,000

   This contract is for turnkey operation of all public fixed route transit and ADA paratransit services administered by ICTC (i.e. Imperial Valley Transit). ICTC does not own transit vehicles or facilities, therefore only those firms capable of providing facilities and the vehicles needed for operations (at a minimum, twelve 40' buses and eighteen cutaways) will respond to ICTC's competitive bid processes.

Approximate total amounts were based upon:

1. Yet to be obligated funds based on revenue apportionments as posted by the FTA under the FTA 5307 and FTA 5311 program, grant award for FY 2012-13 FTA 5317 funds and documented in the ICTC OWP and Transit Budget.

2. Obligated funds under the FTA 5304 and programmed to be distributed by the MPO, the Southern California Association of Governments (CAG) for two approved planning studies

Unique factors affecting the development of the DBE Goal for FY 2012-13

1. Recognition and local knowledge that as a small urban turnkey transit system, the majority of the FTA 5307 and FTA 5311 funds are used for direct operating costs in turn key contracts for which limited opportunities exist for DBE and small business participation i.e. salaries and facility lease costs.
2. Recognition and local knowledge that there is limited DBE participation in the immediate geographic area. The area is 84 miles to the south of Riverside and 120 miles to the east of San Diego counties, which represent the closest populated areas. The market area, or region, therefore has been expanded to include the Counties of Imperial, Riverside and San Diego Counties. The DBE firms certified by the California Unified Certification Program with the most appropriate NAICS classification code (485113 – Bus and motor vehicle transit systems) are generally charter services who are not ready, willing, or able to bid on public fixed route contracts of this size and complexity.
3. There may exist opportunities for the prime contractor (currently First Transit) to utilize outside firms to provide needed services. However the distance to cover providing these services when unbundled has not proven attractive to DBE providers or realistic in adjacent urbanized areas.

Step 1 – Development of the Base Goal Figure

In order to determine an overall goal the first step is to determine a base figure:

Potential funding available for the contacting opportunities

Table 1	**Amount of DOT Funding**		
NAICS CODE	Description of the Work	Amount of DOT funds	Percent of Total Weight
423120	Parts (general)	$ 110,000.00	0.090
423130	Tire products	$ 33,000.00	0.015
424720	Fuel and Oil Suppliers	$ 865,000.00	0.562
541614	Consulting Services	$ 100,000.00	0.199
541850	Transit Advertising	$ 160,000.00	0.075
541870	Transit printing	$ 75,000.00	0.060
	TOTALS	$ 1,299,500.00	100%

The number of DBE and non DBE firms ready, willing, and able to bid on contracting opportunities

Table 2 Relative Availability of DBEs				
NAICS CODE	Description of the Work	Available DBEs in the Region	Number of all Firms Available	Relative Availability
423120	Parts (general)	0	4	0.000
423130	Tire products	0	10	0.000
424720	Fuel and Oil Suppliers	0	32	0.000
541614	Consulting Services	0	21	0.000
541850	Transit Advertising	0	4	0.000
541870	Transit printing	0	5	0.000
	TOTALS	0	100%	0%

Local Potential Subcontracting Opportunities

There are currently a total of six certified DBE's in the entire County of Imperial. None perform the services that Imperial Valley Transit needs. Two are general freight trucking companies, two provide engineering services, one is an electrical contractor, and one does fabricated structural metal manufacturing. Therefore, there are no DBE's available in the region to provide unbundled services i.e. printing, advertising, or website services.

Table 3 Step One - Base Goal Development				
NAICS CODE	Description of the Work	Weight	Relative Availability	Weighted Base Figure
423120	Parts (general)	0.090	0.000	0.000
423130	Tire products	0.015	0.000	0.000
424720	Fuel and Oil Suppliers	0.562	0.063	0.000
541614	Consulting Services	0.199	0.000	0.000
541850	Transit Advertising	0.075	4.000	0.000
541870	Transit printing	0.060	5.000	0.000
	TOTALS	100%	100%	0.000

Step 2: Adjustments to the Base DBE Relative Availability Figure

Adjustments to the base figure goal may be necessary and justified for a variety of reasons including: lower or higher than expected past participation by DBE firms, additional evidence from disparity studies, etc. Unfortunately, very little data of this sort is currently available to ICTC. In past years FTA funds were spent solely on the turnkey operations contract. In addition, no comprehensive disparity study has been or is likely to be conducted in Imperial County. Therefore, ICTC cannot identify a valid reason to adjust its base goal upward or downward based on past participation or based upon other available studies.

However, ICTC does recognize that there are many firms within Imperial County currently eligible to be certified as DBE firms that simply have not gone through the application process. Based on recent conversation with potential applicants, this is because of a lack of understanding of said process but more to do with a lack of desire or monetary incentive to do so. ICTC encouraging these firms in contracting opportunities, especially local subcontracting opportunities.

An outreach program may be successful given the large proportion of minority and women owned firms without the County of Imperial. (The numbers reported below are from 2010 Census data.)

Hispanic owned firms	44.1%	Asian owned firms	6.3%
Women owned firms	25.8%	Black owned firms	1.6%

Table 4 Historical DBE Participation

FFY	Goals	Annual Participation
2011	1.40%	0.00%
2012	1.40%	0.00%

The median participation FFYs 2013 and Step 2 Goal

DBE Median Participation	0.00%
Step One Base Goal	0.00%
Total	0.00%
Divided by 2 =	2
	0.00 %

However, ICTC feels an adjustment of its DBE goal is warranted. There have been opportunities for non federally funded projects to have DBE/WBE/MDE/UDBE participation. Most recently, two locally funded consultant developed projects were completed in FY 2012:

Transit Drug and Alcohol Programs Compliance Audit $11,000
DBE participation =100%= $11,000

Short Range Transit Plan $97,317
DBE participation =15.4% = $14,986

There is one planned federally funded non transit operations project in FY 2013. In a desire to maintain the spirit of the law, it will be requested that consultants or subcontractors strive to attain a DBE goal of 1.4%

FY 2012-13 DBE Goal = 1.4%

Attachment 5

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

The ICTC is a small urban organization with the majority of its FTA funding used for operating expenses rather than for capital purchases. ICTC will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation as required in Section 26.51(a). Planned outreach efforts by ICTC are all race/gender neutral and it is anticipated that ICTC will accomplish its DBE goal solely through race/gender neutral means.

ICTC will use the following race neutral means to increase DBE participation:

1. Arranging solicitations, times for the presentations of bids, quantities, specifications and delivery schedules in a manner that facilitate DBE and other small businesses participation. i.e unbundling large contracts to make them more accessible, requiring large contractors to subcontract portions of the work effort
2. Reducing bonding requirements when possible
3. Providing technical assistance and other services
4. Providing information and communications in a bilingual format
5. Coordinating with resource agencies i.e. workforce development, small business alliance, chambers of commerce and economic development centers

Attachment 6

Forms for Demonstration of Good Faith Efforts

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

PROVIDERS LIST OF PARTICIPATING FIRMS

PROJECT NAME _____ DATE _____

PRIME PROVIDER NAME/ADDRESS	DBE?	FIRM AGE/YEARS IN BUSINESS	ANNUAL GROSS $$ REVENUE	WORK TYPE*
SUBCONTRACTORS				

*P = PROFESSIONAL CONSULTING SERVICES, C = CONSTRUCTION, S = SUPPLIES, E = EQUIPMENT, O = OTHER (describe)

Report prepared by: _____ Signature: _____

Title: _____ Date: _____

DBE/ NON-DBE PARTICIPATION

PROJECT NAME _____ DATE _____

SUBCONTRACTOR NAME/ADDRESS	WORK TO BE PERFORMED		ESTIMATED $$ PARTICIPATION	PERCENT OF TOTAL CONTRACT VALUE

Report prepared by: _____ Signature: _____

Title: _____ Date: _____

UNAVAILABILITY CERTIFICATION
DISADVANTAGED BUSINESS ENTERPRISES

Project _____

Provider's Name _____

In order to demonstrate a good faith effort to utilize Disadvantaged Business Enterprises, Provider's who cannot meet their DBE participation goals must respond to either Item A or Item B below:

ITEM A

Name and Address of Firms Contacted	DBE	Dates Contacted	Method of Contact	Results

ITEM B

There exists no opportunity for subcontracting as part of this project. It is the general practice of _____
(Name of Bidder)

to perform all work of this nature solely with its own work force and to do otherwise would _____

I, _____, _____ of
(Name) (Title)

_____, do hereby certify that the above information is true and correct, and that
(Name of Firm)

I have made a good faith effort as documented in Item A or Item B above to obtain Disadvantaged Business participation in the performance of this contract.

_____ _____
(Signature) (Date)

SUMMARY OF SUBCONTRACT AWARD AND MONTHLY PAYMENTS REPORT

PROJECT NAME: _____ PROVIDER NAME: _____

REPORTING PERIOD: From _____ To: _____

SUBCONTRACTOR NAME/ADDRESS	SUBCONTRACT $$ AMOUNT	DBE?	WORK ASSIGNMENT	DBE DOLLARS COMMITTED

Report prepared by: _____ Signature: _____

Title: _____ Date: _____

Attachment 7

Certification Application Forms

The certification application forms for the CUCP are found at:

http://caltrans.ca.gov//hq/bep/downloads/pdf/UCP_application_package_rev_06_2

The application package includes an affidavit of personal net worth.

Attachment 8

Procedures for Removal of DBE's Eligibility

The ICTC is not a certifying agency under the CUCP.

Ineligibility complaints

Any person may file a written complaint alleging that a currently certified firm is not eligible and specifying the alleged reasons why the firm is ineligible. ICTC is not required to accept a general statement or allegation that a firm is ineligible, or an anonymous complaint. The complaint must include information supporting the assertion that the fim is ineligible and should not continue to be certified Complainants identified must be protected as provided in Sec 26.109(b)

ICTC will review its records concerning the firm and any materials provided by the complainant. ICTC may request additional information or conduct any other investigation that ICTC deems necessary.

If the ICTC determines that there is reasonable cause to believe that the firm is ineligible, ICTC will provide written notice to the firm that the ICTC proposes to find the firm ineligible, setting forth the reasons. If ICTC determines that reasonable cause does not exist, the ICTC will notify the complainant and the firm in writing of this determination and the reasons for it. All statement and reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which the reason is based.

Recipient initiated

If based on notifications by the firm of a change in its circumstances or other information that comes to ICTC attention, the ICTC determines that there is reasonable cause to believe that a currently certified firm is ineligible, the ICC will provide written notice to the firm that ICTC proposes to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

DOT directive

If the DOT determines that a firm does not meet the requirements for eligibility, the DOT will provide a notice setting forth the reasons for the record with relevant documentation and the ICTC may initiate appropriate actions after consultation with the DOT.

Attachment 9

Regulations: 49 CFR Part 26

Please refer to: http//www.fhwa.dot.gov/HEP/49cfr26.htm

Attachment 10

Affadavit(s) of Publication

Page	:	1 of 1 07/26/2012 16:21:09	**Ad Number**	:	30601217
			Ad Key	:	
Order Number	:	10504321	**Salesperson**	:	AS - Alexis Singh
PO Number	:	L810Jy29	**Publication**	:	Imperial Valley Press
Customer	:	N30071298 IC Transportation Commission	**Section**	:	Legals
Contact	:		**Sub Section**	:	Legals
Address1	:	1405 N. Imperial Ave. Suite 1	**Category**	:	090 Legal Ads
Address2	:		**Dates Run**	:	07/29/2012-07/29/2012
City St Zip	:	El Centro CA 92243	**Days**	:	1
Phone	:	(760) 592-4494	**Size**	:	2 x 3.25, 30 lines
Fax	:		**Words**	:	173
	:		**Ad Rate**	:	Commercial
Printed By	:	Alexis	**Ad Price**	:	118.86
Entered By	:	Alexis	**Amount Paid**	:	0.00
			Amount Due	:	118.86
Keywords	:	L810Jy29 Public Notice			
Notes	:				
Zones	:				

Public Notice
Imperial County Transportation Commission
Federal Transit Administration DBE Goal for Fiscal Year 2012-2013

In accordance with 49 CFR Part 26.45(g), the Imperial County Transportation Commission (ICTC) announces a proposed Federal Transportation Administration (FTA) Disadvantaged Business Enterprise (DBE) goal of 1.4 percent for Fiscal Year 2012-2013. This goal represents the percentage of work to be accomplished by certified DBE subcontractors and consultants on FTA funded transit projects within Imperial County during FY 2012-13.

ICTC's proposed goal and the methodology used to determine that goal will be available for inspection for thirty (30) days from the date of this notice from 8:00am to 5:00pm M-F (excluding holidays) at ICTC's offices at 1405 N. Imperial Ave. Suite 1, El Centro, CA 92243, 760-592-4494. The goal and supporting methodology are also available for review on ICTC's website: www.imperialctc.org.

The US Department of Transportation and ICTC will accept comments on this proposed goal for 45 days from the date of this notice. Comments should be directed to the above address or email at kathiwilliams@imperialctc.org.

L810 Jy29

RECEIVED
JUL 31 2012
BY: MO

U-T San Diego

P.O. Box 120191, San Diego, CA 92112-0191

AFFIDAVIT OF PUBLICATION

IMPERIAL COUNTY TRANSPORTATION COMMISSION
1405 N. IMPERIAL AVE, SUITE 1
ATTN: KATHI WILLIAMS
EL CENTRO, CA 92243

STATE OF CALIFORNIA} ss.
County of San Diego}

The Undersigned, declares under penalty of perjury under the laws of the State of California: That she is a resident of the County of San Diego. That she is and at all times herein mentioned was a citizen of the United States, over the age of twenty-one years, and that she is not a party to, nor interested in the above entitled matter; that she is Chief Clerk for the publisher of

The San Diego Union-Tribune

a newspaper of general circulation , printed and published daily in the City of San Diego, County of San Diego, and which newspaper is published for the dissemination of local news and intelligence of a general character, and which newspaper at all the times herein mentioned had and still has a bona fide subscription list of paying subscribers, and which newspaper has been established, printed and published at regular intervals in the said City of San Diego, County of San Diego, for a period exceeding one year next preceding the date of publication of the notice hereinafter referred to, and which newspaper is not devoted to nor published for the interests, entertainment or instruction of a particular class, profession, trade, calling, race, or denomination, or any number of same; that the notice of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

Jul 29, 2012

Zaili Manuel

Chief Clerk for the Publisher

8/1/12

Date

Affidavit of Publication of

Legal Advertisement
Ad # 0010653228#
ORDERED BY: KATHI WILLIAMS

Public Notice

Imperial County Transportation Commission

Federal Transit Administration DBE Goal for Fiscal Year 2012-2013

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AFFIDAVIT OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Imperial

I am a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk* of the printer of the

IMPERIAL VALLEY PRESS

a newspaper of general circulation, printed and published daily in the City of El Centro, County of Imperial and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Imperial, State of California, under the date of October 9, 1951, Case Number 26775; that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

July 29

all in the year 20 12

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

SIGNATURE

* Printer, Foreman of the Printer, or Principal Clerk of the Printer

Date 7-29 20 12
at El Centro, California.

This space is for the County Clerk's Filing Stamp:

Proof of Publication of:

Public Notice
Imperial County Transportation Commission
Federal Transit Administration DBE Goal for Fiscal Year 2012-2013

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L810 Jy29

Attachment 11

Imperial County Transportation Commission (ICTC) Small Business Program

Consistent with Imperial County Transportation Commission's policy that firms certified as DBE, MBE, WBE and ESB have an equal opportunity to participate in the performance of contracts, as well as to foster small business participation in conformance with CFR 49 Part 26.39, ICTC has developed and administers a Small Business program.

Under the Small Business program, ICTC will facilitate participation by Small Businesses in its contracts and agreements through the development of procedures, documents and practices that are "Small Business friendly".

Elements of ICTC's Small Business Program are as follows:

Size Standard

1. Under ICTC's Small Business program, a Small Business is a business that:

   a. Is organized for profit;
   b. Has a place of business in the United States;
   c. Is independently owned and operated
   d. For its industry, does not exceed the numerical size standard established by the federal Small Business Administration pursuant to 13 Code of Federal Regulations Part 121. For more information on these standards see the following Internet site: http://www.sba.gov/content/table-small-business-size-standards

2. A business shall be presumed to meet the Small Business size standard and be a Small Business if the business comes within one of the following categories:

   a. Is a participant in federal Small Business Administration programs such as, but not limited to Section 8(a) Business Development, Small Disadvantaged, and HUBZone.

   b. Is certified by a public agency other than OMWESB and has a size standard that is no greater than the Small Business Administration Size Standard.

To obtain a listing of Small Businesses participating in the U.S. Small Business Administration programs or activities as eligible Small Businesses, contact the SBA's San Diego District Office at 550 West C Street Suite 550, San Diego, CA 92101.

3. If a business does not come within one of the categories set forth in the paragraph immediately above, the business may qualify if it can assure itself and demonstrate to ICTCt that the business does in fact meet the applicable Small Business size standard. The business may use tax records, certified annual audit reports of the business, or other documents reasonably related to showing that the business meets the Small Business definition and size standard.

4. Businesses are advised that in proving they meet the size standard for annual gross receipts, the amounts are averaged over the business' latest three (3) completed fiscal years to determine its average annual receipts. If a business has not been in business for three (3) years, the average weekly revenue for the number of weeks it has been in business is multiplied by 52 to determine its average annual receipts. If there are questions or issues about whether a business meets the applicable size standard, ICTC and the business will consult and, to the extent practicable, follow the methodologies established by the federal Small Business Administration in determining whether a business is within or exceeds an applicable size standard.

Facilitation of Contracting Opportunities

In order to facilitate participation by Small Businesses in its contracts and agreements, ICTC will implement "Small Business friendly" strategies in its procurement process. These strategies may include the following, as appropriate, however at the current time, ICTC will not "set-aside" contracts for Small Businesses:

1. On larger contracts, require bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size Small Businesses can reasonably perform.
2. Require general contractors to provide subcontracting opportunities of a size that Small Businesses can reasonably perform.
3. Identify alternative procurement strategies; structure procurements to facilitate the ability of Small Businesses, or consortia or joint ventures including Small Businesses, to compete for and perform the work.
4. Require general contractors to describe historical usage of Small Businesses.
5. Require contractors to describe strategies for maximizing Small Business usage under the contract, through use of an outreach plan or other appropriate means.

IMPERIAL COUNTY
TRANSPORTATION COMMISSION

1405 N. IMPERIAL AVE.
EL CENTRO, CA 92243-2875
PHONE: (760) 592-4494
FAX: (760) 592-4497

COMMISSION

Minute Order Number (092612-6A)

The Imperial County Transportation Commission (ICTC) at its regular meeting on Wednesday, September 26, 2012 took the following action(s) regarding the **ICTC Disadvantaged Business Enterprise Goal for FY 2012-13 for FTA Funds**

1. Approved the proposed FY 2012-13 DBE goal of 1.4% for funding received from the Federal Transit Administration.

I, Cristi Lerma, Secretary to the Imperial County Transportation Commission, certify that this is true of actions taken on the 26th day of September 2012, by the ICTC Board.

CRISTI LERMA
SECRETARY TO THE COMMISSION