

California Department of Transportation

OFFICE OF CIVIL RIGHTS
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www.dot.ca.gov/Civil-Rights



August 10, 2022

Cities, Counties, and Regional Agencies receiving Federal-Aid

The Caltrans Office of Civil Rights (OCR) and Division of Local Assistance (DLA) are partnering to complete a virtual Disadvantaged Business Enterprise (DBE) Oversight Monitoring review. The oversight review is required under 49 Code of Federal Regulations (CFR) Part 26, section 26.37(a) that states in part: "You [Caltrans] must implement appropriate mechanisms to ensure compliance with the Part's requirements by all program participants." Program participants include subrecipients of the Federal Highway Administration (FHWA) grants as issued by Caltrans. The oversight monitoring review will cover six functional DBE responsibilities. The six functional responsibilities are:

- Contract Goal Setting [Part 26, section 26.51 (e)]
- Good Faith Efforts [Part 26, section 26.53 (a)(b)(c)&(d)]
- Prompt Payment [Part 26, section 26.29(a)]
- Return of Retainage [Part 26, section 26.29(b)]
- Uniform Report and Running Tally Report [Part 26, section 26.11(a)]
- Commercially Useful Function [Part 26, Section 26.55 (c)(d)]

These six areas were also recommendations for improvement by FHWA in the FHWA DBE Technical Assistance study conducted in 2020. FHWA has advised Caltrans that this fall they plan to complete an oversight monitoring review of Caltrans on the six functional responsibilities, plus certification and program structure.


The impetus of FHWA's oversight monitoring of Caltrans is to make sure Caltrans is following its obligations to implement a program specific to DBE participation without regard to race, color, national origin, or sex in the award and performance of any FHWA-assisted contract or in the administration of the DBE Program as obligated by 49 CFR Part 26 and for subrecipients to follow its obligations as described in Chapter 9 of the Local Assistance Procedures Manual (LAPM) that states "local agency recipients of federal financial assistance shall comply with all elements of Title 49 CFR 26." Caltrans is being measured for conformance with DBE obligations, and we need to demonstrate that Caltrans and our subrecipients are compliant.


The subrecipient oversight monitoring will begin in August 2022. Each District Local Assistance Engineer (DLAE) will identify one subrecipient for the upcoming review. The subrecipient must have two types of contracts ready for review: construction and engineering services. The selected contracts must be either substantially complete or

fully completed. The contracts must have been awarded and completed between October 2017 and March 2022. The review areas are noted as the six functional DBE responsibilities.

The OCR will conduct the virtual oversight monitoring review. An instructional letter for submission with the selected subrecipients will be provided to the selected subrecipients by August 19, 2022.

If you have any questions on the upcoming subrecipient oversight monitoring, please contact Sanjay Singh, Assistant Deputy Director, Office of Civil Rights, at sanjay.singh@dot.ca.gov and/or your respective DLAE.


_____ 08/10/2022
_____ Date
David DeLuz
Deputy Director, Civil Rights


_____ 08/10/2022
_____ Date
Dee Lam
Division Chief, Local Assistance