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Caltrans' policy is to ensure equal opportunity in the award and performance of its contracts. Part of this policy involves a program designed to increase the use of disadvantaged business enterprises (DBE) on federally funded contracts and disabled veteran business enterprises (DVBE) on state-funded construction contracts.

For the overall Caltrans federally assisted program, Caltrans establishes an annual participation goal by DBEs. Federal regulations define DBEs as firms owned and controlled by individuals who are both socially and economically disadvantaged. Additionally the state has adopted regulations that call for the use of project goals for DVBEs. The DVBE is a state-mandated opportunity program for disabled veterans and applies to contracts financed solely with state funds.

Caltrans Civil Rights evaluates projects to be advertised and, as appropriate, assigns separate goals for DBEs and DVBEs. Although one overall Caltrans goal exists for DBE participation, individual contract goals will vary. The advertisement specifies individual contract goals. Goals are set based upon the type of work and the availability of DBE and non-DBE subcontractors to participate in the bidding process in the geographical area of the contract. DVBE participation goals are 3 percent on all state-funded projects.

For every advertised contract containing goals, the contractor must submit information to Caltrans regarding the proposed use of DBEs or DVBEs. Civil Rights evaluates this information to see if the contract goal has been met or if a good faith effort to use DBEs or DVBEs has been made. If the low bidder has not met the contract goal or shown good faith efforts, the contract may be awarded to the next low bidder that meets these requirements. Once a contract is awarded, the bidder's statement of intent or good faith effort is a commitment that becomes a contract requirement.

Projects funded only by the state have no specific requirement for the use of DBEs. Likewise, projects funded only by the federal government have no specific requirement for the use of DVBEs. DBEs and DVBEs are not interchangeable. Consequently, projects funded only by the state cannot use a DBE to make the goal, and projects funded only by the federal government cannot use a DVBE to make the goal.

Some contracts do not have DBE or DVBE goals. However, Caltrans does encourage the use of DBEs and DVBEs on these contracts, and the bidders are urged to obtain DBE or DVBE participation.

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Federal regulations require the DBE program, and state laws require the DVBE program. The special provisions for each contract contain the Caltrans DBE or DVBE requirements. Some contracts will have established goals; others will contain a statement urging the contractor to use DBE or DVBE firms to the maximum extent

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possible. Specific restrictions exist regarding the removal and replacement of both DBEs and DVBEs listed on the contractor's utilization plan at the time of project award. DBE or DVBE requirements are in addition to the requirements of Section 4100 of the Public Contract Code, "Subletting and Subcontracting Fair Practices Act," described in Section 3-801C, "The Subletting and Subcontracting Fair Practices Act," of the *Construction Manual* (manual).

8-303 Monitoring and Enforcement Activities During Construction

8-303 Monitoring and Enforcement Activities During Construction

The following procedures are to be used in the monitoring and enforcement of the subcontracting, DBE or DVBE requirements and the prompt payment clauses of the special provisions. This section contains several forms or listings that should be compared against each other and analyzed for accuracy.

8-303A DBE and DVBE Listing

The resident engineer will receive the approved list of DBEs or DVBEs listed by the bidder for project award. If the list has not been provided or is incomplete, the resident engineer must contact the district labor compliance officer to have it available before the preconstruction conference. The approved list is based on the information the contractor submitted before, and as a condition of, contract award. Remember that the percentage specified in the original contract advertisement may differ from the approved listing, which is a specific contract commitment from the contractor.

The resident engineer must monitor subcontractor use to ensure the contractor uses the DBEs or DVBEs listed. At the preconstruction conference, review the list with the prime contractor and other attending parties. Unless the work is performed or supplied by the listed DBEs or DVBEs, contractors are not entitled to any payment for work or materials.

On federal-aid projects, if the contractor did not commit to using DBEs, monitoring or enforcement activities are not required. However, at contract completion, the contractor must submit Form CEM-2402 (F), "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First – Tier Subcontractors," and Form CEM-2403 (F), "Disadvantaged Business Enterprises (DBE) Certification Status Change." If the form is not submitted, a \$10,000 deduction for non-compliance will be taken on the contract after acceptance. On contracts funded solely with state funds, if the contractor did not commit to using DVBEs, monitoring or enforcement activities are not required. However, the contractor must still submit Form CEM-2402 (S), "Final Report – Utilization of Disabled Veteran Business Enterprises (DVBE)."

8-303B Subletting and Subcontracting Listing Versus DBE and DVBE Listing

Do not construe the listing of DBE or DVBE subcontractors as a request to subcontract or a notice of intent to subcontract as required by Section 8-1.01, "Subcontracting," of the *Standard Specifications*. However, the listing does equate to a commitment from the contractor to meet the DBE or DVBE use requirements of the contract. In those instances where a DBE or DVBE subcontractor exceeds the dollar figure threshold specified in the subletting and subcontracting law (half of 1 percent of the total bid or \$10,000, whichever is greater), the DBE or DVBE must also be listed on the "list of subcontractors." Conversely, a DBE or DVBE whose value of work falls below the subletting and subcontracting law threshold will not be listed on the list of subcontractors, per the subletting and subcontracting law. Because the DBE or DVBE may not be on the list of subcontractors in this instance, the DBE or DVBE listing and list of subcontractors may not match. First tier subcontractors listed on the contractor's DBE or DVBE use plan must be listed on Form CEM-1201, "Subcontracting Request."



The contractor can use additional DBEs or DVBEs by following the standard subcontractor or supplier requirements of the contract, taking into consideration the requirements of the Subletting and Subcontracting Fair Practices Act. The contractor cannot, however, eliminate a DBE or DVBE from the approved DBE or DVBE use plan without written Caltrans' approval to do so, even if the work must be done with the contractor's own forces. For the procedures for handling contractor's requests for changes, see Section 8-304, "Adding, Removing, or Substituting DBE or DVBE Subcontractors," of this manual and Section 3-8, "Prosecution and Progress," of this manual. To check for irregularities, the resident engineer will compare the subcontractors and contract items listed on Form CEM-1201 with the contractor's DBE or DVBE use plan and the Subletting and Subcontracting listing.

8-303C When the Listed DBE or DVBE Does Not Perform the Work

The DBE or DVBE use plan furnished by the contractor, together with any authorized changes made during the life of the contract, provides the resident engineer with a listing of work to be done or materials to be furnished by specific DBEs or DVBEs. If Caltrans personnel observe that any other businesses than the listed ones are doing the work or providing the materials, promptly notify the contractor in writing that an apparent violation is taking place. If you make an initial verbal warning, note this fact in the resident engineer's daily report. Also, for this work, hold an administrative deduction on the next estimate in the amount listed on the DBE or DVBE use plan.

If the first notice is ineffective for any reason, send another written notice describing the violation to the contractor. Include a warning that failure to comply with the DBE or DVBE contract requirements will result in a withhold in the amount of the item of work(s) listed or in contract termination. For a sample copy of such a letter, see Example 8-3.1, "Second Notice, Contractor Has Failed to Respond to Verbal Notice on Nonuse of DBE," at the end of this section.

If the written notice fails to achieve results, the resident engineer will submit to the district labor compliance office a memorandum noting the following:

- The apparent violation
- Any verbal action taken
- The contractor's subsequent action or inaction
- A copy of the written notice previously sent to the contractor

The district labor compliance construction office should review for consistency the actions taken and then forward this documentation to the Division of Construction labor compliance unit and the construction field coordinator. Include any district recommendations for action. The Division of Construction will notify Civil Rights. When necessary, Civil Rights will investigate the apparent violation and notify the federal authorities as appropriate. This process applies to federal DBE and state DVBE funded projects.

The actions described above are in addition to any that must be taken for violations of the subcontracting provisions of the *Standard Specifications* and of the Subletting and Subcontracting Fair Practices Act.

8-303D Monthly DBE Trucking Verification on Federal-Aid Contracts

When DBE trucking is listed as a goal on the DBE use plan, the contractor must submit to the resident engineer Form CEM-2404 (F), “Monthly DBE Trucking Verification,” before the 15th of each month. The form must show the following:

- The truck owner’s name
- The California identification (CA) number issued by the California Highway Patrol
- The truck owner’s DBE certification number
- The company name and address
- The commission or amount paid
- The date paid
- The lease arrangement

If the prime contractor fails to submit the form, the resident engineer must make on the monthly pay estimate an administrative deduction for missing documents.

In determining how much credit percentage to allow for the trucking company toward the DBE contract goal, use the following factors:

- The listed DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the contract, using trucks it owns, insures, and operates and using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE that leases trucks from another DBE firm receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- The DBE may also lease trucks from a non-DBE firm or a non-DBE owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee because a DBE is not providing these services.
- A lease must indicate that the DBE has exclusive use of and control over the truck. This provision does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. (Generally, the lease must be long term and not for the specific project.)

To document and confirm compliance, the resident engineer or assistant resident engineer must track the trucks in a daily report or by other means.

8-303E Prompt Payment Clauses

The prompt payment clauses of the special provisions must be emphasized during the preconstruction conference and enforced during construction.

The prompt return of retention payments applies only to federal-aid contracts. Federal regulations do not require the resident engineer to monitor prompt payments status. However, at the completion of the contract, the prime contractor must document the date of final payment to each first-tier subcontractor and all DBE firms on Form CEM-2402 (F), “Final Report—Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors.”

8-303F Final Report, Use of DBE or DVBE, First-Tier Subcontractors

The specifications require the contractor to submit to the resident engineer either Form CEM-2402 (F), “Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors,” or Form CEM-2402 (S), “Final Report – Utilization of Disabled Veterans Business Enterprises (DVBE) (DVBE),” upon completion of the contract. These forms, “the final DBE or DVBE reports,” provide key information required to initiate project closure and payment.

During the contract, the contractor must maintain information regarding assignments to all first-tier subcontractors and all DBE or DVBE firms, regardless of tier. When filling out the final DBE or DVBE report, the contractor must include the following information:

- The names and addresses of these firms
- The date each of these firms completed its portion of the work
- The date of final payment to these firms
- The total dollar figure paid to each firm
- All actual expenditures (not the contract item prices) paid to DBEs or DVBEs
- Any lower-tier DBEs or DVBEs that were used, even if the firms were not originally listed in the bid submittals for the purposes of goal attainment

If the prime contractor is a DBE or DVBE firm, the records must also show the date of work performed by its own forces, along with the corresponding dollar value of the work claimed toward DBE or DVBE goals.

The resident engineer must compare the contractor’s original dollar commitment with the final attainment shown on the final DBE or DVBE report. The resident engineer must also verify that the dollar amount reflects the actual dollar value paid to each DBE or DVBE firm. This verification should include any changes made in planned work scheduled for each DBE or DVBE firm.

If any question exists concerning the report’s accuracy, require a written explanation from the contractor. This narrative report must explain any differences between the initial plan and the final summary, unless the contractor’s comments on the final DBE or DVBE report are in sufficient detail to provide the explanation. Examples of items the contractor would need to explain in writing include why the names of lower-tier subcontractors, the work items, or dollar figures do not match the contractor’s initial plan. Attach the narrative report to the final DBE or DVBE report. The resident engineer must review the completed final DBE or DVBE report for completion and accuracy before signing.

The narrative report is not required for projects that do not have specific percentage goals for DBE or DVBE participation or final projects that show no change from the DBE or DVBE use plan.

If a DBE or DVBE substitution is made during the project, the prime contractor must make good faith efforts to substitute another DBE or DVBE for the original DBE or DVBE to the extent needed to meet the contract goal. If the contractor's DBE or DVBE attainment falls short of the contract goal, hold only the amount of contract funds necessary to meet the contract goal.

If the contractor does not attain the original goal for reasons beyond their control, then no funds should be withheld. For example, if a contract change order eliminates all or a portion of an item originally designated to be performed by a DBE or DVBE, this situation is beyond the contractor's control. Therefore, no funds should be withheld. Conversely, if a contract change order increases the work allocated to a DBE or DVBE, the contractor is not required to have the DBE or DVBE perform the work, but should be encouraged to do so.

If the contractor does not submit Form CEM-2402(F), "Final Report—Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors," upon completion of a federally funded contract, the specified deduction must be taken on the after acceptance estimate. This deduction can be executed by entering an "equal employment opportunity" (EEO) code in Part 2, "Deductions," of Form CEM-6001, "Project Record—Estimate Request." A value of \$10,000 must be entered in the "amount" field of this form. Upon satisfactory completion and submittal of the outstanding report, the money will be returned to the contractor.

The final DBE or DVBE report (together with the contractor's narrative) must be sent to the district and then forwarded to the Division of Construction.

For how to handle the proposed final, semifinal, and final estimates, see Section 3-9, "Measurement and Payment," of this manual.

8-303G Disadvantaged Business Enterprises Certification Status Change (Federal-Aid Contracts)

Federally funded contracts require the contractor to report a DBE firm that becomes certified or decertified during the course of the project. A DBE subcontractor that becomes decertified during the course of the project must notify the contractor in writing with the date of decertification. In the same manner, a subcontractor that becomes a certified DBE during the course of the project must notify the contractor in writing with the date of certification.

The prime contractor must notify the resident engineer if the contractor becomes aware of a DBE obtaining or losing its certification during construction. To document and report such changes, the contractor must complete Form CEM-2403 (F), "Disadvantaged Business Enterprises (DBE) Certification Status Change." The form should list the amount of money paid to the DBE while it was certified.

The contractor must still honor contractual commitments with a DBE firm performing work on the contract even if the DBE loses its certification during construction. No substitution is required.

For federal reporting purposes only, DBE credit for Caltrans will be limited to payments made while the firm was certified. This has no effect on the Form CEM-2402(F), "Final Report—Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" which should show the total paid to the DBE.

The contractor must submit the form at the contract's completion, regardless of any changes in DBE status. If no change in DBE status occurs during the life of the contract, the contractor must write, "no change" across the fields of Form CEM-2403(F). If the prime contractor fails to submit the form, the resident engineer must include this report as part of the "other outstanding document" (OOD) deduction when preparing the after acceptance payment.

For how to handle the proposed final, semifinal, and final estimates, see Section 3-9, "Measurement and Payment," of this manual.

8-304 Adding, Removing, or Substituting DBE or DVBE Subcontractors

The following procedures cover any changes to the DBE or DVBE listing provided by the prime contractor before award of the contract.

8-304A Adding DBEs or DVBEs

Caltrans permits and encourages the contractor to increase the amount of work to DBEs or DVBEs over what was originally listed for goal attainment. If a portion of the work will be subcontracted, the contractor must comply with Section 8-1.01, "Subcontracting," of the *Standard Specifications* and with Section 4100 of the Public Contract Code "Subletting and Subcontracting Fair Practices Act." For the procedures for subcontracting, see Section 3-8, "Prosecution and Progress," of this manual. Place a copy of the contractor's request in the project file for later reference when approving Form CEM-2402 (F), "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors," or Form CEM-2402 (S), "Final Report – Utilization of Disabled Veteran Business Enterprises (DVBE)."

8-304B Removing and Substituting DBEs or DVBEs

When the contractor requests that a DBE or DVBE that was listed for goal attainment be removed from the project, the following steps must be taken:

- Before performing the work, the contractor must submit a written request to the resident engineer asking for approval to remove or substitute the listed firm. The request must state the reason for the removal, and the reason must match one of the authorized situations specified in the contract's special provisions. (If the firm is a subcontractor covered under the "Subletting and Subcontracting Fair Practices Act" see Section 3-8, "Prosecution and Progress," of this manual.)
- The resident engineer must review the request to confirm the stated facts. The resident engineer must then notify the listed DBE or DVBE of the contractor's request to substitute. The listed DBE or DVBE has five days to respond. If the DBE or DVBE does not respond within five days, and the reason for the substitution conforms to one of the specified reasons, the resident engineer may approve the substitution. If the DBE or DVBE that the contractor wants to substitute objects, a hearing will be scheduled. The district construction deputy director, or the appointed designee, will preside over this hearing. Both the prime contractor and the DBE or DVBE should attend the hearing and will subsequently be advised of the results as to whether the request is approved or disapproved.
- If the contractor receives approval to substitute a listed DBE or DVBE, the contractor must attempt to replace the firm with another DBE or DVBE needed to meet the contract goal. If the contractor cannot find a replacement DBE or DVBE, the contractor must submit a description of its good faith efforts. In the situation of a good faith effort, the district construction deputy director must sign approval and authorization on Form CEM-2401, "Substitution Report for Disadvantaged Business Enterprise/Disabled Veteran Business Enterprise."

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Adding, Removing, or Substituting DBE or DVBE Subcontractors

- The resident engineer may approve the request to replace the DBE or DVBE if the contractor will meet or exceed the contract goal without the disputed DBE or DVBE or if all of the following conditions are met:
 1. One DBE or DVBE is to be substituted for another DBE or DVBE, respectively. They are not interchangeable.
 2. The same items of work are involved, or if different items, the dollar value is equal to or greater than that in the original commitment.
 3. The new DBE or DVBE is certified at the time of replacement.

A listing of certified firms is available through the district labor compliance office or Civil Rights site on the Internet at the following address: <http://www.dot.ca.gov/hq/bep/>

Or, you can find the list by calling Civil Rights.

Note that unless the new DBE or DVBE is certified, the substitution cannot be approved. An application for certification does not constitute certification.

- If the conditions above are not met, requests for approval of a replacement firm must be evaluated based on the contractor's performance of good faith efforts to find a replacement firm. Forward such requests, along with the contractor's documentation of good faith efforts, for approval by the district construction deputy director or the appointed designee. The contractor's documentation must include the following:
 1. The names and dates of each publication in which the prime contractor placed a request for DBE or DVBE participation for the project.
 2. The names and dates of written notices sent to certified DBEs or DVBEs soliciting bids for the project.
 3. The methods and dates used for following up initial solicitations to determine with certainty whether or not the DBEs or DVBEs were interested.
 4. The items of work the prime contractor made available to DBE or DVBE firms. Where appropriate, the contractor should include any breakdown of contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE or DVBE participation. Essentially, the prime contractor must demonstrate that it made enough work available to the firms to meet the DBE or DVBE goal.
 5. The names, addresses, and phone numbers of both the rejected DBE or DVBE firms and the firm selected for that work, as well as the reasons for the contractor's choice.
 6. Any efforts made to assist an interested DBE or DVBE in obtaining bonding, lines of credit, or insurance. Similarly, any technical assistance or information related to the project plans, specifications, and requirements that the contractor provided to the DBE or DVBE.
 7. Any efforts made to assist interested DBEs or DVBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE or DVBE subcontractors purchase or lease from the prime contractor or its affiliate.

8. The names of agencies contacted to provide assistance in contacting, recruiting, and using DBE or DVBE firms.
 9. Any additional data to support a demonstration of good faith efforts.
- Caltrans has consultant contracts with technical services contractors on federal aid projects to provide assistance to DBE subcontractors. The resident engineer can also use the services of the technical services contractor to help gather information for the substitution process or to encourage the subcontractor to perform the work so that no substitution is necessary. The resident engineer can also encourage the prime contractor to use the services of the technical services contractor in finding replacements for DBE subcontractors. For the names and addresses of the technical services contractors, see the DBE portion of the contract's special provisions. However, the prime contractor should not use technical services contractors as its sole effort to satisfy the good faith requirement.
 - The substitution request will be approved if such documentation indicates the contractor exerted a good faith effort to replace in kind the DBE or DVBE. If there is any reason to doubt the adequacy of the contractor's effort, consult the district or the Division of Construction. If the decision is not to approve the good faith efforts, the contractor must take such additional steps as are necessary to find a replacement firm. Advise the prime contractor that performance of the work without the resident engineer's prior written approval will result in an administrative deduction for the value of the work listed on the DBE or DVBE usage commitment. When the final review is complete and a decision is reached, the district will notify the resident engineer.
 - The resident engineer must give the contractor written notice of the decision. Send a separate written notification to the contractor regarding substitutions covered by the Subletting and Subcontracting Fair Practices Act. Place copies of all correspondence in the project's file.
 - Once the substitution has occurred, the resident engineer must prepare Form CEM-2401, "Substitution Report for Disadvantaged Business Enterprise/ Disabled Veteran Business Enterprise," and request the prime contract furnish a revised Form CEM-1201, "Subcontracting Request," if applicable.

Clearly, substitution of a listed DBE or DVBE may be a lengthy process. However, contractors are not entitled to either time adjustments or increased costs as a result of substituting the DBE or DVBE firm the contractor originally listed for goal attainment.

8-305 Caltrans Civil Rights

Caltrans Civil Rights develops policy related to and generally administers and oversees the DBE program for Caltrans. Additionally, among other duties, Civil Rights certifies DBEs, publishes the lists of the certified firms, and determines whether those firms meet the requirements of applicable federal regulations. The California Department of General Services certifies DVBEs, and determines whether these firms meet the requirements of applicable state regulations.

Civil Rights also sets goals, determines goal attainment during contract award and at project completion, and performs equal employment opportunity compliance reviews of Caltrans' contractors.

8-305 Caltrans Civil Rights

Although overall program responsibility rests with Civil Rights, specific construction project responsibility rests with district construction and the Division of Construction. The resident engineer must be aware of the general civil rights requirements, and when a question arises about civil rights requirements or a violation of those requirements has apparently occurred, the resident engineer must immediately notify the district construction office.

If the district needs assistance, the district must contact the Division of Construction labor compliance unit. If a complaint is received from a DBE or DVBE firm regarding treatment on the project, and the firm alleges that the claimed mistreatment is due to its DBE or DVBE status, the resident engineer must promptly notify the district labor compliance officer. If an investigation or other action is appropriate, the district labor compliance officer will make a request to the Division of Construction.

The Division of Construction will arrange for any necessary additional steps, including assistance from other functions, such as the Legal Service Center, Civil Rights, or Audits and Investigations. District construction should only take additional actions that may be necessary after receiving the Division of Construction's advice and guidance.

(Enter Contract Identification)

(Current Date)

(Contractor's Superintendent,
Prime Contractor, Job Site Address)

Dear (Superintendent):

On October 27, 2000, the work on Contract Item 73, "Minor Concrete (Curb and Gutter)," apparently was being done by employees of [Name of firm]. Our records indicate that your company stated in its [DBE or DVBE] use plan that this work would be done by [Name of DBE or DVBE firm]. On October 27, I called your attention to this apparent violation of the contract; however, [Name of firm] has continued to perform work on curbs and gutters. Be advised that pursuant to the paragraph entitled "Subcontracting" in Section 5 of the contract provisions, no payment will be made for the work that was allocated to the listed subcontractor, but performed by [Name of firm].

To avoid the possibility of further consequences for violating the provisions of the contract, we suggest that you either comply with your company's original [DBE or DVBE] use plan or submit a request in writing to make a change. Any request for change must detail your company's reasons for that change, and those reasons must be one of those allowable under the contract provisions. If your request to remove the originally listed subcontractor is approved, you are further advised that you must either replace the value of work to be done by [DBEs or DVBEs] or prove that you have made a good faith effort to do so to meet the contract goal. This process can be fairly lengthy, and we urge you to immediately take such steps as are necessary. You are cautioned that we will be unable to authorize either increased costs or time due to your failure to comply with your original contractual commitment.

We are sending copies of this letter to your company's home office and to Caltrans headquarters office in Sacramento. Please contact me if I can assist you in your efforts to fulfill your contract.

Sincerely,

Resident Engineer

cc: Prime Contractor, Home Office

HQ Construction Program

District Construction Office

R. E. File

Note 1: The above letter concerns the least complicated situations in which the prime contractor is doing work planned to be sublet to a DBE or DVBE. If a second subcontractor is involved, other contract specifications are probably being violated, for instance the following:

- Standard Specifications, Section 8-1.01 "Subcontracting" --Lack of prior approval to subcontract (if federal aid) or prior notice of subcontract (state funded).
- "Section 4100 of the Public Contract Code "Subletting and Subcontracting Fair Practices Act"-- Substitutions for listed subcontractors without the engineer's approval will result in a penalty of up to ten percent of the contract item amount.

Note 2: When subcontractor approval or notice requirements are involved, the letter to the prime contractor should refer to "subcontracting and DBE/DVBE provisions" rather than merely "DBE/DVBE provisions". When the subcontractor listing law is involved, the letter must clearly address both the "Subletting and Subcontracting Fair Practices Act." and DBE or DVBE violations.