

San Joaquin Regional Transit District (RTD)

**Program Management Plan (PMP)
for the Stockton Large Urban Area
Section 5316 and 5317 Programs**

November 1, 2007
DRAFT FOR COMMENT AND REVIEW

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Section 1: Program Goals and Objectives

Job Access and Reverse Commute (JARC) Program (5316) Goal: The goal of the 5316 Program is to improve access to transportation services to employment and employment-related activities for welfare recipients and eligible low-income individuals and to transport residents of urbanized areas and nonurbanized areas to suburban employment opportunities. Toward this goal, the FTA provides financial assistance for transportation services planned, designed, and carried out to meet the transportation needs of eligible low-income individuals, and of reverse commuters regardless of income. The program requires coordination of federally assisted programs and services in order to make the most efficient use of federal resources.

New Freedom Program (5317) Goal: The goal of the New Freedom Formula Grant Program is to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the workforce and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. Only 60% of persons with disabilities (between the ages of 16 and 64) are employed, according to the 2000 Census. Section 5317 seeks to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the ADA.

RTD's philosophy for the Management of 5316 and 5317 projects: RTD will work to ensure subrecipients and partner agencies maximize the 5316 and 5317 program's collective coverage by minimizing duplication of services.

The Short Range Transit Plan (SRTP) is the San Joaquin Regional Transit District's (RTD) operating and capital plan for a 5-year planning horizon. The SRTP is used as documentation to support the projects included in the Regional Transportation Plan (RTP) for San Joaquin County. Additionally, the SRTP is used by San Joaquin Council of Governments (SJCOG), the designated Metropolitan Planning Organization (MPO), to develop regional transit capital programming documents that are the basis for programming and allocating state and federal funding. The SRTP provides the detailed planning justification for awarding operating capital grants to RTD. These grants are programmed in the federal Transportation Improvement Program (TIP), as well as other state and regional funding programs.

The SJCOG board of directors is made up of elected officials who are consulted when preparing and approving RTP updates.

Section 2: Roles and Responsibilities

In 2006, the Governor designated RTD as the Designated Recipient (DR) for the Stockton Large Urban Area. The DR's responsibilities include:

- Notifying eligible local entities of funding availability
- Developing project selection criteria
- Determining applicant eligibility
- Conducting the competitive selection process
- Forwarding an annual Program of Projects (POP) and grant application to FTA
- Ensuring that all subrecipients comply with federal requirements
- Documenting the State's or designated recipient's procedures in a State Management Plan or a Program Management Plan as appropriate
- Certifying that allocations of grants to subrecipients are distributed on a fair and equitable basis
- Certifying that all projects are derived from a locally developed, coordinated public transit-human services transportation plan developed through a process that consists of representatives of public, private, and non-profit transportation and human services providers with participation by the public

The State Department of Transportation (Caltrans) is the designated recipient for the rural and Small Urban Areas of San Joaquin County.

Section 3: Interagency Coordination

RTD has a history of working to coordinate transportation with local partners. Before the SAFETEA-LU coordination requirements, RTD began a coordination effort in San Joaquin County: RTD reached out to social service agencies and dedicated staff to the coordination effort. RTD has a history of working with United Cerebral Palsy (UCP), the Vehicle Match Program, and the Community Agency Resources for Improved Transportation (CARIT).

In RTD's role as the 5316 and 5317 DR, RTD will continue coordination efforts through local established groups like the San Joaquin County Coordinated Transportation Plan Working Group (SJCCTP WG), Mayors Task Force on Disabilities, RTD's Access Advisory Committee, and the SJCOG's Social Service Technical Advisory Committees (SSTAC).

RTD is encouraging (through scoring criteria) applicants to bring forward priority projects that have a coordination element. Coordination elements could be partnering with another agency to carry out a large-scale project using non-DOT federal funds.

Section 4: Eligible Subrecipients

RTD proposes to allow those agencies referenced in the JARC and New Freedom Circulars as eligible agencies to be entities eligible to apply for funding in the Stockton Large Urban Area. Eligible entities includes: private non-profit organizations; State or local governmental authority; and operators of public transportation services, including private operators of public transportation services

Section 5: Local Share and Local Funding Requirements

Applicants who have a larger local match than that required by FTA will score additional points on their application.

Programs that provide matching funds for FTA programs include but are not limited to Transportation Development Act (TDA), State Transportation Assistance (STA), and non-DOT federal funds.

Section 6: Project Selection Criteria and Method of Distributing Funds

The competitive selection processes will be fair and equitable in selecting projects that meet program specific goals with oversight by RTD or the SJCCTP WG. RTD will use a stakeholder-working group to assist in this competitive process.

Additionally, RTD may contract with a independent third party to conduct the competitive selection process; if a third party conducts the competitive selection process it will use the SJCCTP WG as a resource while conducting the competitive selection process. If the third party conducts the competitive selection process, it will be required to comply with this PMP and all FTA rules and regulations.

RTD plans to allow up to three types of Competitive Selection Processes throughout the life of the programs: The traditional "Call for Projects," Request for Proposals (RFP), and/or Request for Qualifications (RFQ).

(1) RTD will assure equity of distribution of benefits among eligible groups, as required by Title VI of the Civil Rights Act. See attachment A for further information on RTD's Compliance with Title VI. Further, RTD in compliance with Title VI prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

(2) RTD will also assure that projects are selected from a locally developed coordinated plan by certifying that each project in fact has been derived from a locally developed coordinated plan. Projects derived from the SJCCTP will need to meet one of the four main goals outlined in the SJCCTP: Putting People First; Moving People Efficiently; Move More People; Empower People with Technology. The SJCCTP gives examples, but not an exhaustive list of projects that could meet one of the four main goals.

Applicants must attest that their project is derived from their local coordinated plan.

(3) RTD will request/require that applicants provide documented evidence signed by the agency who approved the local coordinated plan that the local coordinated plan was developed in cooperation with stakeholders, including individuals with disabilities utilizing transportation services.

Section 7: Annual Program of Projects Development and Approval Process

An announcement will be made for a Request for Qualifications (RFQ), a Request for Proposals, and/or a Call for Projects.

RFQs will require final contract that will be awarded to the applicant who can best meet the requirements as specified; and provide the highest quality and cost effective professional contract services for the specific Stockton large urban area project. The SJCCTP Selection Committee will specify criteria in the RFQ.

A final contract will be awarded to the applicant who can best meet the requirements as specified; and provide the highest quality and cost effective professional contract services for the specific Stockton large urban area project. The SJCCTP Selection Committee will specify criteria.

A call for projects will require that the applicant submit applications for projects derived from a locally developed coordinated plan. The SJCCTP Selection Committee will evaluate projects.

Once the a RFQ, RFP, and/or a Call for Projects has been announced applicants will have at least 3 weeks to prepare their project applications.

A scoring committee will evaluate the submitted project applications. This will take up to 3 weeks to complete.

After the scoring committee has ranked the applications and FTA has made all allocation of funds, RTD will approve organization applications for funding. Approval will start with the organization receiving the highest score and continue until all funds are exhausted.

RTD reserves the right to partially fund applications. Approval of applications is contingent upon verification of all information submitted and completion of all required documents. RTD will notify all applicants of the results by, mail.

The projects that scored the best will be included in RTD's Annual Program of Projects. RTD's will include approved applications in their annual grant application proposal to FTA for Section 5316 and 5317 funding. RTD will keep organizations advised of the progress of federal grant approvals and will notify each organization when the actual award has been made. Organizations must execute an agreement with RTD and comply with all other guidelines as outlined in the PMP before procurement can begin.

Section 8: Administration, Planning and Technical Assistance

RTD may use up to 10 percent of the Stockton Large Urban Area JARC and NF funds for administrative, planning, and technical assistance purposes. Activities could include:

- o Conduct Competitive Selection Processes
- o Assist applicants to understand the Coordinated Public Transit-Human Services Transportation Plan and provide other services that lead to successful implementation.
- o Communicate and serve as a bridge for information flow between the FTA Regional Office and the Stockton Large Urban Area. Facilitate conference calls on issues/challenges regarding the implementation of SAFETEA-LU.
- o Serve as a clearinghouse for research, information, and training. (i.e. best practices, reports, plans, ITS, MOUs, etc.)
- o Build awareness regarding key issues related to human service transportation and coordination, especially in the areas of operational policy development, customer satisfaction, sensitivity, training, cost allocation and contracting.
- o Conduct on site visits to facilitate workshops, meetings, trainings, etc.
- o Perform outreach to key stakeholders regarding the benefits of coordination while working with state and local government officials, transport providers, health care providers, consultants, etc.

Section 9: Transfer of Funds

RTD will allow the transfer of Stockton Large Urban Area JARC and NF funds to the extent allowable by FTA.

Section 10: Public Participation

Citizens are welcome to present their views at RTD Policy Board meetings; RTD mails out preliminary agendas, complete with the date, time, and location, before the date of the meeting. RTD posts final agendas at least 72 hours in advance of the meeting time at the RTD office, 421 East Weber Avenue, in Stockton. Interested citizens can request to be added to the mailing list for particular meetings, or can access general meeting information on our website, at www.sanjoaquinRTD.com. Agendas and meeting notices are also available upon request from RTD at (209) 948-5566.

The Brown Act (CA Government Code 54954.1) states copies of all documents constituting the agenda packet of any meeting of a legislative body shall be mailed to persons requesting such copies. The request is valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. RTD maintains a database of all mailing requests, and normally does not remove or change these requests unless officially requested. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service.

All RTD public meetings include an opportunity for the public to bring issues and concerns to the attention of RTD. RTD will hear anyone wishing to speak before the Policy Board or its committees.

In addition to RTD Board Meetings, RTD works closely with the various local City and County government agencies within San Joaquin County. Standing meetings within the county that RTD attends includes:

- RTD's Access Advisory Committee (AAC)
- SJCOG's Social Services Transportation Advisory Committee (SSTAC)
- SJCOG's Interagency Transit Committee (ITC)
- City of Stockton's Mayor's Task Force on Persons with Disabilities
- City / County / Transit Liaison (CCTL) Committee

Additionally, RTD has a history of working with the following private and public sector social service agencies:

- Association of Retarded Citizens (ARC)
- California Work Opportunity & Responsibility to Kids (CalWORKs) Program
- Community Center for the Blind and Visually Impaired
- El Concilio
- Lu Khmu
- San Joaquin County Department of Aging
- San Joaquin County Human Services Agency (HSA)

- San Joaquin General Hospital
- Senior Services Agency of San Joaquin County, Incorporated (Seniors First)
- United Cerebral Palsy (UCP)
- Valley Mountain Regional Center (VMRC)

RTD and all 5316/5317 recipients in the Stockton Large Urban Area will certify that that they will comply with all federal statutes, regulations, executive orders, and administrative requirements listed in the Section IV of FTA Circular C9070.1E as applicable.

To ensure that all private for-profit and public transit operators have been notified of grant cycles RTD intends to place adequate notice on their website and in the local news paper.

Section 11: Civil Rights

RTD currently meets Federal civil rights requirements and will monitor subrecipients to ensure compliance with the requirements of Title VI, Equal Employment Opportunity (EEO) --- U.S. Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630.), and Disadvantaged Business Enterprise (DBE) Program. RTD and subrecipients must agree to comply with the requirements of Title VI, Equal Employment Opportunity (EEO), and Disadvantaged Business Enterprise (DBE) Program.

For more detailed information on RTD's Title VI and DBE policies see:

- o **Attachment A** for Title VI
- o **APPENDIX A** for the Disadvantaged Business Enterprise (DBE) Program

Section 12: Section 504 and ADA Reporting

ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES

The CONTRACTOR agrees to comply with the following requirements if applicable to the provision of goods and services under the Contract:

- A. The Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq.;
- B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794;
- C. Section 16 of the Federal Transit Act, as amended, 49 U.S.C. §5301 (d);
- D. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Parts 27, 37 and 38;
- E. U.S. DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
- F. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 CFR Subpart 101-19;
- G. U.S. Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630.

Section 13: Program Measures

JARC

The following indicators are targeted to capture overarching program information as part of the report that the designated recipient will submit to FTA. The designated recipient will submit both quantitative and qualitative information as available on each of the following measures:

- o Actual or estimated number of jobs that can be accessed as a result of geographic or temporal coverage of JARC projects implemented in the current reporting year.
- o Actual or estimated number of rides (as measured by one-way trips) provided as a result of the JARC projects implemented in the current reporting year. The designated recipient should ensure that the necessary information is reported for all sub-recipients of JARC funding in projects selected by the designated recipient. The designated recipient may consolidate information for all projects in the annual report for any open JARC grant awarded to the designated recipient. If JARC funds have been awarded to other direct recipients pursuant to a supplemental agreement with the designated recipient, that direct grantee may report on behalf of itself and any subrecipients.

New Freedom

The following indicators are targeted to capture overarching program information as part of the Annual Report that the designated recipient submits to FTA. The designated recipient will submit both quantitative and qualitative information as available on each of the following measures:

- o Services provided that impact availability of transportation services for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year. Examples include geographic coverage, service quality, and/or service times.
- o Additions or changes to environmental infrastructure (e.g., transportation facilities, side walks, etc), technology, vehicles that impact availability of transportation services as a result of the New Freedom projects implemented in the current reporting year.
- o Actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.

The designated recipient should ensure that the above information is reported for all recipients and sub-recipients of New Freedom funding in projects selected by the designated recipient. The designated recipient may consolidate information for all projects in the annual report for any open New Freedom grant awarded to the designated recipient.

Section 14: Designated Recipient Program Management

Financial Management and Project Monitoring

The designated recipient, RTD, maintains financial management systems for financial reporting, accounting records, internal controls, and budget controls.

RTD will develop and execute grant agreements to those sponsors who are sub-recipients of § 5316 and § 5317 grant funds. All projects related to capital and operating assistance expenditures are incurred locally and reported to RTD after the grant agreements have been executed. RTD executes the agreements after the FTA funds are secured. All grant agreements for capital projects detail the equipment approved for purchase and its intended use.

Agreements for operations assistance outline the type of service provided by the subrecipient, the time period covered, and the service area. RTD reimburses the sub-recipient with the federal funds based on the proportions identified on the grant agreement. Sub-recipients are responsible for keeping all original receipts for eligible capital and operating project expenditures. Copies of vendor invoices for capital purchases must be attached to the reimbursement request form.

Subrecipients receiving operations assistance are not required to submit copies of vendor invoices; however, they must retain copies in their respective offices for verification expenses during site visits. RTD does not accept "in-kind" contributions towards the local share of a capital project; however, "in-kind" contributions will be considered for operating assistance. If an "in-kind" contribution is used for operating assistance, the sub-recipient must have a cost allocation plan detailing the type of service received and how the value of the service was determined.

RTD will maintain individual spreadsheets for each sub-recipient tracking project expenditures, amounts charged to each funding source, local matching sources, and project budgets. RTD will be responsible for reporting in TEAM-Web total expenditures for each federal grant and reconciling the grant expenditures and revisions to the project budgets as well as the responsibility of closing out projects. An independent audit firm will be contracted by the designated recipient to review projects for compliance with OMB Circulars A-110, A-122, and A-133.

Site Visits

RTD and/or representatives may perform on-site project monitoring visits with sub-recipients receiving grant assistance. Site visits will be conducted using checklist which outline accounting and record keeping requirements in

compliance with OMB Circulars A-122 and A-87 if the sub-recipient received operating assistance; OMB 49 CFR Part 18 and Part 19 administrative requirements; the regulatory requirements for receipt of federal funds; vehicle inventory and maintenance records if the sub-recipient received capital assistance; and compliance with the Drug Abuse and Alcohol Misuse testing regulations.

Procurement

Purchasing equipment under the § 5316 and § 5317 program may be conducted directly by the sub-recipients with RTD oversight; from an existing contract with another governmental agency; or the sub-recipient may participate in RTD's bid process. RTD's role is to assure purchases are made competitively and in compliance with federal procurement guidelines. RTD requires that all bid documents and specifications prepared by the sub-recipient be reviewed and approved prior to seeking bids for vehicles, to assure compliance with federal standards.

Inventory Reports

Capital assistance sub-recipients to submit an annual Owned Rolling Stock Inventory. The inventory will include the following information:

- Year/Make/Model
- Vehicle Code
- Vehicle Identification Number
- Agency Vehicle Number
- Condition
- Age
- Remaining Useful Life
- Replacement Cost
- ADA Access
- Seating Capacity
- Fuel Type

The information obtained from these inventories will become part of the inventory record along with the title and certificate of collision insurance coverage. To ensure that the vehicles are properly maintained, RTD may randomly reviews vehicle maintenance records and physically inspects vehicles as part of the on-site visits.

Reporting Requirements

Sub-recipients are required to prepare a variety of reports on a quarterly basis. These include a project narrative; local matching sources used number of passenger trips provided, vehicle miles traveled, and revenue service hours provided. They are also required to report on an annual basis their efforts in

purchasing from DBE vendors and a vehicle condition report. RTD may require additional reports as warranted.

Section 15: Other Provisions

RTD complies with other Federal requirements such as environmental protection, Buy America provisions, pre-award and post-delivery reviews, restrictions on lobbying, prohibition on exclusive school transportation, and drug and alcohol testing, including the designated recipient's procedures for monitoring compliance by subrecipients. For more on how RTD complies see **APPENDIX B**

Attachment A

The San Joaquin Regional Transit District (RTD) HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended, it will ensure that:

1. No person on the basis of race, color, or national origin will be subjected to discrimination in the level and quality of transportation services and transit-related benefits.
2. The RTD will compile, maintain, and submit in a timely manner Title VI information required by UMTA Circular 4702.1 and in compliance with the Department of Transportation's Title VI regulation, 49 CFR Part 21.9.
3. The RTD will make it known to the public that those person or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transit-related benefits may file a complaint with the Urban Mass Transportation Administration and/or the U.S. Department of Transportation.

The San Joaquin Regional Transit District (RTD) (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including RTD, and HEREBY

GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal Transit Administration grant for its transit operations and programs:

1. That the Recipient agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federal Transit Administration grant for its transit operations and programs and, in adapted form in all proposals for negotiated agreements:

The RTD, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to this Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements enter into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under Federal Transit Administration grant for its transit operations and programs; and (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under Federal Transit Administration grant for its transit operations and programs.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations and this assurance.

APPENDIX A

FEDERAL DBE PROVISIONS

1.0 Policy Statement

A. RTD, recipient of federal financial assistance from the Federal Transit Administration (FTA), is committed to a Disadvantaged Business Enterprise Program for contracts in accordance with federal regulations 49 CFR Part 26, issued by the U. S. Department of Transportation (DOT).

B. It is the policy of RTD to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in FTA-assisted contracts. It is also RTD's policy:

To ensure nondiscrimination in the award and administration of FTA-assisted contracts;

To create a level playing field on which DBEs can compete fairly for FTA-assisted contracts;

To ensure that the DBE Program is narrowly tailored in accordance with applicable laws;

To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;

To help remove barriers impacting the participation of DBEs in FTA-assisted contracts; and

To assist in the development of DBE firms to enable them to compete successfully in the market place outside the DBE Program.

C. Pursuant to 49 CFR Part 26.13, and as a material term of any agreement with RTD, the Contractor hereby makes the following assurance and agrees to include this assurance in any agreements it makes with subcontractors in the performance of the Contract:

1. The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of the 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 the Contract, which may result in the termination of the Contract or such other remedy as RTD deems appropriate.

- D. By submitting a proposal, the Contractor is deemed to have made the foregoing assurance and to be bound by its terms.

2.0 DBE Eligibility

- A. A small business concern must be certified as a DBE by CalTrans in accordance with 49 CFR Part 26, as of the date of submission of the bid. It is the Contractor's responsibility to verify that DBEs are certified.

1. Disadvantaged Business Enterprise. A DBE is a for-profit, small business concern:
 - (a) Which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals, or, in the case of any corporation, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
 - (b) Whose management and small business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
2. Small Business Concern. A small business concern shall meet the definition and size standards of an existing small business as required by the Small Business Administration pursuant to 13 CFR Part 121, and the firm's annual average gross receipts for the previous three years cannot exceed \$17.4 million.
3. Socially and Economically Disadvantaged Individuals. There is a rebuttable presumption that socially and economically disadvantaged individuals are persons who are citizens or lawful permanent residents of the United States and who are: African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent-Asian Americans, Women, or a member of any additional group

that is designated as socially and economically disadvantaged by the Small Business Administration.

- B. An individual cannot be presumed or determined to be economically disadvantaged if he has a personal net worth which exceeds \$750,000, excluding the individual's ownership interest in the DBE firm and the individual's primary residence. If the individual's personal net worth is more than \$750,000, a DBE must demonstrate at least 51% ownership and control by other socially and economically disadvantaged owners to maintain the firm's eligibility for DBE certification.

3.0 DBE Participation Goal

- A. Annual Overall Goal for DBE Participation. RTD participates in the overall state goal for DBE participation in FTA-assisted contracting as set by the California Department of Transportation. RTD intends to meet these goals through a combination of measures including, but not limited to, implementing procedures in the bidding and award process to remove barriers to DBE participation, providing outreach to DBEs, providing technical assistance and, in some cases, establishing specific DBE availability advisory goals for particular projects with subcontracting opportunities.
- B. DBE Participation Goal for the Performance of the Contract. DBE participation will be achieved solely through race neutral means without any contract goals. However, Bidders are advised that RTD will analyze the data regarding the portions of Work that could be subcontracted out to small businesses, including DBEs, and whether DBEs are available to perform those types of Work.

If subcontracting opportunities may be available, RTD will set forth such information in its Contract Documents and Specifications. Bidders will be provided this information to facilitate consideration of small businesses, including DBEs, for subcontracting opportunities. The estimates by RTD of DBE availability for subcontracting participation will be expressed as DBE Availability Advisory percentages for specific contracting.

If subcontracting opportunities are determined by RTD to be available, Bidders are required to document their activities in the solicitation and selection of subcontractors to ensure that this process is carried out in a nondiscriminatory manner, as further described below.

C. Available DBE Resources. Listings of certified DBEs are available from the following resource:

1. The California Department of Transportation (CalTrans) DBE Directory, which may be obtained through Electronic Information Bulletin Board Service. The Bulletin Board is accessible by modem and is updated weekly. It may be accessed by first contacting CalTrans' Business Enterprise Program at (916) 227-8937 and obtaining a user identification and password. The CalTrans DBE Directory may also be obtained by visiting the CalTrans website at www.dot.ca.gov/hq/bep/index.htm.

The DBE Directory does not in any way pre-qualify the certified firms with respect to licensing, bondability, competence or financial responsibility.

Bidders are encouraged to use services offered by financial institutions owned and controlled by DBEs.

4.0 Bidder Documentation for Subconsultants, Subcontractors and Suppliers

A. Each Bidder must document the process it used throughout the bid preparation period for soliciting and selecting subbids, as follows:

1. Subbid Documentation. Bidders must submit the Prime Contractor and Subcontractor/Subconsultant/Supplier Report on Bid Form "G" provided in Part III of the Contract Documents, identifying the subbids it received.

Bidders are cautioned that, where applicable, the California subletting and subcontracting law generally prohibits substitution of subcontractors or adding subcontractors after bid opening.

2. Description of Selection Process of Subcontractors and Suppliers. Each Bidder shall provide a description of the process that was followed to select the subcontractors and suppliers proposed to be included in the Work and the steps taken to obtain small business and DBE participation. A Bidder must submit the DBE Form on Bid Form "H" and the DBE Form: Description of Selection Process of

Subcontractors/Subconsultants/ Suppliers on Bid Form "I"
provided in Part III of the Contract Documents.

5.0 Determining the Amount of DBE Participation

- A. Pursuant to 49 CFR Part 26.55, DBE participation includes that portion of the Contract Work actually performed by a certified DBE with its own forces. A DBE may participate as a prime contractor, subcontractor, joint venture partner, or vendor or supplier of materials or services required by the Contract.
- B. A DBE's participation can only be counted if it performs a commercially useful function on the contract as defined in 49 CFR §26.55(c). A DBE performs a commercially useful function when it actually performs, manages and supervises a portion of the Work involved. There is a rebuttable presumption that if the DBE is not responsible for at least 30% of the Work with its own forces, or subcontracts a greater portion of the Work than the normal industry standard, it is not performing a commercially useful function. A DBE trucking company performs a commercially useful function if it is responsible for the overall management and supervision of the transportation services involved and uses at least one truck that it owns, insures, and operates with its own employees on the contract.
- C. The Contractor shall determine the amount of DBE participation for each DBE performing Work on the contract in terms of both the total value of the Work in dollars and the percentage of the total contract bid amount. The Contractor shall also determine the total amount of DBE participation for the entire Contract. The Contractor shall count DBE participation according to the following guidelines and in accordance with 49 CFR Part 26.55:
 1. DBE Prime Contractor. Count the entire dollar amount of the Work performed or services provided by the DBE's own forces, including the cost of materials and supplies obtained for the Work and the reasonable fees and commissions charged for the services. Do not count any Work subcontracted to another DBE firm as DBE participation by the DBE Prime Contractor, as such work will be counted under subparagraph 2, below.
 2. DBE Subcontractor. Count the entire amount of the Work performed or services provided by the DBE's own forces,

including the cost of materials and supplies obtained for the Work, except for materials and supplies purchased or leased from the Prime Contractor, and reasonable fees and commissions charged for the services. Do not count any Work subcontracted by a DBE subcontractor to another firm as DBE participation by said DBE subcontractor. If the Work has been subcontracted to another DBE, it will be counted as DBE participation for that other DBE.

3. DBE Joint Venture Partner. Count the portion of the Work that is performed solely by the DBE's forces or, if the Work is not clearly delineated between the DBE and the joint venture partner, count the portion of the Work equal to the DBE's percentage of ownership interest in the joint venture.
4. DBE Manufacturer. Count 100% of the costs of materials and supplies obtained from a DBE manufacturer that operates or maintains a factory that produces the materials and supplies on the premises. This applies whether the DBE is a prime contractor or subcontractor.
5. DBE Regular Dealer. Count 60% of the costs of materials and supplies obtained from a DBE regular dealer that owns, operates or maintains a store or warehouse in which the materials and supplies are regularly brought, kept in stock and sold or leased to the public in the usual course of business, except regular dealers of bulk items such as petroleum, cement and gravel who own and operate distribution equipment in lieu of maintaining a place of business. This applies whether a DBE is a prime contractor or subcontractor.
6. Other DBEs. Count the entire amount of fees or commissions charged for assistance in procuring or delivering materials and supplies when purchased from a DBE that is not a manufacturer or regular dealer. Do not count the cost of the materials and supplies.
7. DBE Trucking Company. Count the entire amount of the transportation services provided by a DBE trucking company that performs the Work using trucks it owns, insures and operates with its own employees on the contract.

- D. Count the entire amount of the transportation services provided by a DBE trucking company that performs the Work using trucks it leases from another DBE, including an owner-operator, provided that it is responsible for the overall management and supervision of the service and that it uses at least one truck that it owns, insures and operates with its own employees on the Contract.
- E. Count the entire amount of fees and commissions charged for providing the management and supervision of transportation services using trucks it leases from a non-DBE trucking company, including owner-operator, provided that it is responsible for the overall management and supervision of the service and that it uses at least one truck that it owns, insures and operates with its own employees on the contract.

6.0 Recommendation for Award of Contract

- A. Evaluation of Bids. RTD shall review all of the information submitted by Bidders in accordance with the Contract Documents to determine a recommendation regarding compliance with the DBE program requirements for award of Contract to the lowest responsible Bidder. The Bidder shall cooperate with RTD if a request for additional information is made during this evaluation process.

7.0 Contract Compliance

- A. Substitution of Subcontractors/Suppliers. The Contractor shall not terminate a small business at any tier for convenience and then perform the Work with its own forces. The Contractor shall notify RTD in writing of any request to substitute a small business and provide appropriate documentation substantiating the substitution. Any substitution of a small business on the Contract is subject to the written approval of RTD.
- B. DBE Certification Status. If a DBE subcontractor is decertified during the life of the Project, the decertified subcontractor shall notify the Contractor in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the Project, the subcontractor shall notify the Contractor in writing with the date of certification. The Contractor shall furnish the written documentation to the Project Manager.

- C. Prompt Payment to Subcontractors. The Contractor shall pay any subcontractor approved by RTD for Work that has been satisfactorily performed no later than ten (10) days from the date of Contractor's receipt of progress payments by RTD. Within thirty (30) days of satisfactory completion of all Work required of the subcontractor, Contractor must release any retention payments withheld from the subcontractor. In the event Contractor does not make progress payments or release retentions to the subcontractors in accordance with the time periods in this section, Contractor will be subject to a charge of two percent (2%) per month on the untimely or improperly withheld payment.
- D. Reporting Requirements. The Contractor shall maintain records of all DBE participation in the performance of the Contract, including subcontracts entered into with certified DBEs and all materials purchased from certified DBEs.
1. The Contractor shall complete and submit on the 15th day of each month RTD's Prompt Payment Report, in a form to be provided by RTD, showing the name, address, date of payment, and the total dollar amount actually paid to each subcontractor performing Work on the contract. Upon completion of the Contract, the Contractor shall submit a Final Report, in a form to be provided by RTD, within thirty (30) days.
 2. If the Contractor fails to submit the monthly Prompt Payment Report or the Final Report within the time period required in this section and has not received written approval for an extension, the Contractor agrees to pay a sum of fifty dollars (\$50) each day the report is late as liquidated damages. The amount of liquidated damages is not a penalty and covers reasonable damages that RTD will sustain and which are impractical to ascertain. RTD may deduct the amount of liquidated damages from monies due Contractor.
- E. Administrative Remedies. In the event the Contractor fails to comply with the DBE requirements of the Contract in any way, RTD reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, imposition of liquidated damages, and termination of the contract in whole or in part.

APPENDIX B

FTA CERTIFICATION FORMS

FORM

APP-B1	BUY AMERICA CERTIFICATION (OMITTED)
APP-B2	CERTIFICATION ON RESTRICTIONS ON LOBBYING
APP-B3	CERTIFICATION REGARDING FINANCIAL CONTRIBUTIONS
APP-B4	CLEAN AIR – CLEAN WATER CERTIFICATION
APP-B5	CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

**FORM APP-B2
CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I, _____, hereby certify on behalf of _____

that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certificate is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Date Executed: _____

SIGNATURE: _____

Name/Title:

FORM APP-B3
CERTIFICATION REGARDING
FINANCIAL CONTRIBUTIONS

Certification to be executed by Proposer and each proposed first tier subcontractor whose subcontract exceeds \$100,000. Make additional copies of the Certification as necessary.

Proposer is responsible for collecting the Certification from each first tier subcontractor whose subcontract exceeds \$100,000 and submitting it along with its own Certification to RTD with the proposal on the date proposals are due.

Proposer is advised that if all Certifications are not submitted on the date proposals are due, they must be submitted within five (5) calendar days thereafter. Failure to submit all Certifications within five (5) calendar days following the date proposals are due may render the proposal non-responsive. See instructions in the RFP for submitting Certifications after proposal due date.

The undersigned certifies that:

1. It will not make any monetary or in-kind contribution (including loans) to any RTD Director, or any candidate for Director, from the date proposals are due until the award of the agreement.
2. It understands that the term "contribution" shall have the same meaning as defined in Government Code section 82015 and implementing regulations adopted by the Fair Political Practices Commission.
3. If Proposer is awarded the agreement, the undersigned shall continue to comply with this prohibition for three months following the award of the agreement.

Date: _____

Name of Firm: _____

Signature: _____

Print Name/Title: _____

FORM APP-B4
CLEAN AIR – CLEAN WATER CERTIFICATION

THIS CERTIFICATION APPLIES TO ALL CONTRACTS EXCEEDING \$100,000, INCLUDING INDEFINITE QUANTITIES WHERE THE AMOUNT IS EXPECTED TO EXCEED \$100,000 IN ANY YEAR.

The undersigned certifies that:

Clean Air Certification:

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clear Air Act, as amended, 42 U.S.C. §§7401, et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Clean Water Certification:

- (1) The Contractor agrees to comply will all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Date: _____

Name of Firm: _____

Signature: _____

Print Name/Title: _____

FORM APP-B5
CERTIFICATION REGARDING DEBARMENT,
SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
(Pursuant to 49 CFR Part 29, Appendix B)

- A. By signing and submitting this proposal, the Proposer is providing the signed certification set out below.**
- 1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.**
 - 2. The Proposer shall provide immediate written notice to RTD if at any time the Proposer learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.**
 - 3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 (49 CFR Part 29). You may contact RTD for assistance in obtaining a copy of those regulations.**
 - 4. The Proposer agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the department or agency with which this transaction originated.**
 - 5. The Proposer further agrees by submitting this proposal that it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion", as set out below in Subsection (B), in all subcontracts and in all solicitations for lower tier covered transactions as modified to identify the subcontractor.**

6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.

7. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under Paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

B. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction

1. The Proposer certifies, by submission of this bid or proposal, that neither it nor its "principals," as defined at 49 C.F.R. § 29.105(p), is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. If Proposer is unable to certify to the statements in this certification, Proposer shall attach an explanation to this proposal.

DATE: _____

NAME OF BIDDER: _____

SIGNATURE: _____

NAME:

TITLE:
