



## BOARD POLICY NO. 007

### EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAMS

This policy documents the purpose of the SANDAG Equal Employment Opportunity program and Disadvantaged Business Enterprise program for employees and contractors. ~~This policy is consistent with SANDAG's Commitment to Equity statement.~~

Federal regulations require the adoption of an Equal Employment Opportunity (EEO) Program as a condition of receipt of federal funds. The SANDAG Employee Handbook and other administrative manuals, policies, and procedures mandate equal employment opportunities in recruitment, hiring, and employment for applicants to, and employees of, SANDAG. SANDAG also has written policies ~~that~~which forbid discrimination and provide grievance procedures for employees and visitors to SANDAG who believe they have been a victim of discrimination. In addition, SANDAG incorporates ~~applicable EEO~~the requirements for fair and equitable employment practices in its U.S. Department of Transportation (DOT) funded contracts with third parties.

#### 1. EEO Program

- 1.1 It is the policy of SANDAG to actively recruit, hire, train, promote, and make all other employment decisions for all applicants and employees in accordance with Title VII of the Civil Rights Act of 1964, as amended, and other relevant federal and state statutes. SANDAG will ensure that procedures for recruiting, selecting, hiring, promoting, training, terminating, compensating, providing benefits, as well as decisions regarding terms and conditions of employment do not adversely affect the us employment of persons protected by Title VII and, in addition, that all SANDAG hiring and promoting criteria, requirements, and tests are job-related. SANDAG will adhere to the EEO requirements of FTA Circular 4704.1A, and all other applicable standards to the extent required by applicable law.
- 1.2 It is SANDAG policy to ensure that discrimination based on ~~race, color, religion, creed, national origin, ancestry, age (40 or older), gender identity or expression, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), medical condition, physical or mental disability, genetic information, sexual orientation, marital status, registered domestic partner status, veteran or current or prospective services in the uniformed services, or any other~~ category protected under federal, state, or local law does not occur in relationships that may exist between SANDAG and any employee or applicant for employment. Such relationships include, but are not limited to, recruitment, selection, hiring, promotion, compensation, benefits, terminations, transfers, layoffs, recalls, or SANDAG-sponsored training, education, or social and recreational programs.
- 1.3 SANDAG complies with the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act regarding the employment of individuals with disabilities. When requested, SANDAG shall provide reasonable accommodations to applicants and employees who are qualified for a job, so that they may perform the essential job duties of the position.
- 1.4 SANDAG is prohibited from retaliating against any person because they reported discrimination, made charges, testified, or participated in any complaint under Title VII, the ADA, or any other anti-discrimination law.

- 1.5 ~~The Senior Director of Organization Effectiveness is designated as the~~ The SANDAG EEO Officer identified on the SANDAG website ~~and~~ is responsible for assuring diversity in employment, including oversight for fair and equitable recruitment, selection, and employment practices, assuring compliance with applicable laws and regulations, and overseeing the development, maintenance, and implementation of the EEO Program. All management personnel within SANDAG share in the responsibility for upholding the principles of fairness, equity, and non-discrimination with respect to employment, and for implementing the practices outlined in the EEO Program in performance of their job duties.
- 1.6 When developing and implementing its employment policies, SANDAG will base its decisions solely on the individual's qualifications and merit, and the feasibility of any necessary accommodations. Any employee or applicant who feels they have been discriminated against has a right to file a complaint under SANDAG policies.
- 1.7 With respect to contractors, consultants, and sub-recipients:
- It is SANDAG policy to require the contractors and consultants that it contracts with to have policies in place that ensure fair and equitable employment practices and forbid discrimination in violation of Title VII.
  - Responsibility for ensuring contractors, consultants, and sub-recipients comply with this requirement is assigned to the Director of Workforce Compliance Officer, as identified on the SANDAG website ~~Director of Diversity and Equity~~.
  - Capital construction projects greater than \$10,000 funded with federal financial assistance must comply with any applicable EEO requirements ~~set forth by the Office of Federal Contract Compliance Programs (OFCCP)~~.
  - SANDAG is responsible for EEO oversight as required in FTA Circular 4704.1A for subrecipients or transit delivery contractors receiving federal funding of at least \$250,000 for planning-related projects or \$1 million for capital projects.

## 2. DBE Program

- 2.1 SANDAG ~~will maintain~~s a DBE Program ~~if and when it is~~ as required by ~~a federal agency~~ the Federal Transit Administration (FTA), and Federal Rail Administration (FRA). SANDAG ~~also uses the California Department of Transportation's (Caltrans) DBE Program for Federal Highway Administration (FHWA) funded contracts. FTA (including FRA) and FHWA DBE Programs set forth a triennial goal for participation by DBEs.~~ The ~~Director of Diversity and Equity shall serve as the~~ Disadvantaged Business Enterprise Liaison Officer (DBELO) for SANDAG is identified on its website.
- 2.2 Responsibility for implementation of the DBE Program is assigned to the DBELO ~~Director of Diversity and Equity~~. All management personnel within SANDAG are expected to support and implement the DBE Program in performance of their job duties and responsibilities if or when it is applicable.
- 2.3 When developing and implementing its contracting policies, SANDAG will base its contract or selection decisions solely on the bidder's or proposer's qualifications and merit ~~and~~, the evaluation criteria in the solicitation , and the ~~A~~ bidder's or proposer's compliance with DBE Program requirements only will be relevant if or when such requirements apply.

## 3. EEO Procedures

- 3.1 The ~~EEO Officer or Director of Human Resources~~ Senior Director of Organization Effectiveness will review employment statistics to determine whether there ~~are~~ is a need to set goals for any under-represented groups and, ~~if necessary, recommend goals to report such information to~~ the Chief Executive Officer.

- 3.2 The ~~Director of Human Resources Senior Director of Organization Effectiveness~~ will maintain current contact lists of community resource organizations, community leaders, media sources, and colleges/vocational schools for SANDAG staff to use in recruiting for employees.
- 3.3 The ~~Director of Human Resources Senior Director of Organization Effectiveness~~ will communicate the EEO Program to all employees.
- 3.4 SANDAG staff will solicit community involvement by under-represented groups on issues of importance to the region that fall within its jurisdiction.
- 3.5 The ~~Director of Human Resources Senior Director of Organization Effectiveness~~ will maintain records on recruitment efforts, new employees, promotional opportunities, disciplinary actions, training, and employee separations which document whether the affected individuals are in a class protected by Title VI or VII.
- 3.6 The Board of Directors will review an EEO report prepared by the Director of Human Resources Senior Director of Organization Effectiveness, or designee, on an annual basis. The report will include employment results and a review of any applicable EEO Program changesgoals for the upcoming year.
- 3.7 The ~~Director of Human Resources Senior Director of Organization Effectiveness~~ will ensure SANDAG's the EEO statementpolicy is posted in employee breakrooms, other suitable locations throughout the SANDAG offices, and to an Intranet site accessible to SANDAG employees.
- 3.8 All employment ads and job postings will contain a reference that SANDAG is an equal employment opportunity employer.
- 3.9 The ~~Director of Human Resources Senior Director of Organization Effectiveness~~ will ensure all federal and state posters concerning EEO arewill be displayed in employee breakrooms or other suitable locations throughout the SANDAG offices.
- 3.10 With respect to contractors, consultants, and sub-recipients:
- ~~The Director of Diversity and Equity shall notify OFCCP each time a construction contract is awarded for a value of more than \$10,000 and includes federal financial assistance. Each contract shall require the contractor to notify the OFCCP of each subcontract of at least \$10,000.~~
  - The ~~Director of Business & Workforce Compliance Officer Diversity and Equity~~ shall ensure that SANDAG contracts include the requirement for the contractor in federally-assisted construction contracts, and their subcontracts with a value of at least \$10,000, to take any steps that may be required by federal lawaffirmative action steps as required by OFCCP to ensure equal employment opportunities in all aspects of their employment practices and this requirement shall be in each contract and non- exempt subcontract.
  - The SANDAG Contracts and Procurement DepartmentDivision shall ensure that each subrecipient meeting any applicable federal agencythe FTA thresholds is required to sign certificates and assurances that they will meet the FTAany applicable federal agency EEO requirements and the Business & Workforce Compliance DivisionOffice of Diversity and Equity shall monitor their compliance.
  - The SANDAG Contracts Divisionand Procurement Department shall ensure that each transit service delivery contractor meeting the FTA thresholds is required by contract to adhere to anythe FTA EEO requirements and the Business & Workforce -Compliance DivisionOffice of Diversity and Equity shall monitor their compliance

4. DBE Procedures to Be Applied If or When Federal Law Requires DBE Goals or Other DBE Program Requirements

- 4.1 The ~~Director of Business & Workforce Compliance Officer~~Diversity and Equity will develop triennial overall DBE goals for FTA-funded (including FRA-funded) contracts in accordance with DBE regulations. SANDAG overall DBE goals will be reviewed annually to determine if DBE commitments meet the established overall DBE goal when an overall DBE goal is applicable. If a shortfall exists and a federal agency mandates an analysis, the Business & Workforce Compliance Division~~ODE~~ will prepare a shortfall analysis and determine the best course of action to ensure SANDAG is able to meet the triennial goal or revise the triennial goal based on the shortfall analysis.
- 4.2 The Chief Executive Officer will approve or disapprove the triennial overall DBE goal prepared by the ~~Director of Business & Workforce Compliance Officer~~Diversity and Equity.
- 4.3 The ~~Director of Business & Workforce Compliance Officer~~Diversity and Equity will ensure SANDAG complies with the Caltrans DBE Program and the Caltrans Local Agency Procedures Manual (LAPM) requirements for all FHWA- funded contracts passed through to SANDAG by Caltrans.
- 4.4 The ~~Director of Business & Workforce Compliance Officer~~Diversity and Equity will be responsible for setting contract goals on FTA, FRA, and FHWA-funded projects when appropriate. If a DBE contract goal applies, t~~he~~ Business & Workforce Compliance Division~~ODE~~ staff will conduct reviews of proposals and bids to determine if DBE contract goals are met or if good faith efforts (GFE) evaluations are required. GFE evaluations shall be conducted by the ~~ODE~~Business & Workforce Compliance Division if required.
- 4.5 The ~~Director of Business & Workforce Compliance Officer~~Diversity and Equity will be responsible for monitoring program oversight for~~compliance with~~ the DBE Program for all FTA, FRA, and FHWA-funded contracts. ~~ODE's~~Staff managing contractor performance will monitor performance of DBE firms, payments to DBE firms, and ensure contractors fulfill their commitments to use listed DBE firms on FTA, FRA, and FHWA-funded contracts when applicable, Business & Workforce Compliance Division staff will provide training and status reports to SANDAG personnel managing contractor performance on contracts with DBE goals to assist them with these efforts.
- 4.6 The ~~Director of Business & Workforce Compliance~~Diversity and Equity will communicate the DBE Program and its requirements to all SANDAG employees and applicable contractors and consultants.
- 4.7 Business & Workforce Compliance Division~~Office of Diversity and Equity~~ staff will conduct outreach to small businesses, minorities, women, disabled veterans, and other groups to notify these businesses about SANDAG contracting opportunities based on a program approved by the CEO or his/her delegate. Outreach efforts may include attending outreach events and professional association conferences, participating in pre-bid meetings, and conducting procurement networking events.
- 4.8 All SANDAG requests for proposals, requests for qualifications, and invitations for bids with FTA, FRA, (when applicable), and FHWA federal funding will contain required language based on 49 CFR Part 26, and encourage participation by DBE and small business consultants, contractors, and subcontractors.
- 4.9 Consultants and contractors awarded contracts with operative ~~DBE Program~~ goals will be required to submit DBE commitment forms, including evidence to support supplier credit eligibility where applicable, report monthly payments to DBE subcontractors (~~currently~~ through a web-based system) and Caltrans when applicable, and complete a DBE Final Utilization Report with their final invoice, and submit other reports and documentation as may be required in SANDAG contracts.

- 4.10 A report on DBE Program results will be provided to the SANDAG Board of Directors when a new Triennial DBE goal is set for FTA developed, and also for review and in subsequent years as needed.
- 4.11 All successful consultants and contractors will be notified of their applicable obligations under the DBE Program in their contracts with SANDAG.

Adopted June 2003

Amended November 2004

Amended December 2006

Amended December 2008

Amended November 2010

Amended February 2012

Amended January 2017

Amended February 2018

Amended January 2019

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