

RESOLUTION

A RESOLUTION REVISING DBE POLICIES AND
DBE AFFIRMATIVE ACTION PROGRAM

The Lane Transit District Board of Directors resolves as follows:

WHEREAS, the LTD Board of Directors, by resolution, established an Affirmative Action Program and Disadvantaged Business Enterprise (DBE) Policy and adopted the same on the 20th day of October, 1981; and

WHEREAS, LTD is required by 49 C.F.R. Chapter 23.45, as amended, to maintain a policy statement giving DBE firms the maximum opportunity to participate in the performance of contracts financed in whole or part by the Department of Transportation (DOT) or other federal agencies; and

WHEREAS, LTD adopts new DBE policies and program on an annual basis; and

WHEREAS, said policies and program need to be amended to comply with updated regulations; and

WHEREAS, the attached policies and program have been amended to FY 1992-93 DBE Policies and DBE Affirmative Action Program;

NOW, THEREFORE, BE IT RESOLVED BY THE LTD BOARD OF DIRECTORS:

That the FY 1993-94 DBE Policies and DBE Affirmative Action Program, copies of which are attached to and hereby made a part of the Resolution, are adopted.

5/19/93

Date

Board President

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
LANE TRANSIT DISTRICT**

POLICY STATEMENT FY 93-94

It is the policy of Lane Transit District (LTD) that Disadvantaged Business Enterprises as defined in Title 49 Code of Federal Regulations Part 23, as amended, and FTA Circular 4716.1A, as amended, shall have the maximum opportunity to participate in the performance of contracts.

Through this policy statement, Lane Transit District:

- * Expresses its strong commitment to equal opportunity and affirmative action for disadvantaged business enterprise (DBE) participation in its programs;
- * Informs all employees and supervisory personnel, governmental regulatory agencies, and the general public of its policy and program established to implement this policy; and
- * Assures conformity with Title 49 Code of Federal Regulations Part 23 (49 CFR 23) and FTA C 4716.1A, or as either may be amended, and other applicable federal and state statutes, and executive orders, rules, regulations, and policies, as amended.

The primary administrative responsibility for the DBE Affirmative Action Program, including the development of policies, procedures, guidelines, and other resource materials and review, monitoring, and evaluation of the program, rests with the Purchasing Agent for all internal and external program components. The Purchasing Agent reports to the Finance Administrator.

The policy statement will be published in a newspaper of state-wide (Oregon) general circulation at least once.

LTD and any recipient of a contract will ensure that discrimination on the basis of race, color, national origin, sex, age, religion, mental, physical handicap, or marital status is prohibited.

The responsibilities and the objectives of the commitment are described in LTD's DISADVANTAGED BUSINESS ENTERPRISE PROGRAM, which is available for inspection through LTD's Purchasing Office.

To ensure the objectives of this policy, LTD has established an overall goal for Disadvantaged Business Enterprises in the amount of 14 percent of federally-funded contracting activities.

A description of how the goals were selected is available for inspection during normal business hours (Monday through Friday, 8:00 am. to 5:00 p.m.) through LTD's Purchasing Office.

The public may submit written comments on the goals. These comments will be used for informational purposes only and can be sent to Jeanette Tentinger, Purchasing Agent, P. O. Box 7070, Eugene, Oregon 97401.

**LANE TRANSIT DISTRICT
DBE GOALS/FY 1993-94**

Overall DBE Goal: *Fourteen percent (14%) of federally-funded contracting activities.*

The estimated total of federally-funded contracting activities is:

Professional Services	94,121
Materials, Supplies, Equipment	464,977
 Total	 559,098

LTD has adopted the following methodology for establishing its overall and specific contract goals for DBE participation:

1. Review of past results of dollar volume percentage of DBE participation in LTD contract awards.
2. Review of types and numbers of contracts projected which will use DOT funds. This information is available, and has been used in the computation of the above-listed goals.
3. Review of specific contract specifications of current DOT-funded projects.
4. Use of a directory of DBE's that has been compiled by the State of Oregon Executive Branch Office of Minority and Women Enterprises and other firms classified as 8a with the SBA Programs.
5. Setting of goals, on the basis of information obtained from numbers 1-4 above.
6. Annual review of DBE goals and establish new goals based on the latest information in numbers 1-4 above. LTD will annually compare last year's goals with actual DBE participation, analyze discrepancies, and then set new goals.
7. Submission of goals to DOT/FTA for approval.

LTD will investigate the services offered by female- and minority-owned banks. LTD will use and encourage contractors to make the greatest feasible use of these banks.

LTD will enforce the requirements of a recipient's DBE Program, by incorporating the procedures of 49 CFR 23 Section 23.75 and FTA Circular 4716.1A, as amended.

CONTRACTORS. To ensure that prime contracts are awarded to competitors that meet DBE goals, LTD will issue Supplemental Required Contract Provisions, Disadvantaged Business Enterprise. These provisions identify the contractor's DBE responsibility to the contract and LTD's contract award procedure. These District provisions become a part of the DBE Program by reference.

If a DBE is unable to fulfill the original obligation to the contract, the prime contractor must demonstrate to LTD its good faith efforts to replace this subcontractor with another DBE.

After bid opening and during the contract performance, all substitutions must be approved by LTD.

A directory of DBE Contractors is available to bidders at the office of the Purchasing Agent at 3500 E. 17th Avenue, Eugene, Oregon 97403, (503) 741-6100.

SELECTION CRITERIA TO ENSURE THAT PRIME CONTRACTS ARE AWARDED TO BIDDERS THAT MEET DBE GOALS.

To demonstrate sufficient reasonable efforts to meet the DBE contract goal, a contractor shall document the steps it has taken to obtain DBE participation, including but not limited to the following:

1. Attendance at pre-bid meeting, if any, scheduled by LTD to inform DBEs of subcontracting opportunities under a given solicitation;
2. Advertisement in general circulation media, trade association publications, and minority-focus media for at least 20 days before bids or proposals are due. If 20 days are not available, publication for a shorter reasonable time is acceptable;
3. Written notification to DBE's that their interest in the contract is solicited;
4. Efforts made to select portions of the work increase the likelihood of achieving the stated goal;
5. Efforts to negotiate with DBEs for specific sub-bids including at a minimum:
 - i) The names, addresses and telephone numbers of DBEs that were contacted;
 - ii) A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed; and
 - iii) A statement of why additional agreements with DBEs were not reached;
6. If the Bidder contacted but rejected as unqualified any DBEs, the Bidder shall provide supporting reasons for the rejection.
7. Efforts made to assist the DBEs contacted that needed assistance in obtaining bonding or insurance required by the Bidder or LTD.
 - a. Bidders that fail to meet DBE goals and fail to demonstrate sufficient reasonable efforts shall not be eligible to be awarded the contract.

- b. To ensure that all obligations under contracts awarded to DBEs are met, LTD shall review the contractor's DBE involvement efforts during the performance of the contract. The contractor shall bring to the attention of LTD any situation in which regularly scheduled progress payments are not made to DBE subcontractors.

CONSULTANTS. If a consultant is also a prime contractor, the conditions listed above also apply.

LESSEES. Lessees are not subject to the requirements of 49 CFR 23 except for the obligation of Section 23.7 to avoid discrimination against DBE's.

BARRIERS TO DBE PARTICIPATION. To assist in the identification and removal of barriers to DBE participation, LTD will employ a variety of techniques to express its commitment to the DBE Program. These will include:

1. Wide dissemination of the DBE Affirmative Action Policy Statement.
2. Utilization of already established contracts in minority communities and minority and women's organizations throughout the State.
3. Continuing and increasing personal contacts with the minority communities and minority and women's organizations by the DBE liaison officers to strongly emphasize LTD's commitment to the DBE Program.

To eliminate or reduce identified barriers, LTD will:

1. Provide information to DBE's and the minority communities and minority and women's organizations about services already available on a timely basis, as well as those being established, to assist them in the contracting process. Services include appropriate explanation of contracting program procedures and opportunities, assistance in the interpretation of laws, rules and regulations, completion of forms, framing proposals, bidding and estimating, marketing, aid in securing bonding, and other technical and consultation services.
2. Give advance notice of contract lettings to facilitate participation by Certified DBE's. LTD will provide DBE's twenty (20) days notice prior to letting a contract. The specifications and RFP's will be bilingual when appropriate.
3. Monitor awarded contracts closely to assure that performance is as specified, and that prime contractors are dealing in good faith with their subcontractors and potential subcontractors.
4. Review standards for technical and financial prequalifications to ensure that DBE's are invited into the process.
5. Initiate discussions with other governmental agencies to reduce duplication and the paperwork involved for DBE's in the certification process.

TRAINING. Training programs will be conducted by the Affirmative Action Officer for:

1. Supervisory personnel, to enable them to implement the program through better understanding of their responsibilities and the resources available to them in carrying out these responsibilities.
2. Affirmative Action Coordinators and Affirmative Action Designees to enable them to perform effectively in their assignments.
3. Potential DBE's for technical assistance through supportive services provided by or through LTD.

REVIEW. Reviews shall be conducted using the procedures specified in 49 CFR 23, Section 23.75. Reviews include:

Internal - Department and Divisions:

- * Policies, practices and procedures relating to contractors, subcontractors, consultants, and vendors, including minority business enterprises.

External

- * Contractors, subcontractors, consultants, and vendors, including minority business enterprises.
- * Private, non-profit organizations.

Affirmative Action Officer will conduct reviews of all external components related to projects and programs.

DISCRIMINATION COMPLAINTS. Complaints alleging discrimination shall be handled in the manner described in appropriate District procedures. Complaints may be filed within 180 days after the date of the alleged violation.

LTD strongly encourages complainants to discuss their problems in this manner:

Internal - First with the supervisor in charge of the activity, project, or program, then with the Affirmative Action Officer.

External - All personal services agreements; vendors; and lessees, first with the supervisor in charge of the activity project, or program, then with the Affirmative Action Officer.

This discussion should be held as soon as possible after the alleged discrimination occurs. This may lead to resolution of the complaint, informally. If a satisfactory agreement cannot be reached within 15 calendar days, the District will advise the complainant of the appropriate formal grievance procedure.

MONITORING AND EVALUATION. To emphasize the District commitment, an integral part of the DBE Affirmative Action Plan is monitoring and evaluation.

Following the review of the various DBE Affirmative Action Program aspects in all the entities which are covered by the DBE Affirmative Action Policy, the Affirmative Action Officer will establish a monitoring program to be:

1. Alert to changes needed for a successful DBE Affirmative Action Program.
2. Aware of progress being made in following through on recommendations made as a result of reviews.

Semi-annually, the Affirmative Action Officer will evaluate the District's progress in meeting its DBE goals and will report this progress to the General Manager.

RECORDS AND REPORTS. The District will establish, maintain, and submit such records as are required under 49 CFR 23.49. Other reports to state and federal agencies will be submitted as required. Records will be kept for a period of three years.

DBE AFFIRMATIVE ACTION GOALS. Department goals by U.S. Department of Transportation operating elements will be established annually, in July. These goals will be distributed to:

1. All supervisors and managers, to be readily available to all District employees.
2. All Certified local Disadvantaged Business Enterprises.
3. Minority, non-minority, and women's community and business organizations within the State of Oregon.

Copies of the goals will be available to the public through the Director of Administrative Services.

If overall goals are not attained, the District will investigate the possibility of set-asides.

DBE SET-ASIDES. LTD may establish contracting for DBE firms and use set-asides if LTD determines that the use of set-asides is needed to achieve its DBE goal and a minimum of three (3) DBE firms with capabilities consistent with contract requirements, must be available to bid for set-aside contracts to permit adequate competition.

AFFIRMATIVE ACTION PROGRAM
DISADVANTAGED BUSINESS ENTERPRISE

Through this policy statement, Lane Transit District:

1. Expresses its strong commitment to equal opportunity and affirmative action for Disadvantaged Business Enterprise (DBE) participation in its programs.
2. Informs all employees and supervisory personnel, governmental regulatory agencies, and the general public of its policy and program established to implement this policy.
3. Assures conformity with Title 49 Code of Federal Regulations Part 23 or as may be amended (49 CFR 23) and other applicable federal and state statutes, and executive orders, rules, regulations, and policies. (See Appendix: Authority)

DBE AFFIRMATIVE ACTION POLICY. The policy of Lane Transit District is to provide equal opportunity to all persons for participation in and access to the benefits and services provided through activities, projects, and programs within the District's jurisdiction.

In all these matters, the District will not discriminate against any person because of race, age, color, sex, religion, national origin, mental or physical handicap, political affiliation, or marital status.

This policy and the DBE Affirmative Action Program established to implement this policy apply, in entirety, to all Departments and all program areas within the District, including:

- A. Capital expenditures.
- B. Operational expenditures.

DBE AFFIRMATIVE ACTION PROGRAM. To implement this policy, the District has established the DBE Affirmative Action Program, designed to accomplish results in all facets of the program.

The District will take affirmative action to:

- A. Assure that provisions of this policy are adhered to by all District organizational units, by employees and supervisory personnel, and by all recipients of financial assistance from or through the District.
- B. Initiate and maintain efforts to increase participation by disadvantaged business enterprises in District programs.
- C. Strengthen already known disadvantaged business enterprises through training and/or technical assistance.
- D. Seek out and assist in developing additional disadvantaged business enterprise resources.

- E. Identify barriers to participation in and access to the benefits and services provided by District activities, projects, and programs and develop ways to remove or modify the effect of said barriers.

The primary administrative responsibility for the DBE Affirmative Action Program, including the development of policies, procedures, guidelines, and other resource materials and review monitoring, and evaluation of the program, rests with the Purchasing Agent for all internal and external program components. The Purchasing Agent reports to the Finance Administrator.

The DBE officer has the responsibility for carrying out technical assistance for DBE's and for timely dissemination of information on available business opportunities so that DBE's will have an equitable opportunity to bid on the District's contracts.

Due to the size of the District and the small amount of Federally funded projects, the Purchasing Agent will spend about 10 percent of his/her time as the DBE officer.

All supervisors managers, and administrators have responsibilities to assure the implementation of the District's DBE Affirmative Action Program. The Director of Administrative Services will conduct an annual review to assess progress.

Like all LTD goals, equal opportunity, affirmative action, and nondiscrimination goals can only be reached through the active cooperation and support of every District employee. Each employee has the responsibility to assist in assuring the successful implementation of our DBE Affirmative Action Program.

All components of the DBE Affirmative Action Program may have my endorsement and my personal commitment for implementation.

Date

Phyllis Loobey
General Manager

**See Appendix: Definitions

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

DEFINITION: A Disadvantaged Business Enterprise (DBE) is a small business concern, defined by Section 3 of the Small Business Act and implementing regulations:

- * Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock which is owned by one or more socially and economically disadvantaged individuals; and
- * Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Socially and economically disadvantaged individuals are individuals who are citizens of the United States (or lawfully admitted permanent residents) who are:

Black American - persons having origins in any of the Black racial groups of Africa.

Hispanic Americans - persons of Mexican, Puerto Rican, Cuban, Central or South American, Portuguese, or other Spanish culture or origin, regardless of race.

Asian-Pacific Americans - persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas.

Asian-Indian Americans - persons whose origins are from India, Pakistan, or Bangladesh.

Native Americans - persons who are American Indians, Eskimos, Aleuts or Native Hawaiians.

Women - regardless of race, ethnicity, or origin; and

Other - persons found to be socially and economically disadvantaged by the Small Business Administration (SBA) pursuant to Section 8(a) of the Small Business Act.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION
COMMITMENT STATEMENT

ASSIGNED CONTRACT GOALS:

TOTAL DBE GOAL ____%

The Bidder's total DBE goal is the sum of the Bidder's proposed commitment to the goals for disadvantaged-owned and women-owned firms.

Bidders will calculate single goal percentages using the Bidder's proposed total dollar amount commitment to each single goal divided by the Bidder's total amount of bid dollars. Goals will be calculated to the nearest one-one hundredth (0.01) of a percent.

Bidders must indicate the total DBE goal they propose to achieve. Even if the assigned contract goals are 0%, Bidders must fill in all the blanks related to the Bidder's Contract goals. FAILURE TO DO SO SHALL RENDER THE BID NON-RESPONSIVE.

BIDDER'S CONTRACT GOALS:

DISADVANTAGED-OWNED ____%

TOTAL DBE GOAL ____%

By the time specified within the bid, all Bidders must be prepared to provide documentation regarding the identification of DBE's (by bid item amount(s)) used to meet the contract goals, and affirmative action steps taken. FAILURE TO PROVIDE THIS DOCUMENTATION SHALL RENDER THE BID NON-RESPONSIVE.

By signing this proposal the Bidder assures that reasonable efforts have been made to meet the goal (s) for the DBE participation specified for this contract; accepts the DBE Policy Statement on Page 13 of the Supplemental Required Contract Provisions, Disadvantaged Business Enterprise (DBE); and will include the statement in all subcontracts entered into under this contract.

BY: _____

TITLE: _____

SUPPLEMENTAL REQUIRED CONTRACT PROVISIONS
FOR DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PARTICIPATION

FEDERAL AID PROJECTS

I. In accordance with 49 CFR 23, all Bidders and all contractors shall agree to abide by and take all necessary and reasonable steps to comply with the following statements:

DBE POLICY STATEMENT

DBE POLICY: It is the policy of the United States Department of Transportation (DOT) and Lane Transit District that minority business enterprises as defined in 49 CFR 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR 23 apply to this agreement.

DBE OBLIGATION: The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of Department of Transportation-assisted contracts.

DBE APPLICABILITY: This applies to all projects and contracts financed by the Federal Transportation Administration (FTA) or through the Oregon Department of Transportation (Department) without regard to the funding source. Recipients and contractors shall conform to all applicable civil rights laws, orders, and regulations including Section 504 of the Rehabilitation Act of 1973. Recipients and their contractors shall not discriminate on the basis of race, age, sex, color, religion, national origin, mental or physical handicap, political affiliation, or marital status in the award and performance of Department contracts.

The DBE Policy Statement shall be included in all subcontracts entered into under this contract.

II. In accordance with 49 CFR 23, Subpart D, Section 23.62, all Bidders and all contractors shall agree to abide and take all necessary and reasonable steps to comply with the following goals.

III. In accordance with 49 CFR Part 23, Subpart A, Section 23.5, all Bidders and contractors shall agree to abide and take all necessary and reasonable steps to comply with the following goals.

IV. Contractors are encouraged to investigate the services offered by female and minority-owned banks and use these banks whenever possible.

V. In order to meet the District's DBE goals, the District may set aside contracts to be bid on by certified DBE's only. Set-asides will only be used where at least three (3) DBE's with the capabilities consistent with contract requirements exist so as to permit competition.

VI. DBE GOALS - In order to increase participation by DBE's in contracts, LTD has assigned goals to contracts. Goals for the project are listed on a sheet titled "DBE Participation, Commitment Statement" immediately in front of these supplemental required contract provisions in the Bidder's Proposal. Bidders will not be credited for exceeding any specified goal.

Participation may be accomplished by including Certified DBE in any part of the contract work that is necessary to complete the contract obligation. A DBE will be recognized as a prime contractor, subcontractor, joint venture, material supplier, or consultant.

- A. Bidders may count toward DBE goals only expenditures made to perform a commercially useful function in the work of the contract. A DBE is considered to perform a commercially useful function when the DBE is responsible for execution of a distinct element of the contract work and is carrying out the responsibilities by actual performing, managing, and supervising the work involved. To determine whether a DBE is performing a commercially useful function, LTD will evaluate the amount of work subcontracted, industry practices, and other relevant factors.
- B. In a joint venture, only the percentage of the dollar value of the contract equal to the percentage of the work under the control of the DBE partner in the joint venture will be counted toward the goals.
- C. Only 60 percent (60%) of the total dollar value of purchases of supplies of a regular dealer will count toward the goals.

To be considered for participation in a bid, firms must be certified as a DBE by the following:

Oregon Department of Transportation
EEO, MBE and Labor Compliance Unit
Construction Section
Transportation Building Salem, OR 97310

A contract that is assigned a zero-percent goal does not relieve the contract participants of their commitment to the DBE Policy Statement.

VII. CHALLENGE PROCEDURE - A third party may challenge the certification or the pending certification of a DBE.

During LTD's review of the challenge submitted by a third party, the presumption that the challenged party is eligible to participate in Department of Transportation-assisted contracts as a DBE will remain in effect until a final determination is made which negates this presumption.

Final determination may be appealed to the Department of Transportation in accordance with the appeal procedures set up under the Department's Disadvantaged Business Enterprise regulations published in the Federal Register on March 31, 1980.

A. Challenge Procedure: Phase One

1. The District will accept and evaluate written challenges to the social and economic status of businesses certified or seeking certification as a DBE except in cases where the business has a current certification from the Small Business Administration.
2. The challenging party is required to submit information relevant to a determination that the challenged party is not socially and economically disadvantaged.
3. The District will make a decision on whether or not there is reason to believe that the challenged party is not, in fact, socially and economically disadvantaged. The decision is based on the information provided.
 - a. If there is a reason to believe that the challenging party is a socially and economically disadvantaged business/individual, the District will inform the challenging party of its decision. This ends the proceeding.
 - b. If there is reason to believe that the challenged party is not socially and economically disadvantaged, the District will continue its evaluation under the challenge procedure.

B. Challenge Procedure: Phase Two

1. The District will evaluate the information submitted by the challenged party in response to the challenge and make a proposed determination of the social and economic status of the challenged party. Following its determination, the District will provide written notification to each party of its proposed determination, and the rationale for the determination. Following this, the District will provide an

opportunity to the parties for an informal hearing to respond to the determination.

2. The District will make a final determination within a reasonable period of time and provide written notification to both parties. This notification should advise the challenged party of the appeal procedures provided under the regulation.

C. **Certification Appeals**

A business/individual that believes they have been wrongly denied certification on the basis of a determination under the District's certification process or challenge procedures may file an appeal with the Department of Transportation.

During the appeal process, the presumption that the business/individual is socially and economically disadvantaged remains in effect unless otherwise advised by the Department or until certification has been denied by the Department.

1. **Filing** - The appeal must be filed not later than 180 days after the certification has been denied by the District.
2. **Investigation** - Following submission of a request for appeal from the party denied certification, the Department will conduct an investigation pursuant to the Department's Title IV investigation procedures.
3. **Determination** - The Secretary will make one of the following determinations:
 - a. Certification of the DBE or DBE Joint Venture
 - b. Denial of certification to participate in DOT-assigned contracts until a new application for certification is approved by the recipient.

VIII. DOCUMENTATION OF DBE PARTICIPATION - Bidders shall complete the DBE Participation Commitment Statement included in the Bidder's Proposal in accordance with the instructions contained on the form. Failure to complete the form as instructed shall render the bid non-responsive. Unless stated in the bidding documents, generally the following will apply.

- A. Within five (5) calendar days after the bid opening, all bidders must be prepared to provide documentation regarding the identification of DBE's used to meet the contract goals. Identification must include bid item(s) and dollar amount(s).
- B. By 5:00 p.m. on the fifth calendar day following determination of the low bidder, the low bidder shall provide this documentation to the Purchasing Agent, 3500 E. 17th Avenue, Eugene, Oregon, 97403, or P. O. Box 7070, Eugene, Oregon, 97401.
- C. If the bidder's DBE contract goals are less than the assigned contract goals, the low bidder, as requested, shall provide additional written documentation regarding the good faith efforts made and the affirmative action steps taken prior to the bid opening date to achieve the assigned goals.

- D. Failure of the low bidder to provide the documentation specified above shall render the low bidder ineligible to execute the contract and the low bidder's bid shall be rejected.

LTD, at its option, may accept a late filing of the documentation and award the contract if deemed in the public interest under the circumstances.

In the event that the low bidder fails to provide the documentation required above, the next lowest bidder shall provide such documentation to the Purchasing Agent, 3500 E. 17th Avenue, Eugene, Oregon, 97403, or P. O. Box 7070, Eugene, Oregon 97401, after receiving actual notification to do so. This same procedure will be followed until a successful low bidder is determined or all bids may be rejected.

IX. CONTRACT AWARD SELECTION PROCEDURES - To decide whether the total bid amount offered by a bidder is reasonable, LTD will use the same criteria that it would use if only a single bid was received.

In the event a single bid is received, LTD will conduct a price and/or cost analysis of the bid. A price analysis is the process of examining the bid and evaluating the separate elements. It should be recognized that a price analysis through comparison to other similar procurements must be based on an established or competitive price of the elements used in the comparison. The comparison must be made to a purchase of similar quantity and involving similar specifications. Where a difference exists, detailed analysis must be made of this difference and costs attached thereto.

Where it is impossible to obtain a valid price analysis, it may be necessary for LTD to conduct a cost analysis of the bid price.

The price and/or cost analysis shall be made by competent and experienced auditors or price analysts; an engineer's estimate or comparison of the price involved is insufficient.

The conclusion for disposition of the contract will be in the best interest of LTD and will assure that LTD will meet its affirmative action commitment to its DBE overall goal.

Criteria to ensure that prime contracts are awarded to bidders who meet DBE goals are:

- A. If the low bidder offering a reasonable bid meets or exceeds the assigned goal, that bidder will be recommended for the contract award.
- B. If the low bidder offering a reasonable bid does not meet the assigned goal, to remain in competition for the contract award the bidder must furnish LTD, within five (5) calendar days following determination of the low bidder, written evidence of the affirmative action steps that were taken in an attempt to meet the goal. LTD will review this documentation to determine if the affirmative action steps taken are satisfactory. As a result of the review, if the affirmative action steps are taken, and are:
1. Satisfactory, that bidder will be recommended for the contract award.
 2. Not satisfactory, that bidder will not be recommended for the contract award.

- C. If the low bidder offering a reasonable bid is not recommended for the contract award, LTD will proceed to the second low bidder and will repeat the process described in Paragraphs A through C. If necessary, LTD will consider all responsive bidders in ascending order.

X. AFFIRMATIVE ACTION STEPS - In addition to signing the DBE Participation Commitment Statement contained in the Proposal, the bidder who has not achieved the assigned goal on this project shall document the steps taken to obtain participation, such as:

- A. Attendance at a pre-bid meeting, if any, scheduled by LTD to inform the DBE of subcontracting opportunities in this contract work.
- B. Advertising in general circulation media, trade association publications, and minority--focus media at least ten (10) days before bids or proposals are due. If ten (10) days are not available, a shorter reasonable time will be acceptable.
- C. Use of the Department of Transportation's Certified DBE Directory.
- D. Written notification to DBE that their interest in the contract is solicited.
- E. Efforts to select portions of the work proposed to be performed to increase the likelihood of achieving the assigned goal.
- F. Efforts to negotiate for specific sub-bids, including at a minimum:
1. The name, address, or telephone number of each DBE contacted;
 2. A description of the information provided regarding the plans and specifications for the portions of the work to be performed;
 3. A statement of why additional agreements were not reached.
- G. Reasons for rejecting as unqualified any DBE contacted.
- H. Efforts to provide assistance in obtaining any necessary bonding or insurance.
- I. Efforts to use the service of banks owned and controlled by minorities or women.
- J. Efforts to assist the DBE in purchasing materials and supplies.
- K. Any other affirmative action efforts.

XI. RECORDS AND REPORTS - The contractor shall provide monthly documentation to LTD that it is subcontracting with or purchasing materials from the DBE identified to meet contract goals. The contractor shall notify LTD and obtain its written approval before replacing a DBE or making any change in the participation listed. If a DBE is unable to fulfill the original obligation to the contract, the contractor must demonstrate to LTD its good faith efforts to replace that DBE with another. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to LTD.

Any DBE participation attained after the goal commitment has been satisfied should be reported to LTD.

XII. CONTRACTOR'S DBE LIAISON OFFICER - The contractor shall designate a DBE liaison officer who will administer the contractor's DBE program.

XIII. CERTIFIED DBE DIRECTORY - LTD is taking affirmative action to seek out, identify, certify, and compile a directory of DBEs that wish to participate in its contracting activities. LTD strongly encourages contractors to assist in this effort. The current Certified DBE Directory is included with the proposal form. The Directory can also be obtained by phoning (503) 378-6293.