



Expires – Upon Issuance of LPP

PROMPT PAYMENT CERTIFICATION

I. BACKGROUND

Since March 2020, the Division of Local Assistance (DLA) incorporated Exhibit 9-F: Disadvantaged Business Enterprise (DBE) Running Tally of Payments in the Local Assistance Procedures Manual (LAPM) for required use on Local Public Agency (LPA) federal-aid projects. The purpose of Exhibit 9-F is to keep a running tally of actual payments to DBE firms for work the prime contractor or consultant committed to them at the time of contract award per the requirements of 49 CFR 26.37(c).

In compliance with 49 CFR 26.29(a), CBPC 7108.5, and CCC 3321, DLA created Exhibit 9-P: Prompt Payment Certification to monitor compliance by prime contractors to promptly pay its subcontractors and subconsultants. Exhibit 9-P is used to capture monthly prime contractor and consultant's actual payments to all its DBE and non-DBE subcontractors and subconsultants.

The new Exhibit 9-P collects the same DBE information as Exhibit 9-F; therefore, Exhibit 9-F will be phased out.

II. POLICY

Effective September 1, 2023, the new Exhibit 9-P: Prompt Payment Certification will replace Exhibit 9-F. LPAs are to require all prime contractors or consultants to use Exhibit 9-P until the prime contractor or consultant completes all DBE and non-DBE subcontracting or material supply activity on any federal-aid funded project. This change aligns closer with the requirements in 49 § CFR 26.29(a), 49 CFR § 26.37(c), BPC 7108.5, and CCC 3321.

This change additionally requires Caltrans to effectuate changes in the LAPM at Chapters 9 and 16 in addition to Exhibits 10-R and 12-G. See Section IV for details.

III. PROCEDURE

For projects awarded on or after March 1, 2020, but before September 1, 2023:

After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.

For projects awarded on or after September 1, 2023:

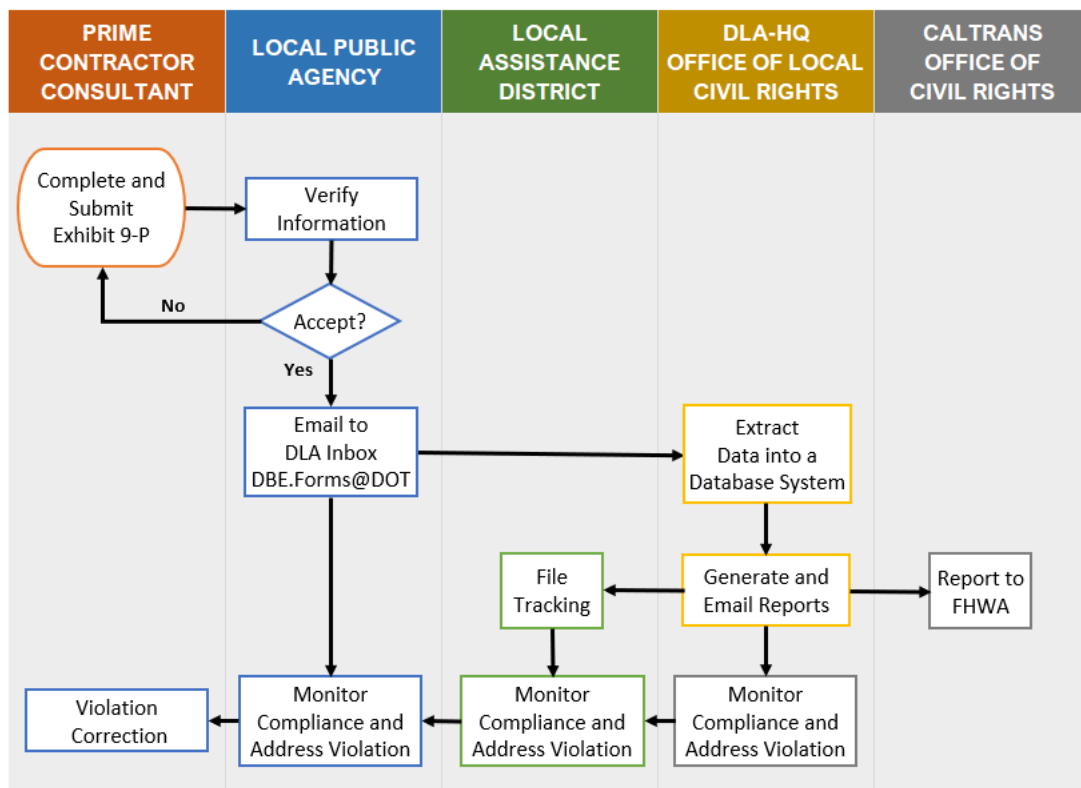
Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month in which payments were made, the prime contractor or consultant must now submit

Exhibit 9-P to the LPA administering the contract. If the prime contractor or consultant does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.

A failure to complete the Prompt Pay reporting requirement may result in the withholding of the prime contractor or consultant’s next progress payment and/or final payment. Additionally, Caltrans may require the LPA to issue a corrective action plan and/or it may require the LPA to suspend the contract in whole or in part if the prime contractor or consultant does not make up the shortfall.

LPAs must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LPA must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from prime contractor or consultant.

The following swim lane diagram shows the process of monitoring compliance by prime contractors to promptly pay its subcontractors and generating the Running Tally of Actual Attainment summary reports.





IV. APPLICABILITY/IMPACTS

This Office Bulletin applies to all federal-aid projects that have sub-contracting opportunities.

The following documents are updated to incorporate the revised policy and procedures associated with this Office Bulletin:

Chapter / Exhibit	New text (supersedes existing text)
<p>LAPM Chapter 9.6 Prompt Payment Certification [New subsection]</p>	<p>For projects awarded on or after September 1, 2023: the prime contractor or consultant must submit Exhibit 9-P to the LPA administering the contract by the 15th of the month following the month of any payment(s). If the prime contractor or consultant does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.</p> <p>A failure to complete the Prompt Pay reporting requirement may result in the withholding of the prime contractor or consultant’s next progress payment and/or final payment. Additionally, Caltrans may require the LPA to issue a corrective action plan and/or it may require the LPA to suspend the contract in whole or in part if the prime or consultant does not make up the shortfall.</p> <p>LPA’s must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LPA must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from prime contractor or consultant.</p>
<p>LAPM Chapter 9.7 Running Tally of Actual Attainments</p>	<p>For projects awarded on or after March 1, 2020, but before September 1, 2023: after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.</p> <p>For projects awarded on or after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the prime contractor or consultant must now submit Exhibit 9-P to the LPA administering the contract. If the prime contractor or consultant does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.</p>
<p>LAPM Chapter 16.9 DBE, Role of the RE Activity 5</p>	<p>Ensure Running Tally of Actual Attainments</p> <p>For projects awarded on or after March 1, 2020, but before September 1, 2023: after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.</p>



	<p>For projects that are awarded on or after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the prime contractor or consultant must now submit Exhibit 9-P to the LPA administering the contract. If the prime contractor or consultant does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.</p>
<p>Exhibit 10-R Article XVIII DBE Participation L.</p>	<p>For projects awarded on or after March 1, 2020, but before September 1, 2023: after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.</p> <p>For projects awarded on or after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract. If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.</p>
<p>Exhibit 10-R Article XXXI Prompt Payment from the Local Agency to Consultant</p>	<p>ARTICLE XXXI PROMPT PAYMENT</p> <p>A. PROMPT PAYMENT FROM THE LOCAL AGENCY TO CONSULTANT The LOCAL AGENCY shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the LOCAL AGENCY fails to pay promptly, the LOCAL AGENCY shall pay interest to the CONSULTANT, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the LOCAL AGENCY shall act in accordance with both of the following:</p> <ol style="list-style-type: none"> (1) The LOCAL AGENCY shall review each payment request as soon as feasible after receipt to verify it is a proper payment request. (2) The LOCAL AGENCY must return any payment request deemed improper by the LOCAL AGENCY to the CONSULTANT as soon as feasible, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request. <p>B. PROMPT PAYMENT CERTIFICATION For projects awarded on or after September 1, 2023: the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract by the 15th of the month following the month of any payment(s). If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.</p> <p>The LOCAL AGENCY must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LOCAL AGENCY must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the CONSULTANT.</p>



<p>Exhibit 12-G 1(G) Running Tally of Attainments</p>	<p>For projects awarded on or after March 1, 2020, but before September 1, 2023:</p> <p>After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.</p> <p>For projects that are awarded on or after September 1, 2023:</p> <p>Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the prime contractor must now submit Exhibit 9-P to the Local Agency administering the contract. If the Contractor does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.</p>
<p>Exhibit 12-G 10. Prompt Payment from the Agency to the Contractors</p>	<p>10. PROMPT PAYMENT</p> <p>A. FROM THE AGENCY TO THE CONTRACTORS</p> <p>The Local Agency shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from the Contractor on a professional service contract. If the Local Agency fails to pay promptly, the Local Agency shall pay interest to the Contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the Local Agency shall act in accordance with both of the following:</p> <ol style="list-style-type: none"> 1. The Local Agency shall review each payment request as soon as feasible after receipt to verify it is a proper payment request. 2. The Local Agency must return any payment request deemed improper by the Local Agency to the Contractor as soon as feasible, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request. <p>B. PROMPT PAYMENT CERTIFICATION</p> <p>For projects awarded on or after September 1, 2023:</p> <p>The Contractor must submit Exhibit 9-P to the Local Agency administering the contract by the 15th of the month following the month of any payment(s). If the Contractor does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.</p> <p>The Local Agency must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfall to the DBE commitment and prompt payment issues until the end of the project. The Local Agency must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the Contractor.</p>
<p>Exhibit 9-P: Prompt Payment Certification</p>	<p>New Exhibit</p>



Recommended:	<u>Original signature on file</u>	<u>May 16, 2023</u>
	Hau Doan, Senior Transportation Engineer Office of Guidance & Oversight	Date
Approved:	<u>Original signature on file</u>	<u>May 16, 2023</u>
	Mack Yenjai, Chief (Acting) Office of Guidance & Oversight	Date