



## DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM ADMINISTRATIVE RECONSIDERATION

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The following procedures shall be used by SANDAG to fairly and promptly respond to any requests for Administrative Reconsideration (AR) received regarding the procurement or contracting processes. SANDAG will only review AR requests submitted by an actual Proposer/Bidder.

SANDAG will consider all AR requests received by SANDAG by 4 P.M. on the deadlines discussed below. The effective date of the AR request filing shall be the date SANDAG electronically or physically receives the written AR request. An AR request that does not strictly comply with these procedures will be rejected.

SANDAG shall not be liable for any costs incurred by an entity filing an AR request or to any participant in the AR request process, on any basis, express or implied.

### I. TIMING REQUIREMENTS FOR AR REQUESTS

If, after opening and evaluating all proposals/bids, a Proposer/Bidder is determined to be nonresponsible or nonresponsive for failure to meet a DBE goal or provide Good Faith Efforts, an AR request relating to any such determination must be filed with the SANDAG in writing within five (5) calendar days of receipt of notice of nonresponsiveness or nonresponsibility from SANDAG. Failure to file an AR request concerning a determination of nonresponsiveness or nonresponsibility relating to a DBE matter prior to this deadline constitutes a waiver of any AR request on these grounds by the Proposer/Bidder.

In the event a Proposer/Bidder requests AR, all requirements of the AR request materials as set forth below must be met, including the timely submission of all relevant evidence. The Proposer/Bidder will thereafter be afforded an administrative hearing upon request. Proposer/Bidder shall notify SANDAG of any such hearing request prior to SANDAG issuing the AR request decision.

The SANDAG Disadvantaged Business Enterprise Liaison Officer (DBELO) shall serve as the AR official overseeing the AR process. The DBELO or designee will not have played any role in the original determination that the Proposer/Bidder is nonresponsive or nonresponsible. The DBELO will review the administrative record concerning the request for AR, and any other materials submitted with the AR request.

Any request for reconsideration that fails to state a valid basis for reconsideration, is untimely, is based on repetition of arguments previously raised, or simply expresses disagreement with the AR request decision, will be rejected by the DBELO for failure to state a claim that is eligible for AR.

### II. CONTENT REQUIREMENTS FOR AR REQUESTS

As part of its AR request, the Proposer/Bidder must provide written documentation concerning the issue of whether it met the DBE goal, made adequate Good Faith Efforts to do so, and/or failed to provide required documentation. **No new DBE evidence, including a revised DBE commitment form or Good Faith Effort documentation shall be considered in the reconsideration process.** The Proposer/Bidder may also request a meeting with the DBELO or designee to discuss whether it met the goal or made adequate GFE to do so.

The AR request also must state the law, rule, regulation, or policy upon which the AR request is based. The scope of reconsideration shall be whether the DBE-related determination of nonresponsibility or nonresponsiveness was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with

law. All materials submitted in an AR request shall be considered a public record unless disclosure is prohibited by law or regulation.

All AR requests and related statements must be emailed to the DBELO or physically delivered to SANDAG during its normal business hours with proof of delivery to SANDAG. AR requests shall be addressed to:

Diversity and Equity Department, Attn: DBELO  
SANDAG Solicitation No. [Add Solicitation Number]  
San Diego Association of Governments  
401 B Street, Suite 800  
San Diego, CA 92101  
Elaine.Richardson@sandag.org

Communications to SANDAG concerning the AR request must only be directed through the DBELO or his/her designee. Violation of this prohibition on all other communications may result in a determination by SANDAG that the AR request process cannot proceed. Any AR requests determined to be incomplete will be rejected.

### **III. AR REQUEST REVIEW BY THE DBELO**

The DBELO shall review the AR request to determine if it is in compliance with the deadline, format, content, and notice requirements set forth in these procedures. If an AR request does not meet such requirements, it may be rejected without further consideration. A notice of such rejection shall be sent to the AR requestor.

The DBELO or designee will review the AR request in a timely manner and may hold an informal meeting with other SANDAG staff if deemed necessary in order to complete the investigation. The DBELO or designee will prepare a recommendation regarding the Proposer/Bidder's AR request, in writing, to the SANDAG Chief Operations Officer or designee within ten (10) business days of the date the AR request was filed. Only materials included with the AR request at time of submittal will be considered. The Chief Operations Officer or designee will either sustain or reject the AR request in writing based upon the recommendation of the DBELO and in the best interests of SANDAG. This decision will be communicated in writing to the AR requestor.

The result of the reconsideration process is not administratively appealable to any other person within SANDAG or the federal Department of Transportation.

6/2/2021