



**SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY**

**DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM**

REVISED September 29, 2003

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY
Disadvantaged Business Enterprise Program

Section I: Objective/Policy Statement

The San Diego County Regional Airport Authority (Authority) has established a Disadvantaged Business Enterprise (DBE) Program (Program) in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The Authority has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, the Authority has signed an assurance that it will comply with 49 CFR Part 26.

This Program reaffirms the Authority's commitment to its policy of nondiscrimination and the full realization of equal opportunity in all of the Authority's contracting activities.

This Program will become effective upon its adoption by the Authority's Board of Directors.

It is the policy of the Authority to ensure that all businesses, including DBEs, as defined herein, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the Authority's policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that this Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and,
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Robert H. Silvas, Director - Small and Emerging Business Department, has been delegated as the Authority's DBE Liaison Officer. In that capacity, Mr. Silvas is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the Authority in its financial assistance agreements with the DOT.

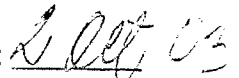
The Authority has disseminated this policy statement to the Authority's Board of Directors and all the components of the Authority's organization. In addition, the Authority has mailed this policy statement to DBE and non-DBE business communities that perform work for the Authority (or its predecessor, the San Diego Unified Port District) on DOT-assisted contracts.

Signed:

President & Chief Executive Officer:



Date:



Section II: Applicability

The Authority is a recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.* and therefore 49 CFR Part 26 applies.

Section III: Scope

This Program shall be applicable to all bidders or proposers on, and recipients of, the Authority's federally assisted contracts, subcontracts and concessions.

The provisions of this Program are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Program, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this Program, or the validity of its application to other circumstances.

Section IV: Definitions

The Authority adopts by reference and incorporates into this Program the definitions found in 49 CFR Part 26, Section 26.5.

Section V: Non-Discrimination Requirements

The Authority will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering this DBE Program, the Authority will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of this Program with respect to individuals of a particular race, color, sex, or national origin.

Section VI: Record-Keeping Requirements

Reporting to the DOT (49 CFR 26.11(b))

We will report DBE participation to DOT as follows:

We will submit annually DOT Form 4630, as modified for use by FAA recipients.

Bidders List (49 CFR 26.11(c))

The Authority will create and maintain a bidders list consisting of all firms (DBE and non-DBE) bidding on prime contracts and bidding or quoting subcontracts on DOT-assisted projects. The following information will be included for every such firm:

1. Company Name
2. Address
3. Telephone and Facsimile Number; and, E-mail Address
4. DBE/non-DBE Status
5. Number of Years in Business
6. Annual Gross Receipts

Through a contractual clause, all prime bidders will be required to furnish this information on their subcontractors with their bids. Prime bidders also will be surveyed to obtain the information on those subcontractors that were not listed in the prime bidders' bids. The purpose of this requirement is to allow use of the bidders list approach to assist in the calculation of the Authority's overall DBE goal.

Section VII: DBE Program Updates

The Authority will provide to the DOT updates representing significant changes to this Program. As a recipient of federal funds in excess of \$250,000 for airport planning or development, the Authority will continue to carry out this Program until all funds from DOT financial assistance have been expended.

The Authority will submit its required updated goals annually (on August 1 of the applicable federal fiscal year) if it is anticipated that federal improvement funds in excess of \$250,000 will be awarded to the Authority in that federal fiscal year.

Section VIII: DBE Liaison Officer (DBELO)

The Authority has designated the following individual as its initial DBE Liaison Officer:

Robert H. Silvas
San Diego County Regional Airport Authority
P.O. Box 82776
San Diego, CA 92138-2776
(619) 400-2567
rsilvas@san.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that the Authority complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Authority's President & Chief Executive Officer concerning DBE Program matters. The DBELO will ensure the cooperation of the Authority's operational staff as necessary for effective implementation of this Program.

The DBELO is responsible for developing, implementing and monitoring this Program, in coordination with other appropriate officials. The DBELO, through assigned staff, will gather and report statistical data and other information as required by the DOT, review third-party contracts and purchase requisitions for compliance with this Program, and

ensure that bid notices and request for proposals are available to DBEs in a timely manner. To further ensure that DBEs have equal opportunity to participate in DOT-assisted contracts, the DBELO will:

- Set overall annual DBE goals
- Analyze and report the Authority's progress toward DBE goal attainment and identify ways to improve progress
- Advise the President & Chief Executive Officer and/or the Board of Directors through the President & Chief Executive Officer on DBE matters and achievement
- Evaluate contractor compliance with good faith efforts
- Promote centralized DBE certification through the California Unified Certification Program (CUCP)
- Plan and conduct DBE training seminars

As the primary contact for the Authority's DBE Program, the DBELO and assigned staff will ensure that assistance in preparing bids and obtaining bonds and insurance is provided to DBEs desiring to participate on DOT-assisted projects. Under direction of the DBELO, DBE Program staff will participate in pre-bid meetings, assist potential DBEs with the DBE certification process, conduct outreach to DBEs and community organizations to advise them of contract opportunities, maintain a current directory of certified DBEs and provide collateral support required to ensure the success of the DBE Program.

Section IX: Federal Financial Assistance Agreement Assurance

As a recipient of DOT Airport Improvement Program (AIP) funds, the Authority has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 49 CFR 26.13(a)

"The San Diego County Regional Airport Authority shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26, and as approved by the DOT, is incorporated by reference in this agreement. Implementation of this Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the San Diego County Regional Airport Authority of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases,

refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)”.

The Authority will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

Contract Assurance: 49 CFR 26.13(b)

“The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this 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 this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.”

Section X: DBE Financial Institutions

It is the policy of the Authority to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

The Authority shall use the CUCP Directory (defined below) to identify any DBE financial institution in the Authority’s local community. The Authority also subscribes to the following business publications, among others, whose focus includes the financial and small business markets, in its efforts to identify and locate potential DBE financial institutions: San Diego Business Journal (newspaper), San Diego Metropolitan (magazine), Voice and Viewpoint (newspaper), La Prensa (newspaper), SBA ProNet (electronic), and CUCP database (electronic).

Note: as of the date of adoption of this Program, the County of San Diego does not currently have any depository financial institutions that are owned and controlled by socially and economically disadvantaged individuals.

Section XI: DBE Directory

The Authority shall maintain a directory identifying all firms eligible to participate as DBEs. The directory shall be maintained through the Authority’s participation in the California Unified Certification Program (CUCP) and is revised on an annual basis. The CUCP Directory includes relevant company information, such as each firm’s name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. In addition, the CUCP directory provides a vehicle for bidders, proposers and contractors to obtain information regarding DBEs.

The CUCP Directory may be accessed through the California DOT's website at www.dot.ca.gov.

Section XII: Overconcentration

The Authority has not identified any over-concentration of DBEs in any type of work.

Section XIII: Business Development Programs

At this time, the Authority has not established a business development program, as described under 49 CFR 26.35.

Section XIV: Prompt Payment Mechanisms

The Authority will include the following clause in each DOT-assisted prime contract:

“Pursuant to 49 CFR Part 26, Section 26.29 and in conformance with the limits set forth by the California Public Contract Code, the Contractor shall pay each subcontractor under this prime contract for satisfactory performance of their subcontract work no later than ten (10) days after receipt of each progress payment. Within sixty (60) days of satisfactory completion of all work required of the subcontractor, the Contractor shall release retainage payments withheld from subcontractors. Any delay or postponement of payment among parties may take place only for good cause, with the Authority's prior written approval. The Contractor shall pay to the subcontractor a penalty of two (2) percent of the amount due per month for every month that payment is not made. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to attorneys' fees and costs. The Contractor will not be paid by the Authority for work performed by a subcontractor unless and until the Contractor ensures that the subcontractors are promptly paid for the work they have performed by signing the affidavit required by 1C-9.2(C)”.

Section XV: Monitoring and Enforcement Mechanisms

The Authority will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with this Program, so that the DOT can take the appropriate steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR 26.109.

The Authority will also consider similar action under its own legal authorities, including responsibility determinations in future contracts. Among other things, the Authority shall use contractual remedies, such as contract termination rights, to enforce this Program.

In addition, the Authority has implemented the following procedures to ensure compliance and remedy non-compliance with this Program:

1. Contractual language specifies that the decision to award the contract, or re-advertise, will be conditioned upon satisfaction of demonstrated performance of good faith efforts and the respondent being responsive.
2. Contractual language also requires contractors to sign the Assurance of DBE Participation form as required by the Federal Supplemental Contract Clauses and Requirements for Construction Contracts, which requires bidders to comply with 49 CFR Part 26. Failure to meet these requirements may be considered grounds for rejecting the bid.
3. DBE participation verification and prompt payment process:
 - a. Prior to award of a contract, a prime contractor must submit a Letter of Intent to DBE subparticipants listed in their response. The Letter of Intent must identify the scope of work and the estimated dollar value of the subcontract. The Letter of Intent must be on the prime contractor's letterhead, signed and countersigned by the DBE.
 - b. After award, a prime contractor is required to submit to the Authority monthly Verification of Payment to Subcontractors reports indicating how much each subcontractor has been paid for the month and to-date. The Authority will compare these reports to bid commitments and will follow up with the prime contractor in writing regarding any discrepancies.
 - c. If applicable, Authority DBE staff may also monitor the Labor Compliance Program requirements for all public works contracts; therefore, certified payroll records from DBE subcontractors as well as other subcontractors are collected and verified weekly.
4. Contractual language also requires bidders to make good faith efforts to replace any DBE unable to perform with another DBE. The Authority must approve substitutions after bid opening. Approval is subject to verification of the inability of a DBE to perform.

Section XVI: Quotas

The Authority does not use quotas in any way in the administration of this Program.

Section XVII: Overall Goal

The Authority's overall DBE goal will be established on an annual basis. The overall DBE participation goal for each fiscal year will be a specified percentage of the federal financial assistance to be expended in DOT-assisted contracts.

Section XVIII: Goal Methodology

The following is a summary of the process that the Authority will use to establish its annual overall DBE goal for each year, based on the criteria set forth in 49 CFR Part 26:

Step 1: Base Figure Calculation (49 CFR 26.45(c))

The Authority will determine the base figure for relative availability of DBEs. The base figure is a percentage figure calculated by dividing a number representing ready, willing, and able available DBEs, by a number representing all ready, willing, and able available firms.

The data source(s) used to derive the numerator and denominator in the calculation above will be all contractors (primes and subs) that bid on projects with similar scopes of work.

Step 2: Adjustments (49 CFR 26.45(d))

After calculating the base figure for relative availability of DBEs, the Authority will examine evidence to determine whether any adjustment is needed to the base figure in order to arrive at the overall goal. This step is intended to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination.

Step 3: Consultation and Public Notice

Before establishing the overall goal each year, the Authority will consult with local contractors and professional groups, community organizations and applicable internal departments to obtain information concerning: (i) the availability of disadvantaged and non-disadvantaged businesses; (ii) the effects of discrimination on opportunities for DBEs; and (iii) the Authority's progress in establishing a level playing field for the participation of DBEs.

Following this consultation, the Authority will publish a public notice of the proposed overall goal. This notice will inform the public that the proposed goal and its rationale are available for inspection during normal business hours at the Authority's Administrative Offices for thirty (30) days following the date of the notice. The public notice will also inform the public that the Authority and the DOT will accept comments on the goals for forty-five (45) days from the date of the notice. The Authority's overall goal submission to DOT will include a summary of information and comments received during this public participation process and the Authority's responses.

Step 4: Submission to the DOT

The Authority will submit its overall goal to the DOT on August 1 of each year, and will begin using the submitted goal on October 1 of each year, unless the Authority receives other instructions from the DOT.

Section XIX: Breakout of Estimated Race-Neutral and Race-Conscious Participation

The Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Authority will use the following race-neutral means to increase DBE participation:

- Reviewing solicitations, time of bid openings and accessibility to bid documents/information in ways to facilitate subcontractor participation;
- Providing assistance in overcoming barriers such as obtaining bonding or financing to increase the availability of contractors;
- Providing technical assistance and other services on such topics as contracting procedures, business plans and financial programs to increase the availability of contractors and assist them in being competitive;
- Providing prospective bidders with lists of possible subcontractors, suppliers and vendors as related to each specific contract opportunity through print and electronic means; and
- Ensuring outreach on the distribution of notices to bid to all contractors in the Authority's database.

The Authority will submit annually along with its overall DBE goal, its percentage estimate of the portion of the overall goal that will be obtained through race-neutral DBE participation. This annual submittal of the estimated race-neutral percentage will specifically detail the methodology used to determine the race-neutral portion.

In order to ensure that this Program is narrowly-tailored to overcome the effects of discrimination, if the Authority uses contract goals, then the Authority will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

The Authority will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

Section XX: Contract Goals

The Authority will establish and use contract goals to meet any portion of the overall goal that the Authority does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.

Furthermore, the Authority will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The Authority need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work, etc.)

The Authority will express its contract goals as a percentage of the total amount of the respective DOT-assisted contract.

Section XXI: Good Faith Efforts

Demonstration of Good Faith Efforts (49 CFR 26.53(a) and (c))

The obligation of the bidder/proposer is to make good faith efforts. The bidder/proposer can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to 49 CFR Part 26.

The DBELO or his or her representative is responsible for determining whether a bidder/proposer who has not met the applicable contract goal has documented sufficient good faith efforts to be regarded as a responsible bidder/proposer.

We will ensure that all information is complete and accurate and adequately documents the bidder's/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted

The Authority will treat each bidder/proposer's compliance with good faith efforts requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require bidders/proposers to submit the following information at the time of bid/submittal:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform; and
- The dollar amount of the participation of each DBE firm.

Prior to the award of a contract, the bidder shall submit the following:

- A letter of Intent between the prime contractor and each DBE subcontractor that has been listed as a subcontractor in the bid submittal and whose participation the prime contractor submits to meet a contract goal. Both the prime contractor and the DBE subcontractor must sign each Letter of Intent.
- If the contract goal is not met, demonstrated evidence of the prime contractor's good faith efforts.

After award of a contract, the following is required:

- The prime contractor must submit to the Authority monthly Verification of Payment to Subcontractors reports indicating how much each subcontractor has been paid for the month and to-date. The Authority will compare these reports to bid commitments and will follow up with the prime contractor in writing regarding any discrepancies.

Administrative Reconsideration (49 CFR 26.53(d))

Within three (3) days of being informed by the Authority that a bidder's/proposer's good faith efforts were not sufficient, a bidder/proposer may request administrative reconsideration. This request must be in writing to the following reconsideration official:

Purchasing Director
San Diego County Regional Airport Authority
3225 North Harbor Drive
San Diego, CA 92101

The reconsideration official will not have played any role in the original determination that the bidder/proposer did not make/document sufficient good faith efforts.

As part of this reconsideration, the bidder/proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/proposer will have the opportunity to meet in person with the Authority's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/proposer will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. A written decision on reconsideration shall be sent to the bidder/proposer explaining the basis for the finding that the bidder did or did not meet

the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the DOT.

Good Faith Efforts when a DBE is replaced on a contract (49 CFR 26.53(f))

The Authority will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The Authority will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the Authority will require the prime contractor to obtain the Authority's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, the Authority's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Section XXII: Counting DBE Participation

When a DBE participates in a contract, the Authority will count only the value of the work actually performed by the DBE toward overall and contract goals, in accordance with 49 CFR 26.55.

Section XXIII: Certification

The Authority, through its participation as a member in the CUCP, will use the certification standards of Subpart D of part 26 and the certification procedures of Subpart E of part 26, to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts.

Firms interested in DBE certification may contact:

Robert H. Silvas
San Diego County Regional Airport Authority
P.O. Box 82776
San Diego, CA 92138-2776
(619) 400-2568
rsilvas@san.org

Currently, the Authority is only processing applications for airport concessions.

Certification Appeals

Any firm or complainant may appeal a decision in a certification matter to DOT. Such appeals may be sent to:

Department of Transportation
Office of Civil Rights
Certification Appeals Branch
400 7th Street, SW, Room 2104
Washington, DC 20590

No Change Affidavit and Notices of Change

We require all DBEs to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or any material changes in the information provided with DBE's application for certification.

We also require all owners of all DBEs we have certified, to submit on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(i). Firms must meet Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years must not exceed \$17.42 million.

We require DBEs to submit with this affidavit, documentation of the firm's size and gross receipts.

We will notify all currently certified DBE firms of these obligations by sending via United States Post Office, a notice to the address of record in the DBE database at the time of the mailing. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g., personal net worth) the obligation to submit a notice of change applies.

Personal Net Worth

We will require all disadvantaged owners of applicants and of currently certified DBEs whose eligibility under part 26 we review, to submit a statement of personal net worth (PNW) at the time the application is submitted. Obtaining a PNW statement would necessarily be part of processing new applications or recertifications. Otherwise, DOT guidance does not require recipients to obtain this information before part 26 certification reviews of the firm.

Section XXIV: Information Collection and Reporting

The Authority will require prime contractors to submit monthly payment verification reports for the life of each contract. Prime contractors shall also be required to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. Any authorized representative of the Authority or the DOT will make these records available for inspection upon request. This reporting requirement also extends to any certified DBE subcontractor on the contract.

Additionally, the Authority may perform interim audits of contract payments to DBEs. The audits will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Confidentiality

The Freedom of Information Act (FOIA), as passed by Congress in 1966, and amended in 1974, created procedures whereby any member of the public may obtain the records of the agencies of the federal government. This Act opened agency action to the light of public scrutiny.

Section 552 (a) of FOIA directs government agencies to disclose certain types of records and describes the manner of disclosure required.

Subsection (a) (1) lists records that must be published in the Federal Register. These include -

- Description of the agency's organizational structure - central office and field offices
- Description of the procedures that are set up to give the public access to the agency records - including where the records are located and the name of the custodian of the records
- General description of how the agency functions and its decision-making process
- The agency's rules of procedure - including a description of agency forms and where you can get them
- The agency's general policies

Subsection (a) (2) lists records that must be made available for public inspection and copying:

- Final decisions in particular administrative cases
- Policy statements that the agency uses, but hasn't published in the Federal Register
- Internal manuals written for the agency's staff that affect members of the public
- An index of the kinds of information that must be made public

Subsection (a) (3) contains a catchall provision requiring disclosure of records not covered by (a) (1) or (a) (2). Courts have held that these provisions are to be interpreted broadly to achieve Congress' goal of full disclosure.

The Authority will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local laws.

Notwithstanding any contrary provisions of Federal, state or local law, without the written consent of the submitter, the Authority will not release personal financial information to a third party (other than DOT) in response to the personal net worth requirement.