

CHARLOTTE COUNTY BOARD OF COUNTY COMMISSIONERS (BCC)
TRANSIT DIVISION
DBE PROGRAM

POLICY STATEMENT
Updated 2024

Section 26.1, 26.23

Objectives/Policy Statements

The Charlotte County Board of County Commissioners Transit Division (BBCCTD) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the Federal Transit Administration (FTA), 49 CFR Part 26. The BBCCTD has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the BBCCTD has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the BCC to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in FTA-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of FTA-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for FTA-assisted contracts;
3. To ensure that the DBE Program is 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 FTA assisted contracts;
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The DBELO has been delegated as the DBE Liaison Officer. In that capacity BCC 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 BBCCTD in its financial assistance agreements with the FTA.*

BBCCTD has disseminated this policy statement to the Charlotte County Board of County Commissioners and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on FTA- assisted contracts. This will be accomplished by attaching this program policy to all applicable bid offerings after the effective date.

Heidi Maddox
Transit Operation Manager

Date

Shirley Ciampi
DBELO

Date

SUBPART A-GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement on the first page of this program.

Section 26.3 Applicability

The Charlotte County Board of County Commissioners - Transit Division (BBCCTD) is the recipient of federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

Section 26.5 Definitions

BBCCTD will adopt the definitions contained in Section 26.5 for this program. *Affiliation* has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

(1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

- (i) One concern controls or has the power to control the other; or
- (ii) A third party or parties controls or has the power to control both; or
- (iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including

common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Alaska Native means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*).

Assets mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

Business, business concern or business enterprise means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

Compliance means that a recipient has correctly implemented the requirements of this part.

Contingent Liability means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

Days mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

Department or *DOT* means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged business enterprise or *DBE* means a for-profit small business concern—

- (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Good faith efforts means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Home state means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of "tribally-owned concern" in this section.

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Liabilities mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Operating Administration or *OA* means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Primary industry classification means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau Web site: <http://www.census.gov/eos/www/naics/>.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, *race-neutral* includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or *SBA* means the United States Small Business Administration.

SBA certified firm refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society

because of his or her identity as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

(2) Any individual in the following groups, members of which are reputably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

(iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

Spouse means a married person, including a person in a domestic partnership or a civil union recognized under State law.

Transit vehicle manufacturer means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale "off the lot" are not considered transit vehicle manufacturers.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., 'You must do XYZ' means that recipients must do XYZ).

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011; 79 FR 59592, Oct. 2, 2014]

Section 26.7 Non-discrimination Requirements

The BBCCTD will never 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 its DBE program, the BBCCTD 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 the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

DBE REPORTING REQUIREMENTS

Per 49 CFR Part 26.11, Federal Transit Administration grantees are to submit semi-annual “Uniform Report of DBE Commitments/Awards and Payments.”

The deadline for submitting these reports is **June 1** for the period October 1 through March 31, and **December 1** for the period April 1 through September 30.

By these deadlines, the reports must be submitted within TRAMS and marked “Ready for Regional Review.”

Charlotte County Transit Procedures

The Transit Operations Coordinator is responsible for accurate completion and timely submission of these reports. The Transit Operations Coordinator may receive information to assist in completing the reports from the Transit Operations Manager who works closely with the DBE community in identifying potential DBEs and alerting them of potential contracting opportunities.

In the absence of the Transit Operations Coordinator, the responsibility of accurate completion and timely submission of the semi-annual DBE reports goes to the Transit Operations Manager.

Once the reports are timely downloaded into TRAMS, Charlotte County Transit will notify the FTA Region IV Civil Rights staff via e-mail that the reports are in TRAMS and are ready for regional review.

Reporting to FTA: 26.11(b)

BBCCTD’s DBE participation with FTA as follows:

DBE participation will be reported on as required using most appropriate forms directly to FTA or in partnership with the Florida Department of Transportation. These reports will reflect payments actually made to DBEs on FTA-assisted contracts.

Bidders List: 26.11(c)

DBE bidders’ lists will be used as provided by the Florida Department of Transportation under the Unified Certified Certification Process (UCP) consisting of information about all DBE and non-DBE firms that bid or quote on FTA-assisted contracts. The purpose of this requirement is to allow use of the bidders’ list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

Information will be collected via the aforementioned Florida Department of Transportation UCP process.

Section 26.13 Federal Financial Assistance Agreement

BBCCTD has signed the following assurances, applicable to all FTA-assisted contracts and their administration:

Assurance: 26.13(a)

BBCCTD shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. BBCCTD 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 FTA, 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 BBCCTD of its failure to carry out its approved program, the Department may impose sanction 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.*)

Contract Assurance: 26.13b

We will ensure that the following clause is placed in every FTA-assisted contract and subcontract:

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs and with section 1101(b) of SAFETEA LU, 23 U.S.C. §101.

The contractor 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 this FTA-assisted contract. 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 Purchaser deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph. The successful Bidder/offeree will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

SUBPART B- ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since BBCCTD has received a grant for \$250,000 or more in FTA planning capital, and or operating assistance in a federal we will continue to carry out this program until all funds from FTA financial assistance have been expended. We will provide to FTA updates representing significant changes in the program.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

DBELO

Charlotte County Transit,

545 Theresa Blvd. Port Charlotte, FL 33954

Phone: 941.833.6241

Email: Shirley.Ciampi@CharlotteCountyFL.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the BBCCTD complies with all provision of 49 CFR Part 26. The DBELO meets with the Administrator and the Director of Fiscal & Administrative Services concerning DBE program matters.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO may have a staff of up to two to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FTA.
- a. Reviews third party contracts and purchase requisitions for compliance with this program.
- b. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress)
- c. Analyzes BBCCTD progress toward attainment and identifies ways to improve progress.
- d. Participates in pre-bid meetings as warranted.
- e. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
- f. Plans and participates in DBE training seminars.
- g. Provides outreach to DBEs and community organizations to advise them of opportunities.
- h. Maintains the BCCTD dated directory on certified DBEs. This directory is provided for BCCTD use by FDOT in the UCP.

Section 26.27 DBE Financial Institutions

It is the policy of the BCCTD 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 FTA-assisted contract to make use of these institutions. We will make efforts to identify and use such institutions as they become available.

To date we have identified the following such institutions: None to date

Section 26.29 Prompt Payment Mechanisms

The BBCCTD will include the following clause in each FTA-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than the number of days specified by Florida Statutes from the receipt of each payment the prime contract receives from BBCCTD. The prime contractor agrees further to return retainage payments to each subcontractor within the statutorily required number of days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Charlotte County Board of County Commissioners.

It should be noted that Florida Law (FS 218.74) indicates that all payments by the localities (cities and counties) to vendors must be made within 45 days. BBCCTD contracts to vendors assure payment within 30 days to vendors. The DBELO is aware of these terms and remediation methods. He or she will continue to make every effort that equitable and appropriate action is taken in these regards.

Retainage: 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within *[specify same number as above]* days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the *[Recipient]*. This clause applies to both DBE and non-DBE

subcontracts.

Section 26.31 Directory

The BCCTD maintains a directory identifying all firms eligible to participate as DBEs via the UCP process. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The Directory is maintained by the Florida Department of Transportation at under the UCP Program. Attachment C is an FDOT UCP membership directory which attests to our membership. BCCTD has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.33 Overconcentration

BCCTD has not identified that overconcentration exists in the types of work that DBEs perform. We will re-evaluate for over concentration [*specify timeframe for regular re-evaluation, e.g., every 1 year, in relation to contract award process.*

Section 26.35 Business Development Programs

BCCTD has not established a business development program but does seek out and encourage eligible vendors.

Section 26.37 Monitoring and Enforcement Mechanisms

BCCTD will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Federal Transit Administration any false, fraudulent, or dishonest conduct in connection with the program, so that FTA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral for action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts such as referral to County Attorney for action under applicable state law and local ordinance in regulation by a participant in our procurement activities.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by uniformity with individual contract language and compliance with the Charlotte County Purchasing Manual and Administrative code available on the internet.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 Small Business Development Initiative

The BCCTD subscribes to the FDOT Business Development Initiative which has been found to be compliant with Part 26 by FTA. Attachment D contains that Initiative as well as sample application, reference sheets, business size standards, and guidance for reserving contracts. Also see <https://www.fdot.gov/equalopportunity/small-business-program.shtm>

BCCTD uses an "unbundled" method for obtaining Taxi contractors for example, a number of local and otherwise eligible contractors are encouraged to bid for such work. Contracts may be awarded to a number of eligible contractors in agreement with the trip and per mile offering. This system is available in other instances where wider inclusion of DBEs is desirable and reasonable to all parties.

Additional Small Business Strategies: The above referenced "unbundling" strategy is not the only tool BCCTD has at its disposal. A driver labor contractor eligible as an emerging larger business eligible for DBE status has been an

outcome. The contract was awarded with BCCTD assistance and a low bid. Unhappily the contractor never followed through with DBE applications. An additional emerging strategy used in this small urbanized area has been discussion with an out of County DBE repairs vendor for our rolling stock. Repair and PMs are under review at this time, and inclusion may be reasonable.

SUBPART C-GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The Charlotte County Transit Division ***does not use set-asides*** or quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment A to this program. This section of the program will be updated annually.

In accordance with Section 26.45(f) BCCTD will submit its overall goal to FTA by August 30 of each year to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the BCCTD efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rational are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the public that you and FTA will accept comments on the goals for 45 days from the date of the notice. Normally, we will issue this notice by August 30 or each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to FTA will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year unless we have received other instructions from FTA. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for FTA-assisted contracts for the project.

Section 26.47 Goal Setting and Accountability

If the awards and commitments shown on Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Submit the plan to FTS within 90 days of the end of the affected fiscal year.

Section 26.49 Transit Vehicle Manufacturers Goals

BCCTD will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, BCCTD may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 26.51 Meeting Overall Goals/Contract Goals

BCCTD will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. This section of the program will be updated annually when the goal calculation is updated.

BCCTD will use contract goals to meet any portion of the overall goal that BCCTD 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 our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those FTA-assisted contracts that have subcontracting possibilities. We 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.)

We will express our contract goals as a percentage of contracts.

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror 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 Part 26.

Information to be submitted (26.53(b))

BCCTD treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsibility. Each Charlotte County BOCC Transit Division solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts. (B) No later than 7 days after bid opening as a matter of responsibility. The 7 days shall be reduced to 5 days beginning January 1,

Administrative reconsideration (26.53(d))

Within five business days of being informed by Charlotte County Purchasing Division that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Charlotte County Community Transportation Coordinator. 18500 Murdock Circle, Port Charlotte FL 33948, 941.743.1330 or 941.833.6242. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror 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/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for 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 FTA.

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

BCCTD 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. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our 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, our 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 consider the failure to comply as a material breach of contract and take appropriate action accordingly.

BCCTD requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without BCCTD prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to BCCTD its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to *[Recipient]* prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise BCCTD of why it objects to the proposed termination. *[Note: the five day period may be reduced if the matter is one of public necessity! e.g., safety.]* (B) No later than 7 days after bid opening as a matter of responsibility. The 7 days shall be reduced to 5 days beginning January 1, 2017.

In those instances where "good cause" exists to terminate a DBE's contract, BCCTD will require the prime 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. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

Sample Bid Specification DBE Section by addition:

The requirements of 49 CFR Part 26, Regulations of the Federal Transit Administration apply to this contract. It is the policy of the *Charlotte County BOCC Transit Division* to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment B), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE

firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Section 26.53 Good Faith Efforts Procedures

Award of Contracts with a DBE Contract Goal: 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, BCCTD will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Evaluation of Good Faith Efforts: 26.53(a) & (c)

The Transit Operations Manager and the DBELO are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as *[responsive or responsible]*

The process used to determine whether good faith efforts have been made by a bidder are as follows:

- Bottom up review of product or service delivery to assure "hands-on" staff understand contractual obligation
- Service or product end product user interviews to confirm utility and compliance of goods, services, and terms
- Review on billing and invoicing to assure accuracy and compliance

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

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPART D-CERTIFICATION STANDARDS

Section 26.61 -26.73 Certification Process

BCCTD will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in FTA-assisted contracts via the UCP process. To be certified as a DBE, a firm must meet all certification eligibility standards FOOT makes our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact: DBELO, 545 Theresa Blvd. Port Charlotte, FL 33954; 941.833.6241

Certification application forms and documentation requirements are found at FDOT.gov or <https://www.fdot.gov/equalopportunity/dbecertification.shtm>

SUBPART E-CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

BCCTD is the member of a Unified Certification Program (UCP) administered by the Florida Department of Transportation (FDOT). The UPC will meet all of the requirements of this section. All elements of the UCP are fully described at FDOT.gov or <https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/Home.aspx>

Section 26.89 Certification Appeals

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

Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave, SE, W78-101
Washington, D.C. 20590

SUBPART F-COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

Except as may otherwise be required by law, we will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law including FOIA laws as applicable.

Except as may otherwise be required by law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than FTA as required) without the written consent of the submitter.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the BCCTD or FTA. This reporting requirement also extends to any certified DBE subcontractor.

We will perform interim audits of contract payments to DBEs. The audit 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.

Related Links:

NAICS

Codes:

<https://data.census.gov/cedsci/all?g=0500000US12015,12021&d=ANN%20Business%20Patterns%20County%20Business%20Patterns>

DBE Directory: <https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>

SAM.gov:

<https://sam.gov/content/home>

FDOT DBE Certification:

<https://www.fdot.gov/equalopportunity/dbecertification.shtm>

FDOT Small Business Program:

<https://www.fdot.gov/equalopportunity/small-business-program.shtm>

FDOT UCP:

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/UCPMemberList.aspx>

Minority-owned small business:

https://www.dms.myflorida.com/agency_administration/office_of_supplier_diversity_osd

ATTACHMENTS

Attachment	A	Overall Goal Calculation
Attachment	B	Demonstration of Good faith effort
Attachment	C	UCP Membership
Attachment	D	Small Business Development Program
Attachment E		Monitoring and Enforcement Mechanism

DBE Methodology FY 2023-2025

1. Charlotte County Board of County Commissioners Transit Division (CCBCC) overall goal for FY 2023 thru 2025 is the following: 0.7% of the federal financial assistance we will expend in DOT-assisted contracts exclusive of FTA funds to be used for the purchase of transit vehicles.
2. \$8,394,297 is the total FTA dollars awarded to Charlotte County. \$1,317,000 is the dollar amount of FTA-assisted contracts that CCBCC expects to award during FFY 2023 thru 2025 and wherein DBEs are available. This means that CCBCC Transit has set a goal of expending \$50,366 with DBEs during these fiscal years/projects.

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

The local market area that the DBE firms and all firms derive from are in Charlotte County, Desoto County, Sarasota County, Lee County and Collier County.

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBE's was calculated as follows:

$$0.6\% = \frac{9 \text{ Ready, Willing, and Able DBEs}}{1,494 \text{ All firms Ready, Willing and Able}}$$

The data source or demonstrable evidence used to derive the numerator and the denominator was: Florida Department of Transportation UCP data of all DBEs offering goods or services in the local market area described above as well as the DBE directory.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 0.6024, or 0.6%.

The weighted figure amount is equal to 0.6%, and the dollar amount is equal to \$50,366. The goal was reached using DBE Goal Setting methodology is attached.

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect the DBE participation as accurately as possible, we would expect in the absence of discrimination, we have our base figure by 0.6%.

DBE Methodology FY 2023-2025

Calculate Overall Goal

The data used to determine the adjustment to the base figure as an incentive for DBE participation.

$$0.6\% = \frac{9 \text{ Ready, Willing, and Able DBEs}}{1,494 \text{ All firms Ready, Willing and Able}}$$

2. \$8,394,297 is the total dollar amount FTA awards to Charlotte County FYs 2023 through 2025. \$1,317,000 is the dollar amount of FTA-assisted contracts that CCBCC expects to award during FYs 2023 through 2025 and wherein DBEs are available. This means that CCBCC has set a goal of expending 0.6% equaling \$50,366 with DBEs during FYs 2023 through 2025.

0.6% of our goal is for Race Neutral Methods and 0% is used for Race Conscious efforts.

Charlotte County Transit will strive to meet the maximum feasible portion of its overall goal by using Race-Neutral means of facilitating DBE participation.

Public Participation

The goal information will be published in the below manner once goals are approved:

- Charlotte County Transit's webpage: www.CharlotteCountyFL.gov/transit

DBE Methodology FY 2023-2025

Charlotte County Transit 5610 Most Likely DBE Spreadsheet

List of DBE's available for proposed projects:

238990	Other Specialty Trade Contractors	2
323111	Printing Services	1
541820	Public Relations	0
561621	Security Systems Services	0
238290	Other Building Equipment Contractors	0
Total DBEs		3

Step 1 - Determine the weight of each type of work by NAICS Code:				
	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	238990	Other Specialty Trade Contractors	\$70,000.00	0.0532
2)	323111	Printing Services	\$12,000.00	0.0091
3)	541820	Public Relations	\$330,000.00	0.2506
4)	561621	Security Systems Services	\$95,000.00	0.0721
5)	238290	Other Building Equipment Contractors	\$810,000.00	0.6150
Total FTA-Assisted Contract Funds			\$1,317,000.00	1

DBE Methodology FY 2023-2025

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
1)	238990	Other Specialty Trade Contractors	2	108	0.0185
2)	323111	Printing Services	1	16	0.0625
3)	541820	Public Relations	0	52	0.0000
4)	561621	Security Systems Services	0	8	0.0000
5)	238290	Other Building Equipment Contractors	0	17	0.0000
Combined Totals			3	201	0.0149

Step 3 - (Weight) x (Availability) = Weighted Base Figure						
	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	238990	Other Specialty Trade Contractors	0.05315	x	0.01852	0.0010
2)	323111	Printing Services	0.00911	x	0.06250	0.0006
3)	541820	Public Relations	0.25057	x		
4)	561621	Security Systems Services	0.07213	x		
5)	238290	Other Building Equipment Contractors	0.61503	x		
					Total	0.0016
					Expressed as a % (*100)	0.16%
					Rounded, Weighted Base Figure:	0%

DBE Methodology FY 2023-2025

Historical DBE Accomplishments for DOT-Assisted Contracts

Fiscal Year	Goal	Accomplishment	Type of Work
FY2022	.7%	.35%	Printing and Translations
FY2021	.7%	.34%	Printing and Apparel Accessories & Other Apparel Manufacturing
		.69%	Median Accomplishments for all projects

The median percentage of accomplishment for all Federally funded projects over recent years FY21 through FY22 is therefore determined to be .69%. When we compare this with the proposed base figure for FYs 2023-2025, we determine that our overall goal is: 0.6%

Public Participation Plan

Transit encourages the participation of DBE's. In an effort to reach the available DBE community, seek out public input into the goal setting process, and to ensure wide distribution of the information contained in this document, Transit makes copies of its DBE program available to the Local Coordinating Board (LCB), Citizens Advisory Committee (CAC), bidders, and other interested parties. Charlotte County Transit reaches out to minority, women's and general contractor groups to discuss opportunities for DBEs through advertisements and local Board of County Commissioner meetings. Charlotte County Transit is ready to provide packets and discuss the process to become a Certified DBE.

Public Notice

www.CharlotteCountyFL.gov/transit

Attachment B

Forms 1 & 2 for Demonstration of Good Faith Efforts

[Forms 1 and 2 should be provided as part of the solicitation documents.]

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offering has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

the bidder/offering is committed to a minimum of _____ % DBE utilization on this contract

the bidder/offering (if unable to meet the DBE goal of _____ %) is committed to a minimum of _____ % DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offering's firm: _____

State Registration No. _____

By _____
(Signature) _____

(Title)

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm = _____ Address: _____

City: _____ State : _____ Zip: _____

Name of DBE firm: _____

Address:

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ _____

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
(Signature) _____ (Title)**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each DBE subcontractor.)

ATTACHEMENT C**UCP Membership**

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/UCPMemberList.aspx>



Florida Department of
TRANSPORTATION

https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/UCPMemberList.aspx

Remember to verify contact information

Home About FDOT Contact Us

Florida Unified Certification Program (UCP) Disadvantaged Business Enterprise (DBE) Directo

Welcome [DBE Directory](#) [Standard Reports](#) [UCP Member Contacts](#) Help

Member Name	Type	Contact	Email	Phone	
Brevard County Office of Economic and Small Business Development Transit	NONCERTIFYING	Zoila Villanueva	zoila.villanueva@brevardcounty.us	(321) 866-7815	
Broward County Office of Economic and Small Business Development	CERTIFYING	Cheryl Roberts	Chroberts@broward.org	(954) 357-6135	http://www.broward.org/econde
Broward Metropolitan Planning Organization	NONCERTIFYING	Lydia Waring	WaringL@browardmpo.org	(954) 876-0049	http://www.browardmpo.org
Charlotte County Transit	NONCERTIFYING	Michelle Peronto	michelle.peronto@dot.state.fl.us	(863) 519-2551	
City of Gainesville Regional Transit System (RTS)	NONCERTIFYING	Krys Ochia	Ochiak1@cityofgainesville.org	(352) 393-7820	www.go RTS.com
City of Key West Transit	NONCERTIFYING	Carolyn Haia	chaia@keywestcity.com	(350) 809-3910	www.kwtransit.com
City of Leesburg	NONCERTIFYING	Ray Sharp	citymanager@leesburgflorida.gov	(352) 728-9704	

Attachment D

FLORIDA DEPARTMENT OF TRANSPORTATION

***BUSINESS DEVELOPMENT INITIATIVE
BDI***



UNLOCKING PRIME OPPORTUNITIES

Revised March 2017

1

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Attachments

BDI Guidance For Reserving Contracts
Small Business and DBE Strategies

Attachment E

Monitoring and Enforcement Mechanism Remedies

BCCTD has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to Florida Statutes

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 26
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001.

Short of these remedial activities, legal counseling is most frequently used by BCCTD in situations coming near litigation. Such meeting frequently eliminates difficult situations. If such efforts prove fruitless, we have found that non-hostile correspondence between legal staff is beneficial in some circumstances.

We have found our policy of County trainers for contractor staff to be very helpful. It provides compliant staffing and a better level of understanding between workers and decision makers on both sides of the table. There is less friction when the hands-on staff has a clear vision of their responsibilities.