



Cobb County Department of Transportation Disadvantaged Business Enterprise Program Plan

Prepared by:
Cobb County Department of Transportation

Approved By:
Cobb County Board of Commissioners
Date: **May 10, 2022**

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Cobb County Department of Transportation
Disadvantaged Business Enterprises Program Plan
Revised April 2022

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**Cobb County
Disadvantaged Business Enterprise (DBE) Program**

POLICY STATEMENT

The Cobb County Department of Transportation has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U. S. Department of Transportation (USDOT), 49 CFR Part 26. Cobb County has received federal financial assistance from the USDOT and, as a condition of receiving this assistance, Cobb County has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Cobb County Department of Transportation to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in USDOT–assisted contracts. It is also our policy:

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

Stefanie Taylor, Contract Compliance Manager, has been designated as the DBE Liaison Officer and 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 Cobb County in its financial assistance agreements with the U. S. Department of Transportation.

The Cobb County Department of Transportation has disseminated this Policy Statement to the Cobb County Board of Commissioners and all components of our organization. The statement will be posted on the county's public website, which is accessible by the DBE and non-DBE business communities that perform work for the county on USDOT-assisted contracts.


Lisa N. Cupid, Chairwoman
Cobb County Board of Commissioners



5/31/22
Date

APPROVED
PER MINUTES OF
COBB COUNTY
BOARD OF COMMISSIONERS

5/10/22

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement on page 3 of this program.

Section 26.3 Applicability

The Cobb County Department of Transportation is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

The Cobb County Department of Transportation is the recipient of federal-aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21, Pub. L. 105-178, 112 Stat. 107.

The Cobb County Department of Transportation 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, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The Cobb County Department of Transportation will adopt the definitions contained in 49 CFR § 26.5 – “What do the terms used in this part mean?” for this program.

Section 26.7 Non-Discrimination Requirements

The Cobb County Department of Transportation 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 Cobb County Department of Transportation 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

Reporting to the USDOT: 26.11(b)

We will report DBE participation to the USDOT as follows:

The Cobb County Department of Transportation will submit annually USDOT Form 4630, as modified for use by FAA recipients.

As FTA and FHWA recipients, the Cobb County Department of Transportation will report DBE participation semi-annually on the Uniform Report of DBE Awards or Commitments and Payments via the Transit Integrated Appian Platform - Transit Award Management System (TrAMS). These reports will reflect payments actually made to DBEs on USDOT-assisted contracts.

Bidders List: 26.11(c)

The Cobb County Department of Transportation will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach in calculating overall goals. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

- A notice in all solicitations requiring firms quoting on contracts to report the name, address, DBE status, age of the firm, and the annual gross receipts of the firm to the Cobb County Department of Transportation through bid documents.

- A contract clause requiring prime bidders to report the name, address, DBE status, age of the firm, and the annual gross receipts of all firms who quote to them on subcontracts.

Section 26.13 Federal Financial Assistance Agreement

The Cobb County Department of Transportation has signed the following assurances, applicable to all USDOT-assisted contracts and their administration:

Assurance: 26.13(a)

The Cobb County Department of Transportation shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The Cobb County Department of Transportation shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The Cobb County Department of Transportation's DBE Program, as required by 49 CFR Part 26 and as approved by USDOT, 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 Cobb County Department of Transportation 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.*).

The Cobb County Department of Transportation does not currently have any sub-recipients. This language will appear in any future financial assistance agreements with sub-recipients.

Contract Assurance: 26.13b

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

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 USDOT-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 Cobb County Department of Transportation deems appropriate.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the Cobb County Department of Transportation is a direct recipient of FTA and FAA funding and a subrecipient of FHWA funding, we will continue to carry out this program until all funds from USDOT financial assistance have been expended. We will provide to USDOT updates representing significant changes in the program. Section 26.23 Policy Statement

The Policy Statement is elaborated on page 3 of this program.

Section 26.25 DBE Liaison Officer (DBELO)

The Cobb County Department of Transportation has designated the following individual as our DBE Liaison Officer:

Stefanie Taylor
1890 County Service Parkway
Marietta, Georgia 30008-4014
770-528-3661
Stefanie.Taylor@cobbcounty.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Cobb County Department of Transportation complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the County Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **ATTACHMENT A** to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO is supported by county staff in other departments to help carry out aspects of the program and has four (4) contract administrator consultants 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 USDOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
4. 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.
5. Analyzes the Cobb County Department of Transportation's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-bid meetings.
7. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
8. Plans and participates in DBE training seminars.
9. Acts as liaison to the Unified Certification Program in the State of Georgia.
10. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of Cobb County Department of Transportation 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 USDOT-assisted contracts to make use of these institutions. We have made the following efforts to identify and use such institutions:

1. Search of Georgia Department of Transportation DBE Directory
2. General Web search for Minority-Owned and DBE Financial Institutions

To date we have identified the following such institutions:

Metro City Bank

Contact: Farid Tan - President & CFO
5114 Buford Highway
Doraville, GA 30340
Phone: (770) 455-4989

First IC Bank

Contact: Dong Wook Kim - President and CEO
5593 Buford Highway
Doraville, GA 30340
Phone: (770) 451-7200

Quantum National Bank

Contact: Bryan Cohen - CEO
505 Peachtree Industrial Blvd
Suwanee, GA 30024
Phone: (770) 945-8300

Touchmark National Bank

Contact: Dr. J.J. Shah, MD - CEO
3651 Old Milton Parkway
Alpharetta, GA 30005
Phone: (770) 407-6700

Citizens Trust Bank

Contact: Cynthia N. Day – President and CEO
230 Peachtree Street, Suite 2700
Atlanta, GA 30303
Phone: (678) 406-4000

Section 26.29 Prompt Payment Mechanisms

Prompt Payment (26.29a)

The Cobb County Department of Transportation will include the following clause in each USDOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 business days from the receipt of each payment the prime contract receives from the Cobb County Department of Transportation. The prime contractor agrees further to return retainage payments to each subcontractor within 30 business 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 Cobb County Department of Transportation. This clause applies to both DBE and non-DBE subcontracts.

If the prime contractor determines the work to be unsatisfactory, it must notify the Cobb County DOT Contracting Officer, Project Manager, and DBE Liaison Officer immediately, in writing, and state the reason(s). Failure to comply with this requirement will be construed as a breach of contract and subject to contract termination.

Retainage (26.29b)

The Cobb County Department of Transportation will not hold retainage from prime contractors. The Cobb County Department of Transportation will include the following clause in each USDOT-assisted prime contract:

The prime contractor is required to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

Satisfactory Completion of Subcontractor's Work (26.29c)

Cobb County Department of Transportation will include the following definition in each USDOT-assisted prime contract:

A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the prime contractor. When the prime contractor has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

Monitoring and Enforcement (26.29d)

The Cobb County Department of Transportation has established the following mechanisms to monitor and enforce the Prompt Payment (26.29a) and Retainage (26.29b) clauses above:

Sanctions/consequences for noncompliance with the Prompt Payment clause may include:

1. Requiring documentation of all payments to subcontractors for all previous payments from the Cobb County Department of Transportation to the prime contractor before any future payments from the Cobb County Department of Transportation to the prime contractor are made.
2. Termination of contract for default.
3. Debarment of prime contractor from bidding on any future Cobb County Department of Transportation contracts.

The Cobb County Department of Transportation will ensure that the Prompt Payment clause of the contract is enforced by:

1. Requiring prime contractors (with sub-contracts in excess of \$10,000), to provide subcontractors with all contract provisions, including **Section 26.29 - Prompt Payment Mechanisms**. This will ensure that subcontractors are knowledgeable of the Prompt Payment clause.
2. Making inquiries of the prime contractor if the Cobb County Department of Transportation is contacted by a subcontractor regarding possible violation of the Prompt Payment clause. Depending on the response from the prime contractor, the Cobb County Department of Transportation may implement the sanctions/consequences listed in the above section.

Legal and Contract Remedies (26.29e)

In the event a prime contractor fails to comply with its stated contract goals, and cannot show that a good faith effort has been made to do so, the Cobb County Department of Transportation shall initiate the following actions:

1. If there are any findings deemed to be fraudulent or dishonest conduct on the part of the prime contractor in connection with the DBE program associated with the contract, the Cobb County Department of Transportation will notify the U. S. Department of Transportation's Inspector General, who in turn under 49 CFR 26 may sanction criminal prosecution; action under suspension and debarment; or, initialing administrative procedures for imposing civil penalties and assessments under 49 CFR Part 31 - Program Fraud and Civil Remedies.

The Cobb County Department of Transportation will also consider similar action under our own legal authorities. Such actions can include termination for default or debarment from bidding on future Cobb County Department of Transportation contracts.

Section 26.31 Directory

A directory identifying all firms eligible to participate as DBEs is maintained by the Georgia Department of Transportation (GDOT) in relation to the Unified Certification Program (UCP). The directory lists the firm's name, contact information and the type of work the firm has been certified to perform as a DBE. The Directory is updated monthly by GDOT. The Directory is available online at <http://www.dot.ga.gov/PS/Business/DBE>. The Metropolitan Atlanta Rapid Transportation Authority (MARTA) certifies firms located in Fulton, DeKalb and Clayton counties. GDOT certifies businesses located in all other Georgia counties. The UCP directory lists firms certified by both MARTA and GDOT. The contact information for both agencies is as follows:

Georgia Department of Transportation
Equal Employment Opportunity
600 West Peachtree Street, NW, 7th Floor
Atlanta, GA 30308
(404) 631-1972 | (404) 631-1943 Fax

MARTA
Office of Diversity and Inclusion
2424 Piedmont Road, NE
Atlanta, GA 30324
(404) 848-4656 | (404) 848-4302 Fax

Section 26.33 Overconcentration

The Cobb County Department of Transportation has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The Cobb County Department of Transportation has not established a business development program. However, Cobb County and neighboring jurisdictions are home to multiple small business development institutions such as the Georgia Department of Economic Development, the University of Georgia – Small Business Development Center, Cobb Chamber Walter Kelly, Jr. Business Resource Center, SCORE North Metro Atlanta and the Let's Talk Business Network. Local DBEs are encouraged to participate in these programs for their business development needs.

Section 26.37 Monitoring and Enforcement Mechanisms

The Cobb County Department of Transportation will provide the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, 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. **ATTACHMENT B** lists the regulations, provisions and contract remedies available to us in the event of non-compliance with the DBE 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 having the project manager visit the worksite of the contractor and report back to the DBE Liaison or obtain verification on the DBE letterhead to the DBE Liaison about the work being performed.

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 Fostering Small Business Participation

Cobb County encourages small business participation through the collaborative efforts of our agencies and departments. Cobb County is also home to many local organizations focused on fostering the development of small businesses.

The Cobb County Purchasing Department offers small business networking and educational events. The Cobb Chamber of Commerce also provides multiple opportunities for small businesses to develop and grow. The following are a few event descriptions:

How to Do Business with Cobb County – an event where businesses learn about contracting opportunities; meet Cobb County Government representatives; and, network with other business owners.

Marquee Monday - a Cobb Chamber breakfast with more than 300 of Cobb's business elite. Normally held on the second business Monday of each month, these breakfasts are the place to hear top speakers on national, regional and community issues and to network with business professionals from around the county.

Business Builders – a group within the Cobb Chamber which fosters continuous personal and professional improvement in an environment of trust, accountability, commitment and respect, allowing members to achieve growth through learning and sharing solutions.

Cobb Connections - a Cobb Chamber networking program that builds relationships and promotes business-to-business development, as well as business-to-consumer through table discussions to share challenges and successful strategies for gaining new referrals.

Business After Hours - an event that gives businesses a chance to make valuable connections in a more casual environment. Hosted bi-monthly by the Cobb Chamber and member sponsors, these events are held at various locations after business hours.

In addition, the Cobb County Department of Transportation will structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The Cobb County Department of Transportation does not use 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 C** to this program. This section of the program will be updated in compliance with the requirements of each operating administration.

In accordance with Section 26.45(f), the Cobb County Department of Transportation will submit its overall goal to USDOT every three years or as required by the various operating administrations. Before establishing the overall goal, the Cobb County Department of Transportation will consult with contractor associations, minority Chambers of Commerce, University of Georgia Small Business Development Center, Georgia Tech Procurement Assistance Center, minority supplier councils, minority associations and women's groups to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Cobb County Department of Transportation's efforts to establish a level playing field for the participation of DBEs. Following this consultation, we will notify the public of the proposed overall goal on the official Cobb County website.

We will begin using our overall goal on October 1st of each three-year period, unless we have received other instructions from USDOT. The goal will remain effective for the duration of the three-year period established and approved by FTA or the FAA. However, during the three-year period, the goals may be reviewed and modified if significant changes occur such as additional funds become available, projects change significantly, or other conditions change which affect the goal calculation.

Section 26.49 Transit Vehicle Manufacturers Goals

The Cobb County Department of Transportation will require each transit vehicle manufacturer (TVM), 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, the Cobb County Department of Transportation 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. This element only applies to FTA-assisted programs.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

In meeting our overall goal of 7%, it is estimated that we will obtain 7% from race-neutral participation and 0% through race-conscious measures. The breakout of estimated race-neutral and race-conscious participation can be found in **ATTACHMENT D** to this program. This section of the program will be updated when the goal calculation is updated.

Section 26.51(d-g) Contract Goals

The Cobb County Department of Transportation will use contract goals to meet any portion of the overall goal the Cobb County Department of Transportation 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.

Section 26.53 Good Faith Efforts Procedures

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

In the event that contract goals are imposed, the obligation of the bidder/offeree will be to make good faith efforts. The bidder/offeree can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts using examples of good faith efforts found in Appendix A to Part 26 – Guidance Concerning Good Faith Efforts.

The Cobb County Department of Transportation Project Managers and Contract Administrators will determine whether a bidder/offeree, who has not met the contract goal, has documented sufficient good faith efforts. The process for making good faith effort determinations include considering the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, it may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal but meets or exceeds the average DBE participation obtained by other bidders, we may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

The Project Managers and Contract Administrators will ensure that all information is complete and accurate and adequately documents the bidder/offeree's good faith efforts before the Cobb County Department of Transportation will commit to the performance of the contract by the bidder/offeree.

Information to be submitted (26.53(b))

The Cobb County Department of Transportation treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerees 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 the 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 contractor's commitment, and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration (26.53(d))

Within seven (7) days of being informed by the Cobb County Department of Transportation that it is not responsive 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:

**Transportation Agency Director
1890 County Services Parkway
Marietta, Georgia, 30008
(770) 528-1600**

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. 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 to the U. S. Department of Transportation.

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

The Cobb County Department of Transportation 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 issue a termination for default proceeding.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Cobb County Department of Transportation 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 E, 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 (6) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55 and will take reasonable steps to ensure contractors provide us with accurate information for counting. Per 26.11(b) we will report data to the FTA on a semi-annual basis.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The Cobb County Department of Transportation participates in the State of Georgia UCP program and thus refers DBEs to the Georgia Department of Transportation (GDOT) and MARTA, who are responsible for all aspects of certification. The Cobb County Department of Transportation is not a certifying agency.

Below is a summary of the GDOT and MARTA certification processes.

The Georgia Department of Transportation, in relation to the Unified Certification Program, will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Certification decisions will be based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

Georgia Department of Transportation
Equal Employment Opportunity
600 West Peachtree Street, NW, 7th Floor
Atlanta, GA 30308
(404) 631-1972 | (404) 631-1943 Fax
<http://www.dot.ga.gov/PS/Business/DBE>

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The Cobb County Department of Transportation is a member of a Unified Certification Program (UCP) administered by the Georgia Department of Transportation (GDOT). The UCP meets all requirements of this section. The following is a description of the UCP:

The State of Georgia Unified Certification Program (GaUCP) will be administered by the Georgia Department of Transportation with the cooperation of Metropolitan Atlanta Rapid Transit Authority (MARTA). The UCP is a “One-Stop Shopping” certification procedure that will eliminate the need for DBE firms to obtain certifications from multiple agencies within the state who are USDOT recipients or grantees. The Georgia UCP is charged with the responsibility of certifying firms in addition to compiling and maintaining a database of certified DBEs for USDOT recipients, pursuant to 49 CFR Part 26. The GDOT is the certifying agency for the GaUCP and will process all applications and maintain the database of certified DBE firms for the state of Georgia. MARTA is a UCP partner in the certification process. MARTA reviews applications and conducts site visits for firms in Fulton, DeKalb or Clayton counties.

For more information, interested parties may contact the *Georgia Department of Transportation or MARTA* using the contact information below.

Georgia Department of Transportation
Equal Employment Opportunity
600 West Peachtree Street, NW, 7th Floor
Atlanta, GA 30308
(404) 631-1972 | (404) 631-1943 Fax

MARTA
Office of Diversity and Inclusion
2424 Piedmont Road, NE
Atlanta, GA 30324
(404) 848-4656 | (404) 848-4302 Fax

Section 26.83 Procedures for Certification Decisions

The Cobb County Department of Transportation is a member of the Unified Certification Program (UCP) administered by the Georgia Department of Transportation. Procedures for certification decisions may be found by contacting GDOT at the contact information listed in section 26.81 above.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation and Intimidation or Retaliation

The Cobb County Department of Transportation will safeguard information that may reasonably be regarded as confidential business information from disclosure to third parties, consistent with Federal, State and local law such as the Georgia Open Records Act (O.C.G.A 50-18-70).

Monitoring Payments to DBEs

The Cobb County Department of Transportation 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 Cobb County Department of Transportation or USDOT. This reporting requirement also extends to any certified DBE subcontractor.

The Cobb County Department of Transportation 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.

ATTACHMENTS

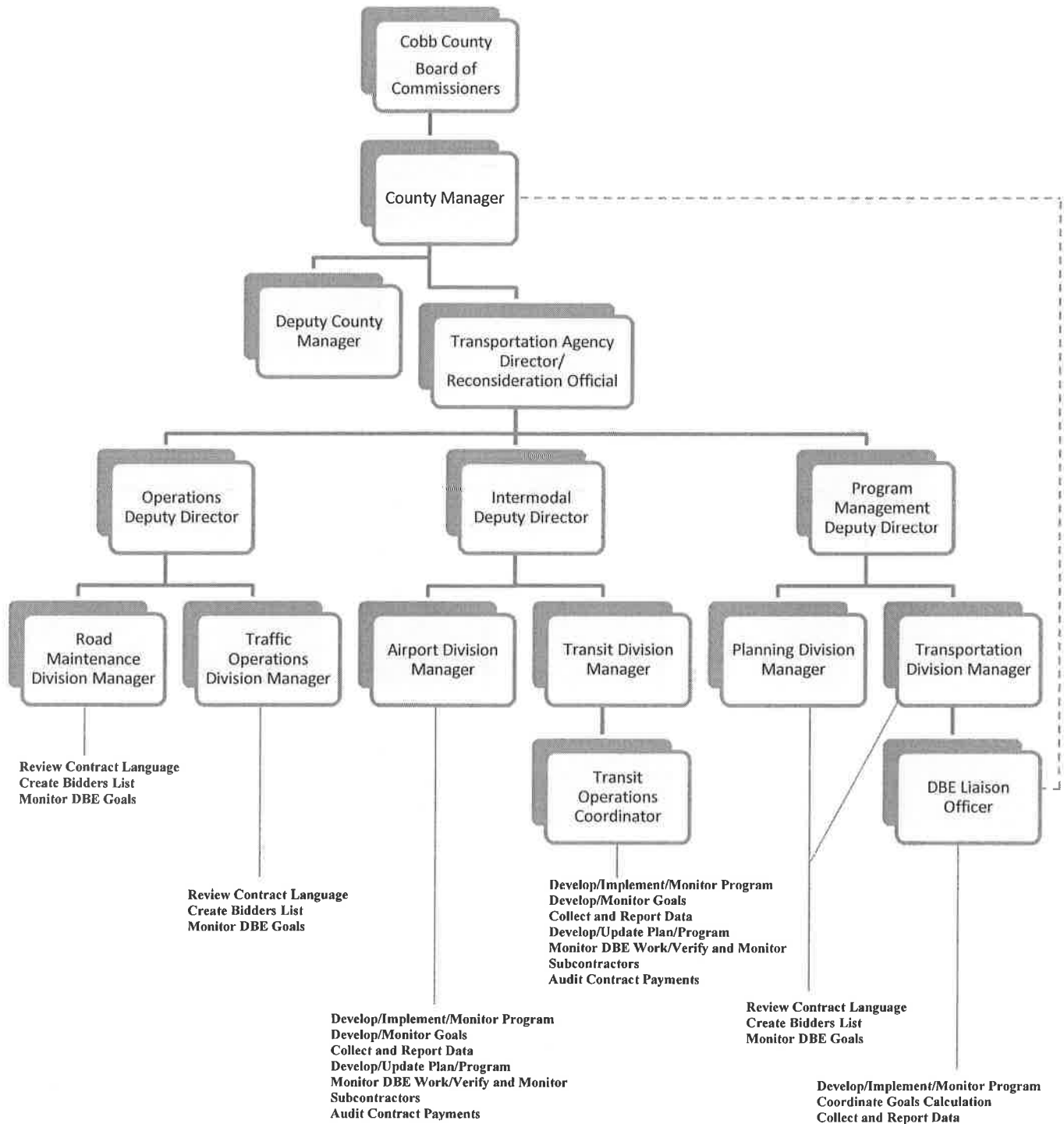
Attachment A	Organizational Chart
Attachment B	Monitoring and Enforcement Mechanisms
Attachment C	Overall Goal Calculation
Attachment D	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment E	Forms for Demonstration of Good Faith Efforts



Cobb County... Expect the Best!

ATTACHMENT A

Cobb County Department of Transportation



ATTACHMENT B

Monitoring and Enforcement Mechanisms

Cobb County Department of Transportation 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. Liquidated damages in the amount of one-half of one percent of the total contract value if the DBE portion of the contract is not provided by a certified DBE.

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.

Cobb DOT will assign a contract manager to monitor and track actual DBE participation through contractor and subcontractor reports of payments in accordance with the following:

After Contract Award

After the contract award, Cobb DOT will review the award documents for the portion of items each DBE and first tier subcontractor will be performing and the dollar value of that work. With these documents the inspectors and contract manager will be able to determine the work to be performed by the DBEs or subcontractors listed.

Preconstruction Conference

A preconstruction conference will be scheduled between the contract manager and the contractor or their representative to discuss the work each DBE subcontractor will perform.

Construction Contract Monitoring

The contract manager will ensure that the inspectors know what items of work each DBE is responsible for performing. The inspectors will notify the contract manager immediately of apparent violations.

When a firm other than the listed DBE subcontractor is found performing the work, the inspector will notify the contractor of the apparent discrepancy and potential loss of payment. Based on the contractor's response, the contract manager will take appropriate action: The DBE Liaison Officer will perform a preliminary investigation to identify any potential issues related to the DBE subcontractor performing a commercially useful function. Any substantive issues will be forwarded to the DBE Liaison Officer. If the contractor fails to adequately explain why there is a discrepancy, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withholding of payment.

Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

The contractor shall maintain records showing the name and address of each first-tier subcontractor. The records shall also show:

1. The name and business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE Company.
2. The date of payment and the total dollar figure paid to each of the firms.
3. The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

When a contract has been completed, the contractor will provide a summary of the records stated above. The DBE utilization information will be documented and will be attached to the Report of Expenditures. The contract manager will compare the contractor's completed documents. The DBEs shown on the completed forms should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBEs and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The contractor will be

required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed DBE Utilization Form when:

- There have been no changes made by the contract manager.
- The contractor has not provided a sufficient explanation in the comments section of the completed DBE Utilization Form

The contract manager will file this in the project records.

The Cobb County Department of Transportation will bring to the attention of the USDOT through the DBE Liaison Officer any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the 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 §26.109. The Cobb County Department of Transportation will also consider similar action under our own legal authorities, including responsibility determinations in future contracts.

ATTACHMENT C

Section 26.45: Overall Goal Calculation

Amount of Goal

Cobb County Transit's overall DBE goal for FY 2021- FY 2023 is 7%.

DBE regulations (49 CFR 26.45) require the establishment of an overall goal based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses who are ready, willing, and able to participate on DOT assisted contracts. This process begins by determining a base figure for the relative availability of DBEs and then, based on evidence, determining whether the base figure requires adjustments to arrive at the overall goal. Cobb County Transit's goal setting methodology complies with these regulations. The goal must reflect Cobb County Transit's determination of the expected level of DBE participation absent the effects of discrimination. Cobb County Transit does not rely on a national goal, their previous overall goal or past DBE participation rates in their program without reference to the relative availability of DBE's in the Atlanta Metropolitan Statistical Area (MSA).

The industries that will be used for FY 2021 – FY 2023 federally funded projects fall into construction, wholesale trade, and other services industries. To determine the number of all ready, willing and able DBE businesses available in the Atlanta MSA that perform work in the prime procurement areas, the number of DBE businesses in those categories are summed, then divided by the number of all businesses to derive a base figure for the relative availability of DBE businesses in Cobb County Transit's market.

DATA:

40,451 Atlanta MSA business and 538 Certified DBEs in the applicable project NAICS codes.

BUSINESS	# OF BUSINESSES	# OF CERTIFIED DBES
Construction	14,434	220
Wholesale	1,154	3
Other Services	24,863	315
TOTAL	40,451	538

SOURCES:

1. 2017 U.S. Census Bureau
2. GDOT/MARTA Unified Certification Program DBE Directory

Cobb County Transit anticipates the following contracting opportunities for the FY 2021–FY 2023:

FISCAL YEAR	PROPOSED PROJECT TOTAL
FY 2021	\$2,585,232
FY 2022	\$2,285,232
FY 2023	\$2,185,232
PROPOSED THREE YEAR PERIOD TOTAL	\$7,055,696

Step One Process-Base Figure:

Weighted Process:

Base figure weighted based on projected contracting opportunities totaling \$7,055,696. Of this amount, 34% will go to construction, 4% to wholesale, and 62% to other services.

NAICS Code/Activity	Project	Amount	% of Total (Weight)
236220 Commercial and Institutional Building Construction 237120 Oil and Gas Pipeline and Related Structures Construction 237310 Highway, Street, and Bridge Construction 238140 Masonry Contractors 238160 Roofing Contractors 238210 Electrical Contractors and Other Wiring Installation Contractors 238220 Plumbing, Heating, and Air-Conditioning Contractors 238310 Drywall and Insulation Contractors 238320 Painting and Wall Covering Contractors 238330 Flooring Contractors 238340 Tile and Terrazzo Contractors 238350 Finish Carpentry Contractors 238390 Other Building Finishing Contractors 238910 Site Preparation Contractors 238990 All Other Specialty Trade Contractors	Renovation of Facilities	\$2,400,000	34%
423420 Office Equipment Merchant Wholesalers 423490 Other Professional Equipment and Supplies Merchant Wholesalers 423690 Other Electronic Parts and Equipment Merchant Wholesalers 423740 Refrigeration Equipment and Supplies Merchant Wholesalers 423860 Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers	Equipment/Support and Security Equipment	\$300,000	4%
238210 Structural Steel and Precast Concrete Contractors 531210 Offices of Real Estate Agents and Brokers 531311 Residential Property Managers 531312 Nonresidential Property Managers 531390 Other Activities Related to Real Estate 541191 Title Abstract and Settlement Offices 541310 Architectural Services 541320 Landscape Architectural Services 541330 Engineering Services 541370 Surveying and Mapping (except Geophysical) Services 541380 Testing Laboratories 541430 Graphic Design Services 541613 Marketing Consulting Services 541620 Environmental Consulting Services 541690 Other Scientific and Technical Consulting Services 541910 Marketing Research and Public Opinion Polling 541930 Translation and Interpretation Services 561720 Janitorial Services 561730 Landscaping Services 562112 Hazardous Waste Collection 562910 Remediation Services	Construction & Professional Services/ Planning Studies/Repair/ Preventative Maintenance	\$4,355,696	62%
Project Total			\$7,055,696

Construction- \$2,400,000 total construction project/\$7,055,696 = 0.34
Wholesale- \$300,000 total wholesale projects/\$7,055,696 = 0.04

Other Services- \$4,355,696 total other services/\$7,055,696 = 0.62

The Step One Base Figure Base Figure is calculated by dividing the total number of DBE's by the total number of firms in each category.

$$\begin{aligned} & (220 \text{ Construction DBE's}/14,434) + (3 \text{ Wholesale DBE's}/1,154) + (315 \text{ Other Serv. }/24,863) \\ & = .0152+.0026+.0127 \\ & = \mathbf{.0305 \text{ or } 3\% \text{ Base Figure}} \end{aligned}$$

Project	DBEs Firms	All Businesses	DBE Businesses Relative Availability (Base Figure)	Weight Total Availability
Renovation of Facilities	220	14,434	0.0152	34%
Equipment/Support and Security Equipment	3	1,154	0.0026	4%
Construction & Professional Services/ Planning Studies/Repair/Preventative Maintenance	315	24,863	0.0127	62%
Step 1 - DBE Base Figure	538	40,451	0.0305	100%

The Base Figure is then weighted to attain the most accurate representation of the available DBE's in each category. The weighted base figure is calculated by multiplying the DBE ratios by their corresponding weights, summing the results for each activity, and taking its percentage. The following computation establishes the Base Figure:

$$\begin{aligned} \text{Construction} & .34(.0152) = .0052 \\ \text{Wholesale} & .04(.0026) = .0001 \\ \text{Other Services} & .62(.0127) = .0078 \end{aligned}$$

$$.0052+.0001+.0078 = .0131 \text{ or } \mathbf{1\% \text{ Base Figure Weighted}}$$

Step Two Process-Adjustments:

After establishing the base figure of DBE availability at 1 percent, other evidence available in CobbLinc's jurisdiction was examined to determine what adjustment, if any, was needed to the base figure in order to establish an overall goal.

Report Period	Approved DBE Goal	Historical Participation
FY 2017	7%	15%
FY 2018	7%	11.5%
FY 2019	7%	12%

The above factors suggest that during the years 2017 - 2019 contract dollars awarded to DBE's increased greatly; however, the demonstrated participation is higher than the possible base figure of 1 percent and should be adjusted to reflect actual participation.

The base figure was added to the actual median past participation achievement percentages and averaged to obtain CobbLinc's overall goal as follows:

$$(1\% \text{ Base Figure} + 12.8\% \text{ Historical Participation}) = 13.8/2 = \mathbf{6.9\%}$$

7% is the DBE Goal for FY 2021 – FY 2023

Public Participation – 49 CFR 26.45 (g) (1)

(g) In establishing an overall goal, you must provide for public participation. This public participation must include:

(1) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs.

In an effort to facilitate DBE interest, and the meet public participation requirements, Cobb County Transit held a public outreach meeting on April 5, 2017, and invited the following firms/agencies/companies to hear an update on Cobb County Transit DBE goal development. The invitees included the following:

1. Asian-American Chamber of Commerce of GA, Inc.
2. Atlanta Business League
3. Atlanta Black Chamber
4. Citizens Trust Bank
5. Department of Administrative Services
6. Georgia African-American Chamber of Commerce
7. Georgia Highway Contractors Association
8. Georgia Hispanic Chamber of Commerce
9. Georgia-Indo American Chamber of Commerce
10. Georgia Minority Supplier Development Council, Inc.
11. Korean-American Chamber of Commerce of GA
12. Minority Business Development Agency
13. National Association of Minority Contractors
14. National Black MBA Association
15. Small Business Administration
16. Women's Economic Development Agency
17. Georgia Black Constructors Association
18. Asian Women in Business
19. Coalition of 100 Black Women
20. The United States Pan Asian American Chamber of Commerce
21. Women's Entrepreneurial Opportunity Project
22. National Contract Management Association
23. Cobb Chamber of Commerce

ATTACHMENT D

Section 26.51: Breakout of Estimated Race-Conscious/Race-Neutral Participation

Cobb County Transit anticipates that FY 2021 – FY 2023 will hold similar contracting opportunities. Cobb County Transit will meet its overall goal by using race neutral means of facilitating DBE participation.

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 does not consider a firm's DBE status in making the award.

Cobb County Transit will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitation DBE participation. Cobb County Transit will use combination of the following race-neutral means to increase DBE participation:

Hosting pre-bid meetings to allow large and small businesses the opportunity to connect for contracting/subcontracting opportunities. Arranging solicitations, times for meetings, specifications, and delivery schedules in ways that facilitate DBE participation. (e.g. unbundling large contracts to make them more accessible to DBE's, encouraging prime contractors to subcontract portions of work that they might otherwise perform)

Disseminating information communications on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBE businesses on recipient mailing lists for bidders, providing a link to bidders on prime contracts the GDOT UCP directory as a resource for subcontractors)

100% of Cobb County Transit's goal will be achieved through race-neutral and 0% through race-conscious.

ATTACHMENT E

DBE Participation and Good Faith Efforts Documentation

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 C.F.R. part 26

The DBE contracting requirements flow down to all third-party contracts and their subcontracts at every tier. It is the County's and prime's responsibility to ensure the DBE requirements are applied across the board to all subrecipients/contractors/subcontractors. Should a subcontractor fail to comply with the DBE regulations, FTA would look to the County to make sure it intervenes to monitor compliance. The onus for compliance is on the County.

The following contract clause is required in all USDOT-assisted prime and subcontracts:

The contractor, subrecipient 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 C.F.R. part 26 in the award and administration of USDOT-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 County deems appropriate, which may include, but is not limited to:

- (a) Withholding monthly progress payments;
- (b) Assessing sanctions;
- (c) Liquidated damages; and/or
- (d) Disqualifying the contractor from future bidding as non-responsible.

Contractors who subcontract a portion of their work, shall pay their subcontractors for satisfactory performance of their contracts no later than 10 calendar days from receipt of each payment made to them. Any delay or postponement of payment among the parties may take place only for good cause with prior written approval from the County. The Contractor shall utilize the specific DBEs listed unless the contractor obtains the County's written consent. Unless the County's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

Overview

It is the policy of the County and the United States Department of Transportation ("USDOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in USDOT-assisted contracts. It is also the policy of the County to:

1. Ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for USDOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in USDOT assisted contracts;
6. Promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The County shall make all determinations with regard to whether or not a Bidder/Offeree is in compliance with the requirements stated herein. In assessing compliance, the County may consider during its review of the Bidder/Offeree's submission package, the Bidder/Offeree's documented history of non-compliance with DBE requirements on previous contracts with the County.

The Contractor, subrecipient 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 C.F.R. part 26 in the award and administration of USDOT-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 County deems appropriate.

For the purpose of this Contract, the County will accept only DBE's who are Certified, at the time of bid opening, by the Georgia Department of Transportation (GDOT) Georgia Unified Certification Program (GUCP).

DBE Participation Goal

A Disadvantaged Business Enterprise (DBE) PARTICIPATION GOAL OF ____% has been established for this project. Bidders are 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*. All Bidders are strongly encouraged to consider the use of DBE in all aspects of the Contract that will be awarded. Contractors must submit a DBE participation report to the County prior to beginning work on a project and a final DBE report must be submitted at the end of a project. Any subsequent changes and/or substitutions of DBE firms from the original DBE Participation Schedule must be submitted and approved by the County in advance. **Monthly DBE reports must be submitted with each monthly invoice.** Bidders shall be required to document sufficient DBE participation to meet this goal, or alternatively document good faith efforts to do so.

Submission

Each Contractor shall supply the following information:

1. A list of those qualified DBE's with whom the Contractor intends to contract for the performance of portions of the work under the Contract, the agreed price to be paid to each DBE for work, the Contract items or parts to be performed by each DBE, a proposed timetable for the performance or delivery of the Contract item, and other information as required by the **DBE Participation Schedule** (attached). No work shall be included in the Schedule that the Contractor has reason to believe the listed DBE will subcontract, at any tier, to other than another DBE. The Contractor may not deviate from the DBE Participation Schedule submitted. *Any subsequent changes and/or substitutions of DBE firms will require review and written approval by the County.*
2. An original **DBE Letter of Intent** (attached) from each DBE listed in the **DBE Participation Schedule**.

Good Faith Efforts

If the Contractor is unable to meet the goal set forth above (DBE Participation Goal), the County will consider the Contractor's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the County will consider as part of the Contractor's good faith efforts include, but are not limited to, the following:

1. Documented communication with the County's DBE Coordinator (questions of IFB or RFP requirements, subcontracting opportunities, appropriate certification, will be addressed in a timely fashion);
2. The Contractor's own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBEs to respond to the solicitation;
3. Written notification to DBE's encouraging participation in the proposed Contract; and
4. Efforts made to identify specific portions of the work that might be performed by DBE's.

The Contractor shall provide the following details, at a minimum, of the specific efforts it made to negotiate in good faith with DBE's for elements of the Contract:

1. The names, addresses, and telephone numbers of DBE's that were contacted;
2. A description of the information provided to targeted DBE's regarding the specifications and bid proposals for portions of the work;
3. Efforts made to assist DBE's contacted in obtaining bonding or insurance required by the Contractor or the Authority.

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted when a non-DBE subcontractor was selected over a DBE for work on the contract. 49 C.F.R. § 26.53(b)(2)(VI). In determining whether a Contractor has made good faith efforts, the Authority may take into account the performance of other Contractors in meeting the Contract goals. For example, if the apparent successful Contractor failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Contractors, the Authority may view this as evidence of the Contractor having made good faith efforts.

Administrative Reconsideration

Within five (5) business days of being informed by the County that it is not responsive or responsible because it has not documented sufficient good faith efforts, the Contractor may request administrative reconsideration. The Contractor should make this request in writing to the County's DBE Coordinator. The DBE Coordinator will forward the Contractor's request to a reconsideration official who will not have played any role in the original determination that the **Contractor did not document sufficient good faith efforts.**

As part of this reconsideration, the Contractor 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 Contractor will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The County will send the Contractor a written decision on its reconsideration, explaining the basis for finding that the Contractor 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 US Department of Transportation.

Termination of DBE Subcontractor

The Contractor shall not terminate the DBE subcontractor(s) listed in the **DBE Participation Schedule** (see below) without the County's prior written consent. The County may provide such written consent only if the Contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The Contractor shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify the County

in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement.

Sanctions for Violations

If at any time the County has reason to believe that the Contractor is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, the County may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

1. Suspension of any payment or part due the Contractor until such time as the issues concerning the Contractor's compliance are resolved; and
2. Termination or cancellation of the Contract, in whole or in part, unless the successful Contractor is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

Continued Compliance

The County shall monitor the Contractor's DBE compliance during the life of the Contract. In the event this procurement exceeds ninety (90) days, it will be the responsibility of the Contractor to submit monthly written reports to the County that summarize the total DBE value for this Contract. These reports shall provide the following details:

1. DBE utilization established for the Contract;
2. Total value of expenditures with DBE firms for the month; and
3. Total value of expenditures with DBE firms from inception of the Contract.

Reports and other correspondence must be submitted to the DBE Coordinator with copies provided to the Project Manager and Contract Administrator. Reports shall continue to be submitted monthly until final payment is issued or until DBE participation is completed.

The Contractor shall permit:

1. The County to have access to necessary records to examine information as the County deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contract between the successful Bidder/Offeror and other DBE parties entered into during the life of the Contract.
2. The authorized representative(s) of the County, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the Contractor relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.
3. All data/record(s) pertaining to DBE shall be maintained as stated in the Georgia Archives Government Agencies Section located at:
https://www.georgiaarchives.org/records/agency_view/102; item 0484-09-001A, B, and C Equal Employment Opportunity Files.

DBE PARTICIPATION SCHEDULE

The Bidder/Offeror shall complete the following information for all DBE's participating in the contract that comprises the DBE goal stated below. The Bidder/Offeror shall also furnish the name and telephone number of the appropriate contact person should the Authority have any questions in relation to the information furnished herein.

BIDDER'S COMPANY NAME:	
Contract No.	
Cobb County No.	
LET DATE:	TOTAL BID:
THE DBE GOAL ON THIS CONTRACT IS:	
I PROPOSE TO UTILIZE THE FOLLOWING DBE CONTRACTORS:	

Name and Address	Contact Name and Telephone Number	Participation Percent	Description of Work	Race and Gender of Firm

LETTER OF INTENT

Disadvantaged Business Enterprise
(This page shall be submitted for each DBE firm)

Bidder/Offeror: Name: _____
Address: _____
City: _____ State: _____ Zip: _____

DBE Firm: DBE Firm: _____
Address: _____
City: _____ State: _____ Zip: _____

DBE Contact Person: Name: _____ Phone: () _____

DBE Certifying Agency: _____ Expiration Date: _____
Each DBE Firm shall submit evidence (such as a photocopy) of their certification status.

Classification: ☐ Prime Contractor ☐ Subcontractor ☐ Joint Venture
☐ Manufacturer ☐ Supplier

Work item(s) to be performed by DBE	Description of Work Item	Quantity	Total

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated participation is as follows:

DBE contract amount: \$ _____ Percent of total contract: _____ %

AFFIRMATION:

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

By: _____
(Signature) (Title)

* In the event 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.

DEPARTMENT OF TRANSPORTATION
STATE OF GEORGIA
INSTRUCTIONS TO CONTRACTOR
DBE PARTICIPATION REPORT

In order to receive credit toward the DBE Goal, the prime contractor must complete the report in its entirety and submit this form MONTHLY to the Project Manager in charge of the contract. Failure to submit this form will result in no credit toward the contract DBE requirements.

- 1 PROJECT NUMBER – This is the GDOT assigned project number – See Contract.
- 2 COUNTY – See Contract.
- 3 CONTRACT ID NUMBER – This is the GDOT Contract Identification Number – See Contract.
- 4 CONTRACTOR NAME –
- 5 REPORT SUBMISSION DATE – This is the date the report is completed.
- 6 REPORT NUMBER – Reports must be consecutively numbered.
- 7 REPORT TYPE – This should be checked monthly until all work has been completed, at which time the Report Type should be changed to Final and submitted to the Project Manager.
- 8 DATE WORK BEGAN – This is the date of the first day any work occurred on the project.
- 9 DBE REQUIRED PERCENTAGE – This is the total required % of the original contract amount.
- 10 CONTRACT \$ AMOUNT – DBE Amount: *The DBE amount and percentage are the DBE amount and percentage shown in the original contract. (In some instances, this amount may be greater than the percentage amount and may exceed the percentage in the contract; for reporting purposes, the amount over the DBE percentage on this contract is considered race neutral). Original subcontract amount should be at least the amount listed in the contract. Any amounts above the race conscious number or percentage are counted as race neutral and should be shown on report on a separate line than the race conscience. The contractor cannot add the race neutral until the race conscious is exceeded.*
- 11 PERCENT \$ COMPLETE – Insert the Percentage Complete, which reflects the percentage of project completed in dollars to the ending date of this report.
- 12 DBE \$ AMOUNT – This is the total dollar amount representing the percentage of the original contract.
- 13 PERCENT PROJECT COMPLETE – Insert the Percentage of Project Complete, which indicates the time completed on the project.
- 14 DATE CLOSING THIS REPORT – Please check the appropriate date for the close of payments for this report.
- 15 SUPPLIER (S) – One who supplies material to the Project. The dollar value shown in the contracts for suppliers represents the calculated sixty percent (60%) dollar value of the original amount; therefore, the supplier percentage requires no further adjustments. The amount in the contract should be shown as the subcontract amount.
- 16 OWNER / OPERATOR (O) – One who owns and operates the equipment themselves.
- 17 SUBCONTRACTOR (SC) – Those who aren't a supplier or owner/operator.

- 18 SUBCONTRACTOR AGREEMENT RECEIVED (SAR): The Department requests that you supply a copy of valid executable subcontract agreements between your company and your DBE subcontractors per section 108.01 of the Standard Specifications. All subcontracts shall include the Required Contract Provisions, FHWA 1273; these provisions shall not be incorporated by reference. A copy of subcontractor agreement (SAR) between the prime and each DBE must be submitted to the Area Engineer's Office.
- 19 RACE NEUTRAL (RN) – DBE participation that would have been used in the absence of any contract goal provisions.
- 20 RACE CONSCIOUS – DBE participation that was utilized specifically to meet the proposed contract goal or portion thereof.
- 21 ORIGINAL SUBCONTRACT AMOUNT – This is the original amount shown in the Signed Contract.
- 22 PREVIOUS PAYMENTS – This totals all PAYMENTS prior to this report.
- 23 PAYMENTS THIS REPORT – These are the totals of PAYMENTS during this report period only.
- 24 PAYMENTS TO DATE – Show the actual amount that each DBE has payments to-date under the contract based on the unit prices paid to the DBE by the prime contractor and not contract unit prices. When a supplier is used to fulfill the DBE requirements, only 60% of the amount earned by the supplier may be entered. Show that total amount in the space provided.
- 25 CURRENT COLUMN TOTALS – Total each column.
- 26 PERCENT OF CONTACT – This percentage is calculated using the contract amount and the total DBE payments-to-date.
- 27 CERTIFICATION – The contractor or his authorized representative must sign this form prior to submittal. Failure to complete and submit this form in a timely manner may delay monthly progress payments.
- 28 DBE must perform at least 30% of work with own forces to meet commercially useful function criteria (49CFR26.55). If a DBE subcontracts part of the work of its contract to another firm, the value of the work can only be counted toward the DBE goal if the DBE's subcontractor is itself a DBE.
- 29 A DBE hauler must itself own and operate at least one fully licensed, insured and operational truck to be used on the contract.
- 30 Payments and commitments for Federal-aid projects shall be separate and distinct and cannot be transferred or combined in any manner.

Credits towards DBE goal can only be claimed after the amount being claimed toward the goal has been paid to the DBE. Attach cancelled checks: Prime Contractor shall submit documentation regarding all payments made from the Prime to all DBE subcontractors on federal aid projects in the form of copies of cancelled checks or notarized electronic documentation which validates said payments made on the DBE Monthly Participation Reports. This information shall be required monthly and submitted with the DBE Monthly Participation Report (49CFR26.11).

GENERAL INFORMATION

The prime contractor may change DBE firms only with the approval of the District Engineer, provided the changes confirm to contract regulations.

The prime contractor is responsible for sending a copy of the subcontractor agreement between the prime and its subcontractors to the Project Manager. After submitting this document to the Project Manager, the prime contractor checks the block on the DBE Participation Report. Only one copy of the subcontractor agreement is requested for each DBE subcontractor.

If the prime contractor has not submitted a copy of the subcontractor agreement between the prime and its DBE subcontractor(s), the project manager will contact the prime contractor and request this document.

The prime contractor is not requested to send copies of the subcontractor agreement signed with the DBE firms to multiple offices within GDOT. Sending this information to the Project Manager will satisfy the federal requirements.

The prime contractor is responsible to accurately complete the report prior to submitting to the department. Once submitted to the department, the department project manager is responsible for reviewing it for accuracy.

If the report is inaccurate, the department project manager shall send the report back to the prime contractor for corrections. Payment will be withheld by the Department until a correct report is received.

The prime contractor is required to submit the monthly DBE from the month of Notice To Proceed until the Final DBE Report is submitted. Payment will be withheld by the Department until the report is received.

Upon completion of the work, a final "DBE Participation Report" will be required and submitted to the Area Engineer prior to final payment. All information shown on the form must be completed, including the payments of each approved DBE.

Joint ventures between non-DBE and certified DBE: Only that portion of the work for which the DBE is responsible may be used to satisfy the requirements.

Should you have questions about the Monthly DBE Participation Report – ARRA Reporting, contact the local District Contracts Administration Office or District EEO Officer.

FOR DEPARTMENTAL USE ONLY:

Federal Law requires that the work of DBE contractors be monitored in the field as part of the effort to ensure that DBEs are actually performing the work (49CFR26.37 (b)).

District EEO Officers must receive copies of the Monthly DBE Participation Reporting

MONTHLY DBE PARTICIPATION REPORT

REPORT SUBMISSION DATE: _____

PROJECT NO.: _____
 COUNTY: _____
 CONTRACT ID NO.: _____
 CONTRACTOR: _____

REPORT NO.: _____

NOTICE TO PROCEED: _____
 DATE WORK BEGAN: _____ DBE REQUIRED %: _____
 CONTRACT \$ AMOUNT: _____ % DOLLAR COMPLETE: _____
 DBE \$ AMOUNT: \$ 0.00 % PROJECT COMPLETE: _____

31-Jan	<input type="checkbox"/>	31-Jul	<input type="checkbox"/>
28-Feb	<input type="checkbox"/>	31-Aug	<input type="checkbox"/>
31-Mar	<input type="checkbox"/>	30-Sep	<input type="checkbox"/>
30-Apr	<input type="checkbox"/>	31-Oct	<input type="checkbox"/>
31-May	<input type="checkbox"/>	30-Nov	<input type="checkbox"/>
30-Jun	<input type="checkbox"/>	31-Dec	<input type="checkbox"/>

S = SUPPLIER		SC = SUBCONTRACTOR		APPROVED DBE		VENDOR ID		DESCRIPTION OF WORK	
	S	SC		ORIGINAL SUBCONTRACT AMOUNT		PREVIOUS PAYMENTS		PAYMENTS THIS REPORT	TOTAL PAYMENTS TO DATE
1									
RN	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
RC	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
2									
RN	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
RC	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
3									
RN	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
RC	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
4									
RN	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
RC	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
5									
RN	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
RC	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
6									
RN	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
RC	<input type="checkbox"/>	<input type="checkbox"/>							\$ 0.00
RN COLUMN TOTALS:				\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00
RC COLUMN TOTALS:				\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00

TOTAL % PAID TO DATE: _____

I HEREBY CERTIFY THAT THE ABOVE STATEMENT IS TRUE AND CORRECT AND SUPPORTING DOCUMENTATION IS ON FILE AND IS AVAILABLE FOR INSPECTION BY DEPARTMENT PERSONNEL AT ANY TIME. ALL PARTICIPATION CLAIMED TOWARD FULFILLMENT OF THE DBE GOALS IS (1) REAL AND SUBSTANTIAL; (2) ACTUALLY PERFORMED BY Viable, INDEPENDENT DBE OWNED FIRMS; AND (3) IN ACCORDANCE WITH THE SPIRIT OF APPLICABLE LAWS AND REGULATIONS.

PRINT NAME: _____
 NAME / TITLE

SIGNATURE: _____

FOR DEPARTMENT USE ONLY

THIS DOCUMENT HAS BEEN REVIEWED AT THE PROJECT LEVEL BY:

PRINT NAME: _____
 NAME / TITLE

SIGNATURE: _____
 (Mandatory)

THIS DOCUMENT HAS BEEN REVIEWED AT THE DISTRICT LEVEL BY:

PRINT NAME: _____
 NAME / TITLE

SIGNATURE: _____
 (Mandatory)