

Disadvantaged Business Enterprise Program

**Southwest Georgia Regional
Commission**

May 2005

In Response to 49 CFR 26 et. seq.

Disadvantaged Business Enterprise Program

49 Code of Federal Regulations Part 26 Participation by Disadvantaged Business Enterprises in the Department of Transportation Financial Assistance Programs

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

It is the policy of the Southwest Georgia Regional Commission to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

The *Transportation Program Manager*, has been delegated as the DBE Liaison Officer. In that capacity the Transportation Program Manager 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 Southwest Georgia Regional Commission in its financial assistance agreements with the Department of Transportation.

Southwest Georgia Regional Commission has disseminated this policy statement to the Southwest Georgia Regional Commission Board of Directors and all of the components of our organization. This statement will be distributed to DBE and non-DBE business communities that perform work for the SWGRC on DOT-assisted contracts. This policy will be made available upon request, at no charge, to any person making a verbal or written request. This policy will also be included in all request for services and procurement documentation, as well as, all contracts related to DOT-assisted contracts.

[Signature of Recipients Chief Executive Officer]

Date

GENERAL REQUIREMENTS

I. Objectives

It is the policy of the Southwest Georgia Regional Commission to comply with 49 Code of the Federal Regulations, Part 26, to ensure that Disadvantaged Business Enterprises have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

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

II. Applicability

The Southwest Georgia Regional Commission 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.

III. Definitions

- A. **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:
 - a. One concern controls or has the power to control the other, or
 - b. A third party or parties controls or has the power to control both, or
 - c. 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.
- B. **Affirmative Action** means; positive activities undertaken to eliminate discrimination and effects of past discrimination and to ensure nondiscrimination practices in the future.
- C. **Alaska Native** means; a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlaktla 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.
- D. **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 (43U.S.C. 1601, et seq.).
- E. **Challenge** means; a formal filing by a third party to rebut the presumption that a particular individual is socially and economically disadvantaged.
- F. **Compliance** means; that a recipient has correctly implemented the requirements of 49 CFR Part 26.

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

- G. **Condition of Award** means; the condition(s) of the formal decision of the Contracting Agency to accept the lowest responsible and responsive bidder for the work.
- H. **Consultant** means; one who gives expert or professional advice.
- I. **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 and agreement is considered to be a contract.
- J. **Contracting Agency** means; any agency that administers contracts using USDOT funds.
- K. **Contracting Opportunity** means; any decision by a recipient or contractor to institute a procurement action to obtain a produce or service commercially (as opposed to intergovernmental actions).
- L. **Contractor** means; one who participates through a contract or subcontract (at any tier), in a USDOT-assisted highway, transit, or airport program.
- M. **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.
- N. **Goal** means; a numerically expressed objective which recipients or contractors are required to make good faith efforts to achieve.
- O. **Good Faith Efforts** means; efforts to achieve a DBE goal or other requirement of CFR 49 Part 26 which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirements. Specific actions are delineated under Appendix A of 49 CFR Part 26.
- P. **Immediate Family Member** means; father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.
- Q. **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.
- R. **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 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.
- S. **Native Hawaiian** means; any individual whose ancestors were natives prior to 1778, of the area which now comprises the State of Hawaii.
- T. **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.
- U. **Noncompliance** means; that a recipient or subrecipient has not correctly implemented the requirements of 49 CFR Part 26.
- V. **Operating Administration (OA)** means; any of the following parts of the USDOT: 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.
- W. **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 and 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.

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

- X. **Primary Industrial Classification** means; the four digit Standard Industrial Classification (SIC) code designation which best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NACS manual and applicable codes.
- Y. **Primary Recipient** means; a recipient which USDOT financial assistance and passes some or all of it on to another recipient.
- Z. **Principal Place of Business** means; the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.
- AA. **Program** means; any undertaking on a recipient's part to use USDOT financial assistance, authorized by the laws to which this part applies.
- BB. **Quotas** means; proportional share, as of goods, assigned to a group or to each member of a group.
- CC. **Race-Conscious measure or program** means; one that is focused specifically on assisting only DBEs, including women-owned DBEs.
- DD. **Race-Neutral measure or program** means; one that is, or can be, used to assist all small businesses. For the purpose of 49 CFR Part 26, race-neutral includes gender-neutrality.
- EE. **Recipient** (to include subrecipient) means; any entity, public or private, to which USDOT 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.
- FF. **Secretary** means; the Secretary of Transportation for GDOT or his/her designee.
- GG. **Set-Aside** means; a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.
- HH. **Small Business Administration (SBA)** means; the United States Small Business Administration.
- II. **Small Business Concern** means; with respect to firms seeking to participate as DBEs in USDOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and SBA regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26.65 (b).
- JJ. **Socially and Economically Disadvantaged Individual** means; any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:
 - 1. Any individual who a recipient finds to be socially and economically disadvantaged on a case-by-case basis.
 - 2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - 3. "Black Americans" which includes having persons of origins in any of the Black racial groups of Africa;
 - 4. "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture, regardless of race;
 - 5. "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - 6. "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), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - 7. "Subcontinent Asian American," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
 - 8. Women;
 - 9. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

- KK. **Transit Vehicle** is; a vehicle used by an FTA recipient, e.g., bus, railcar, or van, for the primary program purpose of public mass transportation (this definition does not include locomotives or ferry boats).
- LL. **Transit Vehicle Manufacturer (TVM)** is; a manufacturer of vehicles used by FTA recipients for the primary program purpose of public mass transportation, e.g., buses, railcars, vans. The term does not apply to firms which rehabilitate old vehicles or to manufacturers of locomotives or ferry boats. The term also refers to distributors and/or dealers in transit vehicles with respect to requirements of 49 CFR Part 26.
- MM. **Tribally-Owned concern** means; any concern at least 51 percent owned by an Indian tribe as defined in 49 CFR Part 26.
- NN. **Unified Planning Work Program (UPWP)** means; a listing of planning projects proposed for funding by FTA.
- OO. **USDOT** means; the United States 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).
- PP. **USDOT-Assisted Contract** means; any contract between a recipient and a contractor (at any tier) funded in whole or in part with USDOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.
- QQ. **GDOT** means; the Georgia State Department of Transportation.

In addition to the above identified definitions, the Southwest Georgia Regional Commission will adopt all definitions contained in Section 26.5 of the Code 49 Federal Regulation for this program.

IV. Non-discrimination Requirements

The Southwest Georgia Regional Commission 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 Southwest Georgia Regional Commission will not, directly, 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.

V. Record Keeping Requirements

1) Reporting to DOT: 26.11(b)

In order to monitor the progress of its DBE program, the Southwest Georgia RDC will develop and maintain a record keeping system which will identify and assess DBE contract awards, progress in achieving DBE subcontract goals, and other DBE affirmative action efforts. Specifically, the Southwest Georgia RDC will maintain records (for a period of five years) showing:

- Procedures followed by the Southwest Georgia RDC as set forth in this program, to identify and assess DBE contract awards and progress in achieving prescribed goals;
- Specific efforts to identify and award contracts to DBEs;
- Amount paid to each DBE subcontractor by a contractor and reported to the contracting agency on a quarterly basis; and

These reports shall include as a minimum:

- The number of contracts awarded to DBEs;
- A description of the general categories of contracts awarded to DBEs;
- The dollar value of contracts awarded to DBEs;
- The percentage of the dollar value of all contracts awarded to DBEs; and
- An indication of whether and the extent of which the percentage met or exceeded the goal specified in the application.

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

The records and reports required shall provide information relating to firms owned and controlled by minorities separately from information relating to firms owned and controlled by women. Records shall be available upon request of an authorized officer or employee of the government. The Southwest Georgia RDC shall submit reports conforming in frequency and format to existing contract reporting requirements of the applicable departmental element. Where no such contract reporting requirement exist, DBE reports shall be submitted quarterly.

2) Bidders List: 26.11(c)

The Southwest Georgia Regional Commission will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder list approach to calculating overall goals. The list shall also include the following information: Firm name, Firm address, Firm's status as a DBE or non-DBE, the age of the firm, and The annual gross receipts of the firm.

In order to facilitate the receipt of this information, the Southwest Georgia RDC will annually disseminate a "receipt directed" contractor survey to encourage all firms that have bid or quoted contracts to make themselves known to WSDOT and/or its subrecipients. If this method fails in its intent, the Southwest Georgia RDC will make the submittal of this information a bidding and contract requirement.

VI. Federal Financial Assistance Agreement

Southwest Georgia Regional Commission has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

Southwest Georgia Regional Commission shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Southwest Georgia Regional Commission 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.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13(b)

We will ensure that the following clause is placed in every DOT-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 DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

ADMINISTRATIVE REQUIREMENTS

VII. DBE Program Updates

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

VIII. Policy Statement

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

X. DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:
Transportation Program Manager
PO Box 346
30 W Broad St
Camilla, GA 31730
(229) 522-3552
sangell@swgrc.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Southwest Georgia Regional Commission complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to Robert McDaniel., *Executive Director*, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment One to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of one 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 DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. 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.
6. Analyzes [*Name Recipient*]'s progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in [*name of State*].
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the Southwest Georgia Regional Commission's updated directory on certified DBEs.

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

XI. DBE Financial Institutions

It is the policy of the Southwest Georgia Regional Commission 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 contractors on DOT-assisted contract to make use of these institutions. We have made the following efforts to identify and use such institutions:

Searched state and federal DBE databases

To date we have identified the following such institutions: N/A

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

XII. Prompt Payment Mechanisms

The Southwest Georgia Regional Commission will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contract receives from Georgia Department of Transportation. The prime contractor agrees further to return retainage payments to each subcontractor within 15 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 Southwest Georgia Regional Commission. This clause applies to both DBE and non-DBE subcontracts.

XIII. Directory

The Southwest Georgia Regional Commission will maintain a local directory identifying all firms eligible to participate as DBEs. 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. We revise the Directory annually. We make the Directory available as follows: written request to (PO Box 346, Camilla, GA 31730) and verbal request to ((229) 522-3552). The Directory may be found in Attachment Two to this program document. In addition, the Southwest Georgia RC will refer to the state directory for a more comprehensive state listing.

XIV. Overconcentration

Pursuant to 49 CFR Part 26.33, if the Southwest Georgia Regional Commission (and/or its subrecipients) determine that DBE firms are so over-concentrated in one or more types of work as to unduly burden the opportunity of non-DBE firms to participate in that type of work, it will devise appropriate measures to address this over-concentration. These measures may include:

1. Technical assistance;
2. Business development; and
3. Any other measures to assist DBEs in performing in other types of work.

To date, the Southwest Georgia Regional Commission has not identified that overconcentration exists in the types of work that DBEs perform.

XV. Business Development Programs

Southwest Georgia Regional Commission has not established a business development program.

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

XVI. Monitoring and Enforcement Mechanisms

The Southwest Georgia Regional Commission 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 Department of Transportation 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.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
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 in-the-field inspections and monitoring.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

GOALS, GOOD FAITH EFFORTS, AND COUNTING

XVII. Set-asides or Quotas

The Southwest Georgia Regional Commission does not use set-asides or quotas in any way in the administration of this DBE program or DOT-assisted contracts.

XVIII. Overall Goals

The purpose of the overall goal is to achieve a “level playing field” for ready, willing, and able Disadvantaged Business Enterprises (DBEs) seeking to participate in the Southwest Georgia Regional Commission’s DOT-assisted contracts. In an effort to reach this level playing field, the Southwest Georgia RDC examined its programs and relevant local markets, then determined the amount of participation DBEs would be expected to achieve in the absence of present and past effects of discrimination. 49 Code of Federal Regulations (CFR) Part 26.45 requires recipients of USDOT federal aid to utilize a two step process in the development of their Overall DBE Goals:

Step One: Calculate relative availability of certified firms ready, willing, and able to work on USDOT-assisted contract and/or agreements.

Step Two: Adjust calculation to account for other evidence. (Once recipient has base figure resulting from Step One calculation, recipient must seek more data, with which to adjust base figure up or down.)

In accordance with Section 26.45(f) the Southwest Georgia Regional Commission will submit its overall goal to GDOT each year. Before establishing the overall goal each year, Southwest Georgia Regional Commission will consult with the the RC Transportation Committee and the Rural Transit Advisory Committees in each county to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Southwest Georgia RC’s 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 rationale 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 the Southwest Georgia RC and DOT will accept comments on the goals for 45 days from the date of the notice. Notice will be published in all major newspapers in the region, as well as all minor owned focused news media. Normally, we will issue this notice by June 1 of each year.

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

The notice will 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 DOT will include a summary of information and comments received during this public participation process and our responses.

A summary of the Overall Goal process can be found on Attachment Three.

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

XIX. Transit Vehicle Manufacturers Goals

Southwest Georgia Regional Commission does not procure vehicles directly from manufacturers and therefore will not have a Transit Vehicle Manufacturer Goal.

XX. Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment Four to this program. This section of the program will be updated annually when the goal calculation is updated.

XXI. Contract Goals

The Southwest Georgia Regional Commission will use contract goals to meet any portion of the overall goal Southwest Georgia Regional Commission 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 DOT-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 the Federal share amount of the DOT-assisted contract.

XXII. 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.

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

Information to be submitted (26.53(b))

Southwest Georgia Regional Commission treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

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.

Administrative reconsideration (26.53(d))

Within 30 days of being informed by Southwest Georgia Regional Commission 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: Suzanne Angell, PO Box 346, Camilla, GA 31730, (229) 522-3552, sangell@swgrc.org) 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 Department of Transportation.

XXIII. Counting DBE Participation

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

CERTIFICATION STANDARDS

XXIV. Certification Process

The Southwest Georgia RDC will use the certification standards of Subpart D of Part 26 and the certification records of the Georgia Disadvantaged Business Enterprise Directory to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory
Attachment 3	Overall Goal Summary
Attachment 4	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 5	Form 1 & 2 for Demonstration of Good Faith Efforts

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

Attachment 1

Organizational Chart

Southwest Georgia Regional Commission Council

Executive Director

Deputy Director/Transportation Manager

Bookkeeper

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

Attachment 2

DBE Directory

Destiny Transportation Group, Inc.
300 W. Oglethorpe Blvd.
Albany, GA 31701
(229) 888-1305

SYSTEM AND PUBLIC
TRANSPORTATION
PROGRAM

President: Elvis Muldrow

RURAL PUBLIC TRANSIT

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

Attachment 3

Overall Goal Summary

Amount of Goal

Southwest Georgia Regional Commission's overall goal for FY 2018 is the following: 35% 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.

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

Determine the base figure for the relative availability of DBEs.

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

$$\text{Base Figure} = \frac{\text{DBE Firms Trans Services}}{\text{All Firms Trans Services}} = \frac{1}{14} = .07$$

The data source or demonstrable evidence used to derive the numerator was: Georgia Department of Transportation Directory of Disadvantaged Business Enterprises.

The data source or demonstrable evidence used to derive the denominator was: Known and demonstrated transportation service providers that have demonstrated interest to the Southwest GA RDC during the past two years.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was **7%**

Step 2: 26.45(d)

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 as accurately as possible the DBE participation we would expect in the absence of discrimination we have adjusted our base figure to 35%.

The data used to determine the adjustment to the base figure was: Known transportation providers who have demonstrated interest in working with the Southwest Georgia RDC and who were minority or woman owned companies.

The reason we chose to adjust our figure using this data was because: Three additional transportation providers have been encouraged and have potential to be a certified DBE.

Public Participation

We published our goal information in these publications:

We received comments from these individuals or organizations: Not at the time

Summaries of these comments are as follows: N/A

Our responses to these comments are: N/A

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

Attachment 4

**Breakout of Estimated
Race-Neutral & Race Conscious Participation**

Southwest Georgia Regional Commission will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Southwest Georgia Regional Commission uses the following race-neutral means to increase DBE participation:

1. Whenever a DBE receives a prime contract because it is the lowest responsible bidder, the resulting DBE participation was achieved through race-neutral means;
2. Whenever a DBE receives a subcontract on a project that does not have a contract goal, its participation was also achieved through race-neutral means; and

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

1. DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures
2. DBE participation through a subcontract on a prime contract that does not carry DBE goal
3. DBE participation on a prime contract exceeding a contract goal
4. DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

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

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

Attachment 5

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

_____ The bidder/offeror is committed to a minimum of _____ % DBE utilization on this contract.

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

Southwest Georgia Regional Commission
Regional Transit System
Disadvantaged Business Enterprise Program

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.)