

**HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS**

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**Transit System – TheBus**

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
PROGRAM**

In Accordance with 49 CFR Part 26

**Effective October 1, 2017 – September 30, 2020**

[www.hernandobus.com](http://www.hernandobus.com)

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**HERNANDO COUNTY**  
**Transit System**  
**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

**POLICY STATEMENT – 26.1, 26.23, 26.3**

The Hernando County Board of County Commissioners (BOCC), 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 BOCC has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, the BOCC has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the BOCC 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.

Jannina Stampfli, Transit Coordinator, has been designated as the DBE Liaison Officer (DBELO). In that capacity, Jannina Stampfli 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 BOCC in its financial assistance agreements with the DOT.

This policy statement has been adopted by the Hernando County Board of County Commissioners and distributed to all the components of the organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT - assisted contracts, and to all DBE and non-DBE firms via advertisement and mailings to designated organizations.

\_\_\_\_\_  
Wayne Dukes, Chairman  
Hernando County Board of County Commissioners

Date: \_\_\_\_\_

\_\_\_\_\_  
Jannina Stampfli  
Transit Coordinator/DBE Liaison Officer

Date: \_\_\_\_\_

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1, 26.23 Objectives**

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

### **Section 26.3 Applicability**

The BOCC is the recipient of federal transit funds authorized by Federal transit laws in Title 49, U.S. Code Chapter 53, as amended by HR 4348 the “Moving Ahead for progress in the 21<sup>st</sup> Century Act” or “MAP-21”.

### **Section 26.5 Definitions**

The BOCC will adopt the definitions contained in Section 26.5 of 49 CFR Part 26 for this program.

### **Section 26.7 Non-discrimination Requirements**

The BOCC 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 BOCC 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**

#### **Uniform Report of DBE Awards or Commitments and Payments: 26.11(a)**

The BOCC will report DBE participation to the relevant operating administration (FAA, FHWA and/or FTA) using the uniform report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

#### **Bidders List: 26.11(c)**

The BOCC will create a bidders list, consisting of information on DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to 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 way:

The BOCC will require a clause in all solicitations and contracts that requires any firm willing to do business on DOT-assisted contracts to report the name, address, DBE/non-DBE status, age, and annual gross receipts of DBE/non-DBE firms to the BOCC.

### **Section 26.13                    Assurances**

The BOCC has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

#### Federal Financial Assistance Agreement Assurance: 26.13(a)

The BOCC 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 BOCC of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

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

*[Note: This language is to be used verbatim, as it is stated in 26.13(a)]*

#### Contract Assurance: 26.13b

The BOCC 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.

*[Note: This language is to be used verbatim, as it is stated in 26.13(a)]*

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21                    DBE Program Updates**

Since the BOCC receives grants of \$250,000 or more in FTA planning, capital 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. The BOCC will provide to DOT updates representing significant changes in the program.

### **Section 26.25                    DBE Liaison Officer (DBELO)**

The BOCC has designated the following individual as the DBE Liaison Officer:

*Jannina Stampfli, Transit Coordinator  
Hernando County Planning Department  
20 North Main Street, Room 262, Brooksville, FL 34601  
Phone: 352-754-4057  
Email: [jstampfli@hernandocounty.us](mailto:jstampfli@hernandocounty.us)*

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the BOCC complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the BOCC Chairman concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 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 (1) 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 BOCC's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the BOCC Board on DBE matters and achievement
9. Chairs the DBE Advisory Committee.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in Florida.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Utilizes the State's updated directory on certified DBEs.

#### **Section 26.27 DBE Financial Institutions**

It is the policy of the BOCC to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. In order to identify and use such institutions, the BOCC staff will utilize FDOT's DBE Directory and the Department of Treasury's website at <http://www.fms.treas.gov/mbdp/> in order to determine the availability of financial institutions. The BOCC will monitor on a continual basis the extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community. To date, we have checked with local financial institutions and the Chamber of Commerce for referrals, but were unable to identify financial institutions meeting the criteria in Hernando County.

#### **Section 26.29 Prompt Payment Mechanisms**

##### Prompt Payment: 26.29(a)

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

*"The prime consultant agrees to pay each sub-consultant under this prime contract, for satisfactory performance of its contract, no later than 30 days from the receipt of each payment the prime consultant receives from the BOCC. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause, following written approval of the BOCC. This clause applies to both DBE and non-DBE sub-consultants."*

Retainage: 26.29(b)

*“The prime consultant agrees to return retainage payments to each sub-consultant within 30 days after the sub-consultant’s 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 BOCC. This clause applies to both DBE and non-DBE sub-consultants.”*

Monitoring & Enforcement: 26.29(d)

The BOCC has established monitoring and enforcement of prompt payment and return of retainage as follows:

- a) Contracts or agreements with DBE and non-DBE sub-consultants will require prime contractors to maintain records and documents of payments for a minimum of 5 years after contract completion.
- b) Require the prime contractors to furnish a statement that they have made payment to sub-consultants in accordance with policy requirements.

Sanctions for Non-Compliance

In the event of the consultant’s non-compliance with this policy, or failure to meet the prescribed DBE goal, or expectancy set forth in any contract, or to establish a good faith effort to do so, the BOCC shall impose such contract sanctions as the BOCC, the DOT or both may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the consultant under the contract until the consultant complies; and/or
- b. Cancellation, termination or suspension of the contract in whole or in part; and/or
- c. Suspension or debarment of consultant from eligibility to contract with the BOCC in the future or to receive bid packages or request for proposal (RFP) packages.

**Section 26.31            Directory**

The BOCC does not maintain its own list of DBEs. The BOCC accepts firms listed in the DBE directory of Florida’s Uniform Certification Program (UCP), as maintained by the Florida Department of Transportation (FDOT). The directory lists a firm’s name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. A link to the directory may be found in Attachment 2 of this document.

**Section 26.33            Over Concentration**

The BOCC has not identified that over concentration exists in the types of work that DBEs perform. However, the BOCC will re-evaluate the concentration during the three-year update period. This determination was based on a review in June 2017 of the DBE Directory for the types of contracts that the BOCC may utilize given the availability of existing DBE contractors.

**Section 26.35            Business Development Programs**

The BOCC has not established a business development program; however, the BOCC will work closely with the Small Business Development Center located at the Greater Hernando Chamber of Commerce headquarters. A link is found at <http://hernandochamber.com/sbdc>

Additional guidance can be found at the FDOT DBE website at:

<http://www.dot.state.fl.us/equalopportunityoffice/bdi.shtm>



### **Section 26.37                    Monitoring and Enforcement Mechanisms**

The BOCC 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. Attachment 3 lists the regulation, provisions, and contract remedies available to us in the events 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 conducting site visits to review applicable contracts in which DBE firms are participating.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

### **Section 26.39                    Small Business Participation**

The BOCC will utilize the Small Business Administration (SBA) guidelines and definitions as set out in 49 CFR Section 26.5 to verify business size. This will ensure that small businesses are allowed to participate in our DBE Program and be able to compete with similarly-sized businesses. The BOCC will use the FDOT DBE Directory to verify that a certified DBE is eligible to participate in the Small Business Program. As such, self-certification/verification is not allowed under the program. The BOCC will implement these provisions of the Small Business Program within nine months of the approval date of the DBE Program.

In order to encourage small business participation, the following outreach activities will be utilized:

- use of County websites
- use of social media and the County's government broadcasting media
- attendance at Chamber events and publications
- attendance at SBA workshops and seminars
- verification of vendor eligibility

The BOCC has incorporated the following strategies in order to increase opportunities for small businesses participation, and has added these elements to its DBE program in order to facilitate competition on DOT-assisted projects by small business concerns (both DBEs and non-DBE small businesses):

- 1) requiring bidders on large contracts to identify and/or provide specific subcontracting opportunities for small business participation; and
- 2) where feasible, remove unnecessary and unjustified bundling of contract requirements to promote participation of small businesses
- 3) utilize the Florida Bid-Net System to allow small businesses the opportunity to review and compete on solicitations free of charge as a way to lessen the burden on competition
- 4) The BOCC will actively implement these program strategies to encourage small business participation in its good-faith efforts for the DBE Program.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

The BOCC does not use quotas in any way in the administration of this DBE program.

### **Section 26.45 Overall Goals**

In accordance with Section 26.45, the BOCC will submit its triennial overall DBE goal to FTA on August 1 of the year specified by FTA.

The BOCC will also request the use of project-specific DBE goals as appropriate, and/or may establish project specific goals as directed by FTA.

The process generally used by the BOCC to establish overall DBE goals can be found in Attachment 4 to this program.

Before establishing the overall goal each year, the BOCC will consult with minority and general contractor's groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and promote the BOCC's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the BOCC will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the BOCC's office for 30 days following the date of the notice, and informing the public that the BOCC and DOT will accept comments on the goals for 45 days from the date of the notice. The publishing of the notice of the proposed overall goal will be in a newspaper, website, or other media of general circulation focused on minority readers. Normally, this notice will be issued by June 1. 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: the goal (including the breakout of estimated race-neutral and race conscious participation); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and the BOCC's responses; and proof of publication of the goal in media outlets afore-mentioned.

The BOCC will begin using the overall goal on October 1 of the specified year, unless the BOCC has received other instructions from DOT. If the BOCC establishes a goal on a project basis, we will begin using the goal by the time of the first solicitation for a DOT-assisted contract for that project. The goal will remain effective for the duration of the three-year period established and approved by FTA

### **Section 26.47 Goal Setting and Accountability**

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

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

## **Section 26.49 Transit Vehicle Manufacturer (TVM) Goals**

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

## **Section 26.51 Meeting Overall Goals/Contract Goals**

The BOCC will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, the BOCC will provide the breakout of estimated race-neutral and race-conscious participation can be found in Attachment 4 to this program. This section of the program will be updated when the goal calculation is updated.

The BOCC will use contract goals to meet any portion of the overall goal that the BOCC 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.

The BOCC will establish contract goals only on DOT assisted contracts that have subcontracting possibilities. The BOCC 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.)

The BOCC will express its contract goals as a percentage of the Federal share of DOT assisted contracts.

## **Section 26.53 Good Faith Efforts Procedures**

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

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

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

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

The process used to determine whether good faith efforts have been made by a bidder is as follows: 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 the Appendix A of Part 26.

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

### Information to be submitted: 26.53(b)

The BOCC considers bidder/offerors' compliance with the good faith efforts' requirements as a matter of responsiveness.

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

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform,
3. The dollar amount of the participation of each DBE firm,
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 five (5) business days of being informed by the BOCC 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: James Wunderle, Chief Procurement Officer, Hernando County Purchasing Department, 20 North Main Street, Room 365, Brooksville, FL 34601, telephone: 352-754-4020, email: [purch@co.hernando.fl.us](mailto:purch@co.hernando.fl.us). 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. The BOCC 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 DOT.

Good Faith Efforts when a DBE is Terminated/Replaced on a contract with Contract Goals: 26.53(f)

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

Before transmitting to the BOCC its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to the BOCC prior to consideration of the request to terminate. The DBE will then have five (5) business days to respond and advise the BOCC of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, the BOCC will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The BOCC 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, the BOCC will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, the BOCC 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 BOCC 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 BOCC 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 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

**Section 26.55                      Counting DBE Participation**

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

**SUBPART D & E – CERTIFICATION**

**Section 26.61 – 26.73      Certification Process**

To be certified as a DBE, a firm must meet all certification eligibility standards. For information about the certification process, firms should contact:

*Jannina Stampfli, Transit Coordinator  
Hernando County Planning Department  
20 North Main Street, Room 262, Brooksville, FL 34601  
Phone: 352-754-4057  
Email: [jstampfli@hernandocounty.us](mailto:jstampfli@hernandocounty.us)*

For additional information or to apply for certification, please see the contact in Section 26.81 Unified Certification Program.

**Section 26.81                      Unified Certification Programs**

The BOCC is a non-certifying member of the Unified Certification Program (UCP) administered by the Florida Department of Transportation Equal Opportunity Office, 605 Suwannee Street, MS 65, Tallahassee, Florida 32399-0450. The EEO Office can be contacted by telephone: (850) 414-4747, fax: (850) 414-4879, and website at <http://www.dot.state.fl.us/equalopportunityoffice/>. The Florida UCP will meet all of the requirements of this section. The BOCC will use and count for DBE credit only those DBE firms certified by the Florida's UCP. See Attachment 6.

## **Section 26.83-26.91    Procedures for Certification Decisions**

A link to the State's UCP certification procedures and/or UCP program is included in Attachment 6, and is available at:

<http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20INFORMATION%20PAMPHLET.pdf>

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

U.S. Department of Transportation  
Office of Civil Rights Certification Appeals Branch  
1200 New Jersey Ave. SE  
West Building, 7th Floor  
Washington, D.C. 20590

The BOCC will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting.

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109            Information, Confidentiality, Cooperation**

The BOCC will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information consistent with Federal, State and local law. The BOCC shall require all DBE firms to complete the *Release of Confidential Information* form that is a component of the Florida Department of Transportation's submission process:

<http://www.dot.state.fl.us/equalopportunityoffice/dbecertification.shtm>

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

#### **Monitoring Payments to DBEs**

The BOCC 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 BOCC or DOT. This reporting requirement also extends to any certified DBE subcontractor.

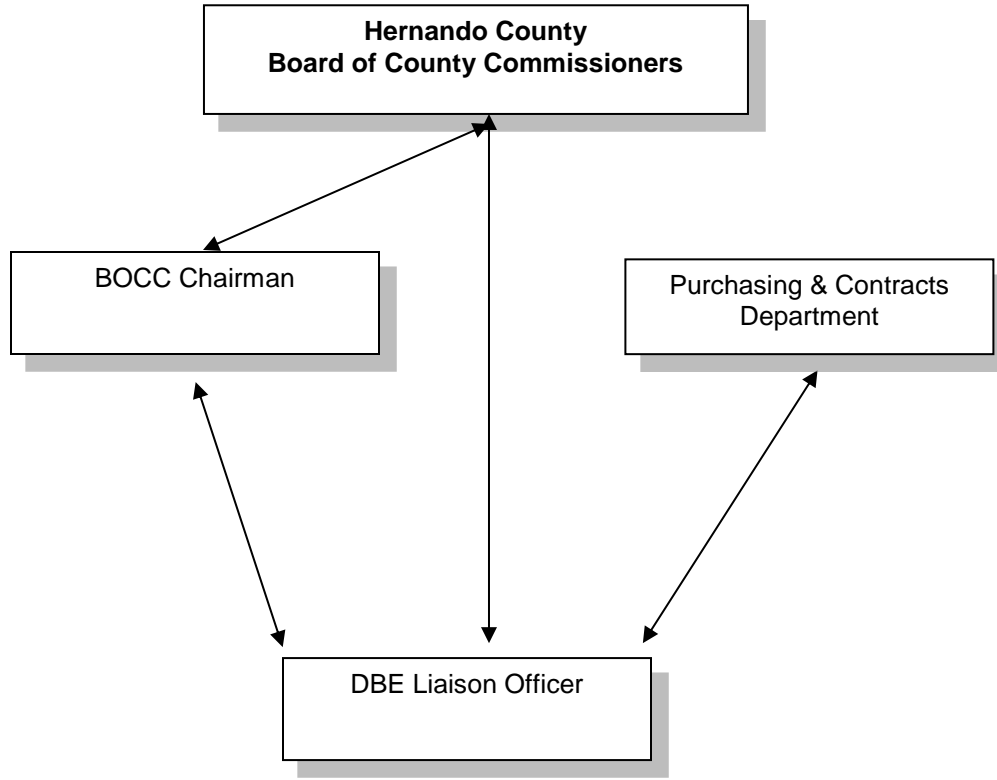
The BOCC may perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

## **ATTACHMENTS**

- Attachment 1    Organizational Chart
- Attachment 2    DBE Directory
- Attachment 3    Monitoring and Enforcement Mechanisms
- Attachment 4    Goal Setting Methodology - Overall Goal Calculation/Breakout Estimated Race-Neutral-Race Conscious Participation
- Attachment 5    Good Faith Efforts Forms - Forms 1 & 2 for Demonstration of Good Faith Efforts
- Attachment 6    Certification Application Forms
- Attachment 7    DBE Regulations: 49 CFR Part 26

ATTACHMENT 1

ORGANIZATIONAL RELATIONSHIP FOR BOCC DBE PROGRAM



**ATTACHMENT 2**

**DBE DIRECTORY**

A link to the State of Florida's UCP/DBE directory can be found at:

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



## ATTACHMENT 3

### **MONITORING AND ENFORCEMENT MECHANISMS**

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to Chapter 95.11, F.S.

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.

**ATTACHMENT 4**

**SECTION 26.45: OVERALL GOAL CALCULATION**

**Amount of Goal**

The BOCC's overall goal for FYs 2017-2020 is the following: 2% of the Federal Financial assistance we will expend in DOT-assisted contracts. This goal is exclusive of FTA funds 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:

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing and able}}$$

The data source or demonstrable evidence used to derive the numerator was the Florida Unified Certification Program (UCP) Disadvantaged Business Enterprise (DBE) Directory.

The data source or demonstrable evidence used to derive the denominator was the United States Census Bureau.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 2%.

**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. No adjustment was deemed necessary at this time.

**Public Participation**

The overall goal was published in the Tampa Bay Times Newspaper and TheBus website: [www.hernandobus.com](http://www.hernandobus.com).

No comments have been received to date.  
Summaries of these comments are as follows:  
N/A  
Our responses to these comments are:  
N/A

**SECTION 26.51: BREAKOUT OF ESTIMATED  
RACE-NEUTRAL & RACE CONSCIOUS PARTICIPATION**

Race-neutral would be defined as not assigning race or gender-specific goals on individual projects, but counting all participation of DBE sub-consultants utilized by consultants on projects.

The BOCC will only utilize race-neutral participation measures and will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The BOCC uses the following race-neutral means to increase DBE participation:

- a) arranging solicitation, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE and other small business participation;
- b) requiring that consultants subcontract portions of work that they might otherwise perform with their own staff or an outside consulting firm;
- c) providing technical assistance and other services;
- d) ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- e) assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation: The BOCC shall adjust the estimated breakout of race-neutral and race conscious participation as needed to reflect actual DBE and small business participation (see 26.39) and (see 26.51 (f)) and shall 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 a DBE goal;
3. DBE participation on a prime contract exceeding a contract goal; and
4. DBE participation through a subcontract from a prime consultant that did not consider a firm's DBE status in making the award;
5. Establishing a race-neutral set-aside for prime contracts under \$100,000.

In order to ensure that the 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 (see 26.51(f)) 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: 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 DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

**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 and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Title

**Form 2: Letter of Intent**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

**Affirmation**

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

By \_\_\_\_\_  
(Signature) Title

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

(Submit this page for each DBE subcontractor.)

**ATTACHMENT 6**

**CERTIFICATION APPLICATION FORMS**

Please see the following link to obtain the certification forms:

<http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20INFORMATION%20PAMPHLET.pdf>

## ATTACHMENT 7

### **REGULATIONS: 49 CFR PART 26**

DBE Regulation; 49 CFR Part 26 is accessible through the following website:

<http://www.ecfr.gov/cgi-bin/text-idx?region=DIV1;type=boolean;c=ecfr;cc=ecfr;sid=14e071f96d5d61cb9d2410ed56c59d3d;q1=dbe;rgn1=Section%20Heading;op2=and;rgn2=Section;op3=and;rgn3=Section;view=text;idno=49;node=49%3A1.0.1.1.20;rgn=div5#49:1.0.1.1.20.1.18.2>