



DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

PASCO COUNTY BOARD OF COUNTY COMMISSIONERS
PASCO COUNTY PUBLIC TRANSPORTATION (PCPT)



In Accordance with 49 CFR Part 26

October 1999

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POLICY STATEMENT/OBJECTIVES (Section 26.1)

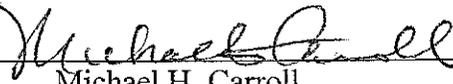
The Pasco County Board of County Commissioners (herein after called the COUNTY) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 Code of Federal Regulations (CFR) Part 26. The COUNTY has received federal financial assistance from DOT, and as a condition of receiving this assistance, has signed an assurance that it will comply with 49 CFR Part 26.

It is a policy of the COUNTY to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the COUNTY's policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that 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 marketplace outside the DBE program.

Thelma I. Williams, Transportation Administrative Manager, has been delegated as the DBE Liaison Officer. In that capacity, Ms. Williams 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 COUNTY in its financial assistance agreements with the DOT.

Pasco County Public Transportation (PCPT) serves as the Board's transit representative and will ensure that the policy statement is circulated throughout PCPT, County public offices, to minority, female and non-minority community and business organizations such as the local Chambers of Commerce, and to DBE and non-DBE business communities that perform work for PCPT on DOT-assisted contracts. This will be posted on bulletin boards and the PCPT website. It will also be provided to the Pasco County Purchasing Director for dissemination to businesses wishing to bid on DOT-assisted contracts.



Michael H. Carroll
Transportation Manager

2/26/13
Date



Thelma I. Williams
Transportation Administrative Manager

2/26/13
Date

SUBPART A - GENERAL REQUIREMENTS

POLICY STATEMENT/OBJECTIVES (Section 26.1)

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

APPLICABILITY (Section 26.3)

The COUNTY is the recipient of federal transit funds authorized by the Moving Ahead for Progress in the 21st Century (MAP-21), which reauthorizes surface transportation programs through fiscal year 2014. Each reauthorization amends the Federal Transit Laws codified in 49 USC Chapter 53. MAP-21 took effect on October 1, 2012.

DEFINITIONS (Section 26.5)

The COUNTY will adopt the definitions contained in 49 CFR 26.5 for this program. All definitions from the regulation are included and correct. As the regulation is updated, the list will also be updated. Only definitions found in Section 26.5 of Part 26 are included in this list.

1. Affiliation – concerns are affiliates when one controls or has the power to control the other.
2. Alaska Native – means a citizen of the U.S. who is a person of one-fourth degree or more Alaskan Indian.
3. Alaska Native Corporation – 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.
4. Compliance – means that a recipient has correctly implemented the requirement of this part. *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. *Contractor* means one who participates, through a contract or subcontract, in a DOT-assisted highway, transit or airport program.
5. Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.
6. Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

7. Department or DOT – means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).
8. Disadvantaged Business Enterprise (DBE) - means a for-profit small business concern:
 - (a) Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or in the case of any corporation or publicly owned business, at least 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and
 - (b) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
9. DOT-Assisted Contract - means any contract between a recipient and a contractor funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.
10. DOT/SBA Memorandum of Understanding or MOU, refers to the agreement signed on November 23, 1999, between the Department of Transportation (DOT) and the Small Business Administration (SBA) streamlining certification procedures for participation in SBA's 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs, and DOT's Disadvantaged Business Enterprise (DBE) program for small and disadvantaged businesses.
11. Good Faith Efforts – means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.
12. Home state means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.
13. Immediate Family Member – means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.
14. 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.
15. Joint Venture – means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible

for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

16. Native Hawaiian – means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.
17. 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.
18. Noncompliance – means that a recipient has not correctly implemented the requirements of this part.
19. Operating Administration or OA – means any of the following parts of DOT: the FAA, FHWA, and FTA. The “Administrator” of an operating administration includes his or her designees.
20. Personal Net Worth – means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include: The individual’s ownership interest in an applicant or participating DBE firm; or the individual’s equity in his or her primary place of residence. An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse.
21. Primary Industry 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.
22. Primary Recipient – means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.
23. 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.
24. Program – means any undertaking on a recipient’s part to use DOT financial assistance, authorized by the laws to which this part applies.
25. Race-Conscious Measure or Program – is one that is focused specifically on assisting only DBEs, including women-owned DBEs.
26. Race-Neutral Measure or Program – is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

27. Recipient - means any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.
28. Secretary - means the Secretary of Transportation or his/her designee.
29. Set-Aside - means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.
30. Small Business Administration (SBA) - means the U.S. Small Business Administration.
31. SBA certified firm refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.
32. Small business concern - means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it that also does not exceed the cap on average annual gross receipts specified in §26.65(b).
33. Socially and Economically Disadvantaged Individual - means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:
1. Any individual who is a recipient found to be a socially and economically disadvantaged individual 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:
 - (i) "Black Americans," which includes persons having origin in any of the Black racial groups of Africa;
 - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, Philippines, Brunei, Samoa, Guam, U.S. Trust Territories of the Pacific Islands (Republic of Palau),

Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

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

(vi) "Women," regardless of race, ethnicity, or origin;

(vii) "Other," individuals found to be socially and economically disadvantaged by the SBA pursuant to Section 8(a) of the Small Business Act.

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

35. You – refers to a recipient, unless a statement in the text of this part or the context requires otherwise.

NON-DISCRIMINATION REQUIREMENTS (Section 26.7)

The COUNTY 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 COUNTY 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.

RECORD KEEPING REQUIREMENTS (Section 26.11)

REPORTING TO DOT (Section 26.11b)

The COUNTY will report DBE participation to FTA on a semi-annual basis, using the Uniform Report of DBE Commitments/Awards and Payments. These reports will reflect awards/commitments made and payments actually made to DBEs on DOT-assisted contracts.

BIDDERS LIST (Section 26.11c)

The Board 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's 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. PCPT will maintain this information with the aid of the Purchasing Department Director.

Information will be collected by a contract clause requiring prime bidders to report to them on subcontracts. The bidder/proposer must agree to ensure that small businesses and DBEs as defined in 49 CFR, Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with DOT funds provided under the agreement. In this regard, the COUNTY and its contractor shall take all necessary and reasonable steps in accordance with 49 CFR, Part 26 to ensure that the DBEs have the maximum opportunity to compete for and perform contracts.

FEDERAL FINANCIAL ASSISTANCE AGREEMENT (Section 26.13)

ASSURANCES

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

Assurance: 26.13a

The COUNTY 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 COUNTY 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: 26.13b

The COUNTY 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.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

DBE PROGRAM UPDATES (Section 26.21)

Since the COUNTY 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 DOT updates representing significant changes in the program.

DBE LIAISON OFFICER AND SUPPORT STAFF (Section 26.25)

The following person has been designated as the DBE Liaison Officer:

Thelma I. Williams, Transportation Administrative Manager
8620 Galen Wilson Boulevard
Port Richey, Florida 34668
727 834-3200
twilliams@ridepcpt.com

The DBE Liaison Officer reports to Michael H. Carroll, the PCPT Transportation Manager and is charged with the responsibility of managing the DBE program to ensure compliance with the local and federal requirements. An organizational chart displaying the DBE Liaison Officer is found in Attachment 1 of this program.

The duties of the Liaison Officer include the following:

- Direct, independent access to Transportation Manager concerning DBE Program.
- Gathers and reports statistical data and other information required by the FTA.
- Ensures that Third Party contracts and purchase requisitions for compliance are reviewed.
- Works with the Transportation Division to set overall goal.
- Ensures bid notices and Request for Proposals are available to DBEs in a timely manner.
- Identifies contracts and procurements for race neutral and contract specific goals and monitors results.
- Analyze progress toward goal attainment and identifies ways to improve progress.
- Advises Transportation Manager on DBE matters and achievement.
- Participates with legal counsel and Facilities Maintenance Department to determine contractor compliance.
- Provides DBEs with information and assistance.
- Plans and participates in DBE training.
- Provides outreach to DBEs and community organizations to advise them of opportunities.

- Utilized the directory of certified DBEs through the State of Florida Unified Certification Program (UCP).

Support staff includes other members of PCPT administration staff, which consists of the Senior Accounting Clerk and the Accountant II. In addition, the Purchasing Director assists as indicated. Their specific related duties include:

- Senior Accounting Clerk
 - Seeks qualified and interested DBE firms from the State of Florida UCP in response to the purchase request.
 - Provides appropriate information to interested/qualified DBEs to obtain quotes.
 - Participates in pre-bid meetings.
 - Attaches applicable "Supplement to Purchase Order" which includes local DBE provision language to all purchase requests.
 - Documents all DBE coordination activities for historical and audit purposes.
- Accountant II
 - Responsible for all fiscal related activity and requirements associated with DBE program contracting opportunities.
 - Coordinates DBE program activity requirements with the Purchasing Department.
- Transportation Manager
 - Responsible for the overall successful management of DBE program requirements and activities.

The Pasco County Purchasing Department Director also assists with DBE program compliance as reflected below:

- Responsible for compliance with federal, state and local purchasing requirements.
- Provides assistance with DBE program activity as requested.

DBE FINANCIAL INSTITUTIONS (Section 26.27)

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

As a Division under the Pasco County Board of County Commissioners, financial institutions utilized are under the jurisdiction of the Pasco County Clerk of the Circuit Court. Every two years, PCPT will search the financial institutions identified in the U.S. Department of the Treasury, Financial Management Services Division, Minority Bank Deposit Program. The availability of such institutions can be obtained at the U.S. Department of Treasury website: <http://www.fms.treas.gov/mbdp>. If such an institution is available in Pasco County, PCPT will notify the Clerk of the Court. However, to date, no such institutions have been identified.

PROMPT PAYMENT MECHANISMS (Section 26.29)

Prompt Payment (Section 26.29 a)

Pasco County 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. The Prompt Payment Act permits as many as thirty (30) days in which to process a proper invoice. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor'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 COUNTY. This clause applies to both DBE and non-DBE subcontractors.

Retainage (section 26.29 b)

The prime contractor agrees to return retainage payments to each subcontractor within thirty (30) 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 COUNTY. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement (Section 26.29 d)

To ensure that prompt payment and retainage is in fact occurring, county staff will closely monitor vendors who have received contract bids. The COUNTY will require the Contractor to provide a DBE report with each invoice submitted for payment. Failure of the Contractor to provide the DBE report may result in the invoice not being paid until the Contractor has provided the report. Any delay or postponement of payment from the above referenced time frame may occur only for

good cause following written approval of the COUNTY. This language applies to both DBE and non-DBE subcontractors.

In addition, an *On-site DBE Participation Documentation* form will be filled out to verify that the DBE is actually performing the work identified on contract documents (see Attachment 2).

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

The COUNTY will perform interim audits of contract payments to DBEs to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the report of DBE participation. A letter of DBE participation will be issued to the firm identified by the Prime Contractor as performing work on the contract. The firm shall be requested to return the letter acknowledging the work and payment amount submitted to the COUNTY from the Prime Contractor.

If the COUNTY determines that the prime contractor has failed to comply with the prompt payment provisions set forth above, the COUNTY may give written notice to the Contractor and the Contractor's Surety that, if the default is not remedied within 10 days, the contract may be terminated. The COUNTY may also impose penalties and sanctions for non-compliance with the prompt payment clause contained in Section 26.37, Monitoring and Enforcement Mechanisms.

MONITORING AND ENFORCEMENT MECHANISMS (Section 26.37)

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

1. The County 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. The County will consider similar action under its own legal authorities, including responsibility determinations in future contracts. There will be a contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.
3. The County 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 periodic checks from fiscal, operating and

- administrative staff to ensure that work is being completed by the DBE organization.
4. The County will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Also, see Attachment 3 for additional Monitoring and Enforcement Mechanisms.

DBE DIRECTORY (Section 26.31)

PCPT will review the DBE availability (known and projected) to provide the products or services identified for contracting at either the prime or subcontract levels. Staff will utilize the State of Florida Uniform Certification Program (UPC) to seek eligible DBEs in coordination with the Pasco County Purchasing Department. The UPC can be found at: <https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>.

The UCP Directory will be made available to:

- (1) Prime contractors, bidders and proposers to assist in their efforts to meet DBE goal requirements;
- (2) DBEs in their effort to identify prospective joint ventures;
- (3) The business community at large in conjunction with the Chamber of Commerce offices throughout the County.

A copy of the UCP Agreement Signature and Declaration of Status may be found in Attachment 4 to this program document.

OVERCONCENTRATION (Section 26.33)

The COUNTY has not identified an overconcentration element in the DBE program. However, if an overconcentration is identified when reevaluating every two years, then the following actions and procedures may occur:

- If the County determines that DBE firms are over-concentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, the County must devise appropriate measures to address this overconcentration.
- These measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specified field in which the County has determined that non-DBEs are unduly burdened. The County may consider varying its use of contract goals, to the extent consistent with §26.51, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.
- The County must obtain the approval of the concerned DOT operating administration for its determination of overconcentration and the measures the

County devises to address it. Once approved, the measures become part of the DBE program.

BUSINESS DEVELOPMENT PROGRAMS (Section 26.35)

As PCPT is a small transit agency, it does not have a business development or mentor protégé program. However, the COUNTY has recently adopted a new Strategic Plan to make Pasco County the “Premier County” to live in Florida. The Plan has detailed ways to stimulate economic growth and to proactively pursue opportunities with public and private parties for growth and redevelopment. To review this Plan, please visit: <http://fl-pascocounty.civicplus.com/archives/70/Strategic%20Plan%20Handout.pdf>.

PCPT will review the need for a Business Development Program in two years, especially if there is substantial growth to the transit agency.

SMALL BUSINESS PROVISION (Section 26.39)

This small business element is included to ensure that small businesses have an equitable opportunity to participate and receive a fair share in PCPT procurement programs within Pasco County.

PCPT follows 49 CFR §26.5 in defining a Small Business Concern. This means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it that also does not exceed the cap on average annual gross receipts specified in §26.65(b). By the use of this definition, it ensures that all small businesses are subject to the same size standards and can compete with similarly-sized businesses. According to DOT, a small business is one that:

- Is organized for profit;
- Has a place of business in the United States;
- Makes a significant contribution to the U.S. economy by paying taxes or using American products, material or labor;
- Does not exceed the numerical-size standard for its industry;
- Can be a sole proprietorship, partnership, corporation, or any other legal form.

In order to prevent abuse and minimize fraud in determining eligibility of small businesses, firms will not be allowed to self-verify or self-certify themselves. PCPT will accept the certification/verification process used by another credible entity or make its own verification determination on eligibility based on the 49 CFR §26.5 criteria listed above.

As PCPT is a Division under the COUNTY, it must follow the *Purchasing Ordinance of Pasco County*. This Ordinance governs the purchase of all goods, supplies, equipment, materials, construction and services for the COUNTY, including the branches, departments, divisions, sections, and agencies under their control, regardless of the

funding source, except as otherwise provided by law. Therefore, PCPT may not always have the authority to structure contracts to benefit small businesses.

The Purchasing Department is committed to maintaining the integrity of the process, maintaining favorable business relationships, fostering fair and open competition and maximizing value. Therefore, PCPT will attempt to attract small business participation, including businesses owned by women, minorities, socially and economically disadvantaged individuals, and service-disabled veterans. PCPT is aware that race or gender cannot be used as eligibility criteria for a small business concern.

In order to facilitate competition by small business concerns, PCPT will utilize the same Race Neutral steps with small businesses as it does with DBEs (See section on Race Neutral Measures). In addition, the following steps have been or will be taken to increase small business participation:

- Recommend prime contractors provide subcontracting opportunities of a size that small businesses can reasonably perform, rather than self-performing all the work involved;
- Recommend large subcontractors who have won bids to provide opportunities for small businesses;
- Remove unnecessary burdens (e.g. bonding, insurance, etc.) so that competition is encouraged;
- Post solicitations online at www.FloridaBidSystem.com so that local vendors have an equal opportunity;
- The COUNTY's online bid distribution system provides equal access to all solicitations (informal and formal) at no cost to vendors. There is minor subscription fee only if vendors want to receive email notifications; otherwise, all vendors have free and equal access to the information;
- Utilize unbundling by including line items in some construction grants for materials and labor;
- Attempt to identify alternative acquisition strategies and structure procurements to facilitate the ability for small businesses, including DBEs, to compete for and perform prime contracts.

As several of the above listed steps have already been implemented, PCPT will take steps to implement the remainder as purchasing/bidding opportunities become available. PCPT staff will meet annually with procurement and fiscal staff to assess and discuss the types of contracts that will be available and what actions will need to be taken to meet the above-listed steps. As the COUNTY does not utilize set-asides, other strategies will be utilized to assist small businesses. PCPT will collect data on small business participation for review at Triennial audits.

Although PCPT is a small transit agency and has very few construction projects, in order to meet the requirements of Section 26.39, PCPT will make the following outreach efforts to increase small business participation:

- Attempt to develop a regional partnership with other local transit agencies to utilize small business enterprises when feasible;
- List opportunities on the PCPT/County website;
- Search the State of Florida UCP for small businesses when making purchases within their field of products/services.

In addition, PCPT and the COUNTY have developed additional outreach steps such as:

- Conducting vendor workshops once or twice per year to raise awareness and encourage local vendors to participate;
- Constantly reviewing solicitation requirements (bid and performance surety; insurance coverage limits, etc.) to make sure they are practical and not unduly burdensome;
- Posting a workshop notice on Pasco's website calendar, on Pasco Television and on various bulletin boards;
- Emailing notices to all of the major Chambers of Commerce and other service groups that have expressed interest over the years;
- Routinely meeting with local vendors, as requested, to walk them through the processes and assist them with setting up access to the online bidding system; and,
- Advertising all formal solicitations in the Tampa Bay Times.
- When services/products are needed, PCPT accounting staff will attempt to contact businesses on the current DBE/Small Businesses listing that are coded under that particular category. These DBEs and small businesses are all given opportunities to quote their prices for any given service/product.

As mentioned above, PCPT is a small transit agency with little opportunity for growth in the current economy. As opportunities for growth become available, within its authority, PCPT will encourage and allow small businesses to partake in any bids for future construction projects or other services required to expand its transit agency.

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

QUOTAS AND SET-ASIDES (Section 26.43)

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

Pasco County does not opt to utilize the set-aside mechanism to assist in achieving its DBE goal.

OVERALL GOALS (Section 26.45)

The DBE goal shall be submitted every three years to the FTA for approval by August 1st. All submissions will be sent along with supporting documentation on the

methodology and analysis employed. A step by step description of the methodology used to calculate the overall goal can be found in Attachment 5 to this program.

Before establishing the overall goal every three years, PCPT will consult with the Purchasing and Fiscal Departments to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the COUNTY's efforts to establish a level playing field for the participation of DBEs. Attempts will be made to meet with groups such as women, minorities, small businesses, general contractors groups, and community organizations to inform them of any proposed projects that PCPT is planning in the next few years.

Following this consultation, PCPT 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 our principal office for 30 days following the date of the notice, and informing the public that we and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, we will issue this notice by June 1 every third year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed. These notices will be published throughout the County in a general newspaper (Tampa Bay Times – Pasco Section); a newspaper that serves the minority sections of Pasco County (The Tampa Tribune-Pasco Section); and a trade magazine (APTA Passenger Transport).

Our overall goal submission to DOT will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); 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 our responses; and proof of publication of the goal in media outlets listed above.

PCPT will begin using its overall goal on October 1 of each year, unless we have received other instructions from DOT. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

GOAL SETTING AND ACCOUNTABILITY (Section 26.47)

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

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and,
3. As Pasco County does not have one of the 50 largest transit service providers, PCPT will conduct an annual analysis on whether or not it is meeting its DBE goal. If the goal is not being met, we will establish and implement a corrective action plan. This information will be kept for review should the FTA request it during its triennial review.

TRANSIT VEHICLE MANUFACTURERS (TVM) GOALS (Section 26.49)

The Board 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 Board 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.

BREAKOUT OF ESTIMATED RACE-NEUTRAL & RACE-CONSCIOUS PARTICIPATION (Section 26.51 a-c)

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program.

CONTRACT GOALS (Section 26.51 d-g)

The COUNTY will use contract goals to help meet any portion of the overall goal the COUNTY 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.

Pasco County 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 of a DOT-assisted contract.

The following language shall be incorporated in all specifications for formal bids of activities identified for a DBE goal:

Bidders are hereby advised that the Pasco County Board of County Commissioners has adopted a Disadvantaged Business Enterprise (DBE) program which establishes a goal for maximizing participation of disadvantaged business enterprises in all contracts and subcontract projects. Each bidder should become aware of the percentage goal for DBE opportunities currently applicable to the proposed bid. It shall be the responsibility of the successful bidder to take affirmative action and to assist Pasco County in complying with meeting its DBE goal.

GOOD FAITH EFFORTS PROCEDURES (Section 26.53)

Award of Contracts with a DBE Contract Goal/Demonstration of Good Faith Efforts (Section 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. PCPT 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. The COUNTY will utilize the following criteria to determine the contractor's "good faith effort" to subcontract and negotiate with DBEs:

- (1) Whether the contractor or supplier attended any presolicitation or prebid meetings that were scheduled by the COUNTY to inform DBEs of contracting and subcontracting opportunities.
- (2) Whether the contractor or supplier provided notice in general circulation, trade association, and minority and female focus media concerning the subcontracting opportunities.
- (3) Whether the contractor provided written notice to a reasonable number of specific DBEs that their interest in the contract was solicited in sufficient time to allow the DBEs to effectively participate.
- (4) Whether the contractor followed up the initial solicitation of interest by contacting DBEs to determine with certainty whether the DBEs were interested.
- (5) Whether the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal including, where appropriate, segmenting contracts into economically feasible units to facilitate DBE participation.
- (6) Whether the contractor provided interested DBEs with adequate information about the plans, specifications and requirements of the contract.
- (7) Whether the contractor negotiated in "good faith" with interested DBEs not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.
- (8) Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance required by the Board or the contractor.
- (9) Whether the contractor effectively used the services of available minority and female community organizations, minority and female contractors' groups,

local, state and federal minority and female business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBEs.

The Board may, upon written notice to the contractor, meet with its officials to discuss or provide written evidence of "good faith effort" to subcontract and negotiate with DBEs and DBE/Non-DBE/Joint Venture and its ability to achieve the established goal. Failure of a contractor to meet or provide the requested written information at a stipulated time and place, without a demonstration of good cause, shall be cause for rejection of the proposal.

Information to be Submitted

The Board treats bidder/offeror compliance with good faith effort 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:

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;
6. If the contract goal is not met, evidence of good faith efforts.

Failure of a contractor/subcontractor to comply with provisions above shall be cause for rejection of that contractor's proposal.

Administrative Reconsideration (Section 26.53d)

Within ten (10) days of being informed by the Board 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: Pasco County Community Services Director, 8620 Galen Wilson Boulevard, Port Richey, Florida 34668; (727) 834-3258. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make and/or document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a

written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to DOT.

DBE Termination or Replacement (Section 26.53f)

The COUNTY requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the COUNTY'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 COUNTY, 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 COUNTY prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise the COUNTY of why it objects to the proposed termination. The five day period may be reduced if the matter is one of public necessity, i.e., safety.

In those instances where "good cause" exists to terminate a DBE's contract, the COUNTY will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

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

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 COUNTY 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 3), 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.

The sample specification is intended for use in both non-construction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.

COUNTING DBE PARTICIPATION (Section 26.55)

PCPT will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. Semi-annually, PCPT shall provide the FTA with a report indicating the results and success in meeting the annual DBE percentage goal.

The COUNTY shall maintain accurate and current records on PCPT's DBE program and contracting activities. The records kept shall indicate the FTA-assisted contracts awarded to DBE by type of contract, the names and addresses of the participating DBEs by ethnic group and sex, the amount of each contract, and an accounting of the actual amount of expenditures for each contract. Separate records may be maintained for minority-owned, women-owned, and 8(a) firms, which are nonminority or women-owned.

Contract goals may be set slightly higher in some contracts to meet overall goals. The opportunity to implement this step will be considered on each contract and, when presumed feasible, will be brought to the attention of the PCPT Transportation Manager for approval.

DBE participation that is counted toward the annual and project-specific goal shall be based on the total amount of FTA assistance in contracts awarded to eligible DBE participants. Awards/expenditures on contracts with DBE suppliers of materials and supplies will be counted in accordance with FTA Circular 4716.1A. A copy of this circular will be provided upon request.

The COUNTY will count toward its DBE goal only awards/expenditures to DBEs that perform a commercially useful function in the work of a contract. This means that a DBE must be responsible for a distinct element of work involved. A DBE may of course enter into subcontracts whose value may be counted toward its DBE goal.

Pasco County will utilize the State of Florida UCP directory in an effort to search for DBEs in a reasonably wider geographical area other than normally sought for a given solicitation.

Contracting and Leasing Opportunities

The COUNTY will allow qualified DBEs to review and evaluate successful bid documents of similar procurement when requested in writing to the Pasco County Purchasing Department Director.

The COUNTY will provide debriefing sessions on unsuccessful DBE bids following applicable written requests to the Purchasing Department Director. Seminars or workshops regarding the Pasco County DBE program will be held based on requested need as submitted in writing to the Purchasing Department Director.

Pasco County Purchasing Ordinance, 92-06, provides requisitioning, purchasing, and contracting information. This ordinance is made available upon request.

Proposal, Execution, and Compliance with Subcontractors

The successful bidder shall provide applicable subcontract proposed agreements for COUNTY approval. Upon approval by the COUNTY, the successful proposer shall enter into each such approved subcontract and shall thereafter neither terminate any subcontract nor reduce the scope of work to be performed by, or decrease the price to be paid to, the DBE and the DBE/Non-DBE/Joint Venture thereunder without in each instance the prior written approval of the COUNTY.

Substitution of Subcontractors

Where the COUNTY has approved termination of a subcontract held by a DBE or DBE/Non-DBE/Joint Venture, the contractor shall make good faith effort to propose and enter into an alternative subcontract or subcontracts for the same work to be performed with another qualified DBE for a contract price or prices totaling not less than the contract price of the terminated subcontract. Satisfactory evidence of good faith effort shall be furnished in a timely manner to the COUNTY.

Reporting to DOT

We will report DBE participation on a semi-annual basis in TEAM-Web. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

The Board will continue to carry out this program until all funds from DOT financial assistance have been expended. They will provide to DOT updates representing significant changes in the program.

SUBPARTS D & E - CERTIFICATION PROCEDURES

UNIFIED CERTIFICATION PROGRAM (Section 26.81)

The COUNTY is a member of the UCP administered by the State of Florida. The UCP will meet all of the requirements of this section. The COUNTY will use and count for DBE credit only those DBE firms certified by the Florida UCP. Pasco County will accept the directory listings from the State of Florida UCP since this directory is established and maintained in a manner which meets or exceeds applicable federal regulations. This directory will be checked on a recurring basis to ensure currency and applicability.

The COUNTY has non-certifying member status. As mentioned under the DBE Directory section, information on the State of Florida UPC can be found at the following website: <https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>.

Burdens of Proof

In order for a business concern to participate in the Pasco County DBE program, the following criteria must be met:

- (1) The enterprise must qualify as a small business concern, as defined by SBA;
- (2) The enterprise must be at least 51 percent owned and controlled by socially and economically disadvantaged individuals.
- (3) That DBEs and joint ventures involving DBEs have been and will be certified for eligibility, per Subparts D and E of 49 CFR Part 26.

CERTIFICATION APPEALS (Section 26.89)

In accordance with 49 CFR Part 26, the Pasco County DBE program establishes a process for considering challenges to the presumption of social and economic disadvantage of an owner of a business that is certified or seeks to be certified as a DBE. The standards in making a determination of DBE eligibility, as established in the State of Florida UCP, meet or exceed those set forth in Subparts D and E of 49 CFR Part 26, as amended, and are accepted by Pasco County.

Any third party may challenge the socially and economically disadvantaged status of any individual if that individual is the owner of a business that has been certified as a DBE within the State of Florida UCP, or is seeking such certification. That challenge must be presented to the COUNTY in writing, and must include all information relevant to making a determination as to whether or not the challenged party is in fact socially and economically disadvantaged.

Pending a challenge, a presumption will be made that the challenged individual is socially and economically disadvantaged.

The COUNTY will accept and evaluate written challenges to the social and economic status of businesses certified or seeking certification as a DBE, except in cases where the business has a current 8(a) certification from the SBA.

Upon evaluation of the information provided by the challenged party, the COUNTY may determine that there is no reason to believe that the challenged party is not socially and economically disadvantaged. If that is the case, the COUNTY will inform the challenged party of its decision in writing. This terminates the proceeding.

Should the COUNTY, upon evaluation of the information provided, find there is reason to believe that the challenged party is not socially and economically disadvantaged, the COUNTY will notify the challenged party of its decision in writing that its status as a DBE has been challenged. The COUNTY will identify the challenging party, summarize the grounds for the challenge, and request that the challenged party provide the COUNTY with a written rebuttal within thirty (30) days. If no such rebuttal is provided within that time period, the challenged party will be informed in writing by the COUNTY that their business is ineligible to participate as a DBE in PCPT-related contracting opportunities until such time as the required rebuttal is submitted to Pasco County.

Upon evaluation of the challenged party's rebuttal, the COUNTY will provide both parties with its proposed determination of the case in writing. Pasco County will also hold an informal hearing, at which time both parties may respond.

The affected parties involved in the challenge may make appeal of final COUNTY determination to DOT, utilizing the procedures for certification appeals under CFR 49 Part 26, as amended, Section 26.89. A copy of these procedures will be provided upon request. Such appeals may be sent to:

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

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

Further certification procedures are not addressed in this plan, as Pasco County accepts the FTA approved certification processes used by the State of Florida UCP.

SUBPART F - COMPLIANCE AND ENFORCEMENT

INFORMATION, CONFIDENTIALITY, COOPERATION (Section 26.109)

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

law. Notwithstanding any contrary provisions of state or local law, we 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 COUNTY 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 COUNTY or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The COUNTY 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.

PCPT will create and maintain a bidders list of all firms bidding on prime contracts and bidding or quoting subcontracts on DOT-assisted projects that will include: 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.

ATTACHMENTS

Attachment 1 - PCPT Organizational Chart

Attachment 2 - On-Site DBE Participation Documentation

Attachment 3 - Monitoring and Enforcement Mechanisms

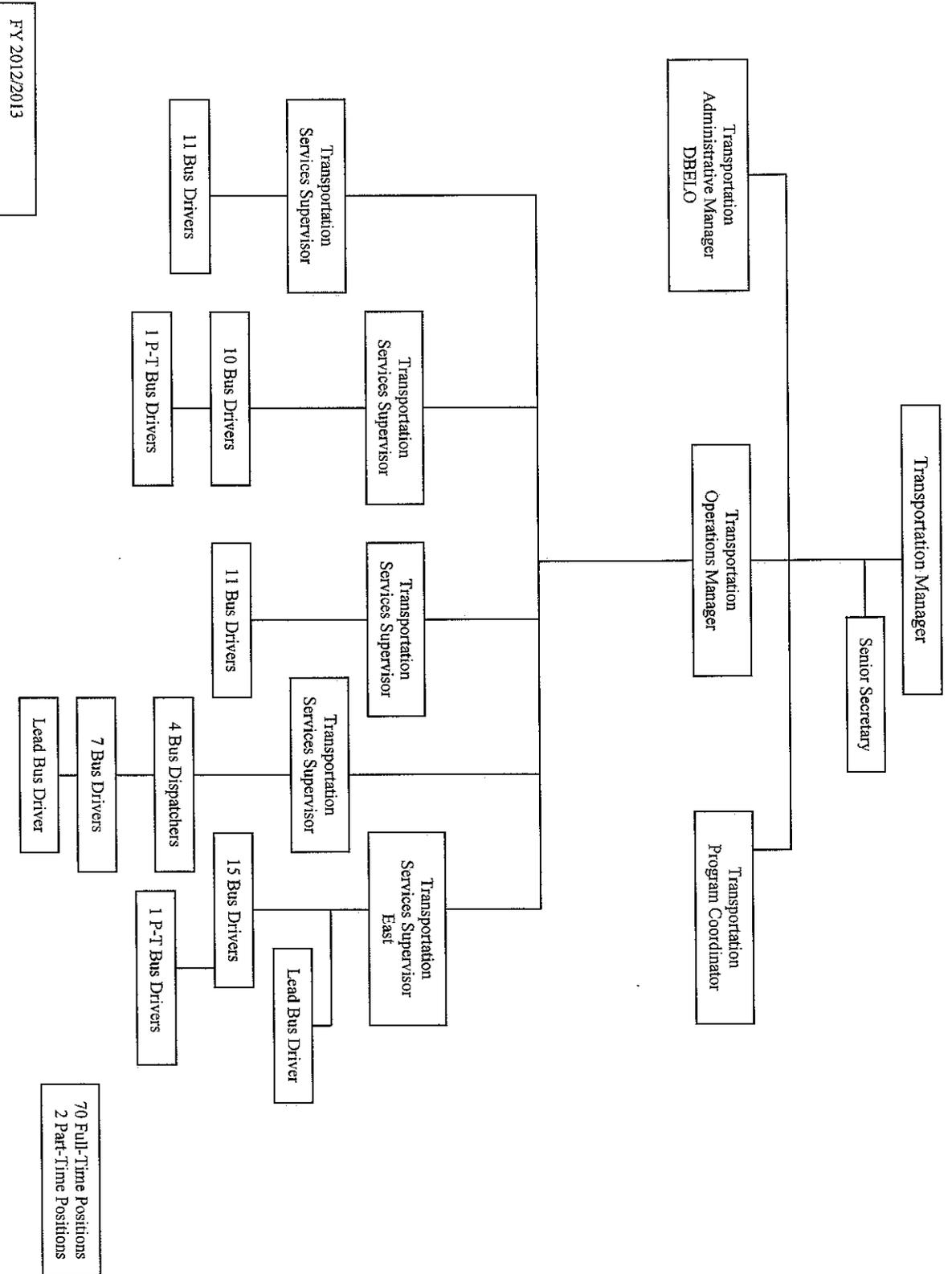
Attachment 4 - State of Florida UCP Agreement and DBE Directory Link

Attachment 5 - Overall Goal Calculation and Breakout of Estimated
Race-Neutral & Race-Conscious Participation

Attachment 6 - Forms 1 & 2 for Demonstration of Good Faith Efforts

Attachment 7 - 49 CFR Part 26 Link

PCPT ORGANIZATIONAL CHART



Attachment 2

PCPT

On-Site DBE Participation Documentation

Today's Date: _____

PCPT Project Name: _____

Name of Staff Member Completing Report: _____

Purchase Order/Task Order #: _____

Prime Contractor Company Name: _____

Prime Contractor Project Manager: _____

Name of DBE Company on the Job: _____

Name of DBE Employee interviewed (print): _____

Identification (Driver's License, etc.) of DBE Employee: _____

What work is the DBE employee doing? _____

Do uniforms have DBE's company name? ____ Yes ____ No

Has the DBE received any payment from the Prime Contractor to Date? ____ Yes ____ No

What was the DBE's begin date? _____

What date does the DBE anticipate completion of their portion of the work? _____

Observations and/or Comments by the Staff Member Completing this Report:

Signature of the DBE Employee Interviewed: _____ Date: _____

Signature of the Staff Member Verifying the DBE: _____ Date: _____

**THIS FORM MUST BE TURNED INTO THE PCPT DBE OFFICER UPON
COMPLETION**

Attachment 3

Monitoring and Enforcement Mechanisms

Regulatory Provisions

Including but not limited to:

- Breach of contract action, pursuant to the terms of the contract
- 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs: particularly, Subpart F, Compliance and Enforcement.
- 49 CFR Part 29 – Government-wide Debarment and Suspension (Non-Procurement) and Government-wide Requirements for Drug Free Workplace
- 49 CFR Part 31 – Program Fraud Civil Remedies
- 13 CFR Part 121 – Small Business Size Standards

Enforcement Mechanisms

The Federal Government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following:

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

Legal and Contract Remedies

If at any time the COUNTY has reason to believe that the successful proposer is in violation of its obligations under the DBE contract provisions, or has otherwise failed to comply with the provisions thereof, the COUNTY may, in addition to pursuing any other available legal remedy, commence proceedings to impose sanctions on the successful proposer. Such sanctions may include, but are not limited to, one or more of the following:

- (1) The suspension of any payment or part thereof until such time that compliance is demonstrated.
- (2) The termination or cancellation of the contract in whole or in part unless compliance is demonstrated within a reasonable time.
- (3) The denial of that contractor to participate in any further FTA funded contracts awarded by the COUNTY.

Attachment 5

Overall Goal Calculation (Section 26.45)

Amount of Goal

1. The COUNTY's overall goal for the FY 20__-20__ is the following: ___% of the Federal Financial assistance we will expend in DOT-assisted contracts exclusive of FTA funds to be used for the purchase of transit vehicles.
2. \$___ is the dollar amount of DOT-assisted contracts that the COUNTY expects to award during FFY20__. This means that the COUNTY has set a goal of expending \$___ with DBEs during this fiscal year/project.

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 data source or demonstrable evidence used to derive the denominator was:

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

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 by ___%.

The data used to determine the adjustment to the base figure was:

The reason we chose to adjust our figure using this data was because:

From this data, we have adjusted our base figure to:

Public Participation

We published our goal information in the following publications:

We received comments from these individuals or organizations:

Summaries of these comments are as follows:

Our responses to these comments are as follows:

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

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

- (1) Arranging solicitations, time of bids, quantities, etc., to facilitate DBEs.
- (2) Assistance to DBEs for bonding, financing, and surety costs.
- (3) Technical assistance and other services to DBEs.
- (4) Providing DBEs information on contract Opportunities.
- (5) DBE Supportive Services program.
- (6) Services to help DBEs expand and achieve self-sufficiency.
- (7) Assist DBE start-up firms in fields with low participation.
- (8) Ensure adequate knowledge regarding the State of Florida UCP.
- (9) Assist DBEs in emerging technology and electronic media.

The COUNTY estimates that, in meeting its overall goal of __%, it will obtain __% from race-neutral participation and __% through race-conscious measures.

In order to ensure that the COUNTY's DBE program will be narrowly tailored to overcome the effects of discrimination, if the COUNTY uses contract goals, it will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes,

but is not necessarily limited to, the following DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures:

- DBE participation through a subcontract on a prime contract that does not carry DBE goal;
- DBE participation on a prime contract exceeding a contract goal;
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

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

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

Both forms should be provided as part of the solicitation documents.

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 and 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.

(Please submit this page for each DBE subcontractor.)

Attachment 7

Regulations: 49 CFR Part 26

The following link is provided of Federal Regulations Title 49 Part 26, which accesses the Disadvantaged Business Enterprises (DBE) program.

<http://www.ecfr.gov/>