

Disadvantaged Business Enterprise Program

AUGUSTA, GEORGIA
DEPARTMENT OF TRANSPORTATION
DBE PROGRAM - 49CFR PART 26

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statements

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

It is the policy of Augusta, Georgia to ensure that DBEs are 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.

Yvonne Gentry has been delegated as the DBE Liaison Officer. In that capacity, Yvonne Gentry 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 Augusta, Georgia in its financial assistance

agreements with the Department of Transportation.

Augusta, Georgia has disseminated this policy statement to the Augusta, Georgia Commission and Mayor of Augusta, Georgia, and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT - assisted contracts. The policy statement is part of the certification and representation documents that all contractors must sign when participating in a DOT-assisted contract. Information is has been submitted to the Procurement Department and is also available on the Augusta, Georgia website.

Handwritten signature
[Signature of Recipients Chief Executive Officer]

3/31/15
Date

ATTEST:

Handwritten signature: Nancy W. Morawski
Dep. CLERK OF COMMISSION

SUBPART A - GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

Augusta, Georgia is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102- 240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

Augusta, Georgia adopted the definitions contained in Section 26.5 of Part 26 for this program, definitions for terms used in this program are found in Attachment I.

Limitations

This DBE program is only for DOT - assisted contracts and other state funded contracts having mandatory DBE requirements. All DOT funded projects are subject to the requirements of 49 CFR Part 26. These requirements are mandatory and non-negotiable. Augusta enforces DBE requirements and/or State Agencies in accordance with State and Federal laws. The U.S. District Court for the Southern District of Georgia has entered an Order enjoining the Race-Based portion of Augusta, Georgia's DBE Program. A copy of this Order may be obtained at: <http://www.augustaga.gov/index.aspx?NID=1448>

Thus, Augusta, Georgia does not have or operate a Disadvantaged Business Enterprise (DBE), Minority Business Enterprise (MBE) or Women Owned Business Enterprise (WBE) program for projects (or portions of projects) having Augusta, Georgia as the source of funding.

Section 26.7 Non-discrimination Requirements

Augusta, Georgia 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, Augusta, Georgia 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 Payment: 26.11(a)

Augusta, Georgia will report DBE participation twice each year by June 1st and December 1st, using the Uniform Report of DBE Awards/Commitments and Payment form. These reports will reflect payments actually made to DBEs on DOT-assisted contracts. The information of this report will be forwarded to FTA through FTA's Transportation Electronic Award and Management (TEAM) system.

Bidders List: 26.11(b)

Augusta, Georgia will create and maintain 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 bidder list will include the name, address, DBE and non-DBE status, age, and annual gross receipts of firms.

Augusta, Georgia will collect this information in the following ways:

Augusta, Georgia will include a notice in all solicitations requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts directly to Yvonne Gentry. In addition, Augusta, Georgia will also collect this information when a vendor is selected to begin the work or service and request vendors to report the names, address, and email addresses of all firms who quote to them on subcontracts.

To further ensure that Augusta, Georgia provides qualified vendors an opportunity to perform work, during public outreach activities and the participation in professional events, Augusta, Georgia will ensure that staff is able to collect vendor information and/or direct vendors to the website where the DBE program will be located.

Section 26.13 Assurances

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

Federal Financial Assisted Agreement Assurance: 26.13(a)

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

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

Contract Assurance: 26.13(b)

Augusta, Georgia 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

Section 26.21 DBE Program Updates

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

Section 26.25 DBE Liaison Officer (DBELO)

Augusta, Georgia has designated the following individual as our DBE Liaison Officer:

Ms. Yvonne Gentry
535 Greene Street - Suite 600B
Augusta, Georgia 30901

(706) 821-2406

ygentry@augustaga.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Augusta, Georgia complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Mayor and Commissioners concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is found in Attachment 2 attached hereto and incorporated herein by reference 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. Gathering and reporting 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 (through the Transit Contract Manager) 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 Augusta, Georgia's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Mayor, Commissioners on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates in pre-bid meetings.
11. Provides DBEs with information and assistance.
12. Plans and participates in DBE training seminars.
13. Provides outreach to DBEs and community organizations to

advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of Augusta, Georgia 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. We have made the following efforts to identify and use such institutions:

- Researched information available on line to identify DBE financial institutions;
- Searched the Georgia Department of Transportation DBE database for registered financial institutions.

The following are financial institutions that are believed to be owned and controlled by socially and economically disadvantaged individual. Augusta, Georgia will provide this information to DBEs.

Capital City

Margaret Ellis@CapitolCityBank.Atl.com 1268 Broad Street

Augusta, GA 30901

(706) 432-0024

(706) 303-9791 Fax

This financial institution is a community full service bank. The institution has partner with the CSRA Business League to provide additional service to small business community. Information on the availability of such institution can be obtained from the DBE Liaison Officer requested by phone (706) 821-2406 or by fax (706) 821-4228.

Section 26.29 Prompt Payment Mechanisms

✓ Prompt Payment: 26.29(a)

Augusta, Georgia will include the following clause in each DOT-assisted prime contract:

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

Retainage: 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within 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 Augusta, Georgia. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement: 26.29(c)

- Augusta, Georgia has established the following mechanism to monitor and enforce that prompt payment and retainage is in fact occurring.
- Augusta, Georgia will monitor prime contractors to ensure they are paying their subcontractors within the contractual 30-day time frame by requiring that all prime contractors maintain records and documents of payments to DBEs. Forms for reporting subcontractors' invoices and pay methods will be provided to prime contractors upon contract execution. These forms shall be submitted by the prime contractor along with invoices for payment. These records will be available upon request to any authorized representative of

Augusta, Georgia or U.S. DOT. This requirement also extends to any certified DBE subcontractor.

- Augusta, Georgia will randomly select subcontractors throughout the year from which prime contractors have provided payment information and request that the subcontractor verify payment dates for invoiced work. This monitoring will assist Augusta, Georgia in identifying prime contractors that may not be complying with the prompt payment and retainage sections of this program.

Augusta, Georgia will bring to the attention of the U.S. DOT any false, fraudulent, or dishonest conduct in connection with the program, so that U.S. DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, referral to the U.S. DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules). Augusta, Georgia will consider similar action under our own legal authorities, including responsibility determinations in future contracts, removal of firms from the prequalified bidders and consultants lists or revocation of DBE certification if applicable, pursuant to Federal and State Law.

Section 26.31 Directory

Augusta, Georgia is a non-certifying member of the Georgia Unified Certification Program (UCP) established in

<http://www.dot.ga.gov/doingbusiness/dbePrograms/Pages/default.aspx>

GDOT serves as Manager for the UCP's electronic DBE Directory, which includes all DBE certifications made by Certifying Members.

The Directory lists the firm's name, address, telephone number, email address, and the type of work the firm has been certified to perform as a DBE. The DBE Directory is updated daily by the Department and other Georgia Unified Certification Program certifying members and is available on the internet at

<http://www.dot.ga.gov//doingbusiness/dbePrograms/Pages/default.aspx>

Certifying members are required to update the DBE Directory within three days of a certification decision. The Directory can be sorted by NAICS code, specialty code, work location and physical location, firm name, business description, or you can download the Directory electronically. Interested parties may contact the Equal Opportunity Office to obtain a current copy of the DBE Directory:

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

[View Contact Directory](#)

Uniform Certification Program Partner
MARTA
Office of Diversity and Equal Opportunity
2424 Piedmont Road, NE, Atlanta, GA 30324
(404) 848-5270 | (404) 848-4302 Fax

[View MARTA website](#)

Section 26.3 Overconcentration

Augusta, Georgia has not identified that DBE participation is over concentrated in certain types of work or concentrating opportunities in certain types of work or contracting opportunities the following measure will be used to address overconcentration, with prior approval from FTA. The measures include, but are not limited to the following:

- Coordinate with prime bidders to identify and use DBEs in other industry areas outside of the specific overconcentration area.
- Varying the use of contract goals to ensure non-DBEs are not unfairly prevented from competing for subcontracts.

Section 26.35 Business Development Programs

Augusta, Georgia has not established a business development program. The need for such a program will be re-evaluated every eighteen (18) months. Prior to any consideration of developing a program, Augusta, Georgia will seek approval from FTA.

Section 26.37 Monitoring and Enforcement Mechanisms

Augusta, Georgia will take the following monitoring and enforcement mechanisms to ensure compliance with FTA 49 CFR Part 26.

1. Augusta, Georgia will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by the DBE Liaison.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 - Fostering Small Business Participation (49 CFR Part 26.39)

Augusta, Georgia has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and Non-DBE Small Businesses):

- A. Augusta, Georgia will meet its objectives using a combination of following methods and strategies.
 1. Unbundling: Augusta, Georgia, where feasible, may "unbundle" projects or separate large contracts into smaller contracts which may

be more suitable for small businesses participation. Augusta, Georgia will conduct contract reviews on each DOT - assisted contract to determine whether portions of the project could be "unbundled" or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Augusta, Georgia will document the factors used to determine whether or not a DOT - assisted contract will be unbundled or bid separately.

2. Outreach and technical assistance: Augusta, Georgia sponsors and participates in outreach and training opportunities for small businesses through various partnerships. Augusta, Georgia participates in business outreach sessions conducted by local municipalities and non-profit agencies which are designed to introduce small businesses to the procurement processes and practices. Additionally, Augusta, Georgia advertises contracting opportunities through various outlets including local newspaper, and trade publication as well as on its website.

B. Definitions

1. Small Business:

Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration (SBA) regulations implementing it (13 CFR Part 121). A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three- year period.

2. Disadvantaged Business Enterprise:

A for-profit small business (as defined by the Small Business Administration).

-That is at least 51 percent owned by one or more individuals who are

both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;

-Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) as described in 49 CFR Part 26. The current PNW cap is \$1.32 million.

-Whose average annual gross receipts, as defined by SBA regulations over the firm's previous three fiscal years is less than \$22.41 million;

-Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and

-Has been certified as a DBE by the Georgia Department of Transportation (GDOT) in accordance with 49 CFR Part 26.

For the purposes of the small business element of the Augusta Georgia's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race- neutral participation on FTA - assisted contracts.

C. Certification and Verification Procedures

Augusta, Georgia will accept the following certification for participation in the small business element of Augusta, Georgia's DBE Program with applicable stipulations:

1. GDOT DBE Certification - DBE Certification by the Department of Transit which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE

certification issued by GDOT.

2. Small Business Enterprise (SBE) - Will require submittal of three years of business tax returns.
3. Georgia Department of Administration HUB Certification - Will require submittal of three years of business tax returns.
4. SBA 8 (a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of three years of business tax returns.

D. Implementation Schedule

Augusta, Georgia will approve the small business element of the Small Business Participation element of the DBE Program by February 28, 2012, and will implement it within three months of DOT's approval of this element.

E. Assurances

Augusta, Georgia makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
3. There are no geographic or local preferences or limitations imposed on FTA - assisted contracts and DBE Program is open to small businesses regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;

5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

Augusta, Georgia 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, Augusta, Georgia will submit its triennial overall DBE goal to FTA August 1 of 2014. Augusta, Georgia is in Group B.

Augusta, Georgia will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE goals as directed by FTA. The process generally used by Augusta, Georgia to establish overall DBE goals is as follows:

- Augusta, Georgia calculates the amount of FTA funds that it will have available for the three (3) year period covered by the Overall DBE goal. This amount included all allocations from previous years, projections for allocations for three fiscal years and excludes funds that have already been assigned (contracts awarded) to ongoing projects and funds allocated for bus purchases.
- Augusta, Georgia identifies the projects that are carried out annually with FTA funds, and identifies upcoming projects as described in the Transportation

Development Plan (TOP), and during the quarterly grants meeting requests from managers any other projects that will be carried through in the upcoming three years.

- Augusta, Georgia identifies the activities covered by all above mentioned projects, and identifies the NAICS codes that represent these activities. Augusta, Georgia identifies how much of the available funds in the upcoming three years will be used for each NAICS category; with this data Augusta, Georgia creates Table #1 "Funds Available by NAICS Category".
- Augusta, Georgia searches the UCP Directory and creates a list of all DBE companies certified under the identified NAICS codes. Augusta, Georgia adds to this mailing list; all Certified DBEs in Augusta, Georgia; the Bidders List and a list of local business organizations.
- Augusta, Georgia reviews census data and identifies business patterns under the NAICS codes identified as the activities to be funded by FTA funds in the three upcoming years, and determines the number of firms available in Augusta, Georgia under each NAICS category. Using the list of Certified DBEs pulled from the UCP directory by NAICS Category, and the business patterns data, Augusta, Georgia creates Table #2 "Relative Availability of DBEs by NAICS Category". Table #2 provides a figure of the relative available DBEs that could participate in FTA assisted contracts.
- Augusta, Georgia will use a weighted average to develop a base figure, which will be multiplied by the estimated percentage of total dollars expended within each NAICS category (Table I) by the percentage of DBE firms and subcontractors in each NAICS category (Table II).
- Augusta, Georgia will prepare the Goal Methodology document using Table I and Table II and will include a Table III which shows how the base figure is

developed using the weighted average. The document will include the DBE Policy Statement and will request input about the best media outlets that Augusta, Georgia can use to better disseminate the announcement of the DBE Methodology, and continued communication of the availability of FTA funded contracts. The document will also request input on how to better establish a level playing field for the participation of DBEs in the identified projects. This document will be mailed to all entities listed on the Goals Mailing List, and it will request their input by a specific date, in order to be considered prior to publication of the methodology.

- Following this consultation, Augusta, Georgia 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 the DBE Liaison office for 30 days following the date of the notice, and informing the public that Augusta, Georgia and FTA will accept comments on the goals for 45 days from the date of notice.
- Augusta, Georgia will publish the notice in local papers. The notice will provide a link to the Augusta, Georgia website where the notice and methodology will be available; the notice will include the address where comments can be mailed, a telephone number where anyone can leave a voice comment and an email address where comments can be submitted during the comment period.
- Augusta, Georgia's overall goal submission to FTA 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 Augusta, Georgia's responses; and proof of publication of the goal in media outlets listed above.
- Augusta, Georgia will begin using the overall goal on October 1 of the specified

year, unless FTA provides other instruction. Augusta, Georgia 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 Augusta, Georgia'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, Augusta, Georgia 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 problem identified in the analysis; and
3. Document in detail the analysis, and the steps established to implement a corrective action plan, and maintain information/records regarding the analysis and efforts made.

Section 26.49 Transit Vehicle Manufacturers Goals

Augusta, Georgia 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, Augusta, Georgia 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

Augusta, Georgia will meet its overall goal using race-neutral means of facilitating DBE participation. In order to do so, Augusta, Georgia will implement the following measures to achieve race-neutral DBE participation.

- Arranging solicitations, times for presentation of bids, quantities, specifications and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part;
- Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors;
- Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors.

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

The breakout of estimated race-neutral and race-conscious participation is not part of Augusta, Georgia Transit's DBE Plan. We use only race-neutral goals at this time. Augusta, Georgia expects to meet or exceed its currently established race-neutral goal of 4.83 percent and will not implement a race conscious goal. The assumptions based on spending history and current projections. If for any reason, Augusta, Georgia does not anticipate being able to meet its race- neutral goal then it would update the DBE program to add a race-conscious participation measures. Additional information is included as Attachment 6 of this program.

Section 26.51(d-g) Contract Goals

Augusta, Georgia will use contract goals to meet any portion of the overall goal that would be unmet 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. Augusta, Georgia will establish contract goals only on those FTA-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of the contract goals will be adapted to the circumstance of each such contract (e.g. type and location of

work, availability of DBEs to perform the particular type of work).

Augusta, Georgia will express our contract goals as a percentage of the total amount of a DOT - assisted contract for new procurement.

Section 26.53 Good Faith Efforts Procedures

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

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, Augusta, Georgia will not award the contract to a bidder who does not either (1) meet the contract goals with verified, countable DBE participation; or (2) document 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. The bidder can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Form 1 & 2 for Demonstration of Good Faith Efforts are presented as Attachment 3.

Evaluation of Good Faith Efforts:

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:

Yvonne Gentry DBE Liaison
Augusta, Georgia Transit
530 Greene Street, Room 306
Augusta, Georgia 30901
(T) 706 821-2406
(F) 706 821-4228
ygentry@augustaga.gov

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

- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that DBE goals will be achieved. This includes, where appropriate, breaking out the contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- Providing interested DBEs with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform work.
- Effectively using the services of available minority/women community organizations; minority/women contractor's groups; local, state and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- Review of the performance of other bidders in meeting the contract goal in comparison to the successful bidders' good faith efforts.

Augusta, Georgia will ensure that all information is complete and accurate and adequately documents the bidder's good faith efforts before we can commit to the

performance of the contract by the bidder/offerer.

Information to be submitted 26.53(b)

Augusta, Georgia treats bidders/offerers' compliance with good faith efforts requirements as a matter of responsiveness.

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

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration 26.53(d)

Within five days of being informed by Augusta, Georgia that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offerer may request administrative reconsideration. Bidder/offerer should make this request in writing to the following reconsideration official: Janice Allen Jackson, Administrator of Augusta, Georgia, 535 Greene Street, Room 801, Augusta, Georgia 30901; 706 821-2400. The reconsideration official will not have played any role in the original determination that the bidder/offerer did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offerer 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/offerer will have the opportunity to meet in person with Augusta, Georgia's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. Augusta, Georgia will send the bidder/offerer a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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

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

Before transmitting to Augusta, Georgia 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 Augusta, Georgia prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise Augusta, Georgia of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate the DBE's contract, Augusta, Georgia 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, Augusta, Georgia will require the prime contractor to obtain Augusta's 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.

Bid Specification Language:

Augusta, Georgia will put the following language:

The requirements of 49 CFR Part 26, Regulations of the Department of Transportation, apply to this contract. It is the policy of the Augusta, Georgia 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, including those who qualify as a DBE. A DBE contract goal of _____ percent has been established for this contract. The bidder 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/offerer 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 will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of the bidder's commitment to use a DBE subcontractor whose participation is 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.

Section 26.55 Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Section 26.61-26.73 Certification Process

Augusta, Georgia is a non-certifying member of the Georgia Unified Certification Program (UCP)

SUBPART E - CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

Augusta, Georgia is the member of a Unified Certification Program (UCP) administered by Georgia Department of Transportation (GDOT). The UCP will meet all of the requirements of this section. Augusta, Georgia will use and counts for DBE credit only those DBE firms certified by the Georgia UCP.

The DBE Certification Program is a Federal Program designed for business owners deemed "socially and economically disadvantaged."

If your firm engages in or intends to engage primarily in transit related goods and services: For additional information contact:

Kimberly A. King, EEO Director One Georgia Center
600 West Peachtree Street, NW (7th Floor)

Atlanta, Georgia 30308

Phone: (404) 631-1972

Fax: (404) 631-1943

Website: www.dot.ga.gov/doingbusiness/dbeprograms/

Reciprocity with Other UCPs

It is understood that:

- a) The UCP, through its Executive Committee, may enter into written reciprocity agreement at any time with UCPs of other states subject to approval of USDOT.
- b) Such reciprocity agreements (s) must outline the specific responsibilities of each participating UCP.
- c) The UCP, and its Members, may accept a DBE certification decision, made by another UCP or state DOT, on a case-by-case basis.
- d) The UCP, and its Members, shall share information concerning Georgia DBE firms or applicants with other UCPs and state DOTs upon written request.

SUBPART F - COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

Augusta, Georgia will safeguard from disclose 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 Federal, State, or local law, Augusta, Georgia will not release personal financial information submitted by a DBE

applicant , to a third party (other than the U.S.DOT) without the consent of the applicant.

Monitoring Payments to DBEs

Augusta, Georgia 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 Augusta, Georgia or DOT. This reporting requirement also extends to any certified DBE subcontractor.

Augusta, Georgia 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 states in the schedule of DBE participation.

ATTACHMENTS

[List and append; we recommend that a copy of part 26 be attached to the program so that public users to whom we send copies can have it handy]

Attachment 1	Terms and Definitions
Attachment 2	Organizational Chart
Attachment 3	Forms 1 & 2 Demonstration of Good Faith Efforts
Attachment 4	Schedule of DBE Participation
Attachment 5	Breakout of Estimated Race-Neutral & Race Conscious Participation
Attachment 6	Certification Forms
Attachment 7	Procedures for Removal of DBE's Eligibility
Attachment 8	Final DBE Utilization Report

ATTACHMENT 1

DBE PROGRAM for AUGUSTA, GEORGIA'S PUBLIC TRANSIT SYSTEM

TERMS/DEFINITIONS as per 49 CFR §26.5

The terms used in this program are defined in 49 CFR Part 26.5. The reader is referred to this section of the Federal regulations for detailed information about their meanings.

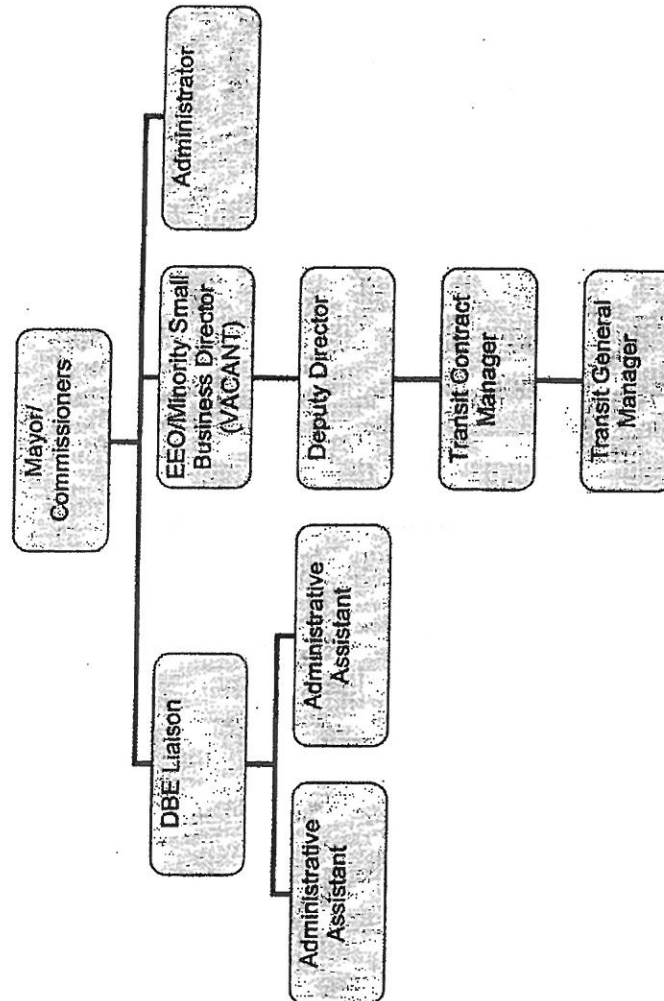
The Code of Federal Regulation (CFR), Title 49 Part 26 (10-1-12 Edition)

This document can be accessed at:

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=5fc7946b772f5f6b117c7eeebb0fc39&rgn=div5&view=text&node=49:1.0.0.0.20&idno=49>

Attachment 2
Organizational Chart

Augusta, Georgia



Page 36 of 48

Revised 8/14/2013

ATTACHMENT 3

Forms 1 & 2 for Demonstration of Good Faith Efforts

Form 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

____ The bidder/offeree is committed to a minimum of ____% DBE Utilization on this contract.

____ The bidder/offeree (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/offeree's firm: _____

State Registration No. _____

By _____
(Signature)

FORM 2: LETTER OF INTENT

Name of bidder/offer'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.)

[Note: the examples provided above are not intended to be the exact forms used by DOT recipients when evaluating DBE participation on bids and/or making good faith efforts determinations. DOT expects that any forms used will be tailored to each organization's specific processes and needs. Whichever forms are used in practice should be included with your DBE program.]

ATTACHMENT 4

SCHEDULE OF DBE PARTICIPATION

(To be submitted with an executed Letter of Intent from each DBE firm listed in this form)

BID/RFI #:		DATE FORM SUBMITTED:			
PROJECT NAME:		PROJECT START DATE:			
PRIME CONTRACTOR:		ADDRESS:			
CONTACT PERSON:		TELEPHONE #:			
DBE Subcontractor	Explanation of Certification	DBE Contact	Phone	Type of Work To Be Performed	Estimated Sub-Contract Amount
					\$
					\$
					\$
					\$
					\$
					\$
Total Estimated Dollar (\$) DBE Participation					\$
DBE Subcontractor Participation Percentage (Total amount allocated to DBEs divided by Total Contract Amount)					%

The listing of a DBE shall constitute a representation by the bidder/responder to Augusta, Georgia that such DBE has been contacted and properly apprised of the upcoming city project. Bidders/Responders are advised that the information contained herein is subject to verification by Augusta, Georgia's contract representative, with the concurrence of Augusta, Georgia's DBE Liaison, and that submission of said information is an assertion of its accuracy, per the requirements of the DBE Program.

I certify that the above information is true to the best of my knowledge:

Signature	Title	Date
THIS DOCUMENT MUST BE PROVIDED WITH THE SUBMITTAL AND SIGNED BY THE PERSON SIGNING THE SUBMITTAL.		

ATTACHMENT 6

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

Augusta, Georgia will meet the maximum feasible portion of its overall annual goal by using race-neutral means for facilitating DBE participation. Augusta, Georgia uses race-neutral means to increase DBE participation. Some examples are:

1. Arranges solicitations, pre-bid meeting times, bid opening times, etc. in ways that accommodate DBE and other small business owners' schedules.
2. Provide assistance with reducing bonding requirements.
3. Provide technical engineering and risk management assistance
4. Advertise in local and regional plan rooms for large dollar and construction projects.
5. Ensure adequate distribution of DBE directory.

Augusta, Georgia will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see §26.51 (f)), and Augusta, Georgia 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, DBE obtains through customary competitive procurement procedures;
- DBE participation through a subcontract on a prime contract that does not carry a DBE goal;
- DBE participation on a prime contract exceeding a contract goal: and
- DBE participation through a subcontract from a prime contractor that did not consider firm's DBE status in making the award.

Attachment 7
Certification Forms

Augusta, Georgia is the member of a Unified Certification Program (UPC) administered by Georgia Department of Transportation (GDOT). The UPC will meet all of the requirements of this section.

Attachment 8
Procedures for Removal of DBE's Eligibility

Augusta, Georgia is the member of a Unified Certification Program (UPC) administered by Georgia Department of Transportation (GDOT). The UPC will meet all of the requirements of this section.