

POLICY STATEMENT

OBJECTIVES/POLICY STATEMENT

Section 26.1, 26.23

The Gulf Coast Center (“Center”) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT). The Center has received federal financial assistance from the Federal Transit Administration (FTA) and, as a condition of receiving this assistance, the Center has signed an assurance that it will comply with 49 CFR part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

It is the policy of the Center to facilitate and assure that each third party participant will facilitate DBE participation by:

1. Complying with 49 CFR part 26;
2. Not discriminating on the basis of race, color, sex, or national origin;
3. Implementing the Center’s DBE program; and
4. Verifying DBE Certification.

The Director of Administrative Services has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO 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 Center in its financial assistance agreements with the FTA.

The Center has disseminated this policy statement to the Board of Trustees and all transit related components of the Center. The Center will distribute this statement to DBE and non-DBE business communities that perform work for the Center on FTA-assisted contracts.

G. Michael Winburn
Executive Director
Gulf Coast Center

Date

GENERAL REQUIREMENTS

Objectives – Section 26.1

The objectives of a DBE program, as listed in 49 CFR part 26.1, include:

- “To ensure nondiscrimination in the award and administration of U.S. DOT (FTA)-assisted contracts in the transit financial assistance programs;
- To create a level-playing field on which DBEs can compete fairly for U.S. DOT (FTA)-assisted contracts;
- To ensure that the Center’s DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet this part’s eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT (FTA)-assisted contracts;
- To assist the develop of firms that can compete successfully in the marketplace outside the DBE Program; and
- To provide appropriate flexibility to recipients of federal financial as assistance in establishing and providing opportunities for DBEs.”

The Center strives to achieve the listed objectives through this DBE Program.

Applicability – Section 26.3

The Center is the recipient of FTA funds authorized by Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and all extensions and by Moving Ahead for Progress in the 21st Century Act (MAP-21).

Definitions – Section 26.5

The Center accepts the definitions contained in 49 CFR Section 26.5 for this program.

Non-discrimination Requirements – Section 26.7

The Center 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 Center 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.

Reporting and Record Keeping Requirements – Section 26.11

Reporting to FTA: 26.11(b)

The Center will report DBE participation to FTA on a biannual basis using the Uniform Report of DBE Awards or Commitments and Payments Form.

Bidders List: 26.11(c)

The Center will create a bidders list, consisting of information about all DBE, Small Business Enterprise (SBE), and non-DBE firms that bid or propose on FTA-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidders list will include the name, address, DBE, SBE, or non-DBE status, age, and annual gross receipts of the firms.

The Center will collect this information through the procurement process requiring prime respondent, bidder, or contractor to report the name, address, DBE, SBE, or non-DBE status, age, and annual gross receipts of all firms who propose or bid on procurement.

Assurances – Section 26.13

Every financial assistance agreement the Center signs with the FTA will include the following assurance.

The recipient shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any DOT (FTA)-assisted contract, 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 (FTA)-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT (FTA), 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 recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR 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.).

Each contract the Center signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) or sub-recipient must include the following assurance:

The contractor, subcontractor or sub recipient shall not discriminate on the basis of race, color, sex, or national origin 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 (FTA)-assisted contracts. Failure by the contractor, subcontractor or sub recipient to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

ADMINISTRATIVE REQUIREMENTS

DBE Program Updates – Section 26.21

Since the Center has received, or will receive, a grant of \$250,000 or more in FTA planning capital, and/or operating assistance in a single federal fiscal year, the Center will continue to carry out this program until all funds from FTA financial assistance have been expended. The Center will provide to FTA updates representing significant changes in the program on an as needed basis and routinely every three (3) years.

Policy Statement – Section 26.23

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

DBE Liaison Officer (DBELO) – Section 26.25

The Center has designated the following individual as our DBE Liaison Officer:

Carolyn Rose
Director of Administrative Services
Gulf Coast Center
4444 West Main
League City, Texas 77573

(409) 763-2373

carolyn@gulfcoastcenter.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Center complies with all provision of 49 CFR part 26. The DBELO has direct, independent access to Executive Director of the Center, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment 1** to this program.

The DBELO is responsible for developing, implementing, managing, and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of two (2) additional people to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and, if necessary, contract specific goals attainment) and identifies ways to improve progress.
6. Analyzes the Center's progress toward goal attainment and identifies ways to improve progress.
7. Advises the Executive Director and Board of Trustees on DBE matters and achievement.
8. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
9. Provides outreach to DBEs and community organizations to advise them of opportunities.
10. Maintains the Center's updated directory on certified DBEs.
11. Analyzes shortfall if the overall goal is not reached. If required, will develop a corrective action plan and submit the plan to DOT/FTA.

DBE Financial Institutions – Section 26.27

The DBELO has thoroughly investigated the availability of financial institutions owned and controlled by socially and economically disadvantaged individuals in the greater Houston area on the Federal Board's compilation of Minority-Owned Banks website, <http://www.federalreserve.gov/releases/mob>. A list of Minority-Owned Banks located in Texas, as of September 30, 2013, is available, upon request. If available, the Center will make reasonable efforts to use these institutions and encourage prime contractors to use these institutions.

Prompt Payment Mechanisms – Section 26.29

The Center will include the following clauses in each FTA-assisted prime contract:

Prompt Payment: 26.29(a)

The Contractor shall pay all subcontractors performing work related to this contract for satisfactory performance of that work no later than ten (10) days after the Contractor's receipt of payment from the Center for that work.

After ten (10) days, a payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is equal to the sum of one (1) percent and the prime rate, as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. The rate of interest is stated on the Texas Comptroller of Public Accounts' Prompt Payment Overview of Requirements,

https://fm.xcpa.state.tx.us/fm/pubs/purchase/prompt_pay/index.php?section=overview&page=rate.

Retainage: 26.29(b)

The Contractor shall return retainage payments to each subcontractor no later than ten (10) days after receipt of incremental retainage payments from the Center. Any delay or postponement of payment from this time frame may occur only for good cause following written approval of the Center. This clause applies to DBE, SBE, and non-DBE subcontracts.

Reporting:

The Contractor shall report DBE and SBE participation on a monthly basis on the Contractor Payment Report Form, **Attachment 6**.

Monitoring and Enforcement: 26.29(d)

See **Attachment 3**, Monitoring and Enforcement.

Directory – Section 26.31

The Center provides instructions to potential bidders to access the State of Texas's online Uniform Certification Program Directory (TUCP), which identifies all firms eligible to participate as DBEs, and TxDOT's Small Business Enterprise Program Directory, which identifies all firms eligible to participate as SBEs. These directories list the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE.

The TUCP Directory is incorporated by web addresses in **Attachment 2**.

Overconcentration – Section 26.33

There is an undue burden on non-DBEs if there is an overconcentration of in a certain type of work opportunity. If an overconcentration is present, the Center will develop the appropriate, FTA-approved measures to address the issue. Currently, the Center has not identified that overconcentration exists in the types of work that DBE subcontractors perform.

Business Development Programs – Section 26.35

The Center has not established a business development program. The Center will re-evaluate the need for a business development program every three years.

Monitoring and Enforcement Mechanisms – Section 26.37

See **Attachment 3**, Monitoring and Enforcement.

Small Business Participation – Section 26.39

The Center is dedicated to fostering small business participation in its procurements. Participation of SBEs is incorporated into this DBE program in accordance with 49 CFR part 26 and is intended to meet an overall SBE program goal of meeting the maximum feasible portion of a goal through race-neutral means of obtaining DBE and non-DBE small business participation (49 CFR part 26.51). The Center will implement the small business participation in its next procurement.

The Center uses the same standards certification and verification processes as the Texas Department of Transportation (TxDOT), which requires businesses to meet the US Small Business Administration (SBA) size standards and filling out a TxDOT application. All SBEs listed on the TxDOT Small Business Enterprise Program Directory will be considered as a SBE. The Center will include TxDOT's Certified SBEs in its SBE Directory that is included in all procurements and kept on file with the Center. A certified DBE with the Texas Uniform Certification Program (TUCP) is presumed eligible to participate in the small business participation program as well due to the listed requirements for DBEs.

Due to the limited FTA-funded projects, the Center will use the following strategies to promote SBE participation:

- On larger contracts, the Center will strongly encourage the prime contractor to specify elements of the contract or specific subcontracts that are of a size that small businesses can reasonably perform. An example of this would be encouraging a prime contractor of a large construction contract to use a SBE subcontractor for elements such as poured concrete or electrical work.
- On prime contracts not having DBE contract goals, the Center can require the prime contractor to provide subcontracting opportunities of a size that small businesses can reasonably perform, rather than self-performing all the work involved. An example would be requiring an SBE to perform the landscape architecture portion of an engineering contract for a streetscape design.
- When possible, the Center will unbundle contracts to make the separate smaller projects that a SBE could become the prime contractor on. This also includes the removal of unnecessary and unjustified bundling of contract requirements.
- The Center will implement other types of strategies to encourage SBE participation when possible for procurement opportunities, such as keeping a reasonable number of projects a size that a small business, can reasonably perform as a prime contractor; simplifying or reducing bonding requirements, when applicable; and unbundling larger contracts.

The Center's Small Business Participation will include outreach to SBEs. Outreach efforts include proactive methods, including but not limited to: soliciting bids or proposals from SBEs, encouraging participation in pre-bid and pre-proposal meetings, including a SBE Directory in all procurements, inviting SBEs to DBE Public Participation meetings, and providing information on becoming TxDOT SBE Certified when requested.

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas – Section 26.43

The Center does not use set-asides and/or quotas in the administration of the Center's DBE program.

Overall Goals – Section 26.45

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment 4** to this program. This section of the program will be updated every three years.

In accordance with Section 26.45(f), the Center will submit its overall goal to FTA by August 1 at three-year intervals based on a schedule as specified by FTA. The Center may adjust the three-year overall goal during the three-year period to reflect changed circumstance, but FTA must review and approve the change.

Before establishing the overall goal every three years, the Center will consult with local agencies and organizations, trade groups, and local contractors to determine the availability of DBEs, SBEs, and non-DBEs, the effects of discrimination on opportunities for DBEs, and Center's efforts to improve the participation of DBEs and SBEs.

Following the consultation, the Center will publish a notice of the proposed overall goal on the Center's website and in a daily newspaper of general circulation. The notice will inform the public about the proposed goal, the rationale for establishing the goal, a location where the proposed goal and rationale can be reviewed for 30 days following the date of the notice and an address where comments can be sent. The Center will accept comments about the goal and rationale for 45 days from the date of the notice. The Center's goal submission to FTA will include the comments received during the public comment process and the Center's responses, if needed. The Center will begin using the overall goal on October 1 of the year adopted unless the Center receives other instructions from FTA.

Goal Setting and Accountability – Section 26.47

If the awards and commitments shown on the Center'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, the Center will:

- Analyze in detail the reasons for the difference between the overall goal and the actual awards/commitments; and
- Establish specific steps and milestones for the next fiscal year to correct the problems identified.

Transit Vehicle Manufacturers Goals – Section 26.49

The Center will require each transit vehicle manufacturer, as a condition of being authorized to propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of Section 26.49.

Race-Neutral and Race-Conscious Participation – Section 26.51

The breakout of estimated race-neutral participation can be found in **Attachment 5** to this program. This section of the program will be updated every three years when the goal calculation is updated.

For Race-Neutral participation, the Center's procurements will include the following documentation to respondents, bidders, or contractors.

The respondent, bidder, or contractor shall not discriminate on the basis of race, color, sex, or national origin in the performance of this contract. The respondent, bidder, or contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the respondent, bidder, or 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 Center deems appropriate. Each subcontract the respondent, bidder, or contractor signs with a subcontractor must include the assurance in this paragraph.

*Award of this contract is conditioned on submission of the following information (included in **Attachment 6**):*

- *The names and addresses of subcontractors that will participate in the contract;*
- *A description of the work that each subcontractor will perform;*
- *Whether the firm is a DBE, SBE, or non-DBE;*
- *The ethnic code, as described in the form;*
- *The age of the firm;*
- *The annual gross receipts from the firm;*
- *The dollar amount of the participation of each DBE firm participating; and*
- *Written and signed documentation of commitment to use a DBE subcontractor.*

Written and signed confirmation from the DBE or SBE that it is participating in the contract as provided in the prime contractors commitment

Contract Goals – Section 26.51(d-g)

The Center does not intend to use contract goals to meet any portion of the overall goal.

Good Faith Efforts Procedures – Section 26.53

Since the Center does not intend to use contract goals for DBE participation, the following good faith efforts will only be used if contract goals are established.

Demonstration of Good Faith Efforts: 26.53(a) & (c)

The Center will deny award of a contract to a respondent, bidder, or contractor that does not either: (1) meet the contract goal with verified, countable DBE and/or SBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE and/or SBE contract goal, even though it was unable to do so. It is the obligation of the respondent, bidder, or contractor to demonstrate it has made sufficient good faith efforts prior to submission of its bid. The DBELO is responsible for determining whether a respondent, bidder, or contractor who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

Information to be Submitted: 26.53(b)

For all FTA assisted contracts, for which a contract goal has been established, the Center will require the respondent, bidder, or contractor to submit the following information:

- The names and addresses of subcontractors that will participate in the contract;
- A description of the work that each subcontractor will perform;
- Whether the firm is a DBE, SBE, or non-DBE;
- The ethnic code, as described in the form;
- The age of the firm;
- The annual gross receipts from the firm;
- The dollar amount of the participation of each DBE firm participating;
- Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written and signed confirmation from the DBE or SBE that it is participating in the contract as provided in the prime contractors commitment; and
- If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration: 26.53(d)

Within 15 days of being informed by the Center that it is not responsive because it has not documented sufficient good faith efforts, a respondent, bidder, or contractor may request administrative reconsideration. Respondents, bidders, or contractors should make this request in writing to the following Reconsideration Official:

Linda Bell, RN JD
Director of Legal Services
4444 West Main
League City, Texas 77573
(409) 763-2373
lindab@gulfcoastcenter.org

The Reconsideration Official will not have played any role in the original determination that the respondent, bidder, or contractor did not document sufficient good faith efforts.

As part of this reconsideration, the respondent, bidder, or contractor will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The respondent, bidder, or contractor will have the opportunity to meet in person with the Center's Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Center will send the respondent, bidder, or contractor 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 FTA or DOT.

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

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

The prime contractor must give notice in writing to the DBE or SBE subcontractor of its intent to terminate before transmitting its request to terminate the DBE or SBE or substitute a DBE or SBE subcontractor to the Center. A copy of this notice must be provided to the Center prior to consideration of the request to terminate or substitute. The DBE or SBE subcontractor will then have five (5) days to respond and advise the prime contractor of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE or SBE's subcontract, the Center will require the prime contractor to make good faith efforts to replace a DBE or SBE subcontractor that is terminated or has otherwise failed to complete its work on a contract with another certified DBE or SBE subcontractor, to the extent needed to meet the contract goal. If the prime contractor is unable to find another DBE or SBE subcontractor to perform the work, the Center will require the prime contractor to obtain the Center's prior approval to substituting a non-DBE or non-SBE subcontractor and provide documentation of good faith efforts.

If the prime contractor fails or refuses to comply with the good faith efforts to terminate or replace a DBE or SBE subcontractor, then the Center may take action against the prime contractor as defined in **Attachment 3, Monitoring and Enforcement**.

Sample Bid Specification:

The requirements of 49 CFR part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, apply to this contract. It is the policy of the Center 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 responses/bids. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all respondents, bidders, or contractors, including those who qualify as a DBE. A DBE contract goal of <insert appropriate goal> has been established for this contract. The respondent, bidder, or contractor shall make good faith efforts, as defined in Appendix A, 49 CFR part 26, to meet the contract goal for DBE and/or SBE participation in the performance of this contract.

The respondent, bidder, or contractor will be required to submit the following information:

- *The names and addresses of subcontractors that will participate in the contract;*
- *A description of the work that each subcontractor will perform;*
- *Whether the firm is a DBE, SBE, or non-DBE;*
- *The ethnic code, as described in the form;*

- *The age of the firm;*
- *The annual gross receipts from the firm;*
- *The dollar amount of the participation of each DBE firm participating;*
- *Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;*
- *Written and signed confirmation from the DBE or SBE that it is participating in the contract as provided in the prime contractors commitment; and*
- *If the contract goal is not met, evidence of good faith efforts.*

Counting DBE Participation – Section 26.55

The Center will count DBE participation toward overall and contract goals as provided in Section 26.55.

CERTIFICATION STANDARDS

Unified Certification Program: Section 26.81

The Center is a member agency of the State of Texas's Unified Certification Program (TUCP), which is administered by the Texas Department of Transportation. The TUCP meets all of the requirements of this section.

All certification activities should be submitted to the TUCP certifying entity that services the Texas county in which the business' home or corporate headquarters is located. The appropriate TUCP certifying agency and contact information for businesses located in Harris County is listed below:

City of Houston
Timothy Warren
611 Walker St.
Houston, TX 77002
Phone: 713-837-9035
Fax: 713-837-9052
timothy.warren@cityofhouston.net
www.houstontx.gov/obo/

COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation: Section 26.109

Consistent with Federal, state, and local law, the Center will safeguard third party information that may reasonably be regarded as confidential business information from disclosure. Pursuant to Texas Public Information Act, none of the information that the prime contractor and DBE, SBE, and non-DBE subcontractors submits to the Center, under the Center's DBE program, is confidential.

Monitoring Payments to DBEs

The Center 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 Center, FTA and/or DOT. This reporting requirement also extends to any certified DBE or SBE subcontractor.

The Center will perform interim audits of contract payments to DBEs or SBEs. The audit will review payments to DBE and SBE subcontractors to ensure that the actual amount paid to DBE and SBE

subcontractors equals or exceeds the dollar amounts stated in the Contractor Payment Report Form (**Attachment 6**).

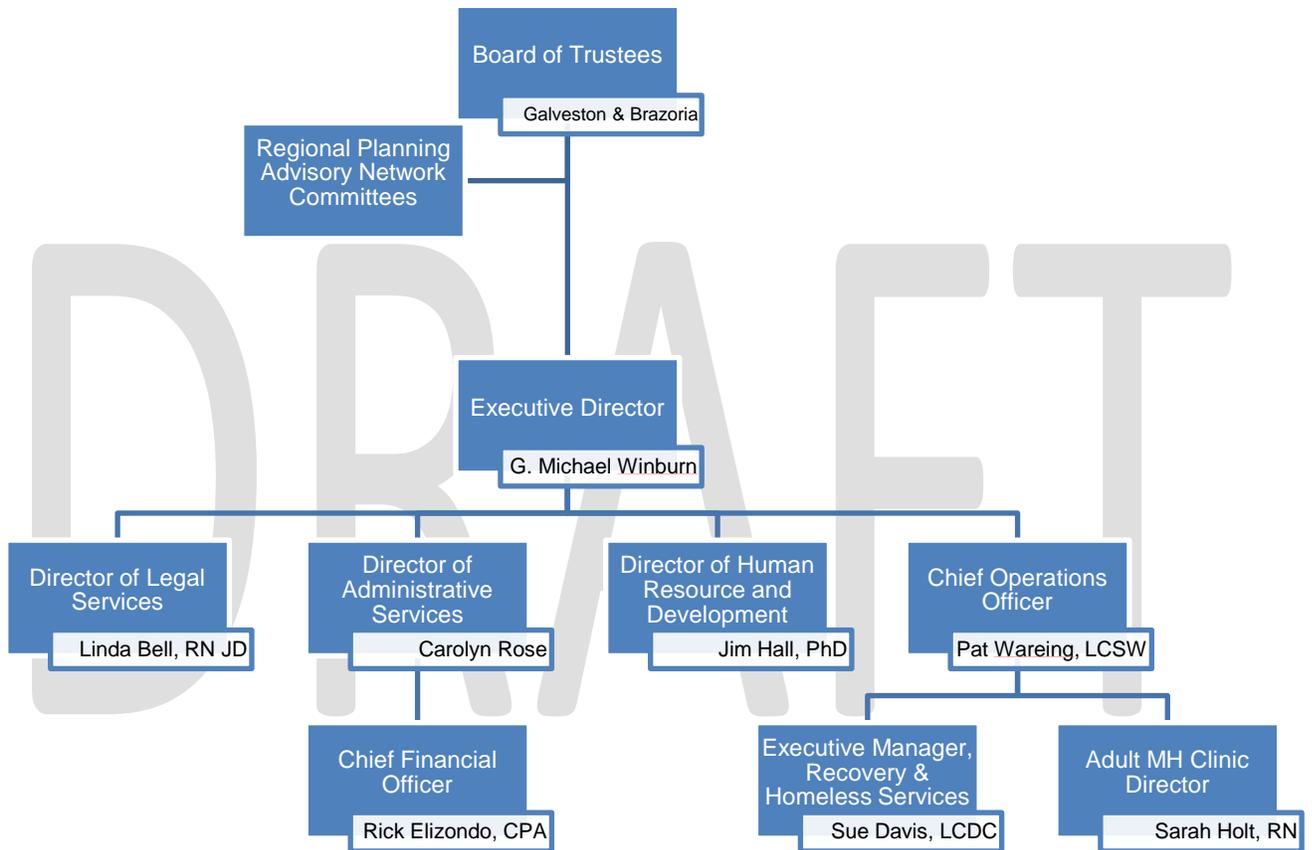
ATTACHMENTS

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Attachment 1

Organizational Chart



Attachment 2

DBE and SBE Directories

A copy of the Texas Unified Certification Program DBE Information Directory can be obtained on the website, <http://www.dot.state.tx.us/apps-cg/tucpl/>, or a copy can be requested from the Center's DBELO.

A copy of the TxDOT SBE Directory can be obtained on the website, <http://www.dot.state.tx.us/apps-cg/sbe/sbeinfo.htm>, or a copy can be requested from the Center's DBELO.

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Attachment 3

Monitoring and Enforcement Mechanisms

The Center will monitor and provide written certification for every contract/project on which DBEs are participating, ensuring the DBEs are in fact performing the work. The Center will monitor DBE participation through reporting forms and verification of payment amounts.

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

1. The suspension of any payment or part thereof until such time as the issues concerning compliance are resolved;
2. Work stoppage;
3. Termination, suspension, or cancellation of the contract in whole or in part; and/or
4. In the event that a respondent or bidder fails to achieve the DBE goals of this program, after contract completion, the respondent's or bidder's eligibility to receive any future Center contract will be conditioned upon the respondent or bidder making up the deficit in DBE participation in such future contracts by having DBEs perform equal to double the dollar value of the deficiency in the DBE requirement in the prior contract.

In addition, 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 26
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001.

The Center will monitor prompt payment from the contractors to subcontractors through the following methods:

1. Review Contractor Payment Report Form, which will be included with each pay application until final payment of the contract has been made (**Attachment 6**); and
2. Perform periodic checks with subcontractors to ensure Contractor Payment Report Form matches payment.

Attachment D

Overall Goal Calculation

The process used by the Center to establish its DBE goal for fiscal year (FY) 2015 through 2017 is summarized below. The Center followed a two-step process based on documented evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing, and able to participate in the Center's FTA assisted contracts, which is referred to as relative availability of DBEs. The goal reflects the Center's expected level of participation by DBEs.

Step 1 – Establish Base Goal

The Center considered all the possible FTA assisted contracting opportunities for award in FY 2015 through 2017 and compiled the North American Industry Classification System (NAICS) codes for the work included in the contracting opportunities. The Center established a market area of Harris, Galveston, and Brazoria Counties to determine the total number of DBE ready, willing, and able businesses and all ready, willing, and able businesses available to perform work in the same NAICS codes.

- **Column 1** shows the possible NAICS codes for ready, willing, and able DBEs.
- **Column 2** shows the type of industry the NAICS codes represent.
- **Column 3** shows the dollar amount of the potential contracting opportunities by industry code.
- **Column 4** shows the percentage of contracting opportunities by industry code.
- **Column 5** lists the total number of firms, which is based on Census Data, in each NAICS code.
- **Column 6** lists the total number of DBE firms, which is based on the Texas Unified Certification Program DBE database, in each NAICS code.
- **Column 7** calculates the base figure for relative availability of DBEs for each industry code, which is the total number of ready, willing, and able DBE firms (**Column 6**) divided by the total number of ready, willing and able Firms (**Column 5**).
- **Column 8** is the result of multiplying the Base Goal percentage (**Column 7**) by the Possible Contracting Opportunities (**Column 3**).
- **Column 9** is the result of dividing the total Expected DBE Dollars (**Column 8**) by the total Possible Contracting Opportunities (**Column 3**).

FY 2015 Gulf Coast Center DBE Program

1	2	3	4	5	6	7	8	9
NAICS	Industry Code	Possible Contracting Opportunities	% of the Budget	Total Firms	DBEs	Base Goal	Expected DBE Dollars	DBE Goal
236220	Construction	\$18,750,000	72.18%	4,838	365	7.54%	\$1,413,750	
237310								
237990								
238110								
238120								
238130								
238140								
238150								
238160								
238190								
238210								
238220								
238290								
238310								
238320								
238330								
238340								
238350								
238390								
238910								
238990								
541310	Architecture, Engineering and Planning	\$3,638,000	14.00%	3,576	185	5.17%	\$188,085	
541320								
541330								
541340								
541350								
541360								
541370								
541380								
541611								
485113	Transportation Operations	\$2,000,000	7.70%	27	0	0.00%	\$0	
485310								
238210	Security Camera*	\$150,000	0.58%	1,036	37	3.57%	\$5,355	
423410								
423690								
561621								
811111	Automotive Maintenance	\$1,440,000	5.54%	2,087	10	0.48%	\$6,912	
811112								
811113								
811118								
811121								
811122								
811191								
811192								
811198								
		\$25,978,000	100.0%				\$1,614,102	6.21%

** Security Camera includes a sampling of NAICS Codes that could be associated with the installation, purchase/lease and/or monitoring of security camera systems.*

Step 2 – Base Goal Adjustment

Previously, the Center had a FTA-approved, race-neutral DBE program goal of 3.44%. In the past three years, the Center has had a variety of third-party contracts, including construction, engineering, and other professional services. While several contracts including janitorial, vehicle maintenance, pest control, and planning had no DBE participation, other contracts including fare card, software, engineering, and

construction had DBE participation over the program goal. The Center's DBE Program had a total of 14.51% DBE participation for all third party contracts. Since this was significantly higher than established goal of 3.44%, the Center will adjust the FY2015 – 2017 DBE Program base goal to reflect this past participation.

Construction contracts had significant DBE participation. One construction project, the Victory Lakes Park & Ride had over 30% DBE participation, with over \$1 million going to two DBE certified companies. All construction projects in the past three years had 17% DBE participation, which resulted in raising the DBE Program participation to over 14%

Due to this significant participation in construction contracts, the Center increased the base goal for construction DBEs from 7.54% to 17% percent. The weighted base goal was then recalculated and the adjusted base goal increased to 13.02%.

Industry Code	% of the Budget	Adjusted Base Goal	DBE Goal
Construction	72.18%	17.00%	
Architecture, Engineering and Planning	14.00%	5.17%	
Transportation Operations	7.70%	0.00%	
Security Camera*	0.58%	3.57%	
Automotive Maintenance	5.54%	0.48%	
	100.0%		13.02%

This adjusted goal is the Center's overall program goal for the next three fiscal years.

Public Participation

On March 21, 2014, representatives of the Center met with Roger Harris of the Houston Minority Business Center, a Minority Business Development Agency operated by Houston Community College. The Center's general goal setting process and future contracting opportunities were discussed with Mr. Harris. On May 30, 2014, representatives of the Center called Mr. Harris and presented the adjusted goal, discussing the Center's past performance on construction projects. Mr. Harris concurred with the adjusted goal to better reflect the Center's past performance.

On June 1, 2014, the Center released a notice of proposed DBE goal to comply with the U.S. DOT's Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Program (49 CFR part 26). The notification was published in the Galveston Daily News and the Brazosport Facts and instructed the public that the proposed goal and the rationale for establishing the goal were available for review on the Center's web site and physically at the Center offices. The goal was available 30 days for review and the Center accepted public comment for 45 days from the date of publication.

Attachment 5

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

The Center will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Center uses race-neutral means, including but not limited to providing DBE and SBE Directories, creating bidders lists, and advertising prime contracts to DBEs, to increase DBE participation:

*The Center estimates that, in meeting our overall goal of **13.02%**, The Center will obtain 13.02% from race-neutral participation and 0% from race-conscious participation.*

The following is a summary of the estimated breakout of race-neutral and race-conscious DBE participation:

The Center's program will be implemented with entirely race-neutral means. If the Center uses contract goals, the Center will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and the Center will communicate this change to the program to FTA.

The Center does not intend to achieve any DBE participation by using contract goals.

If the Center revise its program and use contract goals, the Center will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Attachment 6

Forms 1 & 2 for DBE Participation and Contractor Payment Report Form

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FORM 1 – SUBCONTRACTOR UTILIZATION

Instructions: The Respondent/Bidder/Contractor shall complete this form by listing 1) Names of all proposed subcontractors. 2) Contact information, 3) Description of work to be performed/product to be provided, 4) Status as a DBE, SBE or non-DBE, 5) Ethnic Code of firm 6) Age of the firm, 7) Annual gross receipts of the firm, 8) % or \$ amount of Total Contract. Those subcontractors which are listed on this form as DBEs and SBEs must have current certification as a DBE or SBE with a participating UCP certifying agency. The DBE or SBE certification must be complete by the time the bids/proposals are submitted. Additionally, those subcontractors which are listed on this form as DBEs or SBEs must complete Form 2, Subcontractor Letter of Intent, agreeing to the information listed herein.

RESPONDENT/BIDDER/CONTRACTOR: _____

ETHNIC CODES

- A)** Black American **B)** Hispanic American **C)** Native American
D) Sub-continental Asian American **E)** Asian-Pacific American
F) Non-Minority Women **G)** Other

PROJECT NAME: _____

1) Name of Subcontractor	2) Address, Telephone # of DBE Firm (Including name of contact person)	3) Description of Work, Services Provided. Where applicable, specify "supply" or "Install" or both.	4) DBE, SBE or non-DBE	5) Ethnic Code	6) Age of Firm	7) Annual Gross Receipts	8) % or \$ amount of Total Contract

THIS SCHEDULE MUST BE COMPLETED AS INSTRUCTED ABOVE AND INCLUDE EVERY SUBCONTRACTOR PROPOSED ON THIS PROJECT.

The undersigned will enter into a formal agreement with DBE and/or SBE contractors for work listed in this schedule upon execution of a contract with the Center. The Respondent/Bidder/Contractor agrees to the terms of this schedule by signing below and submitting the Form 2, as completed by the DBE or SBE subcontractor(s).

SIGNATURE OF AUTHORIZED REPRESENTATIVE

DATE

FORM 2
DBE AND SBE SUBCONTRACTOR LETTER OF INTENT

Note: DBE and SBE firms participating in the DBE or SBE Program must have "current" certification status with a UCP Certifying Agency by the due date established for this Invitation for Bid (IFB) or Request for Proposal (RFP).

1. TO: (Respondent/Bidder/Contractor): _____
2. The undersigned is either currently certified under a Unified Certification Program (UCP) as a DBE, SBE or will be at the time this IFB/RFP is due.
3. The undersigned is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both)

and at the following price \$ _____ and/or _____ % of the total contract amount (should be the same \$ or % found on **FORM 1** – Subcontractor Utilization).

4. The DBE or SBE subcontractor should complete this section only if the DBE or SBE is subcontracting any portion of its subcontract.

With respect to the proposed subcontract described above, the undersigned DBE anticipates that _____ % of the dollar value of this subcontract will be awarded to other contractors. Any and all DBE subcontractors a DBE subcontractor uses must be listed on Form 1 and must also be DBE certified.

DATE: _____ DBE/SBE FIRM: _____
SIGNATURE: _____
PRINT NAME: _____
PHONE NUMBER: _____

RESPONDENT/BIDDER/
PRIME CONTRACTOR:

DATE: _____
SIGNATURE: _____
PRINT NAME: _____
PHONE NUMBER: _____

CONTRACTOR PAYMENT REPORT FORM

TO BE INCLUDED WITH EACH PAY APPLICATION UNTIL FINAL PAYMENT OF THE CONTRACT HAS BEEN MADE.

INCLUDED FOR REFERENCE ONLY

CONTRACTOR PAYMENT REPORT FORM							
<p>Instructions: Contractors are required to complete and submit this report, as specified in the contract or as requested, until final payment of the contract has been made. Failure to comply with the DBE provisions may result in contract termination, or the suspension or debarment of the contractor from doing business with the Owner in the future in accordance with the procedures set forth in the DBE Program. This report must be submitted with each invoice. Instructions for completing this report can be found on the following page.</p>							
1. Contract Number, if applicable	2. Invoice Number	3. Reporting Period From: _____ To: _____		4. Contractor's Business Name	5. Contact Person	6. Address	
7. Telephone Number	8. Date of Contract Award	9. Schedule Date of Completion	10. Original Contract Amount \$ _____	11. Current Contract Modifications \$ _____	12. Total Amount Received to Date \$ _____	13. Total Amount Owed \$ _____	
14. Committed DBE %	15. Actual DBE Participation to date \$ _____	16. Actual DBE % to Date #VALUE!					
17	18	19	20	21	22	23	24
Name of DBE Subcontractor	Description of Work	Amount of payments made during current invoice period	Date of payments made during current invoice period	Subcontract Dollars	Amount paid to date	Percent Paid to Date	Amount of this invoice allocated to DBE subcontractor
<i>(Add rows to the table, as needed, to complete this section)</i>							
By completing this form, the Contractor acknowledges the Owner's prompt payment policy, which requires the Contractor to pay all subcontractors within 30 days of receiving payment from the Owner.							
Signature		Date Signed		Name and Title of Individual Completing Report			

Attachment 7

Certification Application Forms

The Texas Unified Certification Program (TUCP) website potential certified DBE Firms, <https://www.txdot.gov/inside-txdot/office/civil-rights/tucp.html>, and SBE Firms, http://www.dot.state.tx.us/business/business_outreach/sbe.htm, with applications and instructions

Attachment 8

Procedures for Removal of DBE's Eligibility

The TUCP maintains their Standard Operating Procedures, including DBE eligibility removal, on their website, <https://www.txdot.gov/inside-txdot/office/civil-rights/tucp.html>.

Attachment 9

Regulations: 49 CFR part 26

A copy of 49 CFR part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, can be viewed at <http://www.gpo.gov/fdsys/pkg/CFR-2010-title49-vol1/pdf/CFR-2010-title49-vol1-part26.pdf> or requested from the DBELO.

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