

DBE PROGRAM
Washington County, WI
Washington County Transit System

Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR 26.5.

Objectives/Policy Statement

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

It is the policy of Washington County Transit to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in FTA DOT-assisted contracts. It is also our policy –

- To ensure nondiscrimination in the award and administration of FTA DOT assisted contracts;
- To create a level playing field on which DBEs can compete fairly for FTA DOT assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in FTA DOT assisted contracts; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Washington County Highway Commissioner has been delegated as the DBE Liaison Officer for the Washington County Transit program. In that capacity, the Highway Commissioner 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 Washington County Transit in its financial assistance agreements with the Department of Transportation.

Washington County Transit has disseminated this policy statement to the Washington County Transportation Committee 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 FTA DOT-assisted contracts when requests for proposal solicitations are sent out.

Scott Schmidt, Highway Commissioner

Date

Nondiscrimination

Washington County Transit 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, Washington County Transit will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Record Keeping

This is under development and will report DBE reports as required.

Reporting to DOT: 26.11(b)

We will report DBE participation to DOT as follows:

[*FTA Recipients*] – We will report DBE participation on a semi-annual basis, in TrAMS. These reports will reflect payments actually made to DBEs on DOT-assisted contracts and subcontracts.

Bidders List: 26.11(c)

We will collect this information in the following ways:

Bidders List

Washington County Transit will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on FTA DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list to contact and send invitations to bid for procurements to DBE Firms and an approach to calculating overall goals. The bidders list will include the Company name, contact name address, phone, fax and e-mail and DBE/non-DBE status, age, annual gross receipts of firms and if DBE Firm submitted bid.

A directory will also be used to locate DBE Firms. Washington County Transit utilizes the State's Uniform Certified Program and State Directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, fax number, e-mail address, county of firm's location in Wisconsin, name and title of contact person, and the description of product/service the firm has been certified to perform as a DBE. We access the directories at: <https://wisconsin.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>

We will collect this information in the following ways:

1. A contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.
2. A notice in all solicitations, and otherwise widely disseminated, request to firms quoting on subcontracts to report information directly to the recipient.

3. Prime contractor shall complete and submit with the sealed response the DBE commitment form and or the good faith effort form and list of the DBE Contractors contacted or being used for the project

Federal Financial Assistance Agreement

Washington County Transit has signed the following assurances, applicable to all FTA DOT-assisted contracts and their administration:

Assurance: 26.13(a)

Washington County Transit will comply with the requirements of 49 CFR part 26 when doing FTA Funded Procurements. Washington County Transit shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. Washington County Transit shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. Washington County Transit'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 Washington County Transit of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

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

Contract Assurance: 26.13(b)

We will ensure that the following clause is placed in every FTA 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.

DBE Program Updates

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

Quotas

We do not use quotas in any way in the administration of this DBE program.

DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer: Highway Commissioner, Washington County Highway Department, and 900 Lang Street, West Bend, WI 53090 --262/335-4437. In that capacity, the Highway Commissioner is responsible for implementing all aspects of the DBE program and ensuring that Washington County Transit complies with all provisions of 49 CFR Part 26. The Highway Commissioner has direct, independent access to the County Administrative Coordinator, Transit Manager, Buyer, and Purchasing Agent concerning DBE program matters. The DBELO has zero staff that devotes a portion of their time to the DBE program.

The DBELO along with the County Buyer, Purchasing Agent and Transit Manager are responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Reviews third party contracts and purchase requisitions for compliance with this program.
2. Identifies contacts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
3. Participates in pre-bid meetings.
4. Advises the governing body on DBE matters and achievement.
5. Participates with the legal counsel, transit manager and purchasing agent to determine contractor compliance with good faith efforts.
6. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
7. Acts as liaison to the Uniform Certification Process in Wisconsin.
8. Provides outreach to DBEs and community organizations to advise them of opportunities.
9. Gathers and reports statistical data and other information as required by FTA DOT.
10. Analyzes Washington County Transit progress toward goal attainment and identifies ways to improve progress.
11. Plans and participates in DBE training seminars.
12. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.

Prompt Payment

We 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 contractor receives from Washington County Transit. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval from Washington County Transit. This clause applies to both DBE and non-DBE subcontractors.

Directory

Washington County Transit utilizes the State's Uniform Certified Program and State Directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, fax number, e-mail address, county of firm's location in Wisconsin, name and title of contact person, and the description of product/service the firm has been certified to perform as a DBE. We access the directories at: <https://wisconsin.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>

Overconcentration

Washington County Transit has not identified that overconcentration exists in the types of work that DBEs perform.

Business Development Programs

This is not applicable to Washington County Transit. The Wisconsin Department of Transportation has a business development program.

Monitoring and Enforcement Mechanisms

We will bring to the attention of the FTA / 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 Part 26.109. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

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. Washington County Transit will accomplish this by keeping a running tally of actual payments to DBE firms for work committed to them at the time of contract award. Washington County Transit will use a Utilization Form at the time of a bid or proposal is being submitted (see attachment G). As invoices are received and completion of work is verified, signed lien waiver forms (see attachment I) and confirmation of payment to DBE Contractors are verified from both contractor and sub-contractor before the payments will be released. A Utilization Report (see attachment H) will also be filled out by the contractor when invoices are completed each month. This will be used to track payments to the DBE.

Fostering Small Business Participation

Because Washington County Transit is a smaller agency, contracts tend to be of a size that small businesses, including DBE's can reasonably perform. In order to foster small business participation, Washington County Transit will structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment B to this program.

Process

Washington County Transit submits its overall goal to FTA on a triennial cycle (3 years) by August 1 of the year the current goal expires.

Before establishing the overall goal each year, Washington County Transit will seek the input of women, minorities, DBE contractors, stakeholders, local officials and the public to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and Washington County Transit's efforts to establish a level playing field for the participation of DBEs.

Following this input, we will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at 900 Lang Street, West Bend WI 53090 for 30 days following the date of the notice, and informing the public that comments can be accepted. This notice will appear on the transit website. Normally, we will try and issue this notice by July 1 of each year. The notice shall include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed. Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT.

Transit Vehicle Manufacturers

Washington County Transit 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. Washington County purchases shared ride taxi vehicles from WisDOT's human services vehicle bid. Their bid complies with this section.

Breakout of estimated Race Neutral & Race Conscious Participation

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation: from DBE participation of DBEs in local procurement programs in which there are no DBE contract goals.

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: 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 a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation on a prime contract exceeding 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.

Contract Goals

Washington County Transit will use contract goals to meet any portion of the overall goal Washington County Transit does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

Good Faith Efforts

Demonstration of good faith efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to part 26.

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: Highway Commissioner, Purchasing Agent or Buyer, and Transit Manager.

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

DBE Solicitation Information to be submitted

Washington County Transit treats bidder/offeror's compliance with good faith efforts requirements as a manner of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information with their sealed bid.

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 participation;
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 contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration

Within 7 days of being informed by Washington County Transit that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Washington County Administrative Coordinator, 432 East Washington Street, West Bend, WI 53095. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is replaced on a contract

Washington County Transit will require a 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. The contractor needs to consult with Washington County Transit prior to termination. The contractor, before transmitting to Washington County Transit its request to terminate and/or substitute a DBE subcontractor, must give notice in writing to the DBE subcontractor, with a copy to Washington County Transit of its intent to request to terminate and/or substitute, and the reason for the request. The contractor must give the DBE sub-contractor five days to respond to the contractor's notice and advise Washington County Transit and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why Washington County should not approve the contractor's action.

Washington County must have written consent to terminate a DBE subcontractor. Termination must be pursuant to Section 49 CFR 26.53(f)(3).

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE, and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid DBE Specification: (See also Attachments E & F)

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the [Name of Recipient] to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it

submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Counting DBE Participation

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

Unified Certification Program

Washington County Transit participates in WisDOT's Unified Certification Program. We will cooperate with the certification reciprocity or coordination mechanisms with other recipients that are developed by this program. See website: <https://wisconsin.gov/Pages/doing-business/civil-rights/dbe/certified-firms.aspx>

Information, Confidentiality, Cooperation

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

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

Monitoring Payments to DBEs

We 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 Washington County Transit or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

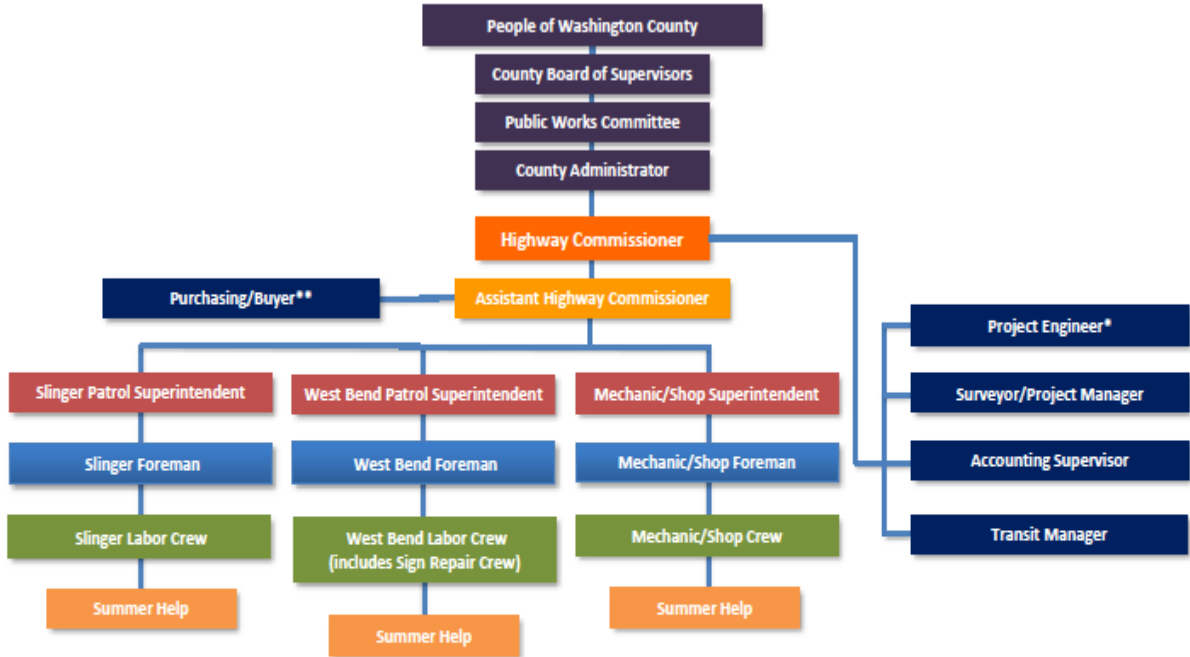
We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation. (See attachment H).

Attachments

- A: Organizational Chart
- B: Overall Goal Calculation
- C: Form 1 & 2 for Demonstration of Good Faith Efforts
- D: Regulations 49 CFR part 26
- E: DBE RFP/RFB language for Race Neutral
- F: DBE RFP/RFB language for Race Conscious
- G: NAICS code list used in this analysis

ATTACHMENT A

Washington County Highway Department Organizational Chart



- * Project Engineer is part of Administration Department but is housed within Highway Department and primarily supervised by Highway Commissioner
- ** Purchasing/Buyer is shared between Purchasing and Highway Departments

ATTACHMENT B

Overall Goals

Amount of goal

Washington County Transit's overall goal for 2020-2022 is the following: 3% of the Federal financial assistance we will expend in DOT assisted contracts exclusive of FTA funds to be used for the purchase of transit vehicles.

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

$$\text{Base figure (2.7\%)} = \frac{\text{Ready, willing, and able DBEs (22)}}{\text{All firms ready, willing and able (960)}}$$

The data source or demonstrable evidence used to derive the numerator was the minority businesses listed in Wisconsin Uniform Certification Program available on-line at:

<https://wisconsin.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx> maintained by the Wisconsin Department of Transportation.

The data source or demonstrable evidence used to derive the denominator was the US Census Bureau Annual Economic Survey, Table CB1800BP, All Sectors: County Business Patterns by Legal form of Organization and Employment Size Class for U.S., States, and Selected Geographies: 2018. The total number of ready, willing, and able firms was limited to the State of Wisconsin for prime contracts and the Milwaukee Metropolitan Statistical Area for subcontracts and micro purchases.

We used the NAICS codes for businesses for anticipated purchases in 2020-2022 of prime contracts, subcontracts, and micro purchases funded in part by DOT. The NAICS Codes used for were 485--- (Transportation Services) for prime contracts and 2141--, 4243--, 4884--, 4231--, 3231—for subcontracts and micro purchases. The full list of NAICS codes used for this analysis can be found in Attachment G.

When we divided the numerator by the denominator, we arrived at the base figure for our overall goal, and that number is 2.7%.

Step 2: 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

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

Adjusting the Step 1 base with the median past participation: The five-year history of Washington County Transit DBE goal achievement was used. The median goal achieved was 0% (0%, 0%, 0%, 0%, and 0%). Only prime contracts had been included in prior years' analysis.

Washington County also conducted an analysis of our bidders list for prime contracts. Of the 7 DBEs firms, no DBEs submitted a proposal. However, our prime contractors have DBE goals in place for subcontracts.

Based on the addition of subcontracts, we have adjusted our rounded weighted base figure to 3.0%

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

The Washington County Transit System will attempt to meet the feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Washington County Transit System uses the following race neutral means to increase DBE participation:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses' participation. Example: unbundling large contracts (when able) to make them more accessible to small business.
- Providing technical assistance and other services.
- Ensuring the inclusion of DBEs, and other small businesses, on recipient mailing list for bidders.
- Outreach to minority centered organizations for any input.

We estimate that, in meeting our overall goal of 3%, we will obtain 100% from race neutral participation and 0% through race conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation: from DBE participation of DBEs in local procurement programs in which there are no DBE contract goals.

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

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

DBE Plan and Goals- Public Notice/Participation

Transit will post the goal on the transit's website: www.ridewcce.com. Public outreach will be attempted to minority centered organizations: Wisconsin Economic Development Corporation, the Hispanic Chamber of Commerce of Wisconsin, the African-American Chamber of Commerce of Wisconsin, the Hmong Chamber of Commerce, First-American Capital Corporation, and the Wisconsin Women's Business Initiative. The West Bend, Hartford, and Germantown Chamber of Commerce offices will be contacted as well.

ATTACHMENT C

CERTIFICATE OF GOOD-FAITH EFFORTS

The intent of this certification is to document the good faith efforts implemented by the apparent successful concessionaire in soliciting and utilizing DBE firms to meet DBE participation requirements. This certificate will assist the Recipient in determining whether the apparent successful consultant has implemented comprehensive good faith efforts. Failure to implement “good faith” efforts to the satisfaction of the Recipient could result in the rejection of the proposal.

I, _____, do hereby acknowledge that I am the authorized representative of _____, and am submitting this good faith certificate to document efforts undertaken by our firm to meet the assigned DBE goal.

RFP No.	RFP Title	Total Contract Amount	DBE Percentage	
			Goal	Pledged

I. Provide a brief summary on why you believe your firm is unable to meet the DBE participation goals on this project (Attach additional pages if necessary.)

B. Notifying DBE Firms of Contracting Opportunities

1. In the table below, indicate all firms (DBEs and non DBEs) which received written notification of the participation opportunities on the contract. In the appropriate space, also indicate when firms received subsequent telephone solicitations. Please attach additional page(s) so that all companies contacted are listed. (Attach photocopies of all written solicitations to DBE firms to this certificate).

Company Contacted	Date of Written Notification	DBE (Yes/No)	Date of Follow-up Telephone Call

2. Identify publications in which announcements or notifications were placed and published, if any. (Attach copies of proof of each announcement or notification.)

Published Announcement/ Name of Publication	Date

3. Identify DBE associations or organizations that received written notifications, including dates of all notifications. Provide name of person and date of follow-up call. If no follow-up calls made, explain why not. (Attach copies of letter sent as proof of notification).

DBE Associations/Organizations Contacted	Date of Notification	Contact Person	Date of Follow-up Telephone Call

4. Was the Owner contacted to assist in the recruitment of DBE firms?

Yes _____ No _____

Contact was made by: telephone _____ written correspondence _____

Date contacted: _____ Person Contacted: _____

C. Providing Assistance to DBEs Firms:

1. Explain any efforts undertaken to provide DBE firms with adequate information about the contracting opportunities and contractual requirements:

2. Describe any efforts undertaken to assist interested DBE firms in obtaining lines of credit or insurance required by the Recipient or Consultant:

3. Describe any other efforts initiated to provide special assistance to DBE firms interested in participating on the contract:

D. Soliciting Proposals from Interested DBE Firms

Consultants must solicit proposals in good faith with interested DBE firms. Proposals from interested DBE firms must not be rejected by consultant without sound justification.

1. Indicate in the table below which DBE firms submitted proposals. Also, provide a brief explanation of why any of these DBE proposals were rejected. Please attach additional pages(s) if necessary.

Name/Address/Contact Person of DBE firms	Opportunity Offered and Reason for Rejection

E. Other evidence and documentation you want the Recipient to consider:

NOTE: The information requested as set forth above is the minimum information required by the Recipient. Consultant maybe asked to submit additional information on certain other actions taken to secure DBE participation in an effort to meet the goals.

AFFIDAVIT

STATE OF WISCONSIN)

) ss

COUNTY OF _____)

The undersigned, having been first duly sworn, says that the information given in the above certificate is true and correct to the best of his/her knowledge and belief.

Signed: _____
Consultant/Authorized Representative

(Print Name)

(Title)

Subscribed and sworn to before me:

This _____ day of _____, 20__

Signed: _____
Notary Public

My commission expires _____, 20 ____.

ATTACHMENT C (continued)

**Good-Faith Efforts Waiver Denial
Request for Administrative Hearing**

Your request for a good-faith efforts' waiver has been denied, and you are entitled to request an administrative hearing to appeal that denial. If you wish to have such a hearing, please sign this form and return it to the _____ Office by 5:00 p.m. on [date].

A faxed request may be sent to _____.

At the administrative review, a hearing officer(s) will hear your argument why the waiver should be granted. The evidence he or she reviews will be the entire DBE participation file you submitted to the contracting officer. The hearing officer(s), at his or her discretion, may receive additional evidence, but any such evidence not previously submitted with your bid and participation forms, must be submitted to the Transit Authority at the same time you file your request for hearing. No further evidence will be received or considered if it was not submitted with this hearing request. Documents already submitted in connection with the original good-faith waiver request need not be submitted.

A hearing will be held within three (3) working days following the receipt of your hearing request. You will be notified promptly of the time and place of the hearing and the identity of the hearing officer(s), who may be an individual(s) not directly involved in the original good-faith waiver denial. Because of the need to promptly resolve this matter and proceed with the award of the contract, an adjournment of the hearing will be granted only upon a showing of substantial cause. Your failure to appear at the hearing constitutes a withdrawal of your request.

**THE UNDERSIGNED, AN AUTHORIZED REPRESENTATIVE OF _____,
_____, HEREWITH REQUESTS AN
ADMINISTRATIVE HEARING TO APPEAL THE DENIAL OF THE COMPANY'S GOODFAITH EFFORTS
WAIVER REQUEST.**

SIGNATURE: _____

TITLE: _____

DATE: _____

ATTACHMENT D

Regulations: 49 CFR Part 26

Title 49, Part 26 may be accessed through the following link:

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

ATTACHMENT E

DISADVANTAGED BUSINESS ENTERPRISE (DBE) - Race Neutral

49 CFR Part 26
FTA Master Agreement §12.d

To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each sub recipient, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore:

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprise firms (DBE) is 10%. The Wisconsin Department of Transportation, Transit Section (WisDOT Transit) overall goal for DBE participation is 1.85%.
- b. The contractor 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 this DOT-assisted contract. 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. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. The successful proposer will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 10 days after the contractor's receipt of payment for that work from the Recipient. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.
- e. The contractor must promptly notify the Recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Recipient.

ATTACHMENT F

DISADVANTAGED BUSINESS ENTERPRISE (DBE) – Race Conscious

49 CFR Part 26

FTA Master Agreement §12.d

To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each sub recipient, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore:

- A. The Recipient agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26. The contract goal for this procurement is ____%.
- B. The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any sub agreement, lease, third party contract or other arrangement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26.
- C. Proposers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following prior to award:
 1. The names and addresses of DBE firms that will participate in this contract;
 2. A description of the work each DBE will perform;
 3. The dollar amount of the participation of each DBE firm participating;
 4. Written documentation of the proposer's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
 5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; or
 6. If the contract goal is not met, evidence of good faith efforts to do so.
 7. Recipient is authorized to make the determination that contractor has made a good faith effort (GFE) to achieve the required DBE participation. The contractor can demonstrate that it has made a good faith effort in meeting the assigned DBE goal by doing either of the following:
 - a. Shows evidence that it has met the DBE participation by submitting in writing all requirements in Section c (1-5) above.

- b. Documents that it made good faith efforts to meet the DBE participation goal, even though it did not succeed in achieving it. In this case, the contractor must submit the Certificate of Good Faith Efforts (Exhibit A) and all relevant documentation to the Transit Authority for a GFE determination with its bid submittal.
- 8. The Recipient agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all sub agreements, leases, third party contracts, and other arrangements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the Recipient's DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. 49 CFR §26.53 and Appendix A to 49CFR Part 26 provides guidance regarding GFE.
- 9. Proposers must present the information required above prior to contract award (see 49 CFR 26.53(3)).
- D. The successful proposer will be required to report its DBE participation obtained throughout the period of performance.
- E. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 10 days after the contractor's receipt of payment for that work from the Transit Authority. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.
- F. The contractor must promptly notify Washington County whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Transit Authority.

ATTACHMENT G

NAICS Codes Used in This Analysis

NAICS Code	Description
485113	Bus and Other Motor Vehicle Transit Systems
485210	Interurban and Rural Bus Transportation
485310	Taxi Service
485320	Limousine Service
485410	School and Employee Bus Transportation
485510	Charter Bus Industry
485991	Special Needs Transportation
485999	All Other Transit and Ground Passenger Transportation
324110	Gasoline and Diesel fuels
424320	Uniforms, merchant wholesaler
315190	Uniforms, non-tailored made in apparel knitting mills
315220	Uniforms, non-tailored, men's' cut & sewn from purchased fabric
315240	Uniforms, non-tailored, women's' cut & sewn from purchased fabric
488410	Towing services, motor vehicle
423120	Motor vehicle parts and accessories, new, merchant wholesalers
423140	Motor vehicle parts and accessories, used, merchant wholesalers
323110	Commercial Lithograph Printing
323111	Commercial Printing