

POLICY STATEMENT

Objectives/Policy Statement – Section 26.1, 26.23

The City of Galveston ("City") has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT). The City has received federal financial assistance from the Federal Transit Administration (FTA) and, as a condition of receiving this assistance, the City 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 City 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 City's DBE program; and
4. Verifying DBE Certification.

Island Transit City Grants Manager, Nathan Nevelow, 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 City in its financial assistance agreements with the FTA.

The City has disseminated this policy statement to the City Council and all of the components of our organization. The City has distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.



Brian Maxwell
City Manager

10/17/16
Date

APPROVED AS TO FORM:



City Attorney

GENERAL REQUIREMENTS

Objectives – Section 26.1

The objectives are found in the policy statement on the first page of this program. 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 City'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 development of firms that can compete successfully in the marketplace outside the DBE Program; and
- To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

Applicability – Section 26.3

The City is the recipient of DOT and FTA funds authorized by Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and all extensions, Moving Ahead for Progress in the 21st Century Act (MAP-21) and all extension, and Fixing America's Surface Transportation (FAST) Act.

Definitions – Section 26.5

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

Non-discrimination Requirements – Section 26.7

The City 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.

The City, while administering its DBE program, will not use criteria, directly or through contractual or other arrangements, that defeat or substantially impair accomplishments of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Record Keeping Requirements – Section 26.1

Reporting to DOT: 26.11(b)

The City will report DBE participation on federal funding to DOT/FTA on a biannual basis using the Uniform Report of DBE Awards or Commitments and Payments Form.

Bidders List: 26.11(c)

The City 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 City 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.

Federal Financial Assistance Agreement – Section 26.13

Every financial assistance agreement the City 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 City 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

The City currently does not receive FTA funds directly. When the City 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 City will continue to carry out this program until all funds from FTA financial assistance have been expended. The City will provide to FTA updates representing significant changes in the program on an as needed basis.

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 City has designated the following individual as the DBE Liaison Officer:

Nathan Nevelow
Grants Manager
City of Galveston – Island Transit
3115 Market Street
Galveston, TX 77550
Telephone: 409-797-4907
nnevelow@galvestontx.gov

In that capacity with City, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment A 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 to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment) and identifies ways to improve progress.
6. Analyzes the City's progress toward goal attainment and identifies ways to improve progress.
7. Advises staff and governing body 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 City'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, as of March 31, 2016, is available, upon request. If available, the City will make reasonable efforts to use these institutions and encourage prime contractors to use these institutions.

Prompt Payment Mechanisms – Section 26.29

The City will include the following clause in each DOT/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 City 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://fmx.cpa.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 City. Any delay or postponement of payment from this time frame may occur only for good cause following written approval of the City. 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 C.

Monitoring and Enforcement: 26.29(d)

The City has established a monthly Contractor Payment Report Form to monitor and enforce that prompt payment and return of retainage is in fact occurring. The City will review this form when it is submitted and perform periodic checks with subcontractors to ensure Contractor Payment Report Form matches payment.

Directory – Section 26.31

The City provides instructions to potential respondents and bidders to access the State of Texas's online Uniform Certification Program Directory, which identify 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 State of Texas Uniform Certification Program Directory is included in Attachment B.

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 City will develop the appropriate, FTA-approved measures to address the issue. Currently, the City has not identified that overconcentration exists in the types of work that DBE subcontractors perform. The City will re-evaluate for over concentration every 18 months.

Business Development Programs – Section 26.35

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

Monitoring and Enforcement Mechanisms – Section 26.37

See Attachment C, Monitoring and Enforcement.

Small Business Provision – Section 26.39

The City 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 City implements the small business participation in all procurements.

The City uses the same standards certification and verification processes as the Texas Department of Transportation (TxDOT) and the City of Houston SBE Program, which requires businesses to meet the US Small Business Administration (SBA) size standards. The SBA small business size standards for employees and annual firm receipts are located at: <https://www.sba.gov/content/summary-size-standards-industry-sector>. Other requirements include the firm owner's personal net worth is less than \$1,320,000 and that the firm is a for-profit organization. All SBEs listed on the TxDOT Small Business Enterprise Program Directory and the City of Houston's SBE Program will be considered as a SBE. The City of Houston's and TxDOT's certified SBEs will be included and kept on file in the City's SBE Directory. 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. The City will review TxDOT's and the City of Houston's SBE directories for verification of SBE Certification; if the firm is not located in either directory, the City will ask the firm to verify SBE standing by filling out TxDOT's SBE Certification Form located at: http://www.dot.state.tx.us/business/business_outreach/sbe.htm.

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

- On larger contracts, the City 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 City 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.
- The City will, when possible, unbundle contracts so an SBE can become a prime contractor on separate, smaller contracts. This also includes the removal of unnecessary and unjustified bundling of contract requirements.
- The City 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 City's Small Business Participation will include outreach to SBEs. Outreach efforts include pro-active methods, including but not limited to: soliciting bids or proposals from SBEs, encouraging participation in pre-bid and pre-proposal meetings, present a workshop in partnership with the Chamber of Commerce that focuses on local contracting opportunities, and providing information on becoming TxDOT SBE Certified, when requested. In procurement documentation, the City will break down potential SBE subcontracting opportunities in the procurement and provide bidders or offerors with the names and contact information of certified SBEs listed in the TxDOT and City of Houston SBE Directories. The City will encourage bidders or proposers to contact companies on that list at pre-bid and pre-proposal meetings. The City will send procurements to the Chamber of Commerce, especially smaller contracts that may be attractive for SBEs.

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas – Section 26.43

The City does not use set asides and/or quotas in any way in the administration of the City'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 the City's DBE Goal Calculation documentation, which is updated every three years depending upon funding sources.

In accordance with Section 26.45(f), the City will submit its overall goal to FTA on August 1 every three years as long as the City qualifies for the program based upon direct funding. The City 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 City 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 City's efforts to improve the participation of DBEs and SBEs.

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

Transit Vehicle Manufacturers Goals – Section 26.49

The City 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 Section 26.49.

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

The breakout of estimated race-neutral and race-conscious participation can be found in the DBE Goal Calculation. This section of the program will be updated every three years when the goal calculation is updated.

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

The respondent, bidder, or offeror 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 offeror 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 City deems appropriate. Each subcontract the respondent, bidder, or offeror 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 D):

- *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)

When a previous DBE program goal is not met, the City will use contract goals to meet a portion of the next overall program goal under race-conscious participation. Over the period to which the overall program goal applies, the City will use contract goals on some, but not all contracts to supplement race-neutral participation in achieving the overall program goal.

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

The City will express contract goals as a percentage of the Federal share of a DOT/FTA-assisted contract.

If the City fails to meet their overall three year goal in any one the fiscal years the City will evaluate the shortfall of the goal, determine why it occurred, and then implement a corrective action plan to address any problems identified, which could include contract goals.

Good Faith Efforts Procedures – Section 26.53

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

The City will deny award of a contract to a bidder or offeror that does not: (1) meet the contract goal with verified, countable DBE and/or SBE participation; or (2) document it has made adequate good faith efforts to meet the DBE and/or SBE contract goal, even though the bidder/offeror was unable to do so. It is the obligation of the bidder or offeror to demonstrate sufficient good faith efforts were made prior to submission of a bid or offer. The DBELO is responsible for determining whether a bidder or offeror, 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 City will require the bidder or offerors 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))

A bidder or offeror may request administrative reconsideration within 30 days of being informed, by the City, that bidder/offeror has not documented sufficient good faith efforts and is not responsive. Bidder or offeror must make the request in writing to the following reconsideration official:

Rick Beverlin
Assistant City Manager
City of Galveston
823 Rosenberg
Galveston, TX 77550
Telephone: 409-797-3520
RBeverlin@GalvestonTX.Gov

The reconsideration official will not have played any role in the original determination that the bidder or offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder or 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. The bidder or offeror will have the opportunity to meet in person with the City's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts. The City will send the bidder or offeror a written decision on reconsideration; it will explain the basis for finding that the bidder did or did not meet the goal or make adequate good

faith efforts. The result of the reconsideration process is not administratively appealable to FTA or DOT.

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

The City 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 City'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 City. A copy of this notice must be provided to the City 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 City 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 City will require the prime contractor to obtain the City'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 City may take action against the prime contractor as defined in Attachment C.

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 City 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 City will count DBE participation toward overall as provided in 49 CFR 26.55.

CERTIFICATION STANDARDS

Unified Certification Program – Section 26.81

The City 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@houstontx.gov
www.houstontx.gov/obo/

Procedures for Certification Decisions – Section 26.83-26.91

The City will follow the certification processes of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. A copy of TUCP's certification procedures is included in Attachment E, and/or is available at: <https://www.txdot.gov/inside-txdot/office/civil-rights/tucp.html>.

Any firm or complainant may appeal a TUCP decision in a certification matter to DOT. Such appeals may be sent to:

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

The City will promptly implement any TxDOT certification appeal decisions affecting the eligibility of DBEs for the City's TxDOT-assisted contracting (e.g., certify a firm if TxDOT has determined that the certifying agency denial of its application was erroneous).

COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation – Section 26.109

Consistent with Federal, state, and local law, the City 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 City, under the City's DBE program, is confidential.

Monitoring Payments to DBEs

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

The City 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 D).

ATTACHMENTS

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| Attachment A | Organizational Chart |
| Attachment B | DBE Directory |
| Attachment C | Monitoring and Enforcement Mechanisms |
| Attachment D | DBE Forms |
| Attachment E | Certification Application Forms |
| Attachment F | Procedures for Removal of DBE's Eligibility |
| Attachment G | Regulations: 49 CRR part 26 |

Attachment A – Organizational Chart



Attachment B – DBE Directory

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/tucp/>, or a copy can be requested from the City'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 City's DBELO.

Attachment C – Monitoring and Enforcement Mechanisms

The City 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 City 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; and/or
2. Work stoppage; and/or
3. Termination, suspension, or cancellation of the contract in whole or in part; and/or
4. In the event that a respondent/bidder/offeror fails to achieve the DBE goals of this program, after contract completion, the respondent/bidder/offeror's eligibility to receive any future City contract will be conditioned upon the respondent/bidder/offeror 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 City 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 D); and
2. Perform periodic checks with subcontractors to ensure Contractor Payment Report Form matches payment.

Attachment D – DBE Forms

Respondent/Bidder/Contractor Certification

Instructions: The prime Respondent/Bidder/Contractor shall complete this form by listing 1) Names of ALL proposed subcontractors, whether or not the subcontractor is a DBE or SBE. 2) Contact information, 3) Description of work to be performed/product to be provided, 4) Status as a DBE or non-DBE, 5) Ethnic Code of firm, 6) Gender code of owner, 7) Age of the firm, 8) Annual gross receipts of the firm, and 9) % or \$ amount of Total Contract. Those contractors which are listed on this form as DBEs must have current certification as a DBE with a participating TUCP certifying agency. The DBE certification must be complete by the time the proposals are submitted. Additionally, those (sub)contractors which are listed on this form as DBEs must complete **DBE Subcontractor Certification**, agreeing to the information listed here.

RESPONDENT/BIDDER/CONTRACTOR: _____

PROJECT NAME: _____

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 | | |

GENDER CODES

- | | | |
|---------|-----------|---------------------------|
| A) Male | B) Female | C) Choose Not to Disclose |
|---------|-----------|---------------------------|

1) Name of subcontractor	2) Address, Telephone # of DBE Firm (Including name of contact person)	3) Description of Work, Services Provided	4) DBE, SBE or non-DBE	5) Ethnic Code	6) Gender Code	7) Age of Firm	8) Annual Gross Receipts	9) DBE % or \$ amount of Total Contract

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

The undersigned will enter into a formal agreement with DBE contractors for work listed in this schedule upon execution of a contract with the City. The Contractor agrees to the terms of this schedule by signing below and submitting the **DBE Subcontractor Certification**, as completed by the DBE subcontractor(s).

DATE: _____

SIGNATURE: _____

RESPONDENT/BIDDER/
CONTRACTOR: _____

TITLE: _____

DBE Subcontractor Certification

NOTE: In accordance with 49 CFR (Code of Federal Regulations) Part 26 and Board policy, DBE firms participating in the DBE Program must have "current" certification status with a TUCP Certifying Agency by the due date established for this RFP.

1. TO: (Respondent/Bidder/Contractor): _____
2. The undersigned is either currently certified under the Texas Unified Certification Program (TUCP) as a DBE or will be at the time this solicitation 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 **Respondent/Bidder/Contractor Certification**).

4. The DBE subcontractor should complete this section only if the DBE 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 sublet and/or 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 FIRM: _____

SIGNATURE: _____

PRINT NAME: _____

PHONE NUMBER: _____

DATE: _____ RESPONDENT/BIDDER/
CONTRACTOR: _____

SIGNATURE: _____

PRINT NAME: _____

PHONE NUMBER: _____

ATTACH COPY OF TEXAS UNIFIED CERTIFICATION PROGRAM CERTIFICATE

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

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.

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

(Add rows to the table, as needed, to complete this section)

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 E – 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 F – 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 G – 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.