

2016

# Lee County Transit Disadvantaged Business Enterprise Program



*The next LeeTran DBE Goal Update will be due to FTA by August 1, 2019.*



Prepared by:



Lee County Transit  
Disadvantaged Business Enterprise Program

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# Lee County Transit

## Disadvantaged Business Enterprise Program

### POLICY STATEMENT

#### Section 26.1, 26.23 Objectives/Policy Statement

Lee County Transit, also known as LeeTran, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 Code of Federal Regulations (CFR) Part 26. LeeTran has received Federal financial assistance from the Department of Transportation (DOT), and as a condition of receiving this assistance, LeeTran has signed an assurance that it will comply with 49 CFR Part 26. This requirement most recently reinstated by Congress in the "Fixing America's Surface Transportation Act" or the "FAST-ACT," (P.L. 114-94).

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

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the LeeTran's Federal financial assistance programs;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that LeeTran's DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipient.
7. To assist the development of firms that can compete successfully in the marketplace outside of the DBE program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Sherrie Sharps, LeeTran's Fiscal Manager, has been delegated as the DBE Liaison Officer. In that capacity, Ms. Sharps 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 LeeTran in financial assistance agreements with the Department of Transportation.

LeeTran has distributed this statement to Lee County Division of Procurement Management and Florida Gulf Coast University's DBE Coordinator and Small Business Development Center. It is also posted on LeeTran's website at: <https://www.leegov.com/leetran/Documents/DoingBusinesswithLeeTran/RevisedDBE.pdf>, and published in the local newspaper triennially along with its notice of the proposed three year DBE goal.

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Steven L. Myers  
LeeTran Director

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Date

## SUBPART A - GENERAL REQUIREMENTS

### Section 26.1 - Objectives

The eight objectives of LeeTran's DBE Program are found in the policy statement on the fourth page of this document.

### Section 26.3 - Applicability

LeeTran is the recipient of federal transit funds authorized by Titles I, III, V, and VI of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405; and the Fixing America's Surface Transportation Act or "FAST Act", Sec. 1109. Surface Transportation Block Grant Program.

This DBE Program is also applicable to all LeeTran sub-recipients. LeeTran sub-recipients are not anticipated to have any contracting opportunities between fiscal year (FY) 2017 and FY2019 utilizing DOT assisted funding that would impact this DBE Program or the corresponding Goal proposed for FY2017 through FY2019. Sub-recipients are required to sign annual certifications and assurances confirming their compliance with LeeTran, federal, state, and local regulations, as appropriate. Current LeeTran sub-recipients will be maintained as sub-recipients until their federally assisted capital vehicles are fully depreciated, and all other grant requirements are satisfied.

### Section 26.5 - Definitions

LeeTran will adopt the definitions contained in Section 26.5 of Part 26 for this program.

### Section 26.7 - Non-Discrimination Requirements

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

### Section 26.11 - Record Keeping Requirements

26.11(a) Uniform Report of DBE Award or Commitment and Payments

LeeTran will report DBE participation to FTA using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

#### 26.11(c) Bidders List

Lee County Board of Commissioners approved an agreement with DOT and the Florida Department of Transportation (FDOT) that establishes LeeTran as a non-certifying member of the national DBE Unified Certification Program (UCP) in November, 2002. LeeTran uses the services of the Lee County Procurement Management Division in coordination with the Florida Gulf Coast University (FGCU) Small Business Development Center to administrate and maintain a bidders list of all DBE and non-DBE firms, which includes the name, address and other relevant contact information about the firm. However, Lee County Procurement Management Division does not collect annual gross receipts information of firms. Such information is collected by certifying members of the national UCP. Attachment 8 includes a copy of UCP Agreement executed by Lee County Board of County Commissioners.

FDOT's website provides a list of UCP agencies that provide certification services and non-certification services in the State of Florida.

<http://www.dot.state.fl.us/equalopportunityoffice/dbecertification.shtm>

LeeTran uses the Florida Department of Transportation (FDOT) bidder's list to assist in calculating the overall DBE goal.

Any prospective bidder interested in doing business with LeeTran is encouraged to review Lee County Division of Procurement Management business guidelines that are posted on its webpage at:

<http://www.leegov.com/procurement/vendor-bidder-application>

#### 26.11(d) Record Keeping

LeeTran will document a firm's compliance with the requirements of this part through its coordination with FGCU Small Business Development Center and Lee County Procurement Management Division. At a minimum, LeeTran will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records shall be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance related records shall be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

#### 26.11(e) DBE Reporting

FDOT will report to the Department of Transportation's Office of Civil Rights, by January 1, of each year, the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following:

1. Women;
2. Socially and economically disadvantaged individuals (other than women); and,
3. Individuals who are women and are otherwise socially and economically disadvantaged individuals.



## Section 26.13 - Federal Financial Assistance Agreement

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

### 26.13(a) Federal Financial Assistance Agreement Assurance

LeeTran shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out the terms shall be treated as a violation of this agreement. Upon notification to LeeTran of failure to carry out the approved program, the Department may impose sanctions 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.

### 26.13(b) Contract Assurance

LeeTran will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or

Disqualifying the contractor from future bidding as non-responsible.



## SUBPART B - ADMINISTRATIVE REQUIREMENTS

### Section 26.21 - DBE Program Updates

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

### Section 26.25 - DBE Liaison Officer

LeeTran has designated the following individual as the DBE Liaison Officer (DBELO):

Sherrie Sharps  
Fiscal Manager  
LeeTran  
3401 Metro Parkway  
Ft. Myers, FL 33901  
Phone: 239-533-8726  
Fax: 239-931-6811

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that LeeTran complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to Steven L. Myers, LeeTran Director concerning DBE program matters.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO 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 LeeTran departments to set overall 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, as appropriate) and identifies ways to improve progress.
6. Analyzes LeeTran's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Transit Director on DBE matters and achievement.
9. Participates in pre-bid meetings.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Participates in DBE training seminars.
12. Acts as liaison to the State of Florida UCP.

- 13. Provides outreach to DBEs and community organizations to advise them of opportunities.
- 14. LeeTran utilizes the FDOT website DBE Directory.

### Section 26.27 - DBE Financial Institutions

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

LeeTran has reviewed FDOT's website DBE Directory and has determined there are no listing for financial institutions owned and controlled by socially and economically disadvantaged individuals. LeeTran will re-evaluate whether DBE financial institutions are available every twelve (12) months.

### Section 26.29 - Prompt Payment Mechanisms

LeeTran will include the following clause in each DOT-assisted prime contract:

#### 26.29(a) Prompt Payment

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of the contract no later than 30 days from the receipt of each payment the prime contractor receives from LeeTran.

LeeTran will perform interim audits of contract payments to DBEs. The audit will consist of a confirmation checklist that will identify the contract award, prime contractor and the DBE sub-contractor. The DBELO will review the confirmation checklist that will be attached to the prime pay application. The audit will review payments to DBE sub-contractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation and will confirm the 30 day payment adherence.

Contract Award Date	Prime Contractor	DBE Sub-contractor	Type of monitoring	Date Monitoring Performed	Project Manager Signature
Project Manager Confirmation	Review of the contract award	Review of the Prime Contractors statement of commitment to DBE work	Confirm work has been performed as stated	Confirm prompt payment documentation from DBE Vendor	Determine whether DBE Sub-contractor is performing a CUF

#### 26.29(b) Retainage

The prime contractor agrees to promptly return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. LeeTran shall use one of the following methods to comply with this requirement:

1. May decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.
2. May decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.
3. May hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after payment to the prime contractor.

Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of LeeTran. This clause applies to both DBE and non-DBE subcontracts.

#### 26.29(c) Satisfactory Completion

For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed

#### 26.29(d) Monitoring and Enforcement

LeeTran shall require in all DOT funded contracts language that allows it to monitor and enforce that prompt payment and return of retainage is in fact occurring on any contract, which involves subcontracting. Attachment 3 highlights LeeTran's monitoring procedures.

Any delay or postponement of payment among the parties may take place only for good cause, with prior written approval by LeeTran.

The following mechanisms are to be used in all DOT funded contracts to ensure prompt payment:

1. A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.
2. A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly

paid for the work they have performed.

LeeTran will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in Section 26.109. LeeTran will also consider similar action under state legal authorities, including responsibility determinations in future contracts, removal of firms from the prequalified bidders and consultants' lists or revocation of DBE certification if applicable, pursuant to Section 337.105; 337.16; and 339.0805, Florida Statutes.

### Section 26.31 - Directory

LeeTran utilizes the FDOT website DBE Directory. The directory lists the firm's name, contact person, address, phone number, and the type of work the firm has been certified to perform as a DBE. The DBE Directory is updated in "real time," and is the single source for establishing program eligibility.

This directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

LeeTran distributes information about the FDOT website DBE Directory at pre-bid meetings, mailing lists, newsletters and brochures. LeeTran also encourages all interested persons to go to Lee County Division of Procurement Management's website provided below along with the FGCU Small Business Development Center site.

<http://www.leegov.com/procurement/disadvantaged-business-information>

<https://fsbdcswfl.org/>

Lee County Division of Procurement Management website provides a website link to the State of Florida Uniform Certification Program Directory:

<https://osd.dms.myflorida.com/directories>

FDOT's website DBE Directory is located at:

<http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>

FDOT's website provides a list of UCP agencies that provide certification services and non-certification services in the State of Florida.

<http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20CERTIFYING%20ADDRESSES%200516.pdf>

### Section 26.33 - Overconcentration

LeeTran has not identified that overconcentration exists in the types of work that DBEs perform in the greater Lee County. LeeTran will re-evaluate whether there is an overconcentration every twelve (12) months.

### Section 26.35 - Business Development Programs

LeeTran refers DBE firms to the following organizations for assistance with business development planning:

1. Florida Department of Management Services  
Office of Supplier Diversity  
4050 Esplanade Way, Suite 380  
Tallahassee, Florida 32399-0950  
Phone: 850-487-0915  
Fax: 850-414-6122  
Website: [www.osd.dms.state.fl.us](http://www.osd.dms.state.fl.us)  
Email: [osdhelp@dms.myflorida.com](mailto:osdhelp@dms.myflorida.com)
  
2. FGCU Small Business Development Center Florida Gulf Coast University  
College of Business Lutgert Hall, 2nd Floor  
10501 FGCU Boulevard, South  
Fort Myers, FL 33965  
Phone: 239-745-3700  
Fax: 239-745-3710  
Website: <http://sbdc.fgcu.edu>  
Email: [sbdc@fgcu.edu](mailto:sbdc@fgcu.edu)

Lee County contracts with the FGCU Small Business Development Center to offer the following services to DBE firms in Lee County:

1. One-on-one confidential professional counseling;
2. Ongoing educational entrepreneurial seminars and workshops;
3. Steps necessary to starting a small business;
4. Guidance with business and marketing plan research, preparation and review;
5. Assistance with loan package development;
6. Marketing, branding and sales planning consultation;
7. Assistance with accounting and recordkeeping software and how to use the information to help the business grow;
8. Government contracting;
9. State certification as a Woman, Minority or Disabled Veteran Enterprise;
10. Improving customer service; and,
11. Distributes electronic information on upcoming bids, training sessions and other relevant information.

### Section 26.37 - Monitoring and Enforcement Mechanisms

LeeTran will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. LeeTran will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. LeeTran will consider similar action under LeeTran's own legal authorities, including responsibility determinations in future contracts. The regulation, provisions, and contract remedies available to LeeTran in the event of non-compliance with the DBE regulation by a LeeTran prime contractor include: actions for breach of contract; prosecution for any criminal activity or violation of County Code or Ordinance; enforcement of claims against any retainage, bond, surety or insurance provided by contractor or any subcontractor; legal action on any County cause of action created under the applicable provisions of state or federal law; revocation, cancellation or termination of the contract between the LeeTran and the prime contractor for the project; any other action permitted at law or in equity; or, any self-help measures that LeeTran may lawfully undertake to rectify the default.
3. LeeTran and prime contractor will also jointly provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This compliance monitoring shall include the following steps:
  - The prime contractor shall, prior to undertaking work on the project, provide LeeTran with an accurate list of all DBEs who are or who are anticipated to be subcontractors working on the project, which list shall include an accurate, detailed description of all work to be done by each DBE. This list shall be updated any time there is a change in the DBEs working on the project or a change in the allocation of work between or among DBEs. The prime contractor shall provide this list with a sworn certification that it is true and accurate.
  - LeeTran shall review the sworn DBE list provided by the prime contractor and confirm its accuracy. LeeTran may request, and prime contractor shall provide, copies of any subcontracts or other contractual documentation between prime contractor and any subcontractors to confirm the scope of work for each.
  - The prime contractor shall notify LeeTran of the dates/times when the DBEs are anticipated to be performing each contractual task related to the project, so that LeeTran can verify DBE participation in the project, and can verify that the DBEs identified on the sworn list are participating in the project. This shall be performed as a component of construction inspection and supervision relating to the project, or may be performed as a standalone compliance verification process if LeeTran determines the same to be necessary.
  - On all payment notifications required to be provided to LeeTran, the prime contractor shall identify each DBE receiving payment, and any DBE receiving payment shall indicate its status as a DBE on its payment notifications.
  - The prime contractor and its subcontractors shall agree to comply with any further measures that LeeTran determines to be necessary or appropriate to impose for the purpose of verifying

DBE participation in the project.

4. The prime contractor shall provide and LeeTran shall maintain a running tally of actual payments to DBE firms for work committed to them at the time of contract award, verified at the time of any payments to prime contractor for the project, and verified at the time DBE firms certify to LeeTran that they have been paid, as required under prime contractors subcontractor agreement.

### Section 26.39 - Small Business Participation

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

LeeTran will administer its Small Business Participation program on a race neutral basis through a contract with the FGCU Small Business Development Center located at:

FGCU Small Business Development Center  
College of Business Lutgert Hall, 2nd Floor  
10501 FGCU Boulevard, South  
Fort Myers, FL 33965  
Phone: 239-745-3700  
Fax: 239-745-3710  
Website: <http://sbdc.fgcu.edu>  
Email: [sbdc@fgcu.edu](mailto:sbdc@fgcu.edu)

Small Business Program:

1. Definition – For the purpose of this section, a small business is defined as a firm that meets the definition as contained in 49 CFR 26.5 and Section 3 of the Small Business Act, 15 U.S.C. 631 et seq. which do not exceed the cap on average gross receipts specified in 49 CFR 26.65(b).
2. A Small Business Concern is one that:
  - Is organized for profit, with a place of business located in the United States, which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor;
  - Has the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative.
  - Is at least 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States, except in the case of a joint venture, where each entity to the venture must be 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States.
3. A Small Business Concern shall not have average annual gross receipts (over the firm's previous three fiscal years) in excess of \$22.41 million. How to calculate average annual receipts and

average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectively.

Program participants will be required to establish eligibility via (1) DBE certification in connection with the Florida Unified Certification Program; (2) U.S. Small Business Administration (SBA) 8A certification, or (3) documentation establishing participation as a registered Dynamic Small Business with SBA. This documentation must be provided to FGCU Small Business Development Center in order to verify eligibility.

Certified DBEs are presumptively eligible to participate in the program. None of the provisions of this Section shall be interpreted to impose any geographic preferences or limitations, and the program is open to all small business concerns regardless of their location.

4. As part of this program element LeeTran will include the following strategies:

- Major Construction Project – When LeeTran undertakes the planning, design and construction of any new major facility it will require A&E firms and/or construction management firms to prepare a written assessment of opportunities that may exist for small businesses to compete for direct prime construction contracts and subcontracts as part of the overall scope of a construction project. This assessment will be performed based on the individual work elements of the project as compared to the types of regional small businesses that have the ability to undertake the work. Based on this assessment the A&E firm and/or construction management firm will be directed to prepare small business contract bundle(s), if appropriate, that will be reflected in the preparation of final construction documents prior to bid. This assessment will include the opportunity to unbundle specific scopes of work that are valued at \$250,000 or less that can be bid as separate prime contracts, or identified in prime contracts as subcontract opportunities for certified small businesses.

The value selected will be based on the total estimated cost of the project and estimated costs for unbundling such areas as excavation, trucking, HVAC work, electrical work, painting and other finishing work.

- LeeTran will include in its construction contract provisions a requirement that prime contractors affirmatively seek out small businesses as part of its subcontractor workforce. Prime contractors will be required to provide information with their bid that identifies the small businesses that will participate as subcontractors and the scopes of work that will be undertaken. Lack of small business participation will require the bidder to provide evidence of the good faith efforts that were made. The good faith effort requirement will be the same as identified in Section 26.53 - Good Faith Procedures.
- Small Capital Procurements - Small capital purchases that require procurements undertaken by LeeTran are in connection with bus equipment, bus shelters, and enhancements. These purchases include a wide variety of goods and services that are necessary to manage the transit system.

LeeTran will analyze small business contracting opportunities in connection with contracts awarded to support operations and maintenance activities. LeeTran DBELO will work with the



Lee County Procurement Management Division to identify contracting opportunities for certified small businesses and prepare an annual assessment for increasing small business participation. This assessment may include establishing small business set asides if it is determined that at least two certified small businesses exist to allow for a competitive procurement environment.

5. LeeTran will utilize the Small Business Development Center, at FGCU to seek out and develop a listing of local and regional small businesses. Additional outreach efforts will include:
  - Developing lists of the small business organizations identified;
  - Contacting small business organizations to make them aware of how to do business with LeeTran;
  - Placing upcoming contracting opportunities on the Lee County Division of Procurement Management's website and a link to this site on LeeTran's website;
  - Providing information and referring small businesses interested in DBE certification to FDOT's **website** which provides a list of UCP agencies that provide certification services and non-certification services in the State of Florida.

General Operations Procurements - The vast majority of procurements undertaken by LeeTran are in connection with general operations of the transit system.

These purchases also include a wide variety of goods and services including security and computer services, maintenance to vehicles and assets, advertising and temporary staffing services for administration assistance.

LeeTran will utilize the FGCU Small Business Development Center to seek out and develop a listing of local and regional small businesses. It will also provide outreach efforts similar to those outlined in the Small Capital Procurements section above.

For additional information about the small business program, certification process, or to apply for certification, firms should review FDOT's website, which provides a list of UCP agencies that provide certification services and non-certification services in the State of Florida.

<http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20CERTIFYING%20ADDRESSES%200516.pdf>

The principal responsible person for overseeing and implementing the LeeTran Small Business Program will be the LeeTran's DBELO.

## SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

### Section 26.43 - Set-asides or Quotas

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

### Section 26.45 - Overall Goals

In accordance with Section 26.45(f) LeeTran will submit its triennial overall DBE goal to FTA on August 1, 2016 (assigned to Group A).

LeeTran will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE goals as directed by FTA.

Project or contract-specific DBE goals are 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). LeeTran will work with Lee County Division of Procurement Management to establish contract-specific DBE goals, if applicable.

The process used by LeeTran to establish overall DBE goals conforms with Section 26.45 of the DBE regulation and is based on the demonstrable evidence of DBE firms ready, able, and willing to participate/perform contracting opportunities derived from LeeTran's DOT-assisted projects/contracts.

LeeTran's overall DBE Goal is established using a two-step process. Step 1 involves determining a Base Figure of available DBE firms in LeeTran's relevant market ready, willing and able to participate in LeeTran contracts. The Base Figure of available ready, willing and able DBE firms is derived using FDOT's UCP DBE Directory and Census Bureau data.

Step 2 requires establishment of a DBE goal based on the availability of DBE firms after adjusting the availability Base Figure to account for actual DBE utilization rates in LeeTran contracts and other relevant factors. After the adjusted DBE goal is identified, LeeTran analyzes what proportion of the DBE goal can be achieved using race-and gender-neutral methods based on the level of utilization of DBEs relative to their availability.

Before establishing the overall three year goal, LeeTran will consult with the FGCU Small Business Development Center, chambers including local minority and ethnic chambers of commerce, small and local business associations (both DBE and non-DBE), and minority and women's organizations, general contractor and consultant groups, community organizations, elected public officials and other public agencies to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and LeeTran efforts to establish a level playing field for the participation of DBEs.

Following this consultation, LeeTran will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at LeeTran's principal office for 30 days following the date of the notice, and informing the public that LeeTran and DOT will accept comments on the goals for 45 days from the date of the notice. The notice will be published in the local newspaper and on LeeTran's webpage. LeeTran will issue this notice no later than June 15 of each year that the three-year overall DBE goal is due. The notice will

include addresses to which comments may be sent and addresses where the proposal may be reviewed. The proposed and established goals will remain posted on LeeTran's webpage for public viewing.

LeeTran's overall three year goal submission to DOT will include: the goal including the breakout of estimated race-neutral and race-conscious participation, as appropriate; a copy of the methodology, used to develop the goal; a summary of information and comments received during this public participation process and LeeTran's responses; and proof of publication of the goal in the above listed media outlets.

LeeTran will begin using the overall goal on October 1 of the specified year, unless LeeTran receives other instructions from DOT. The DBELO is responsible for implementing all aspects of the DBE program and ensuring that LeeTran complies with all provision of 49 CFR Part 26 including the timely submission of the Semi-Annual report according to the established FTA reporting schedule as follows:

Semi-annual DBE reports – submitted by DBELO	June 1 (reporting period 10/1 to 3/31) December 1 (reporting period 4/1 to 9/30)
--	---

If LeeTran establishes a goal on a project basis, LeeTran will begin using the goal by the time of the first solicitation for a DOT-assisted contract for the project. LeeTran's overall goal will remain effective for the duration of the three-year period established and approved by FTA. The specifics for establishment of the LeeTran FY2017 – FY2019 DBE goal are included in Appendix A of this document, with the outreach efforts conducted on the proposed goal as Appendix B. The tables included in Appendix C, provide the NAICS codes that correspond with the totals utilized to calculate the methodology in Appendix A.

### Section 26.47 - Goal Setting and Accountability

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

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis and to enable LeeTran to meet fully its goal for the new fiscal year;
3. Submit the plan to FTA within 90 days of the end of the affected fiscal year, if requested by FTA.

### Section 26.49 - Transit Vehicle Manufacturers Goals

LeeTran will require each transit vehicle manufacturer (TVM), 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 49 CFR Part 26. LeeTran will only allow to bid and select a TVM listed on FTA's certified list of TVMs, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of a LeeTran vehicle solicitation.

## Section 26.51 - Meeting Overall Goals/Contract Goals

The breakout of estimated race-neutral and race-conscious 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.

LeeTran will use contract goals to meet any portion of the overall goal LeeTran 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 the overall goal that is not projected to be met through the use of race-neutral means.

LeeTran will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. LeeTran 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).

LeeTran will express the contract goals as a percentage of the total amount of a DOT-assisted contract.

## Section 26.53 - Good Faith Efforts Procedures

### 26.53(a) Award of Contracts with a DBE Contract Goal

In those instances where a contract-specific DBE goal is included in procurement or/solicitation, LeeTran will not award the contract to a bidder who does not either: (1) Meet the contract goal with verified, countable DBE participation; or (2) Documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

### 26.53(a) & (c) Evaluation of Good Faith Efforts

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive; LeeTran's DBELO and Transit Director.

LeeTran evaluation of good faith efforts will be conducted in accordance with Appendix A to Part 26 - Guidance Concerning Good Faith Efforts.

The processes used by LeeTran to determine whether good faith efforts have been made by a bidder/offeror are as follows:

- 1) If bidder/offeror does not meet the established DBE goal, and is required to submit documentation of good faith effort, then a good faith efforts submission shall be provided within three business days from the bid/proposal submittal date, which shall include a signed DBE Good Faith Efforts Checklist (form provided by LeeTran) and supporting documentation that the bidder/proposer made a good faith effort to meet the goal. LeeTran may allow a longer period based on submittal of a request demonstrating good cause for such extension. Good faith efforts

at a minimum include, without limitation, the following where applicable:

- Attendance at the pre-bid meeting.
- Advertisement in trade association newsletters and minority-focused media within a reasonable time before bids are due for specific sub-bids that would be at least equal to the percentage goal for DBE utilization specified for the project.
- Notifications in writing to minority contractor associations within a reasonable time before bids are due of a solicitation for specific sub-bids.
- Direct negotiation with DBEs for specific sub-bids.

LeeTran will ensure that all information is complete and accurate and adequately documents the bidder's/offeror's good faith effort before committing to the performance of the contract by the bidder/offeror.

#### 26.53(b) Information to be Submitted

LeeTran treats bidders'/offerors' compliance with good faith efforts' requirements as a matter of responsiveness.

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

- The names and address of DBE firms that will participate in the contract.
- A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
- The dollar amount of the participation of each DBE firm participating.
- Written and signed documentation of commitment to use a DBE subcontracting whose participation it submits to meet a contract goal.
- Written and signed confirmation from the DBE that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment, and
- If the contract goal is not met, evidence of good faith efforts. (see Appendix A to Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

#### 26.53(d) Administrative Reconsideration

Within 15 days of being informed by LeeTran that it is not responsive, because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offeror should make this request in writing to the following reconsideration official: Lee County Procurement Director, 1500 Monroe Street, 4<sup>th</sup> Floor, Fort Myers, FL 33901, Phone (239) 533-8881 and Fax (239) 485-8383. The reconsideration official will not have played any role in the original determination that the

bidder/offeror did not 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 the Lee County Procurement Director to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. Lee County Division of Procurement Management 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.

## 26.53(f) Good Faith Efforts When a DBE is Terminated/Replaced on a Contract with Contract Goals

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

Before transmitting to LeeTran its request to terminate, the prime contractor shall give notice in writing to the DBE of its intent to do so. A copy of this notice shall be provided to LeeTran prior to consideration of the request to terminate. The DBE shall have five (5) days to respond and advise LeeTran why it objects to the proposed termination. The five day period may be reduced if the matter is one of public necessity, e.g., safety.

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

In this situation, we will require the prime contractor to obtain LeeTran 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 LeeTran may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, LeeTran may issue a termination for default proceeding.

The following statement is placed in every DOT-assisted prime contract:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of LeeTran 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's/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.

### Section 26.55 - Counting DBE Participation

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

## SUBPART D and E - CERTIFICATION STANDARDS

### Section 26.81 - Unified Certification Programs

LeeTran is a member of the national UCP administered by the FDOT. We will use and count for DBE credit only those DBE firms certified by FDOT. A brief description of the State's UCP can be found at:

<http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20INFORMATION%20PAMPHLET.pdf>

### Section 26.91 - Procedures for Certification Decisions

LeeTran distributes information about FDOT's website, which provides a list of UCP agencies that provide certification services and non-certification services in the State of Florida.

<http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20CERTIFYING%20ADDRESSES%200516.pdf>

Any firm or complainant may appeal the FDOT's 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

LeeTran will coordinate with FDOT to promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).



## SUBPART F - COMPLIANCE AND ENFORCEMENT

### Section 26.109 - Information, Confidentiality, and Cooperation

LeeTran 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 federal, state or local law, LeeTran 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.

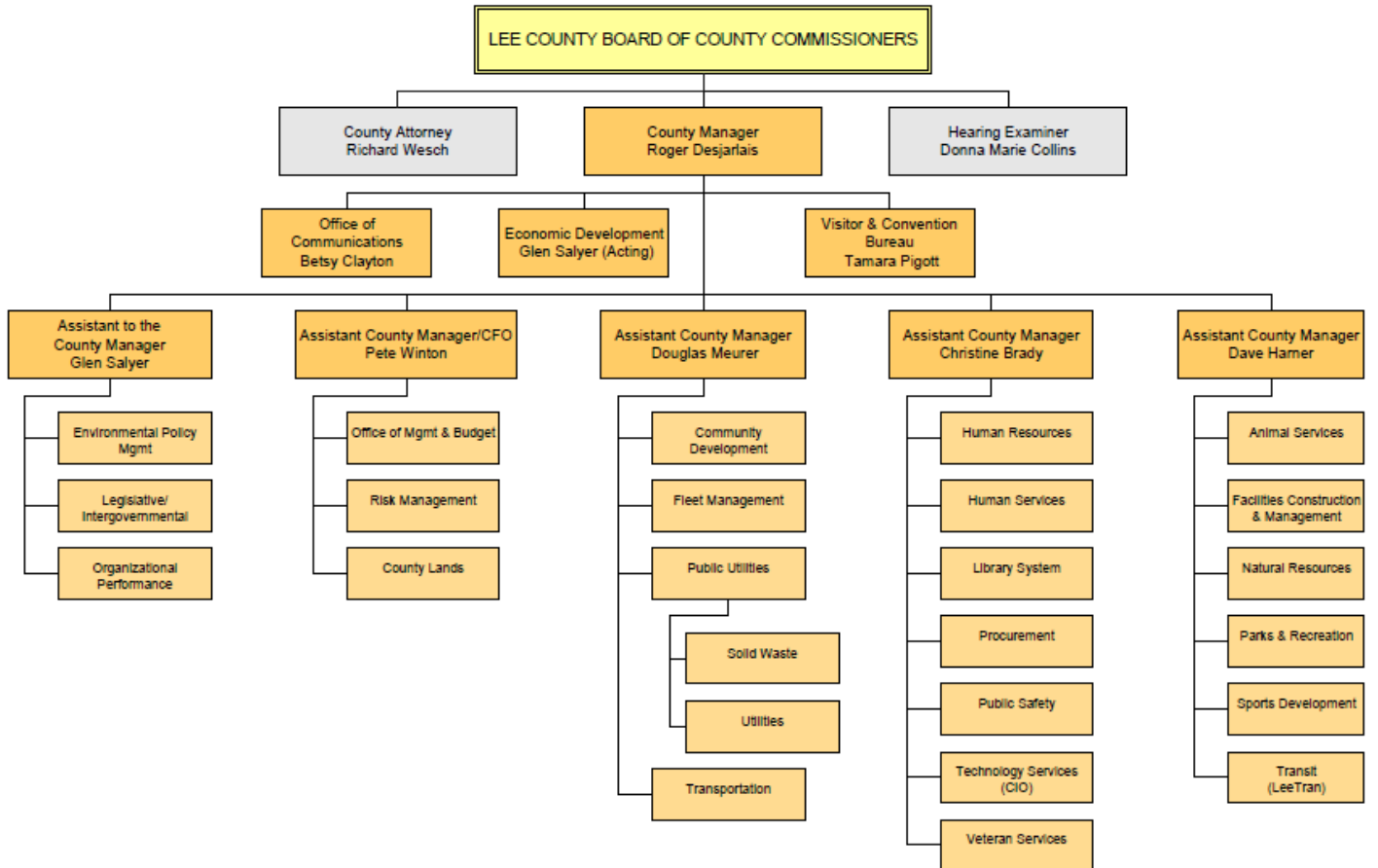
#### Monitoring Payments to DBEs

LeeTran 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 available for inspection upon request by any authorized representative of LeeTran or the DOT. This reporting requirement also extends to any certified DBE subcontractor.

LeeTran 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.

# Attachment 1

## Lee County Organization Chart



## Attachment 2

### Instructions on How to Access the DBE Directory

LeeTran does not certify DBEs but rather uses the list of DBEs identified in the FDOT UCP Directory.

FDOT's website DBE Directory is located at:

<http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/>

FDOT's website provides a list of UCP agencies that provide certification services and non-certification services in the State of Florida.

<http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20CERTIFYING%20ADDRESSES%200516.pdf>

If you have any questions you can contact the:

Florida Department of Transportation Equal Opportunity Office

605 Suwannee Street, MS-65

Tallahassee, Florida 32399-0450

Tel: (850) 414-4747

Fax: (850) 414-4879

## Attachment 3

### DBE Monitoring and Enforcement Mechanisms

In the event that a DBE goal has been established by the Solicitation, the prime contractor covenants and agrees as follows:

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

Before transmitting to LeeTran its request to terminate, the prime contractor shall give notice in writing to the DBE of its intent to do so. A copy of this notice shall be provided to LeeTran prior to consideration of the request to terminate. The DBE shall have five (5) days to respond and advise LeeTran why it objects to the proposed termination. The five day period may be reduced if the matter is one of public necessity, e.g., safety.

2. In those instances where "good cause" exists to terminate a DBE's contract, LeeTran requires the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor shall notify LeeTran immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.
3. LeeTran Management requires the prime contractor to obtain LeeTran 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, LeeTran may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, LeeTran may issue a termination for default proceeding.

4. The prime contractor shall provide the DBELO with at least thirty (30) days written notice prior to instituting any legal action against a DBE subcontractor.
5. The prime contractor shall provide the DBELO with monthly updates as to the prime contractor's continuing compliance with the DBE requirements set forth in the Solicitation.

The prime contractor shall submit with each invoice a report of DBE expenditures (the "DBE Expenditure Report"). Such report must show each DBE, the amount of such DBE's subcontract, the amount earned to date, the amount earned with respect to that invoice and the amount remaining to be earned. A legible copy of each invoice, along with the DBE Expenditure

Report, shall be submitted directly to the DBELO, or such other address as may be specified by LeeTran from time to time. The DBELO's address and facsimile (FAX) number:

Sherrie Sharps, Fiscal Manager  
DBE Liaison Officer  
LeeTran  
3401 Metro Parkway  
Ft. Myers, FL 33901  
Fax: 239-533-0370

6. The prime contractor shall make prompt and full payment to any DBE subcontractor (including the payment of any retainage) within the later of:
  - a. Thirty (30) days after the DBE subcontractor's work is satisfactorily completed, or
  - b. Thirty (30) days after the prime contractor receives payment from LeeTran for satisfactory completion of the accepted work.

A DBE subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by LeeTran when LeeTran has made an incremental acceptance of a portion of the Services, the work of a DBE subcontractor covered by that acceptance is deemed to be satisfactorily completed. The prime contractor shall not withhold payment to any DBE subcontractor as a result of the exercise of LeeTran's rights under this Contract.

LeeTran will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in Section 26.109. These may include:

- Suspension or debarment proceedings pursuant to 49 CFR part 26
- Enforcement action pursuant to 49 CFR part 31
- Prosecution pursuant to 18 USC 1001.

LeeTran will also consider similar action under state legal authorities, including responsibility determinations in future contracts, removal of firms from the prequalified bidders and consultants' lists or revocation of DBE certification if applicable, pursuant to Section 337.105; 337.16; and 339.0805, Florida Statutes.

## Attachment 4

### Section 26.45 Overall Goal Calculation

LeeTran's overall goal for FY 2014 thru FY 2016 is 4% of the Federal Financial assistance LeeTran will expend in FTA-assisted contracts (exclusive of FTA funds to be used for the purchase of transit vehicles). The DBE goal will be reviewed annually and updated every three years in accordance with FTA regulations. It is estimated that the DBE goal will remain at 4 % based on preliminary work to calculate the FY 2017 thru FY 2019 DBE goal.

The methodology used to establish the overall goal, including determining the relative availability of DBEs in the normal market area for procurement of goods and services for LeeTran, consists of a multi-step process.

#### A. Identifying the Geographic Scope of the Market Area

1. The first step is to determine the normal market area for procuring goods and services; this will establish geographic parameters for statistical analysis. The parameters are the census-defined Lee County Metropolitan Statistical Area (MSA).
2. Second, the capital improvement program budget for proposed projects or any other relevant documents is examined by LeeTran to ascertain the type and scope of projects involving federal funds proposed for the upcoming federal fiscal years.
3. The list of projects is analyzed to determine the types of firms/services; by North American Industry Classification System (NAICS) codes that LeeTran would likely engage to execute FTA-assisted projects. This information is also placed in a summary table format.
4. Using Census definitions, a list of relevant NAICS codes is compiled based on the firm types identified in Step A.3 above.
5. The market area is refined based on the normal area for procuring goods and services and the viability of NAICS data. The "refined" normal market area has been determined to be the urbanized area and the greater Lee County MSA, as defined by the US Census.

#### B. Determining the Relative Availability of DBEs in the Market Area (STEP 1)

1. Assessing the availability of DBEs and identify the number of minority and women-owned firms in the market area will be the initial step. This effort involves searching for and researching documents and resource agencies which may have information on the relative availability of DBE's in the LeeTran service area. The primary source for this determination will be the State of Florida UCP directory.
2. From the resource directory, the relative availability of all DBEs within the market area are

identified, and placed in a summary table format.

3. This list is further narrowed down through the identification of only firms which performed work relevant to LeeTran's federally funded operating expenses and capital improvements plan for FTA- assisted projects (i.e., the same NAICS codes identified in step A.3, above).
4. The DBE firms identified in Step B.2 are tallied.

#### C. Determining Relevant Market Conditions

Using the NAICS numbers identified in Step A, recent census data for the service area is examined to determine the total number of firms that perform the type of work relevant to the LeeTran estimated federally funded expenditures.

#### D. Determining the "Base Figure" DBE Goal

1. The number of (all) firms in the relevant NAICS categories serve as the denominator.
2. The number of DBE firms determined in Step B, serve as the numerator.
3. The percent derived from items 1 and 2, above is the "base figure", or Step 1 goal.

#### ADJUSTMENTS TO BASE FIGURE GOAL (STEP 2):

After the "Base figure" or Step 1 DBE Goal has been developed, additional information and data that is relevant to LeeTran's contracting experiences will be considered. The additional information will be used to determine what adjustment, if any is needed to the base figure to derive at a final overall goal.

The types of data or information that can be considered when adjusting the base figure include:

LeeTran DBEs to perform work on FTA-assisted contracts. Determining current LeeTran DBE's to perform work on FTA-assisted contracts as measured by the volume of work DBE's have performed in recent years.

The historical overall DBE goals accomplished by LeeTran on FTA-projects for several recent fiscal years are examined relative to the above consideration.

LeeTran will continually assess the availability of research documents and demographic studies that may provide additional data on the extent to which DBE firms are "ready, willing and able" to engage in contracting opportunities, and successfully performing on contracts as determined by subcontract and prime contract awards.

With all of the factors in STEP 2 considered, LeeTran may adjust the base figure DBE goal, first by adding the average availability factors identified and/or derived in section (A) above, and averaging the total resulting in the total goal. Finally, this overall goal may be further adjusted when warranted based on the relative size of DBE firms included in STEP 1 base figure goal analysis.

Once LeeTran arrives at a DBE goal, LeeTran will publish the DBE goal information in the News-Press, a local daily newspaper, published in Fort Myers, in Lee County, Florida and post it on LeeTran's webpage.

Details concerning the methodology used to obtain this goal are available for review for forty-five (45) days following the publication of the notice and can be obtained from the LeeTran office. Written comments via the U. S. Postal Service addressed and email comments are accepted for forty-five (45) days from the publication of the notice. Comments may also be directed to FTA Region IV; 230 Peachtree St. NW, Suite 800; Atlanta, GA 30303.



## Attachment 5

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

LeeTran will meet the maximum feasible portion of the overall goal by using race-neutral means of facilitating DBE participation. LeeTran uses the following race-neutral means to increase DBE participation.

LeeTran estimates that, in meeting the overall goal of 4%. The 4% will be obtained from race-neutral participation and 0% through race-conscious measures.

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

- Arranging solicitations, times for presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation.
- Ensuring distribution of the DBE directory to the widest group of potential prime contractors.
- Providing technical assistance and other services.
- Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBE's and other small business on mailing lists for bidders, and ensuring the dissemination to bidders on prime contractors of lists of potential subcontractors).
- Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBE's and other small businesses, which will be completed through coordination with FGCU Small Business Development Center.
- Providing services to help DBE's and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve self-sufficiency.
- Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low. LeeTran has contracted with FGCU Small Business Development Center to provide assistance to small business.
- Assisting DBE's and other small businesses to develop their capability to utilize emerging technology and conduct business through electronic media.

In order to ensure that LeeTran's DBE program will be narrowly tailored to overcome the effects of discrimination, if LeeTran uses contract goals, we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) 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 through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

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

## Attachment 6

### LeeTran - Demonstration of Good Faith Efforts

(Forms 1 and 2 should be provided as part of the solicitation documents)

#### FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

\_\_\_\_\_The bidder/offeror is committed to a minimum of \_\_\_\_\_% DBE utilization on this contract

\_\_\_\_\_The bidder/offeror (if unable to meet the DBE goal of \_\_\_\_\_ %) is committed to a minimum of \_\_\_\_\_% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of Bidder's/Offeror's Firm \_\_\_\_\_

State Registration No. \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Please Print Name

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Title

## LeeTran - Demonstration of Good Faith Efforts

(Forms 1 and 2 should be provided as part of the solicitation documents)

### FORM 2: LETTER OF INTENT

Name of bidder's/Offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

The bidder/offered is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

#### Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_

Signature

Title

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void

(Please submit this page for each subcontractor.)

## Attachment 7

### 49 CFR Part 26

The text of 49 CFR Part 26 can be found at the link below.

[http://www.ecfr.gov/cgi-bin/text-idx?SID=42be20443e3153b89ce7cb3cd02b39fa&mc=true&node=pt49.1.26&rgn=div5%20-%20se49.1.26\\_151](http://www.ecfr.gov/cgi-bin/text-idx?SID=42be20443e3153b89ce7cb3cd02b39fa&mc=true&node=pt49.1.26&rgn=div5%20-%20se49.1.26_151)

# Attachment 8

## State of Florida UCP Agreement



BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 335-2179

ENCLOSURE

Pat Jones  
Deputy Clerk

Fax: (239) 335-2282

Douglas R. St. Cyr  
Board Chair

Ray Smith  
Board Member

Andrew M. Coy  
Board Member

December 5, 2002

John B. Adams  
Board Member

Donald D. Street  
County Manager

Mr. Art Wright  
FDOT - Office of Equal Opportunity  
886 Suwannee Street  
Mail Station 65  
Tallahassee, FL 32399-8544

James G. Hooper  
County At-Large

Blaine M. Parker  
County At-Large  
Chairman

Dear Mr. Wright:

Enclosed you will find an original signature page from the State of Florida UCP Agreement executed by Lee County Board of County Commissioners. We are signatories as non-certifying members.

If you need additional documentation, please let me know. I can be reached at 239.335.2179 or via email at [Kcorbett@leegov.com](mailto:Kcorbett@leegov.com).

Sincerely,

Kami Corbett  
Manager  
Office of Equal Opportunity

DEC 06 2002

Attachment

P.O. Box 290, Fort Myers, Florida 32902-0290 (239) 335-2111  
MAILING ADDRESS: [www.lee-county.com](http://www.lee-county.com)  
AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER



**STATE OF FLORIDA**  
**UNIFIED CERTIFICATION PROGRAM**  
**UCP AGREEMENT**  
**SIGNATURE and DECLARATION OF STATUS**

*IN WITNESS WHEREOF, the UCP Members execute this Agreement prepared*  
 \_\_\_\_\_ *2002, by authorized signatures, and attached resolutions if*  
*appropriate.*

**ATTEST:** Charles Green  
*clerk of Court*  
Michelle S. Williams  
*Signature Deputy Clerk*  
Michelle S. Cooper  
*Name, printed*

LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
*Signatory Entity Name, printed*  
Ray Judah *Chairman*  
*Signature and Title*  
Ray Judah, Chairman  
*Name and Title, printed*

This 19th day of November, 2002.



*Approved as to form:*  
Scott S. Powell  
*(Attorney for Signatory) County Attorney's Office*

Certifying Member Status

Non-Certifying Member Status





<b>Lee County Board Of County Commissioners</b> Agenda Item Summary <span style="float: right;">Item Sheet No. 20021282</span>						
<b>1. REQUESTED ACTION:</b> Approve Disadvantaged Business Enterprise (DBE) Uniform Certification Program Agreement  <b>ACTION REQUESTED:</b> Approve and sign agreement with U.S. Department of Transportation and Florida Department of Transportation establishing Lee County as a non-certifying member of the national DBE Uniform Certification Program.  <b>WHY ACTION IS NECESSARY:</b> This action is required by federal regulation, 49 CFR Part 26, for all recipients of USDOT funds.  <b>WHAT ACTION ACCOMPLISHES:</b> Lee County becomes part of the national DBE Uniform Certification Program, which is required by federal regulation.						
<b>2. DEPARTMENTAL CATEGORY:</b> COMMISSION DISTRICT F			C6H		<b>3. MEETING DATE:</b> 11-19-2002	
<b>4. AGENDA:</b>  <input checked="" type="checkbox"/> CONSENT ADMINISTRATIVE APPEALS  <input type="checkbox"/> PUBLIC WALK ON TIME REQUIRED:		<b>5. REQUIREMENT/PURPOSE:</b> (Specify)  <input type="checkbox"/> STATUTE <input type="checkbox"/> ORDINANCE <input type="checkbox"/> ADMIN. CODE <input checked="" type="checkbox"/> OTHER Federal Regulation		<b>6. REQUESTOR OF INFORMATION:</b>  A. COMMISSIONER B. DEPARTMENT C. DIVISION <span style="float: right;">Transit</span>  BY: <u>Steven L. Myers, Director</u>		
<b>7. BACKGROUND:</b> Federal regulations dealing with Disadvantaged Business Enterprises were recently revised. The new regulations require all agencies receiving USDOT funds to participate in the Uniform Certification Program for Disadvantaged Business Enterprises. The agreement establishes a central database for all Disadvantaged Business Enterprises and requires each entity to recognize the DBE certification of the other entities that have signed the Agreement. Lee County does not independently certify Disadvantaged Business Enterprises, therefore the County will be a non-certifying member to the agreement. This means that there is no fee associated with entering into the agreement. Our only obligation will be to recognize the DBE certifications issued by certifying members of the agreement.						
<b>8. MANAGEMENT RECOMMENDATIONS:</b> Approve and sign agreement						
<b>9. RECOMMENDED APPROVAL:</b>						
A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services	G County Manager
<i>[Signature]</i> 11/19/02	<i>[Signature]</i> 11/19/02	<i>[Signature]</i> 11/19/02	<i>[Signature]</i> 11/19/02	<i>[Signature]</i> 11/19/02	<i>[Signature]</i> 11/19/02	<i>[Signature]</i> 11/19/02
<b>10. COMMISSION ACTION:</b>						
<input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> DEFERRED <input type="checkbox"/> OTHER		Rec. by <i>[Signature]</i> Date: 11/19/02 Time: 3:30 PM Forwarded To:		RECEIVED BY COUNTY ADMIN. PM Date: 11/19/02 COUNTY ADDRESS BY: <i>[Signature]</i>		

## Attachment 9

### DBE Program Checklist

(Pursuant to 49 CFR Part 26)

Recipient Name:					
Vendor ID:					
Date DBE Program received:					
Date of initial review:					
Date final DBE Program reviewed:					
Review conducted by:					
Date referred to Regional Counsel:					
Name of approving Regional Counsel & date of concurrence:					
Issuance of date of approval letter:					
Date TrAMS data entered:					
<p>This form provides a basic overview of the legal requirements and responsibilities of Federal Transit Administration (FTA) recipients under Code of Federal Regulations (C.F.R.) 49 Part (§) 26 for purposes of Regional Civil Rights Officer (RCRO) review. This document is not intended to provide a comprehensive explanation of all requirements and responsibilities of FTA recipients related to DBE, nor is it intended to replace DBE guidance issued by the US Department of Transportation (DOT). Further DOT and FTA guidance can be found on our websites and in 49 C.F.R. § 26 not intended to replace the DBE guidance issued by the US Department of Transportation. This form highlights the major sections of 49 C.F.R. § 26. Recipients should consider each of the topics in preparing their DBE program documents. FTA does not ask recipients to quote or paraphrase portions of the rule in their programs. Rather, recipients' programs should address specifically how the recipient will implement the various program requirements. For example, the program would not paraphrase Section 26.83 concerning initial certification procedures. It would describe how a firm applies to the recipient for certification.</p>					
Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
<b>OVERALL DBE PROGRAM</b>					
CFR 49 § (Part) 26					See comments below and address any area marked "Not Addressed" and/or "Inadequate." An "Advisory Comment" indicates that this section is not required by the circular but recommended by FTA.

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
<b>POLICY STATEMENT: §26.23</b>					
Is there a signed and dated policy statement that expresses the agency's commitment to their DBE program, states its objectives, and outlines responsibilities for its implementation?					
Is the statement circulated throughout the organization and to the DBE and non-DBE business communities that perform work on the agency's DOT-assisted contracts?					
<b>Does the statement include the following objectives from part 26.1:</b>					
(a) To ensure nondiscrimination in the award and administration of DOT- assisted contracts;					
(b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;					
(c) To ensure the DBE Program is narrowly tailored in accordance with applicable law;					
(d) To ensure that only firms that meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;					
e) To help remove barriers to the participation of DBEs in DOT- assisted contracts; and					
(f) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.					
g) To assist the development of firms that can compete successfully in marketplace outside the DBE Program.					

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
(h) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs					
<b>APPLICABILITY: §26.3</b>					
(a) This part applies to recipients of: (2) Federal transit funds authorized by Title I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21 Pub. L. 105-178, and recently reauthorized by Congress in the "Fixing America's Surface Transportation Act" or the "FAST-ACT," P.L. 114-94.					
<b>DEFINITIONS: §26.5</b>					
Definitions should be listed or incorporated by referring to §26.5 (incorporated by reference) if §26 is included as an attachment to the DBE Program.					
<b>NON-DISCRIMINATION: §26.7</b>					
Non-discrimination statements (a) and (b) from this part are included.					
<b>RECORD KEEPING: §26.11*</b>					
(b) Recipient must provide data about the DBE program by submitting the Uniform Report of DBE Commitments/ Awards and Payments in the DOT form (no number); semi-annually due on June 1 and December 1 for each federal fiscal year in which they are required to have an annual DBE goal.					

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
(c) Bidder's list List must include the following information about DBE and non-DBE contractors and subcontractors who seek work on federally-assisted contracts:					
(i) Firm name;					
(ii) Firm address;					
(iii) Firm's status as a DBE or non-DBE;					
(iv) Age of the firm; and					
(v) The annual gross receipts of the firm. May be obtained by asking each firm to indicate what gross receipts bracket they fit in (i.e. less than \$500,000; \$500,000 - \$1 million, \$1 - 2 million, \$2-5 million).					
<b>RECIPIENT AND CONTRACTOR ASSURANCES §26.13*</b>					
(a) Annual FTA Certifications and Assurance signed - includes required DBE assurance.					
(b) Includes the full contract assurance that must be included in contracts let with DOT funds. (For recipient to include in its contracts and sub- contracts).					
<b>DBE PROGRAM UPDATES: §26.21(2)</b>					
Recipient agrees that any significant changes in the program must be submitted to FTA for approval.					
<b>DBE LIASON OFFICER §26.25</b>					

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
DBE Liaison officer (DBELO) identified? NOTE: FTA highly recommends the DBELO must not come from Procurement especially if the individual is directly involved in contracts, bids & procuring goods or materials. Similarly, a person in Finance Division should not be the DBELO if the individual is responsible for disbursing funds. Both situations can be conflict of interests.					
DBE Liaison officer has direct and independent access to CEO? Has adequate staff and authority to administer this part?					
<b>DBE FINANCIAL INSTITUTIONS §26.27</b>					
Recipient has thoroughly investigated the services offered by DBE financial institutions and has made reasonable efforts to use these institutions per this part?					
<b>PROMPT PAYMENT: §26.29*</b>					
(a) Contractors pay subs for satisfactory performance no later than 30 calendar days from receipt of each payment?					
(b) Recipient assures prompt and full payment of retainage from the prime contractor to the sub within 30 calendar days after the sub's work is completed using one of the 3 methods in this part?					
(d) DBE program provides appropriate means to enforce the requirements of this section?					
(e) Any additional prompt payment mechanisms established per this part?					

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
<b>DBE DIRECTORY: §26.31</b>					
DBE directory made available per this part?					
<b>OVERCONCENTRATION: §26.33</b>					
Applies only when an overconcentration is identified. If so, is overconcentration addressed appropriately?					
<b>MENTOR-PROTÉGÉ PROGRAMS: §26.35</b>					
May be established per this part.					
<b>MONITORING PERFORMANCE: §26.37*</b>					
Have appropriate (a) mechanisms to ensure compliance with this part by all program participants been established? And has a (b) monitoring and enforcement process to ensure work committed to DBEs at contract award is performed by DBEs been established per this part.					
Does (c) this mechanism provides for a running tally of actual payments made to DBE firms per this part.					
<b>FOSTERING SMALL BUSINESS PARTICIPATION: §26.39 (see also FTA Guidance to Complete New DBE Implementation Plans)</b>					
DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns					
Element must include reasonable steps to eliminate obstacles to small business participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors					

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
Steps to increase small business participation may include, but are not limited to: small business set-aside, requiring identification of sub-contracting possibilities on large contracts, requiring prime contractors to identify small business sub contracts on large procurement, creating an alternative acquisition strategy, joint venture opportunities for small businesses, contract unbundling/assessment of contract size, business development opportunities					
(b) Outreach is not the sole step indicated to increase small business participation. If included, must be coupled with a strategy to create contracting opportunities for small businesses.					
(c) Includes a method to verify business size. A program should not allow firms to self-certify/verify as small businesses					
(d) Includes specific time frame for implementing small business program					
(e) DBE set-asides made only on the basis of business size. Set-asides based on race and/or gender are forbidden.					
<b>OVERALL GOALS: \$26.45</b>					



Recipient develops a 2-step goal setting process as described in sections (c) - (d) of this part? This goal is based on quantifiable data from reliable sources such as current census Bureau's County Business Pattern (CBP) data, bidder's list, current DBE directories or State UCP directories, current disparity study, NAICS codes, the goal of another DOT recipient (step 1 ONLY) or alternative methods?					
(e)(2) Goal is expressed as a percentage of all FTA funds (excluding the purchase of transit vehicles) that will be expended in the three forthcoming fiscal year?					
(f)(1) Goals are submitted for review on August 1 of each year?					
(f)(3) Description of methodology used to arrive at the goal included?					
(g) Provide for public participation, in the following order:					
(g)(1) Consultation with minority, women's and general contractor groups, etc.?					
(g)(2) A published notice per this part? NOTE: Publication of DBE goal in grantee's own website alone does not meet this public participation requirement.					
<b>CAN RECIPIENTS BE PENALIZED FOR FAILING TO MEET OVERALL GOALS?: §26.47</b>					
Statement expressing an understanding of the following:					

<p>(a) You cannot be penalized, or treated by the Department as being in noncompliance with this rule, because your DBE participation falls short of your overall goal, <u>unless you have failed to administer your program in good faith.</u></p>					
<p>(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, <u>you are in noncompliance with this part.</u></p>					
<p>(c) If the awards and commitments shown on your Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, <u>you must do the following in order to be regarded by the Department as implementing your DBE program in good faith</u></p>					
<p>(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;</p>					
<p>(2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;</p>					
<p>(3)(i) If you are a state highway agency; one of the 50 largest transit authorities as determined by the FTA; or an Operational Evolution Partnership Plan airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, <u>the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval.</u></p>					

(ii) As a transit authority or airport not meeting the criteria of paragraph (c)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to FTA or FAA on request for their review.					
(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions					
<b>TRANSIT VEHICLE MANUFACTURERS: §26.49</b>					
(a) Transit vehicle manufacturers (TVM) are required to certify they have a DBE program					
<b>MEANS TO MEET GOALS: §26.51</b>					
The recipient follows the descriptions to meet goals using race-neutral means (a) - (c) or contract goals (d) - (g) as appropriate each federal fiscal year per this part?					
<b>GOOD FAITH EFFORTS PROCEDURES WHEN A DBE IS REPLACED ON A CONTRACT: §26.53</b>					
RECONSIDERATION OFFICIAL: §26.53 (d)(2) The Reconsideration Official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.					
Demonstration of good faith efforts per 26.53, (a & c; b, d, f) Appendix A (c) are met					
<b>UNIFIED CERTIFICATION PROGRAM PARTICIPATION: §26.81 (a)</b>					

CERTIFICATION PROCESS: § 26.61-26.73					
<b>UNIFIED CERTIFICATION PROGRAM PARTICIPATION: §26.81 (a)</b>					
Recipient participates in UCP?					
<b>INFORMATION, CONFIDENTIALITY, COOPERATION: §26.109</b>					
Are appropriate rules governing information, confidentiality, cooperation, and intimidation or retaliation established per this part?					
<b>For state DOT's DBE goal submission attached to this DBE Program Plan, please answer the following:</b>					
	<b>Yes</b>	<b>No</b>	<b>Comments</b>		
(1) Sub-recipients of the state DOT are aggregated in the overall goal:					
(2) The state DOT included the names of recipients that submitted DBE goals:					
(3) The state DOT accounted for FTA funds received for 5303, 5304, 5310 (non-vehicle awards) and 5311 grants and distributed to its sub recipients:					
If the RCRO or designee has contacted the grantee regarding their DBE goal submittal for any reason, notes of the conversation are included in the submittal. For example, if RCRO or designee has granted the grantee an extension to submit the required documentation with a specified timeline for their response or if RCRO has orally approved a grantee's DBE goal, notes reflect the rationale for approving it.					
<b>ATTACHMENTS</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>		

1. Organizational Chart			
2. DBE Directory (hard copy version only)			
3. Agency policies of Monitoring & Enforcement Mechanisms			
4. Overall Goal Calculation			
5. Breakout of Estimated Race-Neutral & Race Conscious Participation			
6. Form 1 & 2 for Demonstration of Good Faith Efforts			
9. Regulations: 49 CFR Part 26 (hard copy version only)			

\* For continuity of topic, these sections are sometimes combined under one or more headings such as "Record Keeping, Monitoring and Enforcement," and/or "Federal Financial Assistance Agreements."

## APPENDIX A: FY2017 – FY2019 DBE GOAL SETTING

LeeTran, in compliance with 49 CFR, Part 26.45, Subpart C, has set a goal of four percent (4%) for Federal FYs 2017 – 2019 for DBE participation. The established goal was developed utilizing the methodology below.

The Excel tables utilized during development of the methodology are provided below identifying the steps taken to establish the LeeTran goal for FYs 2017 – 2019. Several data sources were reviewed and utilized including the following:

- LeeTran FY2015 Actual Expenses and Revenues
- LeeTran FY2016 Adopted Budget
- LeeTran FY2017 Preliminary Budget
- LeeTran’s Capital Improvements Program FY2017 – FY2019
- Lee County Metropolitan Planning Organizations Transportation Improvement Program FY2017 – FY2021
- LeeTran’s previous contracting performance overall and with DBEs using FY2014, FY2015, and 1st half of FY2016 Uniform Report Of DBE Awards Or Commitments And Payments
- North American Industry Classification System (NAICS) categories for budget expenses, ready, willing, and able DBEs, and all businesses in Lee County from 2012 cross-referenced against the NAICS revisions and updates released as follows:
  - August 08, 2016 [PDF, 290KB] North American Industry Classification System—Revision for 2017; Notice. Vol. 81, No. 152
- Florida Department of Transportation (FDOT) Business Directory (BizNet) / Unified Certification Program (UCP) DBE Directory
- U.S. Census County Business Patterns
- Lee County DBE goal and procurement policies and procedures

The methodology included utilizing the LeeTran FY2017 budget to determine what areas were available for potential expenditure and contracting opportunities. In addition, the Lee County Metropolitan Planning Organization Transportation Improvement Program was reviewed to determine expenditures for the outer DBE goal years of FY2018 and FY2019, along with the LeeTran Capital Improvements Program (CIP). Based on review of these documents the following areas were identified for potential contracting opportunities and were also estimated to have DOT funding participation:

- Construction projects
  - Shelters
  - Transfer centers enhancements
- Professional services
  - Engineering and architecture support

- Planning support
- Data processing
- Printing and other related services
- Furniture and Equipment
  - Equipment Repairs
  - Farebox upgrades and related programming

Utilizing the areas for expenditure, the total number of overall vendors, and DBE vendors by NAICS codes was determined as shown in the Step 1 Methodology table below. The Table identifies the two digit NAICS prefix, while the full NAICS code for registered vendors are included in Appendix C. The second step was to review previous contracting patterns that indicated LeeTran had met and exceeded the previously established DBE goal through race neutral competitive contracting measures. Utilizing the percentage of available DBE firms for the potential work opportunities the output was relatively low totaling 3.75%. During step two, and with the review of future work planned to be funded by federal and/or state dollars and the previous LeeTran goal achievement of eight percent (8%), it was determined to average the two figures to allow DBE firms a greater opportunity for work. The averaging resulted in a six percent (6%) DBE goal. A four percent (4%) goal is being recommended for FYs 2017 – 2019 as shown in the tables attached based upon the availability of DBEs, the programmed expenditures allowing for DBE opportunities, and the public outreach efforts. Also, based upon the completion of the LeeTran Administration and Operations facility that assisted in exceeding the prior DBE Goal, the six percent (6%) average result is higher.

Lee County Transit  
FY17, FY18, and FY19 DBE Goal

**Step 1 Methodology**

2012 NAICS code	Description	# of Businesses	# of DBE Businesses	% of DBE Firms	Race Neutral / Race Conscious
11	Agricultural, Forestry, & Fishing	14	0	0.00%	N/A
21	Mining	9	0	0.00%	N/A
22	Utilities	29	0	0.00%	N/A
23	Construction	2,208	97	4.39%	RN
31-33	Manufacturing	369	14	3.79%	N/A
42	Wholesale Trade	704	29	4.12%	N/A
44-45	Retail Trade	2,569	12	0.47%	RN

48-49	Transportation & Warehousing	333	34	10.21%	N/A
51	Information	226	11	4.87%	N/A
52	Finance & Insurance	1,020	6	0.59%	N/A
53	Real Estate & Leasing	1,355	11	0.81%	N/A
54	Professional & Technical Services	2,003	145	7.24%	RN
55	Management of Companies & Enterprises	64	0	0.00%	N/A
56	Administrative & Support of Waste Mgmt.	1,243	76	6.11%	N/A
61	Educational Services	160	23	14.38%	N/A
62	Health Care & Social Assistance	1,524	1	0.07%	N/A
71	Arts, Entertainment, & Recreation	268	1	0.37%	N/A
72	Accommodations and Food Services	1,241	9	0.73%	N/A
81	Other Services (Except Public Admin.)	1,505	14	0.93%	N/A
99	Unclassified Establishments	13	2	15.38%	N/A
	<b>Total</b>	<b>16,857</b>	<b>483</b>	<b>2.87%</b>	
	<b>Total for Construction, Retail, and Prof. Services</b>	<b>6,780</b>	<b>254</b>	<b>3.75%</b>	

Source: U.S. Census County Business Patterns and FDOT UCP DBE Directory.

### Step 2 Goal Setting

1. Lee County Transit has developed a draft DBE goal of 4%.
2. The DBE goal will be achieved through race neutral measures. Past DBE goals were achieved through the competitive selection process. LeeTran will also continue to select future contractors through a competitive selection process; therefore, LeeTran has decided to only use race/gender-neutral DBE measures over the next three years.
3. The LeeTran DBE goal was developed based on the Step 1 development process using construction, retail trade, and professional services categories only to determine the number of businesses and the number of ready, willing, and able DBE certified businesses. The DBE goal was adjusted during the Step 2 process to reflect the step 1 calculation of 3.75% and consideration of the previous year DBE goal attainment of 8.27%. Using an average of the Step 1 calculation and the previous year DBE participation the DBE Goal would be 6%; however, due to the completion of the major construction project of the LeeTran Headquarters continuing to achieve DBE performance above 4% is not anticipated. Based upon LeeTran's commitment to provide opportunities for all businesses including DBEs, the estimated federally funded expenditures for FYs 17 - 19, and the availability of DBE certified businesses LeeTran's goal of 4% is recommended. While the existing DBEs compared to business indicate that less than 4% of the



available businesses are DBE certified, based on the past performance of LeeTran and the availability of federal dollars that will be spent over the next three fiscal years, LeeTran will attempt to achieve at least 4% DBE participation annually over the next three years.

4. Weighting was not necessary as LeeTran has achieved the previous goal set. In addition, based on the higher goal and the lower shown availability of DBEs in the areas where contracts may be let, weighting would unnecessarily skew the goal.

Lee County Transit	
Previous Goal Attainment, Past Performance, Current Goal Setting	
October 1 through September 30	
Description	Amount
FY2014 - FY2016 Goal	4.00%
Achieved DBE FY15	8.27%
FY2017 - FY2019 Goal Calculation	3.75%
Total Prior Year and Calculation	12.02%
Average of Prior Year and Calculation	6.01%
<b>Recommended Goal</b>	<b>4.00%</b>

Lee County Transit			
FY2017 – FY2019 DBE Goal Applied to			
October 1, 2016 thru September 30, 2017 Budgeted Federally Assisted Projects/Programs			
NAICS	Category	FY2017 Budget Amount	Race Neutral - RN
			Race Conscious - RC
11	Agricultural, Forestry, & Fishing		N/A
21	Mining		N/A
23	Construction	\$ 510,000.00	RN
31	Manufacturing		N/A
22 & 48	Transportation & Public Utilities		N/A
42	Wholesale Trade		N/A
44	Retail Trade	3,576,000.00	RN
52 & 53	Finance, Insurance, & Real Estate		N/A
54	Contracted and Professional Services	\$ 325,000.00	RN
99	Unclassified Establishments		N/A
	Total	\$ 4,411,000.00	
	Potential FTA @ 100 %	\$ 4,411,000.00	
	DBE Goal @ 4%	\$176,440.00	
	Race Neutral 100%	\$176,440.00	
	Race Conscious 0%	\$0.00	
	Total DBE Goal -	\$176,440.00	

Lee County Transit Budget FY2017 Federally Assisted Units

Business Unit	Object	CC	Account Description	Original Budget Amount
<b>Construction</b>				
KI5440148640	506540	345	Improvement Construction	\$ 50,000.00
20886448640	506540		Improvement Construction	\$ 460,000.00
Total Construction				\$ 510,000.00
<b>Contracted and Professional Services</b>				
KI5440148640	503490	63	Other Contracted Services	\$ 85,000.00
KI5440148640	506510	11	Professional Services	\$ 50,000.00
KI5440148640	506510	345	Professional Services	\$ 10,000.00
KI5440148640	503190	11	Other Professional Svs	\$ 30,000.00
KI5440148640	503190	16	Other Professional Svs	\$ 125,000.00
KI5440148640	503190	42	Other Professional Svs	\$ 10,000.00
KI5440148640	503460	41	Data Processing	\$ 5,000.00
KI5440148640	503140	240	Architect & Engineer Svcs.	\$ 5,000.00
KI5440148640	503140	746	Architect & Engineer Svcs.	\$ 5,000.00
Total Contracted and Professional Services				\$ 325,000.00
<b>Retail Trade</b>				
KI5440148640	504635	41	Equipment Repair Parts	\$ 356,000.00
KI5440148640	506410	11	Furniture and Equipment	\$ 3,200,000.00
KI5440148640	506410	16	Furniture and Equipment	\$ 20,000.00
Total Retail and Trade				\$ 3,576,000.00

<b>TOTAL BUDGET</b>	<b>\$ 4,411,000.00</b>
<b>POTENTIAL FTA/FDOT FUNDED EXPENSES</b>	<b>\$ 4,411,000.00</b>
<b>DBE GOAL OF 4%</b>	<b>\$ 176,440.00</b>

## APPENDIX B: PUBLIC OUTREACH ACTIVITIES FOR GOAL SETTING

After the proposed four percent (4%) goal was established, LeeTran conducted the following public involvement activities to receive input prior to submitting this transmittal letter:

- Advertised the proposed goal in a newspaper of general circulation and on the LeeTran website in the Spanish and English languages.
- Allowed public comment for 45 days from date of publication of the proposed goal.
- Provided review of the goal at the LeeTran Administrative Office and at the Florida Gulf Coast University Small Business Development Center.
- LeeTran also participated at the 2016 Southwest Florida Government Contracting Symposium and Expo on June 19, 2016, where LeeTran had a table and provided material to inform participants of the proposed goal, how to sign up to be a DBE certified vendor, and potential contracting opportunities.
- LeeTran conducted an online survey through SurveyMonkey where each registered DBE vendor was e-mailed directly to participate in the survey. The survey link was advertised on brochures and sent to the FGCU Small Business Development Center for further distribution. The survey sought to gather additional public input on the DBE goal, assistance needed by DBEs to further participate in contracting opportunities, and barriers preventing DBE firms from contracting opportunities. A copy of the survey and the results are included later in this Appendix.

Based on the discussions that occurred during the public outreach activities, no comments were received regarding modification of the four percent (4%) goal for FYs 2017 – 2019.

Participants at the outreach activities were generally pleased with the proposed goal and LeeTran's efforts to notify disadvantaged and small businesses of the upcoming contracting opportunities and the required process for DBE certification. Contact information for the businesses that spoke with LeeTran at the various events described above are provided in this Appendix.

## APPENDIX C:NAICS Vendors