

## Table of Contents

<b>DISADVANTAGED BUSINESS ENTERPRISE PROGRAM .....</b>	<b>1</b>
POLICY STATEMENT.....	1
SECTION 26.1, 26.23 – OBJECTIVES/POLICY STATEMENT.....	1
SUBPART A – GENERAL REQUIREMENTS .....	2
SECTION 26.1 – OBJECTIVES .....	2
SECTION 26.3 – APPLICABILITY .....	2
SECTION 26.5 – DEFINITIONS.....	2
SECTION 26.7 – NON-DISCRIMINATION REQUIREMENTS.....	3
SECTION 26.11 – RECORD KEEPING REQUIREMENTS .....	3
SECTION 26.13 – FEDERAL FINANCIAL ASSISTANCE AGREEMENT .....	4
SECTION 26.21 – DBE PROGRAM UPDATES .....	5
SECTION 26.25 – DBE LIAISON OFFICER.....	5
SECTION 26.27 – DBE FINANCIAL INSTITUTIONS .....	6
SECTION 26.29 – PROMPT PAYMENT MECHANISMS .....	6
SECTION 26.31 – DIRECTORY .....	7
SECTION 26.33 – OVERCONCENTRATION .....	8
SECTION 26.35 – BUSINESS DEVELOPMENT PROGRAMS .....	8
SECTION 26.37 – MONITORING AND ENFORCEMENT MECHANISMS .....	9
SECTION 26.39 – SMALL BUSINESS PARTICIPATION .....	10
SUBPART C – GOALS, GOOD-FAITH EFFORTS, AND COUNTING .....	12
SECTION 26.43 – SET-ASIDES OR QUOTAS .....	12
SECTION 26.45 – OVERALL GOALS.....	12
SECTION 26.47 – GOAL SETTING AND ACCOUNTABILITY.....	14
SECTION 26.49 – TRANSIT VEHICLE MANUFACTURERS GOALS .....	14
SECTION 26.51 – MEETING OVERALL GOALS/CONTRACT GOALS.....	14
SECTION 26.53 – GOOD FAITH EFFORTS PROCEDURES .....	15
SUBPART D – CERTIFICATION STANDARDS.....	18
SECTION 26.55 – COUNTING DBE PARTICIPATION.....	18
SECTION 26.61-26.73 – COMMISSIONER APPROVAL .....	18
SUBPART E – CERTIFICATION PROCEDURES .....	18
SECTION 26.81 – UNIFIED CERTIFICATION PROGRAMS .....	18
SECTION 26.83 – PROCEDURES FOR CERTIFICATION DECISIONS .....	18
SECTION 26.89 – CERTIFICATION APPEALS.....	18
SUBPART F – COMPLIANCE AND ENFORCEMENT .....	19
SECTION 26.109 – INFORMATION, CONFIDENTIALITY, AND COOPERATION .....	19

APPENDIX A   LEE COUNTY TRANSIT ORGANIZATION CHART .....	A-1
APPENDIX B   LEE COUNTY TRANSIT AND STATE OF FLORIDA UCP AGREEMENT .....	B-1
APPENDIX C   26.29(D) DBE MONITORING AND ENFORCEMENT MECHANISMS .....	C-1
APPENDIX D   DEMONSTRATION OF GOOD FAITH EFFORTS .....	D-1
APPENDIX E   DBE DIRECTORY AND 49 CFR PART 26 LOCATIONS.....	E-1
APPENDIX F   DBE GOAL CALCULATION .....	F-1
APPENDIX G   DBE PROGRAM CHECKLIST.....	G-1

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# DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

## POLICY STATEMENT

### SECTION 26.1, 26.23 – OBJECTIVES/POLICY STATEMENT

In accordance with Title 49 Code of Federal Regulations (CFR) Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*, LeeTran hereby presents its Triennial Disadvantaged Business Enterprise (DBE) Goal and the corresponding goal-setting methodology for the Federal Fiscal Years (FFY) 2025–2028. This process supports the U.S. Department of Transportation's (USDOT) ongoing commitment to promoting equity, increasing access to federal contracting opportunities, and eliminating barriers to participation for small and disadvantaged businesses.

LeeTran is committed to ensuring nondiscrimination in the award and administration of USDOT-assisted contracts. The DBE Program is designed to:

1. Create a level playing field on which DBEs can fairly compete for federally funded contracts;
2. Help remove barriers to DBE participation;
3. Ensure the program remains narrowly tailored and legally compliant;
4. Assist in the development of DBEs to compete successfully in the broader marketplace; and
5. Promote DBE participation through both race-conscious and race-neutral measures, as appropriate.

This DBE goal reflects both regulatory compliance and alignment with federal policy priorities, including those advanced under the Infrastructure Investment and Jobs Act (IIJA), which encourage inclusive economic development and broader participation in public transportation investments.

Dr. Ranice Monroe, LeeTran's Compliance Coordinator, has been designated the DBE Liaison Officer. In that capacity, Dr. Monroe 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 USDOT.

LeeTran has distributed this statement to Lee County Division of Procurement Management and Florida Gulf Coast University's Small Business Development Center. It is also posted on LeeTran's website at [Compliance & Regulations \(lee.gov.com\)](https://www.lee.gov/Compliance-Regulations) and published in the local newspaper triennially along with its notice of the proposed three-year DBE goal.

## **SUBPART A – GENERAL REQUIREMENTS**

### **SECTION 26.1 – OBJECTIVES**

The 6 objectives of LeeTran's DBE Program are found in the policy statement on Page 1 of this document.

### **SECTION 26.3 – APPLICABILITY**

LeeTran is the recipient of USDOT federal transit funds authorized under several federal statutes and programs, including but not limited to, the following:

- Infrastructure Investment and Jobs Act
- Coronavirus Aid, Relief and Economic Security (CARES) Act
- Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA)
- American Rescue Plan (ARP) Act of 2021
- Fixing America's Surface Transportation Act (FAST Act)

This DBE Program is applicable to all LeeTran sub-recipients. It is not anticipated that LeeTran sub-recipients will have any contracting opportunities between FY2025 and FY2028 utilizing USDOT-assisted funding that would impact this DBE Program, or the corresponding DBE Goal proposed for this period.

Sub-recipients are required to sign annual certifications and assurances confirming their compliance with LeeTran, as well as applicable federal, state, and local regulations. Current LeeTran sub-recipients will maintain their status as sub-recipients until their federally assisted capital vehicles are fully depreciated and all other grant requirements have been 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 on the basis of race, color, sex, or national origin in connection with the award and performance of any contract covered under 49 CFR Part 26.

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, accomplishing 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 the Federal Transit Administration (FTA) using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

### **26.11(b) – Provision of Data to the USDOT**

LeeTran will continue to provide data about its DBE program to the USDOT as directed.

### **26.11(c) - Bidders List**

LeeTran uses the services of the Lee County Procurement Management Division, in coordination with Florida Gulf Coast University (FGCU) Small Business Development Center, to administer 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's Procurement Management Division does not collect annual gross receipts information of firms. Such information is collected by certifying members of the national UCP.

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

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/UCPMemberList.aspx>

LeeTran uses the FDOT's 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. [New Vendor Payee 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 non-change, change notices, and on-site reviews. These records will be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance-related records will be retained for a minimum of three years unless they are

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 USDOT's Office of Civil Rights, by January 1 of each year, the percentage and location in the Florida-certified DBE firms in the UCP Directory controlled by the following:

1. Women
2. Socially and economically disadvantaged individuals (other than women)
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 USDOT-assisted contracts and their administration:

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

LeeTran shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any USDOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. LeeTran shall take all necessary and reasonable steps under 49 CFR Part 26, to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26, and as approved by the USDOT, 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 USDOT 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 USDOT-assisted contract and subcontract:

*The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, sex, or national origin in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-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:*

*Withholding monthly progress payments;*

*Assessing sanctions;*

*Assessing damages; and/or,*

*Disqualifying the contractor from future bidding as non-responsible.*

## SECTION 26.21 – DBE PROGRAM UPDATES

Because LeeTran has received a grant of \$670,000 annually in FTA funds or more in planning, capital, and/or operating assistance in a federal fiscal year, LeeTran will continue to carry out this program until all funds from USDOT financial assistance have been expended. LeeTran will provide updates of significant changes in the Program.

## SECTION 26.25 – DBE LIAISON OFFICER

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

Dr. Ranice Monroe, Compliance, Safety, and Training Coordinator  
DBE Liaison Officer  
Lee County Transit - LeeTran  
3401 Metro Parkway  
Ft. Myers, FL 33901  
Phone: 239.533.0374  
Fax: 239.931.6811

The DBELO is responsible for implementing all aspects LeeTran's DBE Program and ensuring compliance with the provisions of 49 CFR Part 26. The DBELO has direct and independent access to Dominic Gemelli, LeeTran's Transit Director, concerning all DBE program matters (see Appendix A).

The DBELO's responsibilities include the development, implementation, and oversight of the DBE Program in coordination with other appropriate officials. The DBELO duties and responsibilities include the following:

1. Gathering and reporting statistical data and other information as required by the USDOT.
2. Reviewing third party contracts and purchase requisitions for compliance with this program.
3. Collaborating with all LeeTran departments to establish overall goals.
4. Ensuring timely availability of bid notices and requests for proposals to DBEs.
5. Identifying contracts and procurements where DBE goals should be included, using both race-neutral methods and contract specific goals, as appropriate) and identifying ways to improve progress.
6. Monitoring LeeTran's progress towards DBE goal attainment and identifying strategies for improvement.
7. Participating in pre-bid meetings.
8. Advising the Transit Director on DBE matters and performance.
9. Assisting DBEs with bid preparation, bonding, and insurance.
10. Participating in DBE training seminars.
11. Serving as liaison to the State of Florida UCP.
12. Conducting outreach to DBEs and community organizations to inform them of available opportunities.

13. Utilizing the FDOT website DBE Directory.

## **SECTION 26.27 – DBE FINANCIAL INSTITUTIONS**

It is the policy of LeeTran to investigate the full range of services provided by financial institutions in the community that are owned and controlled by socially and economically disadvantaged individuals. LeeTran is committed to making reasonable efforts to utilize these institutions and to encouraging prime contractors on USDOT-assisted contracts to do the same.

Upon review of the FDOT's website DBE Directory, LeeTran has determined that there are currently no listed financial institutions owned and controlled by socially and economically disadvantaged individuals. LeeTran will re-evaluate the availability of such DBE financial institutions on an annual basis.

## **SECTION 26.29 – PROMPT PAYMENT MECHANISMS**

### **26.29(a) – Prompt Payment**

LeeTran will include the following clause in each USDOT-assisted prime contract: *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. An audit will identify the contract award, prime contractor, and the DBE subcontractor. The DBELO will review the DBE form attached to the prime contractor's payment application. 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 and will confirm the 30-day payment adherence.

### **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 owned 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 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 USDOT-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. Appendix C, provided later in this document, highlights LeeTran's monitoring procedures.

Delay or postponing 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 USDOT-funded contracts to ensure prompt payment:

1. A contract clause that requires prime contractors to include language in their subcontracts 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 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 the 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 actions 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, which lists the firm's name, contact person, address, phone number, and the type of work the firm has been certified to perform as DBE. The DBE Directory is updated in "real time" and is the single source of establishing program eligibility.

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

LeeTran distributes information about the FDOT website DBE Directory at pre-bid meetings, in mailings, 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.

<https://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://fdotxwp02.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 (Appendix E):

<https://www.fdot.gov/equalopportunity/serviceproviders.shtm>

## **SECTION 26.33 – OVERCONCENTRATION**

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

## **SECTION 26.35 – BUSINESS DEVELOPMENT PROGRAMS**

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

FGCU Small Business Development Center  
Florida Gulf Coast Univ. College of Business  
Lutgert Hall, 3<sup>rd</sup> Floor  
10501 FGCU Boulevard South  
Fort Myers, FL 33965  
Phone: 239.745.3700  
Fax: 239.745.3710  
Website: <https://fsbdcswfl.org/>  
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 start 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

11. Distributing electronic information on upcoming bids, training sessions and other relevant information

## **SECTION 26.37 – MONITORING AND ENFORCEMENT MECHANISMS**

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

1. LeeTran will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that the 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 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 a County Code or Ordinance; enforcement of claims against any retainage, bond, surety, or insurance provided by a contractor or any subcontractor; legal action of 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 the 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 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 contractor's subcontractor agreement.

## SECTION 26.39 – SMALL BUSINESS PARTICIPATION

LeeTran has incorporated the following non-discriminatory elements into its DBE program, in order to facilitate competition on USDOT-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  
Florida Gulf Coast Univ. College of Business  
Lutgert Hall, 3<sup>rd</sup> Floor  
10501 FGCU Boulevard South  
Fort Myers, FL 33965  
Phone: 239.745.3700  
Fax: 239.745.3710

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 is 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% owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States.
3. The U.S. DOT, in collaboration with the Small Business Administration (SBA), has implemented annual inflationary adjustments to the Disadvantaged Business Enterprise (DBE) program's business size limit. Effective March 1, 2025, the statutory cap for DBE eligibility has increased from \$30.72 million to \$31.84 million in average annual gross receipts over the firm's previous three fiscal years. 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 this 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 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 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 49 CFR 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.
- The 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 and develop a listing of local and regional small businesses. Additional outreach efforts will include:
  - Developing lists of the small business organizations;
  - 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 the site on LeeTran's website; and
  - 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 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 and develop a listing of local and regional small businesses. It will also conduct outreach similar to that outlined in the Small Capital Procurements section cited 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.

<https://www.fdot.gov/equalopportunity/serviceproviders.shtm>

The principal responsible person for overseeing and implementing the LeeTran Small Business Program will be 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 its DBE program.

### **SECTION 26.45 – OVERALL GOALS**

In accordance with Section 26.45(f), LeeTran will submit its triennial overall DBE goal to the FTA prior to August 1, 2025.

LeeTran will also request use of project-specific DBE goals, as appropriate, and/or will establish project-specific DBE goals as directed by the 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 and the particular type of work). LeeTran will work with the 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 USDOT-assisted projects/contracts (set forth in the *Goal Methodology* section of this document).

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

Step Two requires establishing a DBE goal based on the availability of DBE firms after adjusting the availability Base Figure to account for historical DBE utilization rates in LeeTran contracts and other relevant factors. After the adjusted DBE goal is identified, LeeTran analyzes the proportion of the DBE goal which 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 seeks input from the FGCU Small Business Development Center, local minority and ethnic chambers of commerce, small and local business associations (both DBE and non-DBE), and minority and women's organizations, general contractors 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.

After seeking input from the groups noted above, LeeTran will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at LeeTran's principal office for 30 days following the date of notice, and informing the public that LeeTran and the USDOT will accept comments on the goals for 45 days from the date of 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 locations to which comments may be sent and locations 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 the USDOT 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 the USDOT. The DBELO is responsible for implementing all aspects of the DBE program and ensuring that LeeTran complies with all provisions 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); and,
- December 1 (reporting period 4/1 to 9/30).

If LeeTran establishes a goal on a project basis, it will implement the goal no later than the first solicitation for a USDOT-assisted contract for the project. LeeTran's overall goal will remain in effect for the duration of the three-year period established and approved by the FTA.

The methodology used to determine LeeTran's FFYs 2025-2028 DBE goal, along with the details of outreach efforts conducted for the proposed goal, is provided in the *Goal Methodology* section of this document. Included tables list the relevant NAICS codes used in calculating the overall DBE goal.

## **SECTION 26.47 – GOAL SETTING AND ACCOUNTABILITY**

If the awards and commitments reported on LeeTran's Uniform Report of Awards or Commitments and Payments fall short of the DBE goal for a given fiscal year, LeeTran will take the following actions:

1. Conduct a Detailed Analysis – Identify and examine specific reasons for the shortfall between the overall goal and the actual awards/commitments.
2. Develop a Corrective Action Plan - Establish specific corrective steps and implementation milestones to address the identified issues and improve DBE participation in the following fiscal year.
3. Submit the Plan to FTA – If requested by the FTA, submit the corrective action plan within 90 days following the end of the affected fiscal year.

## **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 the FTA that has been approved or has not been disapproved, at the time of a LeeTran vehicle solicitation. Found in link below:

[Transit Vehicle Manufacturers List | FTA](#)

## **SECTION 26.51 – MEETING OVERALL GOALS/CONTRACT GOALS**

The breakout of estimated race-neutral and race-conscious participation is provided in the *Goal Methodology* section of this program. This section of the program is updated every three years in conjunction with the DBE goal calculation.

LeeTran will utilize contract goals to meet any portion of the overall goal that is not projected to be achieved through race-neutral means. These contract goals are established so that, over the duration of the applicable goal period, they collectively help meet the shortfall between projected race-neutral attainment and the overall goal.

LeeTran will establish contract goals only on those USDOT-assisted contracts that have subcontracting possibilities. LeeTran is not required to assign a DBE goal to every contract (e.g., type and location of

work, availability of DBEs to perform the particular type of work). The size of each contract goal will be tailored based on such factors such as: Type of locations of the work and availability of DBEs qualified to perform the work.

All contract goals will be expressed as a percentage of the total dollar value of the USDOT-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 (Appendix F). 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**

LeeTran's DBELO is 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 evaluation of good-faith efforts will be conducted in accordance with 49 CFR Part 26 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 submitted with the bid/proposal. The good-faith efforts submission 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 submission to extend beyond the bid/proposal deadline if it receives 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 efforts 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 addresses 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 subcontractor 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
- If the contract goal is not met, evidence of good-faith efforts (49 CFR Part 26, Appendix A to Part 26 Guidance Concerning Good-Faith Efforts). 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 the request in writing to the following reconsideration official:

LeeTran DBE Liaison Officer  
3401 Metro Parkway  
Ft. Myers, FL 33901  
Phone: 239.533.0374  
Fax: 239.931.6811

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 Lee County DBELO 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 made adequate good-faith efforts to do so. The result of this reconsideration process is not administratively appealable to the USDOT.

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

LeeTran requires prior written consent before a prime contractor may terminate a DBE subcontractor listed in a bid/contract that included a DBE participation goal. Consent will only be granted for “good cause,” as defined Section 26.53(f)(3).

Before transmitting to LeeTran its request to terminate, the prime contractor shall give advanced written notice 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 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, LeeTran will require the prime contractor to obtain LeeTran approval of the proposed DBE firm prior to the substitution 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 USDOT-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 .60 percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, 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.*

## **SUBPART D – CERTIFICATION STANDARDS**

### **SECTION 26.55 – COUNTING DBE PARTICIPATION**

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

### **SECTION 26.61-26.73 – COMMISSIONER APPROVAL**

Lee County Board of County Commissioners approved in November 2002 an agreement with the USDOT and FDOT that establishes LeeTran as a non-certifying member of the national DBE UCP. LeeTran uses the services of the Lee County Procurement Management Division in coordination with the FGCU Small Business Development Center to administer 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.

## **SUBPART E – CERTIFICATION PROCEDURES**

### **SECTION 26.81 – UNIFIED CERTIFICATION PROGRAMS**

LeeTran is a member of the national UCP administered by the FDOT. LeeTran 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:

<https://www.fdot.gov/equalopportunity/dbecertification.shtm>

### **SECTION 26.83 – 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.

<https://www.fdot.gov/equalopportunity/serviceproviders.shtm>

### **SECTION 26.89 – CERTIFICATION APPEALS**

Any firm or complainant may appeal the FDOT's decision in a certification matter to the USDOT. Such appeals may be sent to:

U.S Department of Transportation  
Departmental Office of Civil Rights  
External Civil Rights Program Division (S-33)  
1200 New Jersey Ave., SE  
Washington, DC 20590  
Phone: 202.366.4754  
TTY: 202.366.9696  
Fax: 202.366.5575  
Website: <https://www.transportation.gov/civil-rights>

LeeTran will coordinate with FDOT to promptly implement any USDOT certification appeal decisions affecting the eligibility of DBEs for our USDOT-assisted contracting (i.e., certify a firm if the USDOT 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 laws.

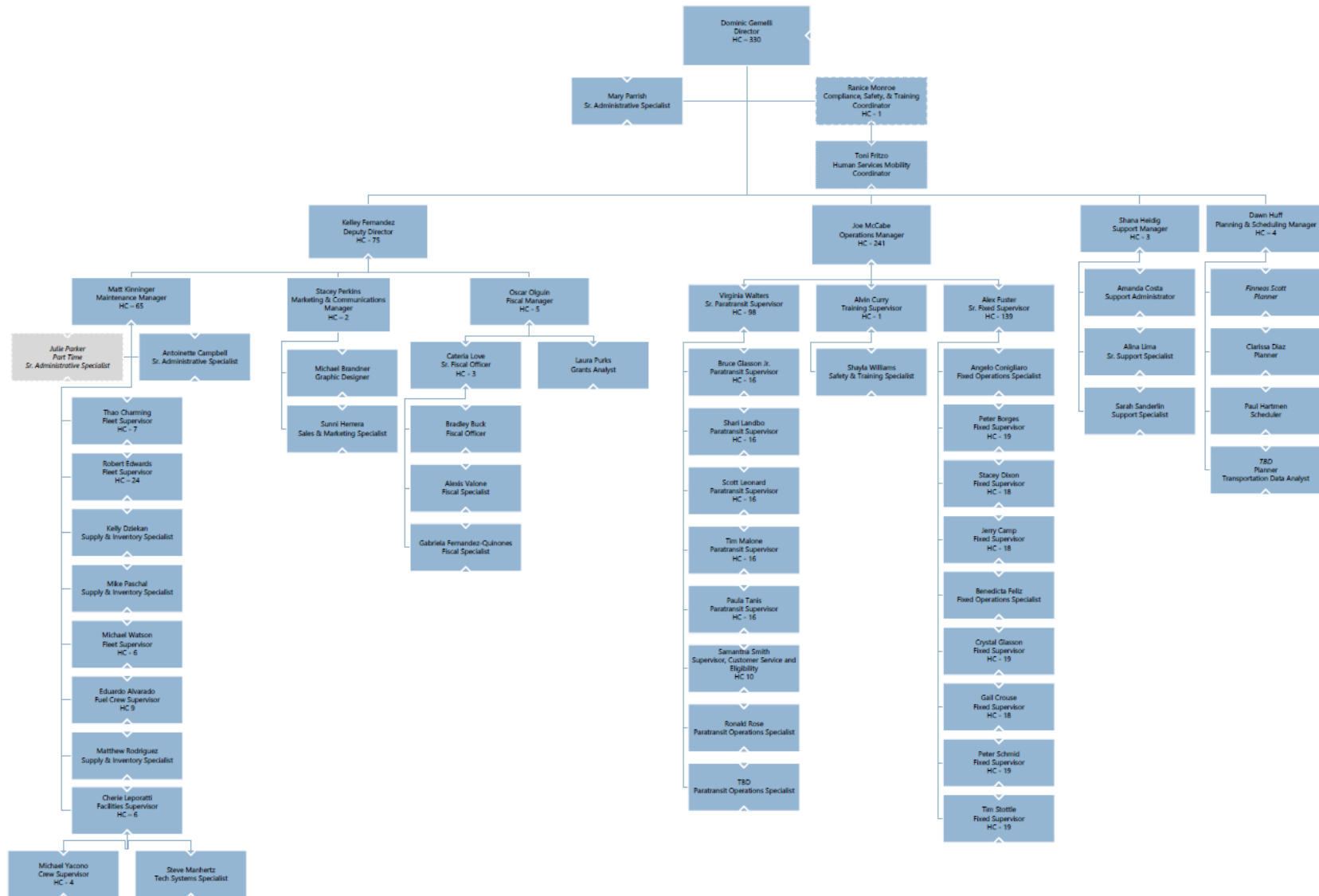
Notwithstanding any contrary provisions of federal, state, or local law, LeeTran will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than the USDOT) without the written consent of the submitter.

#### **26.109(a) – 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 USDOT. 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.

## APPENDIX A | LEE COUNTY TRANSIT ORGANIZATION CHART



## APPENDIX B | LEE COUNTY TRANSIT AND STATE OF FLORIDA UCP AGREEMENT

P402 0185

**LEE COUNTY**  
SOUTHWEST FLORIDA

**BOARD OF COUNTY COMMISSIONERS**

Bob Jones  
District One

Douglas R. St. Conny  
District Two

Ray Judah  
District Three

Andrew W. Coy  
District Four

John E. Allen  
District Five

Donald D. Gilwell  
County Manager

James G. Yeager  
County Attorney

Diana M. Parker  
County Hearing Chamber

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

Fax (239) 335-2262

December 5, 2002

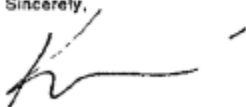
Mr. Art Wright  
FDOT - Office of Equal Opportunity  
605 Suwannee Street  
Mail Station 65  
Tallahassee, FL 32399-6544

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

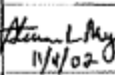
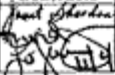
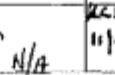
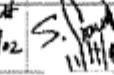

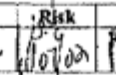
DEC 06 2002

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Revised 1/1/02

P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 335-2111  
Internet address <http://www.lee-county.com>  
AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER



Lee County Board Of County Commissioners		Blue Sheet No. 20021292
Agenda Item Summary		
<b>1. REQUESTED MOTION:</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 # <span style="font-size: 1.2em; margin-left: 20px;">C6H</span>		<b>3. MEETING DATE:</b> <span style="font-size: 1.2em; margin-left: 20px;">11-19-2002</span>
<b>4. AGENDA:</b> <input checked="" type="checkbox"/> <b>CONSENT</b> <input type="checkbox"/> <b>ADMINISTRATIVE</b> <input type="checkbox"/> <b>APPEALS</b>  <input type="checkbox"/> <b>PUBLIC</b> <input type="checkbox"/> <b>WALK ON</b> <input type="checkbox"/> <b>TIME REQUIRED:</b>	<b>5. REQUIREMENT/PURPOSE:</b> (Specify) <input type="checkbox"/> <b>STATUTE</b> <input type="checkbox"/> <b>ORDINANCE</b> <input type="checkbox"/> <b>ADMIN.</b> <input type="checkbox"/> <b>CODE</b> <input checked="" type="checkbox"/> <b>OTHER</b> Federal Regulation	<b>6. REQUESTOR OF INFORMATION:</b> <b>A. COMMISSIONER</b> <b>B. DEPARTMENT</b> <b>C. DIVISION</b> <span style="margin-left: 20px;">Transit</span>  <b>BY:</b> <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>		
<b>A</b> Department Director	<b>B</b> Purchasing or Contracts	<b>C</b> Human Resources
<b>D</b> Other	<b>E</b> County Attorney	<b>F</b> Budget Services
<b>G</b> County Manager		
 11/19/02	 11/19/02	 11/19/02
 11/19/02	 11/19/02	 11/19/02
<b>10. COMMISSION ACTION:</b> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 40%;"> <input type="checkbox"/> <b>APPROVED</b>  <input type="checkbox"/> <b>DENIED</b>  <input type="checkbox"/> <b>DEFERRED</b>  <input type="checkbox"/> <b>OTHER</b> </div> <div style="width: 30%;"> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">                         Rec. by County                          Date: 11/19/02                          Time: 3:59 PM                          Forwarded To: 11-19-2002                     </div> <div style="border: 1px solid black; padding: 2px;">                         RECEIVED BY                          COUNTY ADMIN. PM                          11-19-02                          COUNTY ADMIN.                          PC FORWARDED TO: 11/19/02                     </div> </div> </div>		

## APPENDIX C | 26.29(D) 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 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:

Ranice Monroe, Compliance Coordinator  
DBE Liaison Officer  
LeeTran  
3401 Metro Parkway  
Ft. Myers, FL 33901  
Phone: 239.533.0374  
Fax: 239.931.6811

6. The prime contractor shall make prompt and full payment to any DBE subcontractor (including the payment of any retainage) within the later of:
  - i. Thirty (30) days after the DBE subcontractor's work is satisfactorily completed, or
  - ii. 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; LeeTran has made an incremental acceptance of a portion of the Service; and 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 the 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:

- i. Suspension or debarment proceedings pursuant to 49 CFR part 26;
- ii. Enforcement action pursuant to 49 CFR part 31; and
- iii. 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.

## APPENDIX D | 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 X% DBE utilization on this contract
- ☐ The bidder/offeror (if unable to meet the DBE goal of X%) is committed to a minimum of \_\_\_\_%. DBE utilization on this contract and submits documentation demonstrating good faith efforts.

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

State Registration No: \_\_\_\_\_

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

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

*Please Print Name*

*Prime Signature*

*Title*

**FORM 2: DBE LETTER OF INTENT**

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

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

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

NAICS: \_\_\_\_\_

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: \_\_\_\_\_

*DBE 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 DBE subcontractor.)*

## APPENDIX E | DBE DIRECTORY AND 49 CFR PART 26 LOCATIONS

The DBE Directory can be found at the following link:

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>

The text of 49 CFR Part 26 can be found at the following link: <https://ecfr.io/Title-49/pt49.1.26>

## APPENDIX F | DBE GOAL CALCULATION

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## Table of Contents

1	<b>TRIENNIAL DBE GOAL SETTING METHODOLOGY FOR FY2025-FY2028</b>	<b>1</b>
I.	INTRODUCTION	1
II.	BACKGROUND	1
III.	OVERALL GOAL CALCULATION	2
IV.	GOAL METHODOLOGY	2
	IDENTIFYING THE GEOGRAPHIC SCOPE OF THE MARKET AREA	2
	IDENTIFYING LEETRANS UPCOMING PROJECTS	3
	DBE GOAL CALCULATIONS	3
V.	RACE/GENDER-NEUTRAL & RACE/GENDER CONSCIOUS DIVISION OF GOALS	7
VI.	GOAL ADVERTISEMENT AND PUBLIC PARTICIPATION PROCESS	8

## List of Tables

Table 1 FY 2025-2028 DBE Goal   Project Types & Distribution	4
Table 2 FY 2025-2028 DBE Goal   DBE Base Goal by NAICS Code	6
Table 3 FY 2025-2028 DBE Goal   Weighted DBE Goal by NAICS Code	6
Table 4 FY 2017-2028 DBE Goal   Historical DBE Participation	7

## List of Figures

Figure 1 Cape Coral-Fort Meyers Metropolitan Statistical area (Placeholder)	3
Figure 2 Legal Advertisement in <i>The News-Press</i>	<b>Error! Bookmark not defined.</b>
<b>Figure 3 Email to Lee County DBEs</b>	<b>9</b>

# TRIENNIAL DBE GOAL SETTING METHODOLOGY FOR FY2025-FY2028

June 2025

## I. INTRODUCTION

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 26 "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," LeeTran sets forth its Triennial Disadvantaged Business Enterprise (DBE) Goal and corresponding goal-setting methodology for the three-year Federal Fiscal Year (FFY) goal period of 2025-2028. The purpose of the DBE goal setting process is to ensure nondiscrimination in the administration and award of U.S. Department of Transportation (USDOT)-assisted contracts, to create a level playing field on which DBEs can compete fairly for contracts, and to ensure the DBE Program is narrowly tailored in accordance with applicable law.

In April 2024 the U.S.DOT published final rules that included expanded recipient reporting requirements as well as the requirement to include mechanisms for proactive monitoring in design-build contracts.

## II. BACKGROUND

As a recipient of USDOT Federal Transit Administration (FTA) funding in excess of \$670,000, LeeTran is considered a Tier 1 entity which require LeeTran to comply with the more robust FTA DBE requirements. Therefore, in accordance with 49 CFR 26.45(a)(1), LeeTran is required to develop and submit a Triennial Overall DBE goal for its USDOT-assisted projects.

### III. OVERALL GOAL CALCULATION

LeeTran's overall goal for FY2025 through FY2028 is .6 percent (0.60%) for 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 be .6 percent (.6%) based on preliminary work anticipated for the FY2025 through FY2028 DBE goal.

### IV. GOAL METHODOLOGY

The methodology for establishing the overall goal involves multiple steps, including defining the geographic scope of the market area, assessing the relative availability of DBE firms within that area, and calculating and making adjustments to the base figure.

#### IDENTIFYING THE GEOGRAPHIC SCOPE OF THE MARKET AREA

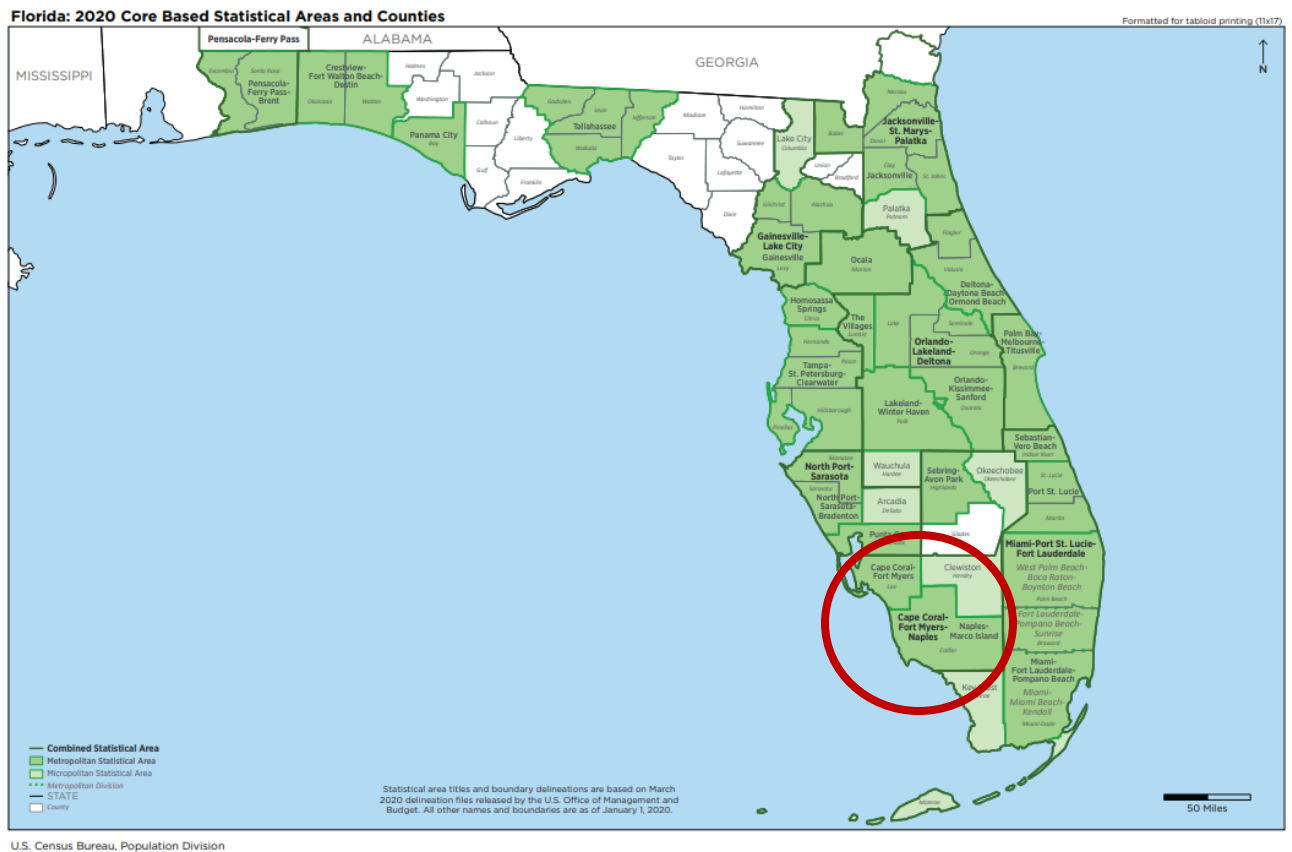
Defining the geographic scope of the market area involves two main steps. First, it requires identifying the region that encapsulates the local market for acquiring goods and services, thereby establishing the geographic boundaries for statistical purposes. For LeeTran services, this local market area is primarily designated as the Cape Coral-Ft. Myers Metropolitan Statistical Area (MSA), as per the U.S. Census. This MSA, located in Lee County, provides the basis for county data sourced from the County Business Patterns Data compiled by the U.S. Census.

The second step entails examining LeeTran's FY2025 budget, the proposed projects list for FY2025-2028, including the Lee County Metropolitan Planning Organization's Transportation Capital Improvement Program (CIP), and additional relevant documents to identify projects slated to receive Federal funding for the Federal Fiscal Years (FFYs) 2025-2028.

The project list is then analyzed to determine the types of firms/services, classified by North American Industry Classification System (NAICS) codes, that LeeTran is likely to engage for executing FTA-assisted projects during FFY's 2025-2028. After this review, potential contracting opportunities are identified, with projections for Department of Transportation (DOT) funding involvement. Table 1 summarizes the categories within the market area.

The market area is subsequently refined based on the local area's capacity for procuring goods and services and the applicability of NAICS data. The finalized local market area is the Cape Coral-Ft. Myers Metropolitan Statistical Area, for which both DBE registration and Census data are accessible.

Figure 1 Cape Coral-Fort Myers Metropolitan Statistical Area



## IDENTIFYING LEETRANS UPCOMING PROJECTS

The following projects in Table 1 are slated to be completed by LeeTran between FY 2025 and FY 2028.

Table 1 FY 2025-2028 Project Descriptions

Project Name	Category	Estimated Dollar Value	Planned Start Date	Description
Transit Facility Renovations	Construction Services	\$5M–\$7M	Q3 2025	Renovation of existing transit facilities to improve efficiency and safety.
Bus Stop & Shelter Improvements	Construction Services	\$2M–\$3M	Q2 2025	Installation and upgrades to shelters, ADA accessibility enhancements.
Electric Bus Infrastructure	Professional & Construction Services	\$10M+	Q4 2025	Development of charging stations and grid improvements for electric fleet expansion.
Fleet Expansion & Replacement	Procurement	\$15M+	2025–2028	Acquisition of new transit buses, including electric and hybrid models.

ITS & Real-Time Passenger Information System	Professional Services	\$3M–\$5M	Q1 2026	Implementation of intelligent transportation systems for improved rider information.
Paratransit Scheduling Software Upgrade	Professional Services	\$1M–\$2M	Q2 2026	Modernization of paratransit scheduling and dispatching software.
Security Enhancements at Transit Facilities	Construction & Security Services	\$2M	Q4 2026	Upgraded surveillance, access controls, and lighting improvements.
Transit Oriented Development (TOD) Planning Study	Professional Services	\$500K–\$1M	Q3 2027	Feasibility study for future mixed-use development around transit hubs.
LeeTran Headquarters Expansion Feasibility Study	Professional Services	\$1M	Q1 2027	Assessment of expansion needs for administrative and operational space.

## DBE GOAL CALCULATIONS

### Step 1: Determining the Base Figure (Relative Availability of DBEs) in the Local Market Area (Section 26.45)

#### *Determining the "Base Figure" DBE Goal*

- A. Identify DBEs in the Market Area: The next step is to pinpoint all DBE firms within the market area that are certified to undertake LeeTran's forthcoming projects. DBE firms are certified in various work categories; therefore, only firms certified under the specified NAICS codes, as detailed in Table 2, are considered. It is assumed that all firms certified to perform work within these NAICS codes are available for the tasks. The primary source for this information is the Florida Department of Transportation's Unified Certification Program (UCP). The database is public and is found online:  
<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/UCPMemberList.aspx>.

**Table 2 FY 2025-2028 DBE Goal | Project Types & Distribution**

Type of Work	NAICS Code	FY2025-2028 Budget per NAICS	NAICS Distribution
Construction	23	\$19,000,000	2.7.%
Professional, Scientific, and Technical Services	54	\$757,000,000	97.3%
<b>Total</b>		<b>\$778,000,000</b>	<b>100%</b>

- B. *Determine the Universe of Firms Available in Market Area:* Again, using the NAICS codes associated with upcoming LeeTran projects (see Table 1), the number of firms (DBE and non-DBE) available to do work in the market area is determined. Census data is used to identify the universe of firms available to perform the work. This data is found through the Census table entitled *County Business Patterns, including ZIP Code Business Patterns, by Legal Form of Organization and*

*Employment Size Class for the U.S., States, and Selected Geographies: 2022: [CB2200CBP: All Sectors: County ... - Census Bureau Table.](#)*

- C. *Notes:* There are a couple of items that should be noted about this analysis. First, the DBE certification process uses six-digit NAICS codes, but useful Census data uses two-digit NAICS codes. For consistency, two-digit NAICS codes were used to compare the two data sets.

Second, DBE registration data is kept up-to-date, so the DBE data is from February 2025. Census data is collected less frequently so the Census data set is from 2022. LeeTran believes that using the most up-to-date information for these calculations is important, but the data is from two different timeframes.

#### *Weighting the "Base Figure" DBE Goal*

Because the amount of work available is not evenly distributed over the NAICS codes, a weighted DBE goal should be evaluated. This is accomplished by using the data in Table 1:

- A) Step 1: Determine the weight of each type of work by NAICS code (see Table 1):
- a. 2.7% percent of the work is in the Construction NAICS category (Code 23)
  - b. 97.3% percent of the work is in the Professional, Scientific, and Technical Services NAICS category (Code 54)
- B) Step 2: Determine the relative availability of DBEs by NAICS code (see Table 2):

#### **Determining the "Base Figure" DBE Goal**

- The number of (all) firms in the relevant NAICS categories serve as the denominator. Data is gathered from the Census data collected in the market area.
- The number of DBE firms determined in Step B, serve as the numerator. Data is gathered from the list of registered DBEs in the market area.
- Calculate percent availability =  $\frac{\text{DBEs Available in Market Area per NAICS Code}}{\text{All Firms Available in Market Area per NAICS Code}} \times 100$ 

$$\text{NAICS Code 23 Availability} = \frac{9}{3,490} \times 100$$

$$\text{NAICS Code 54 Availability} = \frac{7}{2,522} \times 100$$

$$\text{NAICS Code 23 Availability} = .2579\%$$

$$\text{NAICS Code 54 Availability} = 0.2776\%$$
- In Table 3, the availability of firms in the Construction NAICS category (Code 23) is .086% percent while the availability of firms in the Professional, Scientific, and Technical Services NAICS category (Code 54) is 0.00% percent.

**Table 3 FY 2025-2028 DBE Goal | DBE Base Goal by NAICS Code**

NAICS Code	# of DBEs Available to Perform this Work	# of All Firms Available (including DBEs)	Relative Availability	Base Figure
23	9	3,490	0.00257880	.2579%
54	13	2,522	0.00277557	.2776%

C) Step 3: Calculate Weighted Base Figure = Availability x Weight x 100

$$\text{Weighted Base Figure} = 0.00257880 \times .27 \times 100$$

$$\text{Weighted Base Figure} = 0.00277557 \times .973 \times 100$$

D) In Table 4, the weighted availability of firms in the Construction NAICS category (Code 23) is 1.00 percent while the weighted availability of firms in the Professional, Scientific, and Technical Services NAICS category (Code 54) is 0.13 percent. The total weighted DBE goal is 1.13 percent.

**Table 4 FY 2025-2028 DBE Goal | Weighted DBE Goal by NAICS Code**

NAICS Code	Weight	Relative Availability	Weighted Availability	Weighted Base Figure
23	2.7%	0.00257880	0.000069628	.007%
54	97.3	0.00277557	0.002700634	.270%
<b>Total</b>	<b>100%</b>			<b>.2770%</b>

### Step 2: Adjusting the Base Figure Goal (Section 26.45[d])

After establishing the base figure in Step 1, LeeTran examined available evidence to determine what adjustments, if any, would be required to ensure a narrowly-tailored goal. Evidence could be related to many different factors including the following:

- Past DBE participation rates
- Disparity studies
- Statistical disparities in DBEs ability to get financing, bonding or insurance
- Data on employment
- Other data

Past DBE participation rates were available, but no other data was found to be available in the market area. LeeTran examined the past participation rates. Over the last three years, LeeTran has set a goal of 1.10 percent threshold for DBEs, but it has not met that goal (see Table 5).

**Table 5 FY 2017-2028 DBE Goal | Historical DBE Participation**

Federal Fiscal Year	DBE Participation Goal	Actual DBE Participation	Actual DBE Participation Compared to Goal
2017	4.00%	1.02%	-2.98%
2018	4.00%	3.64%	-0.36%
2019	4.00%	3.82%	-0.18%
2020	4.00%	0.00%	-4.00%
2021	4.00%	0.00%	-4.00%
2022	1.10%	0.00%	-1.10%
2023	1.10%	0.00%	-1.10%
2024	1.10%	0.00%	-1.10%
<b>Median</b>	<b>2.9125%</b>	<b>1.02%</b>	<b>-2.98%</b>

A) Step 1: Calculate Adjusted Goal =  $\frac{\text{Base Figure} + \text{Median Past Participation}}{2}$

$$\text{Adjusted Goal} = \frac{.2579\% + 1.02\%}{2}$$

$$\text{Adjusted Goal} = 0.63895\%$$

$$\text{Adjusted Goal} = 0.64\%$$

$$\text{Adjusted and Rounded Goal} = 0.6\%$$

The adjusted and rounded goal is 0.06 percent. LeeTran believes a goal of .6 percent is achievable for the FY 2025-2028 timeframe.

## V. RACE/GENDER-NEUTRAL & RACE/GENDER CONSCIOUS DIVISION OF GOALS

LeeTran estimates that the overall goal of .06 percent will be obtained from race-neutral participation and zero percent through race-conscious measures. Because LeeTran's historical participation rate is close to the calculated base figure for the DBE goal, LeeTran believes that it can meet the DBE goal.

LeeTran, in conjunction with the Small Business Development Center at Florida Gulf Coast University, uses the following race-neutral means to increase DBE participation.

- Arranging solicitations, times for presentations 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 DBEs and other small business on mailing

list of 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 DBEs and other small businesses, which will be completed through coordination with FGCU Small Business Development Center.
- Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety 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 been historically low. LeeTran has contracted with FGCU Small Business Development Center to provide assistance to small businesses.
- Assisting DBEs and other small businesses to develop their capability to utilize emerging technologies 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, LeeTran will adjust the estimated breakout of race-neutral and race-conscious participation, as needed, to reflect actual DBE participation (see 26.51 [f]), and it will track and report race-neutral and race-conscious participation separately.

For reporting purposes, race-neutral DBE participation includes, but it 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.

## **VI. GOAL ADVERTISEMENT AND PUBLIC PARTICIPATION PROCESS**

After the proposed .6% percent goal was established, LeeTran conducted the following public involvement activities to receive input prior to submitting this transmittal letter:

- Advertised the proposed goal in *The News-Press*, a newspaper of general circulation in Lee County, (Figure 2) and on the LeeTran website in Spanish, Haitian Creole, and English.
- Allowed public comment for 45-days from date of the publication of the proposed goal.
- Provided review of the goal at the LeeTran Administrative Office.
- Conducted a virtual public meeting on June 17, 2025, at 5:00 P.M.

**Figure 2 News-Press Proposed Goal Advertisement**

- To be included in final version.

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## APPENDIX G | DBE PROGRAM CHECKLIST

(Pursuant to 49 CFR Part 26)

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**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

<b>Recipient Name:</b>					
<b>Vendor ID:</b>					
<b>Date DBE Program received:</b>					
<b>Date of initial review:</b>					
<b>Date final DBE Program reviewed:</b>					
<b>Review conducted by:</b>					
<b>Date referred to Regional Counsel:</b>					
<b>Name of approving Regional Counsel &amp; date of concurrence:</b>					
<b>Issuance of date of approval letter:</b>					
<b>Date TEAM data entered:</b>					
<p>This form provides an 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>					
<b>Chapter/Section</b>	<b>Addressed</b>	<b>Not Addressed</b>	<b>Adequate</b>	<b>Inadequate</b>	<b>Review Comments</b>
<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.
<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?					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
<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 assist the development of firms that can compete successfully in market place outside the DBE Program.					
<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.					
<b>DEFINITIONS: §26.5</b>					
What do the terms used in this part mean? 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.					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
<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 DOT form (no number) semi-annually due on June 1 and December 1 for each federal fiscal year they are required to have an annual DBE goal.					
(c) Bidder's list (2) 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 (i.e. less than \$500,000; \$500,000 - \$1 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>					
Significant changes in the program must be submitted to FTA for approval.					
<b>DBE LIASON OFFICER §26.25</b>					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
DBE Liason 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 Liason 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?					
<b>DBE DIRECTORY: §26.31</b>					
DBE directory made available per this part?					
<b>OVERCONCENTRATION: §26.33</b>					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
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>					
appropriate (a) mechanisms to ensure compliance with this part by all program participants, and (b) monitoring and enforcement to ensure work committed to DBEs at contract award is performed by DBEs have been established per this part.					
(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>					
(a) DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns					
(i) 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					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
(ii) 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?					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
(e)(2) goal is expressed as a percentage of all FTA funds (excluding the purchase of transit vehicles) that will be expended in the 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>					
<b>Statement expressing an understanding of the following:</b>					
(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, unless you have failed to administer your program in good faith.					
(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, you are in noncompliance with this part.					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
(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, you must do the following in order to be regarded by the Department as implementing your DBE program in good faith					
(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;					
(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;					
(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, the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval.					
(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>					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
(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 in this part 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>					
<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.</b>					
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>					
<b>CERTIFICATION PROCESS: § 26.61-26.73</b>					
<b>UNIFIED CERTIFICATION PROGRAM PARTICIPATION: §26.81 (a)</b>					
Recipient participates in UCP?					
<b>INFORMATION, CONFIDENTIALITY, COOPERATION: §26.109</b>					
Appropriate rules governing information, confidentiality, cooperation, and intimidation or retaliation are established per this part?					
<b>For state DOT's DBE goal submission attached to this DBE Program Plan, please answer the following:</b>					
(1) Sub-recipients of the state DOT are aggregated in the overall goal: (Y) (N) Comments:					

**DBE Program Checklist**  
**Pursuant to 49 CFR part 26**

Chapter/Section	Addressed	Not Addressed	Adequate	Inadequate	Review Comments
(2) The state DOT included the names of recipients that submitted DBE goals: (Y) (N) Comments:					
(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: (Y) (N)					
Comments:					
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>					
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."