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DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

POLICY STATEMENT

SECTION 26.1, 26.23 – OBJECTIVES/POLICY STATEMENT

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

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

1. Ensure nondiscrimination in the award and administration of USDOT-assisted contracts in LeeTran's federal financial assistance programs
2. Create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts
3. Ensure that LeeTran's DBE program is narrowly tailored in accordance with applicable law
4. Ensure that only firms that fully meet this Part's eligibility standards are permitted to participate as DBEs
5. Help remove barriers to the participation of DBEs in USDOT-assisted contracts
6. Promote the use of DBEs in all types of federally-assisted contracts and procurement activities

7. Assist in developing firms that can compete successfully in the marketplace, outside of the DBE program
8. Provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs

Ranice Monroe, LeeTran's Compliance Coordinator, has been designated the DBE Liaison Officer. In that capacity, Ms. 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 <https://www.leegov.com/leetrans/about-leetrans/doing-business-with-us> 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 eight 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 FY2023 and FY2025 utilizing USDOT-assisted funding that would impact this DBE Program or the corresponding Goal proposed for FY2023 through FY2025. Sub-recipients are required to sign annual certifications and assurances confirming their compliance with LeeTran, federal, state, and local regulations, as appropriate. Current LeeTran sub-recipients will be maintained as sub-recipients until their federally assisted capital vehicles are fully depreciated and all other grant requirements are satisfied.

SECTION 26.5 – DEFINITIONS

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

SECTION 26.7 – NON-DISCRIMINATION REQUIREMENTS

LeeTran will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone on the basis of race, color, sex, or national origin in connection with the award and performance of any contract covered by 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 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

The Lee County Board of Commissioners approved an agreement in November 2002 (see Appendix B), with the USDOT and the Florida Department of Transportation (FDOT) that establishes LeeTran as a non-certifying member of the national DBE Unified Certification Program (UCP). 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.

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

26.11(d) – Record Keeping

LeeTran will document a firm’s compliance with the requirements of this part through its coordination with FGCU Small Business Development Center and Lee County Procurement Management Division. At a minimum, LeeTran will keep a complete application package for each certified firm and all affidavits of

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 \$250,000 or more in FTA planning, capital, and/or operating assistance in a federal fiscal year, LeeTran will continue to carry out this program until all funds from 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):

Ranice Monroe, Compliance Coordinator

DBE Liaison Officer

LeeTran

3401 Metro Parkway

Ft. Myers, FL 33901

Phone: 239.533.0374

Fax: 239.931.6811

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. The DBELO has direct, independent access to Robert Codie, LeeTran Director, concerning DBE program matters (see Appendix A).

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. The DBELO duties and responsibilities include the following:

1. 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. Working with all LeeTran departments to set overall goals.
4. Ensuring that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifying contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment, as appropriate) and identifies ways to improve progress.
6. Analyzing LeeTran's progress towards attainment and identifies ways to improve progress.
7. Participating in pre-bid meetings.
8. Advising the Transit Director on DBE matters and achievement.
9. Providing DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Participating in DBE training seminars.
11. Acting as liaison to the State of Florida UCP.

12. Providing outreach to DBEs and community organizations to advise them of opportunities
13. Utilizing the FDOT website DBE Directory.

SECTION 26.27 – DBE FINANCIAL INSTITUTIONS

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

LeeTran has reviewed FDOT’s website DBE Directory and has determined there are no listings of financial institutions owned and controlled by socially and economically disadvantaged individuals. LeeTran will re-evaluate whether DBE financial institutions are available every 12 months.

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:

Florida Dept. of Management Services

Office of Supplier Diversity

4050 Esplanade Way, Suite 380

Tallahassee, FL 32399-0950

Phone: 850.487.0915

Fax: 850.414.6122

Website: https://www.dms.myflorida.com/agency/administration/office_of_supplier_diversity_osd

Email: osdhelp@dms.myflorida.com

FGCU Small Business Development Center

Florida Gulf Coast Univ. College of Business

Lutgert Hall, 3rd 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

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; and,
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 to 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, 3rd 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. A Small Business Concern shall not have average annual gross receipts (over the firm's previous three fiscal years) in excess of \$22.41 million. How to calculate average annual receipts and average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectively.

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

Certified DBEs are presumptively eligible to participate in 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 of 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.shtml>

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, 2022 (assigned to Group A).

LeeTran will also request use of project-specific DBE goals, as appropriate, and/or will establish project-specific DBE goals as directed by 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 begin using the goal by the time of the first solicitation for a USDOT-assisted contract for the project. LeeTran's overall goal will remain effective for the duration of the three-year period established and approved by FTA. The specifics for establishing LeeTran FFYs 2023-2025 DBE goal are included in *Goal Methodology* section of this document, with the outreach efforts conducted on the proposed goal. The tables included provide the NAICS codes that correspond with the totals utilized to calculate the methodology.

SECTION 26.47 – GOAL SETTING AND ACCOUNTABILITY

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

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

SECTION 26.49 – TRANSIT VEHICLE MANUFACTURERS GOALS

LeeTran will require each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26. LeeTran will only allow to bid and select a TVM listed on FTA's certified list of TVMs, or that have submitted a goal methodology to the FTA that has been approved or has not been disapproved, at the time of a LeeTran vehicle solicitation.

SECTION 26.51 – MEETING OVERALL GOALS/CONTRACT GOALS

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

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

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

LeeTran will express the contract goals as a percentage of the total amount of a 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 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 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 x.xx 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.

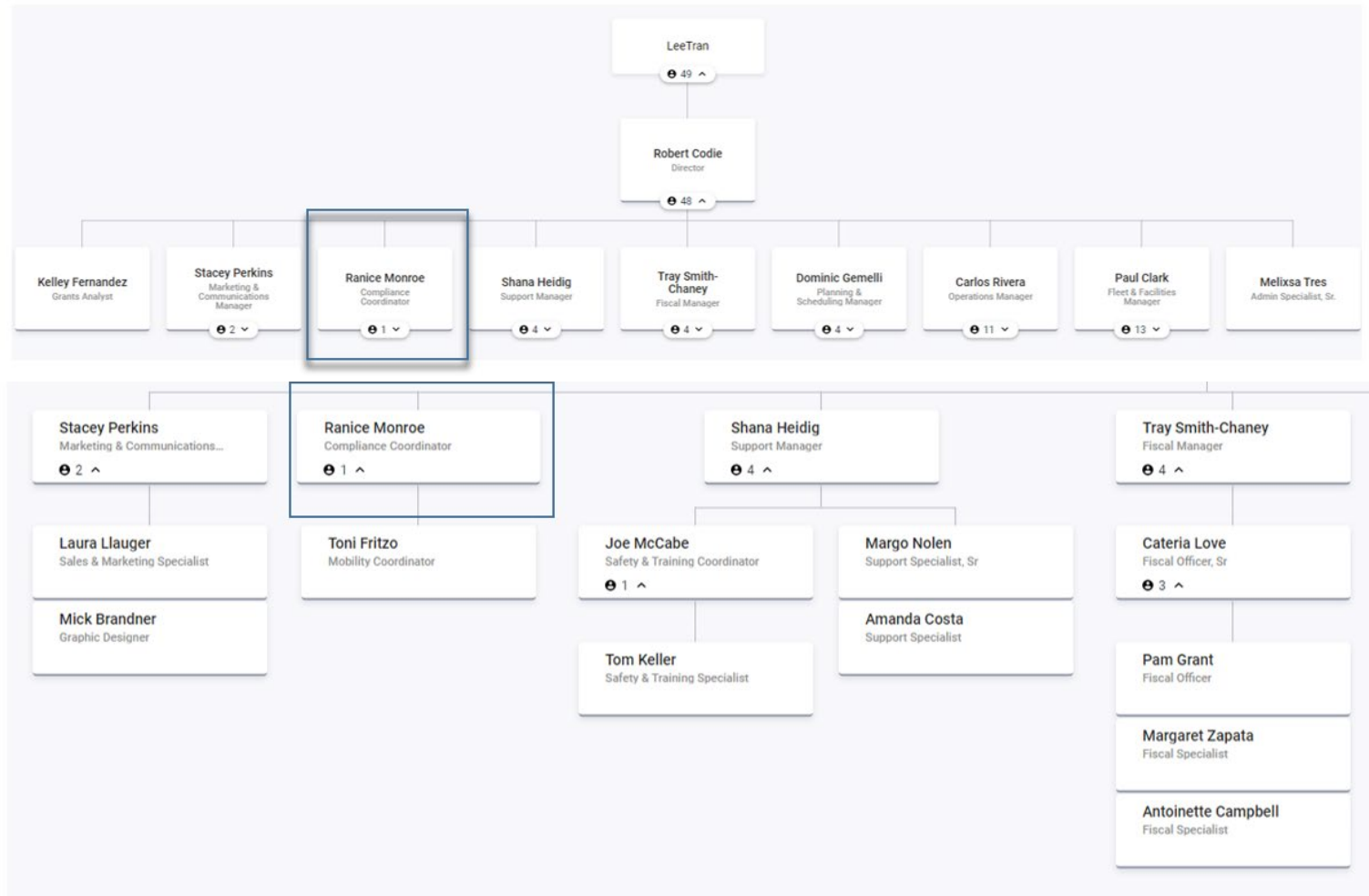
Notwithstanding any contrary provisions of federal, state, or local law, LeeTran will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than the USDOT) without the written consent of the submitter.

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

#402 0185



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Bob Jones
District One

Douglas R. St. Conny
District Two

Ray Judah
District Three

Andran W. Coy
District Four

John E. Allison
District Five

Donald D. Sitwell
County Manager

James G. Yeager
County Attorney

Biana M. Parker
County Hearing Examiner

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

Fax (239) 335-2262

December 5, 2002

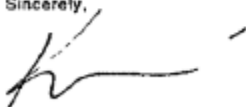
Mr. Ari Wright
FDOT -- Office of Equal Opportunity
605 Suwannee Street
Mail Station 65
Tallahassee, FL 32399-6544

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.

Sincerely,



Kami Corbett
Manager
Office of Equal Opportunity

DEC 06 2002

Revised 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

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

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

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
Signatory Entity Name, printed

ATTEST: Charlie Green
clerk of Court
Michelle S. Kiser
Signature Deputy clerk
Michelle G. Cooper
Name, printed

Ray Judah **Chairman**
Signature and Title
Ray Judah, Chairman
Name and Title, printed

This 19th day of November, 2002.



Approved as to form:
[Signature]
(Attorney for Signatory) County Attorney's Office

Certifying Member Status

Non-Certifying Member Status

Florida UCP
 Agreement 011602
 fluc/ucp

Page 24 of 25

15
76

FedEx. USA Airbill 8311 5991 2699

Sender's Copy

1 **From:** 12-S-02 **Sender's FedEx Account Number:** 1401-0900-2

To: KAMI CORBETT **Phone:** 239-338-2199

Company: COUNTY ADMINSTR OFC-LEE COUNTY

Address: 2113 2ND ST FL 4

City: FOUNTAIN HURTS **State:** FL **Zip:** 33901

2 **Buyer's Billing Reference:** _____

3 **To:** ART WRIGHT **Phone:** _____

Company: EOC- Equal Opportunity

Address: 608 Sunnec Street

City: Mail Station 65 **State:** FL **Zip:** 32399-6844

4 **Express Package Service:**

FedEx Priority Overnight **Priority Overnight** FedEx Next Business Day

FedEx 2Day FedEx Standard Overnight FedEx Saver

FedEx International Priority FedEx International Economy FedEx International First

5 **Special Handling:**

Signature Required Signature Required - Adult Signature Signature Required - Restricted Access

Insure Insure Insure Insure

6 **Payment:** Cash Bill Me Bill Me Bill Me

7 **Special Services:** Signature Required Signature Required Signature Required

8 **Reference:** [Signature] **447**

0196736938

Lee County Board Of County Commissioners Agenda Item Summary		Blue Sheet No. 20021292				
<p>1. REQUESTED MOTION: Approve Disadvantaged Business Enterprise (DBE) Uniform Certification Program Agreement</p> <p>ACTION REQUESTED: 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.</p> <p>WHY ACTION IS NECESSARY: This action is required by federal regulation, 49 CFR Part 26, for all recipients of USDOT funds.</p> <p>WHAT ACTION ACCOMPLISHES: Lee County becomes part of the national DBE Uniform Certification Program, which is required by federal regulation.</p>						
<p>2. DEPARTMENTAL CATEGORY: COMMISSION DISTRICT # <u>C6H</u></p>		<p>3. MEETING DATE: <u>11-19-2002</u></p>				
<p>4. AGENDA:</p> <p><input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADMINISTRATIVE <input type="checkbox"/> APPEALS</p> <p><input type="checkbox"/> PUBLIC <input type="checkbox"/> WALK ON <input type="checkbox"/> TIME REQUIRED:</p>	<p>5. REQUIREMENT/PURPOSE: (Specify)</p> <p><input type="checkbox"/> STATUTE <input type="checkbox"/> ORDINANCE <input type="checkbox"/> ADMIN. <input type="checkbox"/> CODE <input checked="" type="checkbox"/> OTHER Federal Regulation</p>	<p>6. REQUESTOR OF INFORMATION:</p> <p>A. COMMISSIONER B. DEPARTMENT C. DIVISION <u>Transit</u></p> <p>BY: <u>Steven L. Myers, Director</u></p>				
<p>7. BACKGROUND: 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.</p>						
<p>8. MANAGEMENT RECOMMENDATIONS: Approve and sign agreement</p>						
<p>9. RECOMMENDED APPROVAL:</p>						
<p>A Department Director</p> <p><u>Steven L. Myers</u> 11/19/02</p>	<p>B Purchasing or Contracts</p> <p><u>Paul Storden</u> 11/19/02</p>	<p>C Human Resources</p> <p>N/A</p>	<p>D Other</p> <p><u>11/19/02</u></p>	<p>E County Attorney</p> <p><u>S. Jones</u> 11/19/02</p>	<p>F Budget Services</p> <p><u>11/17</u></p> <p>OA <u>11/19/02</u></p> <p>RM <u>11/19/02</u></p> <p>Risk <u>11/19/02</u></p> <p>GC <u>11/19/02</u></p>	<p>G County Manager</p> <p><u>W. H. ...</u></p>
<p>10. COMMISSION ACTION:</p> <p><input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> DEFERRED <input type="checkbox"/> OTHER</p>			<p>Rec. by Com. Secy Date: <u>11/19/02</u> Time: <u>3:59 PM</u> Forwarded To: <u>11-19-2002</u></p>	<p>RECEIVED BY COUNTY ADMIN. <u>PM</u> <u>11-19 4:00</u> COUNTY ADMIN. PC FORWARDED TO: <u>11-19 11:30</u></p>		

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: _____

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

APPENDIX G | DBE PROGRAM CHECKLIST

(Pursuant to 49 CFR Part 26)