LAKE COUNTY
BOARD OF COUNTY COMMISSIONERS
County Policy

Title: DISADVANTAGED AND SMALL BUSINESS ENTERPRISE POLICY FOR PROJECTS UTILIZING DEPARTMENT OF TRANSPORTATION FUNDING OR GRANTS	Number:	LCC-80
	Cancels:	LCC-80 5/5/2015
	Approved:	7/7/2015

DISADVANTAGED AND SMALL BUSINESS ENTERPRISE POLICY AND PROGRAM MANUAL FOR PROJECTS UTILIZING STATE OR FEDERAL DEPARTMENT OF TRANSPORTATION FUNDING OR GRANTS

Date: October 1, 2015

The May 5, 2015 edition of this document replaced:

Policy LCC-80, Disadvantaged Business Enterprise Policy for Projects Utilizing Department of Transportation Funding or Grants, dated June 12, 2012

Procedure LC-44, Disadvantaged Business Enterprise Procedure for Projects Utilizing Department of Transportation Funding or Grants, dated September 28, 2012

The authority to issue or revise this Policy is reserved to the Lake County Board of County Commissioners.

POLICY STATEMENT

The Lake County Board of County Commissioners (LCBCC) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The LCBCC has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the LCBCC has signed an assurance that it will comply with 49 CFR Part 26 in regards to DBEs and small business concerns.

It is LCBCC policy to ensure that DBEs and small business concerns as defined in part 26, have an equal opportunity to receive and participate in DOT–assisted contracts, and to the greatest degree practicable, are adequately represented in the award of contracts and subcontracts under DOT-funded projects. It is also our policy:

1. To ensure non-discrimination in the award and administration of DOT–funded contracts;

2. To create a level playing filed on which DBEs and small businesses can compete fairly for DOT-assisted contracts;

3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;

4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;

5. To help remove barriers to the participation of DBEs in DOT assisted contracts;

6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Director of the BCC Fiscal and Administrative Services Department has been delegated as the DBE Liaison Officer (DBELO). In that capacity, that individual is responsible for implementing all aspects of the LCBCC DBE/Small Business program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the LCBCC in its financial assistance agreements with the Department of Transportation.

The LCBCC has disseminated this policy statement to all Lake County entities impacted by this policy and all of the components of the LCBCC organization. This policy has been distributed to DBE and non-DBE business communities that may perform work for the LCBCC on DOT-assisted contracts via notice of, and link to, the policy on the LCBCC Procurement Services internet and intranet websites.

July 7, 2015

Jimmy Conner , Chairman
Board of County Commissioners

Date

SUBPART A – GENERAL REQUIREMENTS

Objectives

The objectives of the DBE Program are found in the preceding policy statement.

Applicability

The LCBCC is the recipient of federal transit funds authorized by Titles 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, II, and V of the Teas-21, Pub. L. 105-178.

Definitions

The LCBCC will adopt the definitions contained in CFR Section 26.5 for this program.

Non-discrimination Requirements

The LCBCC will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin. The LCBCC will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Record Keeping Requirements

Pursuant to DOT: 26.11(b), as a FTA recipient, LCBCC will report DBE participation to DOT on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List

The LCBCC will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on LCBCC DOT-assisted contracts. The purpose of this requirement is to enable any required use of the bidder's list approach to calculating overall goals. The bidder list will include the name, address, and pricing of responding vendors, with records kept to document whether responding firms are either DBE or small business vendors.

LCBCC will collect this information in the following ways:

1. A solicitation-specific "tally sheet" showing all participating vendors under competitive LCBCC DOT-assisted contract will be prepared with additional information identifying each responding vendor as a DBE or non-DBE, and as small or non-small business. This solicitation-specific information will then be used to assemble and maintain a master list of all vendors responding as potential prime contractors to

LCBCC DOT-assisted contracts. The master list will include all the specific information items cited above.

2. A contract clause will be included in all LCBCC DOT-assisted contracts requiring prime bidders to report the names, addresses, and DBE/size status of all firms who quote to them on subcontracts, and the value of each specific subcontract awarded. This information will then be used to supplement the County's master vendor lists to broaden the overall competitive base and focus on notification to DBEs and small business concerns as appropriate for a specific purchase.

Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

LCBCC shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. LCBCC shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. LCBCC's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the LCBCC of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.). This language will appear in financial assistance agreements with sub-recipients.

Assurance: 26.13b

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

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

DBE Program Updates

Since the LCBCC has received a grant of $250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, LCBCC will continue to carry out this program

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

Policy Statement

The Policy Statement is elaborated on the first page of this procedure.

DBE Liaison Officer (DBELO)

The following individual has been designated as the LCBCC DBE Liaison Officer:

Director, Lake County BCC Department of Fiscal and Administrative Services, 315 West Main Street, Suite 416, Tavares, FL 32778. The current incumbent is Mr. Steve Koontz, 352-343-9497, email: skoontz@lakecountyfl.gov.

The DBELO is responsible for implementing all aspects of the DBE program and ensuring that the LCBCC complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the County Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization, and specific contact information for that individual, is found in Attachment 1.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO will have access to the full staff within the Office of Procurement Services to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.

2. Reviews third party contracts and purchase requisitions for compliance with this program.

3. Works with all departments to set overall annual goals.

4. Ensures that bid notices and requests for proposals are available to DBEs, and/or small business concerns, in a timely manner.

5. Identifies contracts and procurements so that DBE goals are included in DOT-assisted solicitations, and to identify measures intended to enable goal fulfillment.

6. Participates in pre-bid/proposal meetings under DOT-assisted solicitations.

7. Advises the County Manager and Board of County Commissioners on DBE and small business matters and achievement.

8. Provides DBEs and small businesses with information and assistance in preparing bids, obtaining bonding and insurance.

9. Provides for training seminars focused on the DBE and small business communities.

10. Acts as liaison to the Uniform Certification Process in Florida.

11. Provides outreach to DBEs, small businesses, and community organizations to advise them of opportunities.

12. Maintains the LCBCC process and information as described in the "Bidder's List" section of this document.

DBE Financial Institutions

It is the policy of the LCBCC to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. Investigations to date have confirmed there are no such institutions within the local community. However, by accessing www.federalreserve.gov/releases/mob. the LCBCC can at any time identify the most current listing of all such institutions located in Florida. Review in this regard shall be performed at least annually.

Prompt Payment Mechanisms

The LCBCC will include of the following clauses in each DOT-assisted prime contract:

"The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) working days from the receipt of each payment the prime contract receives from LCBCC. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the County Attorney. His clause applies to both DBE and non-DBE contracts."

"The prime contractor agrees further to return retainage payments to each subcontractor within ten (10) working days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the County Attorney. This clause applies to both DBE and non-DBE contracts."

Confirming information from subcontractors shall be used to monitor conformance in this regard. One such process would be to require certification of previous compliance from affected subcontractors to be included with subsequent prime contractor invoicing to the County. Any delay or postponement of payment from the required payment time frame may occur only for good cause following written approval of the LCBCC. Any delay or postponement not clearly attributable to good cause shall serve as cause for equitable corrective action such as assessment of contract-specified liquidated damages or equivalent delay or postponement of full or partial payment to the prime vendor under subsequent contractual invoicing. This clause applies to both DBE and non-DBE subcontracts."

Directory

The LCBCC will utilize the State of Florida Unified Certification Program, as a non-certifying member, to identify firms eligible to participate as DBEs. Under the LCBCC DOT-assisted procurement program. The DBELO will be responsible for advising firms of the certification process associated with the Unified Certification Program. The DBE Directory associated with the UCP is available at the following web link:

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

Over-concentration

LCBCC has not identified that over-concentration exists in the types of work that DBEs perform as of this time. This issue will be re-evaluated on an annual basis as part of an annual review of the program documents as a whole.

Business Development /Mentor-Protégé / Small Business Programs

LCBCC has not established a business development program focused on DBE vendors. LCBCC has recently established a business development program specifically tailored to the development of individual small business enterprises in the form of a formal small business incubator program. In addition, LCBCC personnel have established a working relationship with the Small Business Development Council (SDBC) of Central Florida where in development assistance is being provided on systemic basis to such firms, and wherein additional active listings beyond the UCP listings are available to the LCBCC DBELO. Maximum participation in these services by DBE and small business concerns is intended. Developments and results in these regards will be re-evaluated on an annual basis as part of an annual review of the program documents as a whole.

Monitoring and Enforcement Mechanisms

The LCBCC will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

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

2. LCBCC will consider similar action under out own legal authorities as listed in the County's Purchasing Procedure Manual, including responsibility determinations in future contracts.

3. LCBCC will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by monitoring field operations subsequent to award.

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

5. As stated in subpart D, the LCBCC will use the definitions and size standards expressed in 49 CFR part 26.5 and 26.65(b), and 13 CFR Part 121, to determine the appropriate NAICS codes and related size standards to determine/confirm/certify the size status of potential business participants and/or responding vendors.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Overall Goals

Pursuant to 49 CFR 26.45, Lake County BCC (LCBCC) is required to establish a triennial overall goal for the participation of DBEs in all budgeted contracts utilizing Federal DOT financial assistance. The annual overall goal shall be expressed as a percentage of the total amount of Federal DOT Region IV funds LCBCC anticipates receiving and/or expending in each fiscal year. The Lake County BCC's overall goal represents the relative quantity of certified DBEs that are available to participate in contracting opportunities and reflects the amount of DBE participation that LCBCC would expect absent the effects of discrimination. LCBCC intends to meet the resulting goal to the maximum extent feasible through the race-neutral measures. Should race-neutral measures prove inadequate to meet the annual overall goal, LCBCC may establish specific contract goals for particular projects with subcontracting opportunities. The methodology used to calculate the LCBCC goal is as follows:

Step 1: Determine the base goal figure based on the relative availability of DBEs.

Step 2: Adjustment needed to the base figure in order to arrive at the overall goal.

Resources used to determine the relative availability of DBEs and non-DBE vendors to support a base goal figure and pertinent adjustments include, but are not limited to, the State of Florida UCP listing, records available to the Small Business development Council of Central Florida, the County's overall vendor registration records, and goals established by other local governmental entities. An appropriate range of actions and calculations shall then be completed to determine a realistic comparison of the relative population of DBE and non-DBE firms to establish a base goal. A final goal will then be established through a collaborative and coordinated process involving local public and private sector entities. Attachment 2 of this procedure describes the specific process to establish the County's current goal. A similar process adjusted to reflect current conditions and circumstances will be used to establish the next and subsequent LCBCC DBE goals.

Set-asides or Quotas

The LCBCC does not use set-asides or quotas in any way in the administration of this DBE program in support of DBE or small business firms. Set-asides may be considered in support of the small business community when market conditions support a determination that adequate competition will be realized.

Goal Setting and Accountability

A description of the methodology to calculate the overall goal and the goal calculations for DBE participation is stated above and currently applied in the manner expressed in Attachment 2 to this program. This specific methodology stated in Attachment 2 may be modified to reflect current market conditions, specific forecasted purchases, and the general availability of DBE vendors. It is recognized that LCBCC compliance with the goal and program will be based primarily on administration of the DBE Program as a whole on an evidenced good faith basis

There is no specific goal established for small business vendor participation. The balance of this Subpart C deals strictly with DBE vendors.

In accordance with Section 26.45(f) the LCBCC will submit its overall goal to DOT on a tri-annual basis as determined by the applicable operating administration. Before establishing the overall goal each period, LCBCC will consult with pertinent parties to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the LCBCC's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the LCBCC will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rational are available for inspection during normal business hours for currently required timeframe following the date of the notice, and informing the public that LCBCC and DOT will accept comments on the goals for the currently established time frame from the date of the notice. This notice will be placed on the County's internet website. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed. The overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

If the awards and commitments shown of the LCBCC semi-annual reports are less than the then-current goal, LCBCC will analyze factors contributing to the deficit, and establish specific steps intended to correct the deficiency. As an example, after not attaining its established goal for an extended period despite good faith effort, largely due to the fact that projected construction project list were not realized, LCBCC elected to emphasize DBE subcontractor involvement when awarding its successor Transportation Operator contract. This resulted in full goal attainment as evidenced within the first semi-annual report following the award of that contract.

The LCBCC will begin, or continue, using its overall goal on October 1 of each year, unless other instructions are received from DOT. If LCBCC establishes a goal on a project basis, LCBCC will begin using the goal by the time of issuance of the first solicitation for a DOT-assisted project contract.

Transit Vehicle Manufacturers Goals

LCBCC will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has an established DBE program. Alternatively, LCBCC may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 3 to this program. Attachment three also lists the two primary race-neutral measures currently utilized by the County. This section of the program will be updated at the time each goal calculation is updated.

Contract Goals

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

The LCBCC will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. A goal will not be established for every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). The LCBCC will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

Good Faith Efforts Procedures

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

The LCBCC procurement division manager 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 being in essential compliance with the pertinent contractual requirements.

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

LCBCC treats bidder/offeror compliance with good faith efforts requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offerors 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 will perform;

3. The dollar amount of the participation of each DBE firm participating;

4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;

5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment; and

6. If the contract goal is not met, evidence of good faith efforts.

Within five (5) working days of being informed by LCBCC that it is not determined to be responsible, or otherwise compliant, because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the Deputy County Manager, contact information as follows:

Mr. Bill Veach, Deputy County Manager, 315 West Main Street, Tavares, FL32778. Telephone: 352-343-9888 Email: bveach@lakecountyfl.gov

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts. As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The LCBCC will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transpiration.

LCBCC will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. LCBCC will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. In this situation, LCBCC will require the prime contractor to obtain LCBCC 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, the LCBCC contracting officer may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may initiate a

termination for default proceeding in the manner proscribed in the County's Purchasing Procedure Manual.

Sample Bid Specification When a Contract Goal is to be Used:

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

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

DBE Termination / Replacement:

LCBCC requires that prime contractors not terminate a DBE subcontractor without the prior written consent of the LCBCC DBELO. Such consent may be provided only when there is good cause to do so (see Section 26.53 (f) (3) of the FTA DBE regulations Before submitting such a request to the LCBCC DBELO, the prime contractor must provide notice of intent to terminate to the DBE subcontractor, and allow a reasonable period for the DBE subcontractor to provide objection or comment. The DBE response shall be included with the prime contractor's notice of intent to terminate to the LCBCC DBELO. If termination is approved, the prime contractor will be required to make a good faith effort to replace the terminated DBE subcontractor with another DBE subcontractor performing effort of similar scope. The LCBCC retains the right to approve use of the proposed replacement DBE subcontractor. Any failure of the prime contractor to adhere to any aspect of this direction may be cause for suspension of payment, or termination for default, under the prime contract.

Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

Certification Baselines Specific to DBE and Small Business Vendors

The LCBCC has elected to participate in the State of Florida Unified Certification Program as a non-certifying member. The UCP will meet all certification standards and comply with all certification processes associated with the FTA DBE requirements All vendor questions or inquiries regarding the certification program and process of the UCP, including certification appeals shall be directed to the UCP. General information in this regard is available at the following web link:

http://www.dot.state.fl.us/equalopportunityoffice/

The LCBCC will use the definitions and size standards expressed in 49 CFR part 26.5 and 26.65(b),, and 13 CFR Part 121, to determine the appropriate NAICS codes and related size standards to determine/confirm/certify the size status of potential business participants and/or responding vendors.

Certification Programs and Procedures Specific to DBE vendors

As indicated above, LCBCC utilizes the Unified Certification Program (UCP) administered by the State of Florida. The UCP will meet all of the requirements of this section. Procedures for Certification Decisions will be as directed by the terms and conditions associated with the State of Florida's UCP.

SUBPART E – COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation

To the degree appropriate and allowable, the LCBCC will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. All parties are advised that the State of Florida has a very comprehensive public records disclosure process. It can be assumed that a document provided to a public official will generally be subject to release in full upon request by a third party.

Monitoring Payments to DBEs and Small Business Vendors

The LCBCC will require prime contractors to maintain records and documents of payments to DBEs and small business concerns for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the LCBCC or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The LCBCC may perform interim audits of contract payments to DBEs to ensure that the actual amount paid to DBE prime or subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

SUBPART F – SPECIFIC DIRECTION/COMMENTS REGARDING THE SMALL BUSINESS COMPONENT OF THE OVERALL DBE PROGRAM

It is noted that this procedure contains many references to the small business community in conjunction with many of the actions to be considered and completed under the Program. This reflects recent guidance to emphasize participation and use of the small business community within projects that are DoT-funded. The following variations from the standard DBE program that reflect small business-specific actions and requirements now included in the overall DBE Program are as follows:

- There is no specific participation goal set for small business concerns.

- Set-asides may be considered to support small business participation under Dot-funded projects. Such action may be selected at the discretion of the DBELO on a project-specific, case-by-case basis, and may be used at any time under any appropriate project to resolve a perceived deficiency in the degree of DoT-funded business activity being awarded to the small business community.

- Reducing project requirements to discrete, separable, and specific work elements ("unbundling") will be considered the County's primary tool to ensuring maximum opportunity for the small business community to operate as prime contractors under DoT-funded projects.

The LCBCC will take affirmative actions in an effort to structure race neutral contracting opportunities to facilitate competition by small businesses. The LCBCC will take all reasonable steps to eliminate obstacles that may preclude small business participation in procurements as prime contractors or subcontractors. 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.

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). IN addition, a Small Business Concern is one that:

1. is organized for profit, with a place of business located in the United States, which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials or labor;

2. has the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative.

3. is at least 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States, except in the case of a joint venture, where each entity to the venture must be 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States; and

4. Has, including its affiliates, not more than 500 employees.

As part of this program element the LCBCC will include the following strategies on a case-by-case basis:

1. The LCBCC may task architect/engineer 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.

2. The LCBCC will consider inclusion in its construction contract documents of a provision that will encourage prime contractors to not require performance and labor and materials payment bonds from subcontractors that meet the definition of a small business or a DBE firm as long as the bonds provided by the prime contractor are adequate to protect the financial interests of the LCBCC

3. The LCBCC will consider inclusion in its construction contract provisions of a requirement that prime contractors affirmatively seek out small businesses as part of its subcontractor workforce.

4. The LCBCC will analyze small business contracting opportunities in connection with contracts awarded to support operations and maintenance activities. The DBE Liaison Officer (DBELO) will work with the purchasing department to identify contracting opportunities for small businesses in this regard with intent to maximize such opportunity.

The LCBCC will reach out to small businesses in an effort to make them aware of potential contracting and subcontracting opportunities through coordination with local entities such as the Small Business Development Center located within Lake County, the Florida Small Business Administration Office, and local chambers of commerce. Additional out- reach efforts will effort include:

1. contacting small business organizations to make them aware of how to do business with LCBCC,

2. placing upcoming contracting opportunities on the LCBCC website; and

4. providing information and referral services to small business regarding the means to obtain certification in accordance with the Florida United Certification Program and the U.S. Small Business Administration.

ATTACHMENTS

Attachment 1: Organizational Chart

Attachment 2: Overall DBE Goal Calculation *

Attachment 3: Breakout of Estimated Race-Neutral & Race-Conscious Participation *

Attachment 4: Form 1 & 2 for Demonstration of Good Faith Efforts *

Attachment 5: Monitoring and Enforcement Mechanisms

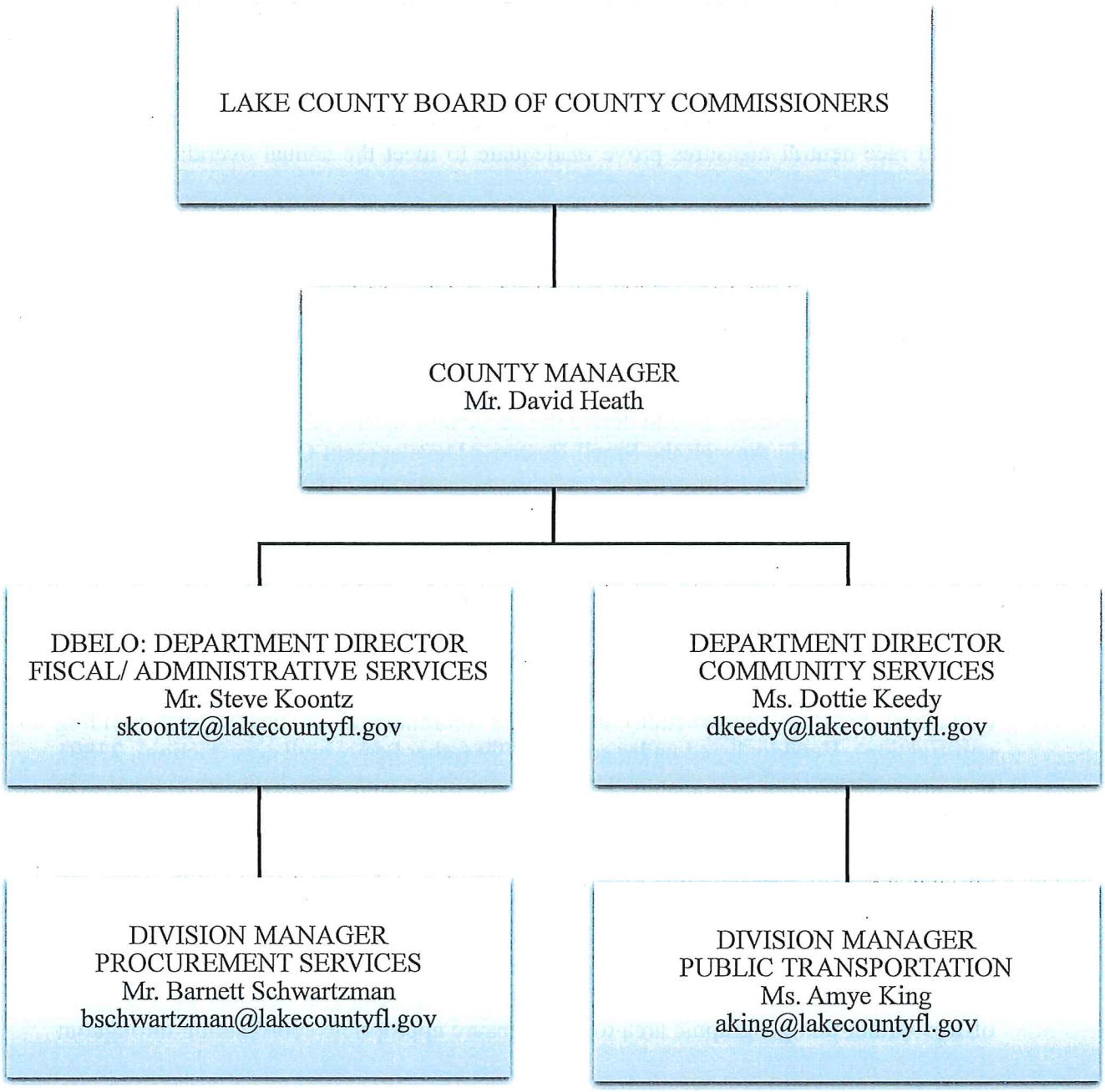
Attachment 6: Regulations 49 CFR Part 26**

*It is noted that these attachments relate exclusively to the DBE vendor element of the County's overall DBE program.

** Referenced herein and available at the following web link: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

ATTACHMENT ONE

ORGANIZATIONAL CHART



ATTACHMENT TWO

OVERALL GOAL CALCULATION FOR FY 2016-2018

Pursuant to 49 CFR 26.45, Lake County BCC is required to establish a triennial overall goal for the participation of DBEs in all budgeted contracts utilizing Federal DOT financial assistance. The annual overall goal shall be expressed as a percentage of the total amount of Federal DOT Region IV funds Lake County BCC anticipates receiving and/or expending in each fiscal year. The Lake County BCC's overall goal represents the relative quantity of certified DBEs that are available to participate in contracting opportunities and reflects the amount of DBE participation that Lake County BCC would expect absent the effects of discrimination. Lake County BCC intends to meet this goal to the maximum extent feasible through the race-neutral measures described below. Should race-neutral measures prove inadequate to meet the annual overall goal, Lake County BCC may establish specific contract goals for particular projects with subcontracting opportunities. The methodology used to calculate the LCBCC goal is:

Step 1: Determine the base goal figure based on the relative availability of DBEs.

The base figure for the relative availability of DBE's was calculated by dividing a valid total count of ready, willing, and able DBEs by the count of applicable vendors registered on the County website for the services now anticipated to be subject to DBE participation. The primary data sources used to derive the numerator for the percentage calculation are directories available through the Small Business Development Center (SBDC), and the State of Florida's Department of Transportation (UCP) DBE directory (https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp).

- Step 1.1 Construction Project Consideration:

One of the primary categories of LCBCC Public Transportation System work supported by DOT grant funding is construction of public transportation facilities to include bus stops with and without shelters. This work falls primarily under NAICS codes 23621 (industrial building construction) and 23622 (commercial or institutional building construction), Vendors listed under codes 23799 (other heavy civil construction), 23891 (site preparation), and 23819 (other structural exterior contractors) have been included in the base figure as it is possible such vendors could be utilized for portions of a construction effort using FTA funding. Review of the UCF directory and data available through SDBC sources resulted in identification of 42 certified DBE entities under the general code of "construction" for work sites located in Lake County and vendor locations throughout FTA Region 5. The geographic parameter is based on the fact the Lake County's mailing list is comprised primarily of vendors within that geographic range, and because LCBCC solicitations often recommend that vendors have support offices within that geographic area to assist/ensure appropriate coordination throughout contract performance.

The data source used to derive the denominator was the current Lake County vendor list for commodity code 973-160 (Construction Contractors). There are 528 vendors registered with the County under that commodity code which in turn appears to be directly analogous

to the scope of the NAICS codes cited above. Using the NAICS codes cited above in conjunction with LCBCC commodity code 973-160 therefore results in a fair and equitable basis of evaluation. **A construction-related base goal number of 8% is derived when the number of ready and willing DBE vendors (42) is divided by the number of related-commodity vendors on the Lake County vendor list (528).** No weighting adjustments to the above-calculated base goal number are considered appropriate as there are no known pending projects that would have a significant impact on the base calculation. All near-term construction projects currently identified fall within the parameters associated with the base calculation.

- Step 1.2 Other Project/Opportunity Considerations:

It was noted during the last goal period that many projects outside of the construction arena bear significant opportunity for DBE participation, and represent the majority of FTA funding expended within the LCBCC transit operation. In fact, the construction efforts cited above represent approximately 10% of the total grant values (and an estimated 20% of the total grant value that susceptible to DBE participation). Four such non-construction areas of operation, and their relative share of the total FTA grant revenue and grant revenue susceptible to DBE participation include:

- Transportation operator services (40%) / (80%)
- Fleet maintenance services (25%) / (0%, performed in-house)
- Rolling stock purchases (15%) / (0%, excluded from DBE reporting)
- Fuel purchases (10%) / (0%, point-of-sale purchasing process)

As explained below, the transportation operator function is the only non-construction area that currently allows for true potential for DBE participation. The current contract for those services includes a "best effort" DBE participation goal that matches the County's previous DBE goal (14.6%). That goal has largely been attained under the contract, providing for an average approximate 14% overall (all function/all funding) attainment vs 14.6% overall goal for the course of FY 2014. As the transportation operator contract involves a high percentage of the overall FTA grant funding received by the County, and has served as an effective tool to support goal attainment, the current attainment results serve to support a total DBE participation goal for all FTA grant funding that reflects the 14% attainment rate currently realized.

The other categories listed above provide no true DBE opportunities at this time as fleet maintenance is performed in-house, fuel purchases are completed in the local economy on an un-consolidated point-of-sale basis, and bus purchases are generally exempted from DBE consideration. These functions are therefore not included in the County's semi-annual DBE reporting.

Given all factors stated above, the goal attainment value (14%) realized by the County in FY 2014, realized primarily under the transportation operator contract, appears to

support an initial base goal of 14% for "Other Project/Opportunity Considerations".

Step 1.3 Initial Overall Base Goal Identification

The participation goal identified under step 1.1 above is 8%. As previously indicated, anticipated construction efforts comprise 20% of the total FTA grant funding that is susceptible to DBE participation and reporting. The participation goal expressed under step 1.2 above is 14%. As previously indicated, projects falling under step 1.2 comprise 80% of total FTA grant funding susceptible to DBE participation and reporting. Based on a 20% / 80% weighting, the total and overall weighted initial basic goal percentage is calculated as follows:

- 8% (1.1 goal) x 1 (weighting factor) = 8 (%)
- 14% (1.2 goal) x 4 (weighting factor) = 56 (%)
- Sub-total: 64 (%) / 5 (total weighting) = **12.8% Initial Base Goal**

Step 2: Adjustment needed to the base figure in order to arrive at the overall goal.

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal. A primary factor used to determine whether an adjustment to the base figure should be considered is the equivalent goal calculated and accepted for nearby entities for similar work. Significant outreach and coordination was completed in this regard. The only other in-county public entity that reported a formal DBE participation goal was the city of Leesburg at 16.7% applied exclusively to work performed at the Leesburg Airport. This value was considered not to serve as cause for adjustment as it did not vary significantly from the figure derived under step 1.3 above, and appears to be based on highly specialized effort. The most aligned function to the County's public transportation system within the general geographic area is the Lynx transit system operating in Orlando/Orange County. Lynx has established DBE goals of 14% (race-conscious), and 3% (race-neutral), for its FTA grant funded expenditures for FY 2014 through FY 2016. Again, that comparative data generally supports the goal value expressed in steps 1.2 and 1.3 above, especially considering the fact that there is a much larger base of certified DBE firms in the Orlando urban area in comparison to Lake County.

Other factors stated in 49 CFR 26.45 (d) (1), (2), and (3) were also considered to determine need for adjustment to the base figure. There was no perceived need to make an adjustment based on current capacity of DBEs to perform work under the County's program as Lake County is adjacent to Orange County wherein a number of DBEs operate successfully under that County's much larger public transportation and general construction programs. No adjustment based on evidence from disparity studies were deemed necessary as no such studies have been completed within the LCBCC's range of jurisdiction. In addition, there was no clearly impacting evidence resulting from factors identified in 49 CFR 26.45 (d) (2) and (3) that would serve as cause for adjustment of the calculated base figure. No evidentiary studies confirming relative access of DBEs within Lake County to bonding, financing, and insurance is readily available. General information within the region relating

to employment, education, training, and union apprenticeship programs does not appear to be directly related to opportunities for DBEs to perform under the Lake County program. Further, no finite basis for application of 49 CFR 26.45 (d) (3) was perceived.

Given all the above, and the coordination efforts expressed below, **the base goal (12.8%) calculated under step 1 appears to require no adjustment, and LCBCC hereby adopts that goal for** DBE participation on all LCBCC contracts awarded during FY 2016 through FY 2018 under its public transportation function that utilize Federal DOT public transportation grant funding over $250,000.

General Coordination and Public Participation:

The goal calculation effort commenced with coordination with personnel operating the Florida UCP Program. This coordination resulted in the step 1.1 calculation described above regarding quantity and availability of DBE enterprises within the County's perceived construction projects in support of the Count transit system.

As indicated under step 2 above, the County coordinated its FY 2016-2018 goal considerations and calculations with all local public sector purchasing entities, resulting in the information expressed above regarding Leesburg Airport. The County also coordinated with the Lynx public transit operation as discussed under step 2. The specific information resulting from the Leesburg and Lynx coordination indicated their existing goals were similar to the initial total goal calculated by Lake County under step 2, and provided strong rationale for making no adjustments to that value.

Upon initial development of the goal, a draft of this document was presented to the local offices of the Florida Small Business Development Center for review and comment. That entity stated that the "logic, calculation methodology and explanation" stated in the draft document was "fully justified and supported by the comprehensive analysis". This information again supported no requirement for adjustment of the initial total goal calculated by the County.

To provide opportunity to achieve common goals, the public sector purchasing entities within Lake County periodically work together as a unified entity under the title "POOL" (Procurement Offices of Lake County). POOL sponsors "outreach" meetings and seminars focused on the local vendor community to discuss processes and encourage participation under the County's contracting opportunities. The overall DBE program was discussed in detail at the last such meeting attended by ninety-five firms. This outreach confirmed general support for the program, but no specific recommendations that would impact on goal calculation or adjustment.

In addition, the LCBCC published the goal information stated in this document on its general public website, and by advertisement in the English and Spanish editions of the primary area newspaper. These actions established a forty-five (45) calendar day period for review of the draft goal and its associated development process and related comment by the general public. No comments were received during or after the established public comment period that would impact on goal calculation or adjustment.

ATTACHMENT THREE

BREAK-OUT OF ESTIMATED RACE-NEUTRAL

AND RACE-CONSCIOUS PARTICIPATION

Lake County BCC intends to meet the established goal by utilization of two primary race-neutral measures as follows:

1. Lake County will ensure that all appropriate DBE firms will be included in the solicitation process when Lake County BCC Procurement Services issues a solicitation for goods, services, or construction that are funded in full or in part by Federal DOT grants that require such specific effort. Lake County will use the Unified Certification Program (UCP) DBE Directory published by the Florida Department of Transportation for this purpose. A list of certified UCP DBEs is maintained by the Florida Department of Transportation's Equal Opportunity Office at http://www.bipincwebapps.com/biznetflorida/.

2. Lake County will ensure that all solicitations and resultant contracts issued by Lake County BCC Procurement Services for goods, services, or construction that are funded in full or in part by federal DOT grants will include subcontractor selection requirements that support the goal established above. These notices will identify the current County goal value and advise prime vendors that they are invited to share in the County's best effort process to achieve the goal within their subcontracting program under the contract resulting from the solicitation.

ATTACHMENT FOUR

FORM 1 AND 2 FOR DEMONSTRATION OF GOOD FAITH EFFORTS

[Forms 1 and 2 should be provided as part of the solicitation documents.]

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

_____ The bidder/offeror is committed to a minimum of ____ % DBE utilization on this contract.

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ _____

(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/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/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is $ _____.

Affirmation

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

By _____

(Signature) (Title)

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

(Submit this page for each DBE subcontractor.)

ATTACHMENT FIVE

MONITORING AND ENFORCEMENT MECHANISMS

The LCBCC has available several remedies to enforce the DBE requirements stated in this manual and/.or in the contracts awarded by the LCBCC in support of its DBE program. Examples of such measures include:

- Liquidated damages as specified within a related contract,
- Withholding of payment associated with specific performance deficiencies,
- Termination of contract for convenience,
- Termination of contract for default, and
- Use of unsatisfactory performance records for use under subsequent responsibility recommendations and determinations.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program such as:

- Suspension or debarment pursuant to 349 CFR part 26,
- Enforcement action pursuant to 49 CFR part 31, and
- Prosecution pursuant to 18 USC 1001