Disadvantaged Business Enterprise (DBE) Program

September 13, 2019
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DBE PROGRAM STATEMENT

1. The Hillsborough Transit Authority (HART) receives federal assistance from the U.S. Department of Transportation (DOT) and, as a condition of receiving this financial assistance, HART has signed an assurance that it will comply with 49 CFR Part 26. In accordance with these regulations, HART has established a Disadvantaged Business Enterprise (DBE) Program, which includes fostering small business participation.

2. It is the policy of HART to ensure that DBEs and small businesses, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also HART's policy:

   - To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
   - To create a level playing field on which DBEs and small businesses can compete fairly for DOT-assisted contracts;
   - To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
   - To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs and small businesses;
   - To help remove barriers to the participation of DBEs and small businesses in DOT-assisted contracts;
   - To promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
   - To assist the development of firms that can compete successfully in the market place outside the DBE program.

3. Ms. Carla Williams, Director of Community & Business Engagement, has been delegated as the DBE Liaison Officer (DBELO). In that capacity, Ms. Williams 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 HART in its financial assistance agreements with DOT. Ms. Williams's office is located at 1201 East 7th Avenue, Tampa, FL 33605, (813) 384-6596, williamsc@gohart.org

4. HART will disseminate this policy to the Board of Directors of HART and all of the components of the HART organization. HART will distribute this statement to DBE and non-DBE business entities that perform work for HART on DOT-assisted contracts.

   [Signature]
   Benjamin Limmer
   Chief Executive Officer

   [Date]
   9/18/2019
1. GENERAL REQUIREMENTS

1.1 Objectives [26.1]

It is the objective of HART to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our objective:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- To promote the use of DBEs in all types of federally-assisted contracts and procurement activities; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

1.2 Applicability [26.3]

HART receives Federal financial assistance from the DOT and, as a condition of receiving this financial assistance, HART has signed an assurance that it will comply with 49 CFR Part 26. In accordance with these regulations, HART has established a DBE Program.

1.3 Definitions [26.5]

HART adopts the definitions contained in Section 26.5 of 49 CFR Part 26 for this program.

1.4 Non-discrimination Requirements [26.7]

HART will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering the DBE program, HART 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.

1.5 Record Keeping Requirements [26.11(a)]

HART will report DBE participation to FTA using the uniform report of DBE Awards or Commitments and Payments as required by FTA.
1.6 Bidders List [26.11(c)]

For all USDOT-assisted contracts, in accordance with 49 CFR Part 26, HART will create and maintain a list, consisting of information about the universe of DBE and non-DBE firms who seek to work on DOT-assisted contracts. For every firm submitting a bid, the following information must be included:

a. Firm name
b. Firm address
c. Firm's status as DBE or non-DBE
d. The age of the firm

All firms interested in doing business with HART will complete a vendor registration application. This application will include the above information. The vendor registration directory will be accessible at https://gohart.diversitycompliance.com

1.7 Federal Financial Assistance Agreement [26.13]

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

1.7.1 Assurance

HART 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. HART shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. HART'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 HART of its failure to carry out its approved program, the Department of Transportation 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 agreements with sub-recipients.

1.7.2 Contract Assurance

In each DOT-assisted contract, language will be included that 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 the contract, which may result in the termination of the contract or such other remedy as HART deemed appropriate.
2. ADMINISTRATIVE REQUIREMENTS

2.1 DBE Program Updates [26.21]

Since HART receives a grant of $250,000 or more in FTA planning, capital and/or operating assistance in a federal fiscal year, this program will be carried out until all funds from DOT financial assistance have been expended. Updates representing significant changes in the program will be provided to FTA.

2.2 Policy Statement [26.23]

HART has a signed and dated policy statement that expresses its commitment to the DBE program, states its objectives, and outlines responsibilities for its implementation. The statement has been circulated throughout the organization and to the DBE and non-DBE business communities that perform work on HART DOT-assisted contracts. The policy statement is found at the front of this program document.

2.3 DBE Liaison Officer [DBELO] [26.25]

The Chief Executive Officer has designated Ms. Carla Williams, Director of Community & Business Engagement as the DBE Liaison Officer. Ms. Williams’s office is located at 1201 East 7th Avenue, Tampa, FL 33605, (813) 384-6556, williamsc@gohart.org.

In that capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that HART complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Chief Executive Officer concerning DBE Program matters. An organization chart displaying the DBELO’s position in the organization is found in Attachment 1 to this program document.

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

- Gather and report statistical data and other information as required by DOT.
- Review third party contracts and purchase requisitions for compliance with this program.
- Work with all departments to set overall annual goals.
- Ensure that solicitation notices are available to DBEs in a timely manner.
- Identify contracts and procurements so that DBE goals are included in solicitations [both race-neutral methods and contract specific goals attainment and identifies ways to improve progress].
- Analyze HART’s progress toward attainment and identify ways to improve progress.
- Participation in pre-solicitation conferences.
- Advise the CEO/governing body on DBE matters and achievement.
- Provide DBEs with information and assistance in preparing offers, obtaining bonding and insurance.
- Plan and participation in DBE training seminars.
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- Act as liaison to the Uniform Certification Program in the State of Florida.
- Provide outreach to DBEs and community organizations to advise them of opportunities.
- Monitor payments to DBEs for work committed to them at the time of contract award.

2.4 DBE Financial Institutions [26.27]

It is the policy of HART 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 contracts to make use of these institutions.

HART includes language in its solicitations encouraging contractors to utilize the services of disadvantaged, minority and woman-owned banks and financial institutions. Notification of solicitations for financial services will be sent to the institutions identified in the Minority Bank Deposit Program [MBDP] listings of financial institutions in the State of Florida, available at the U.S. Department of Treasury website https://www.fiscal.treasury.gov/mbdp/participants.html or Bureau of the Fiscal Service Minority Bank Deposit Program.

HART maintains a reference document listing of these banks and financial institutions and disseminates the information at pre-solicitation conferences on federally assisted projects and at outreach events. The HART DBELO reviews this element annually.

From a review of the internet, HART has identified the following minority owned banks with locations in the State of Florida. The two current participant in the MBDP located in Florida are Continental National Bank of Miami, 1801 Southwest First Street, Miami, FL 33135 and Interamerican Bank, 9190 Coral Way, Miami, FL 33165. In addition, the Tampa Bay Black Business Investment Corporation and Hispanic Business Initiative Fund are resources in this area.

2.5 Prompt Payment Mechanisms [26.29]

Language will be included in each DOT-assisted contract stating the prime contractor agrees to pay each subcontractor under the prime contract for satisfactory performance of its contract no later than 10 calendar days from the receipt of each payment the prime contractor receives from HART. The prime contractor must agree further to return retainage payments to each subcontractor within 10 calendar days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval of HART. This language applies to both DBE and non-DBE subcontracts. Failure to satisfy prompt payment to subcontractors no later than 10 calendar days from the receipt of payment from HART may constitute a breach of contract and may result in termination of the Contractor for default or such remedy as the Authority may deem appropriate. HART utilizes a web-based software (Vendor Compliance System) that notifies the subcontractor in writing when a check has been issued to a prime contractor in order for the subcontractor to verify that payment to the subcontractor has or has not been made within the 10 calendar day period.

2.6 Directory [26.31]

HART is required to participate in the Uniform Certification Program [UCP]. The combined statewide directory, identifying all firms eligible to participate as a certified DBE, may be located at the Florida Department of Transportation website: https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx.
2.7 Overconcentration [26.33]

HART will monitor all USDOT funded contracts to identify if DBE firms are so over-concentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work. Every three years when setting a DBE goal, HART estimates the level of DBE participation on USDOT-assisted projects to be bid or proposed during the upcoming three fiscal years based on the relative availability. Additionally, each time a DBE goal is set on a USDOT-assisted contract, the relative availability is analyzed.

HART has not identified that overconcentration exists in the types of work that DBEs perform. Should overconcentration be identified in the future, HART will recommend appropriate measures to address it and work with the FTA to obtain approval of these measures.

2.8 Business Development Programs [26.35]

HART is not required to, and has not established, a formal business development program. Numerous organizations in the community are resources to DBEs and Small Business Enterprises (SBEs), including the University of South Florida Business Development Center/PTAC, and Small Business centers at Hillsborough County, Pinellas County, the City of Tampa and the City of St. Petersburg. HART maintains a listing of business development assistance programs that assist small businesses.

Additionally, HART carries out the following activities designed to increase DBE participation on contracts through race-neutral means, where possible, and ensure that DBEs and SBEs have the equal opportunity to participate in contracts:

- Participate in training seminars and community outreach activities for the purpose of informing potential contractors of available business opportunities for DBEs and SBEs.
- Email procurement advertisements to businesses that have been identified as certified DBEs and SBEs, which are likely to participate on the contract.
- Encourage DBE and SBE attendance at solicitation conferences.

HART will review the need for a business development program annually.

2.9 Monitoring and Enforcement Mechanisms [26.37]

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

HART 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.

HART will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

HART 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 requiring the
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Contractor to notify HART of the amount paid to their subcontractors each time a payment is made to them by HART. The subcontractor will then be required to confirm or contest this information. HART will utilize its web-based Vendor Compliance System to generate the automated emails to prime and subcontractors to carry out these audits of each payment.

In addition, an on-site visit, DBE Participation Documentation Form will be filled out to verify that the DBE is actually performing the work identified on contract documents (Attachment 6).

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

2.10 Fostering Small Business Participation [26.39]

HART will take active, effective steps to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses.)

49 CFR Part 26.39 requires DBE programs to include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

2.10.1 Definition

A small business concern is a firm that does not exceed the size standards of the Small Business Act and Small Business Administration (SBA) regulations implementing it (13 CFR Part 121) and does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26.65(b). Therefore, a small business concern must meet the SBA definition which includes different size standards for the firm’s industry sector and type of work performed, and the firm’s average annual gross receipts over the previous three years cannot exceed $22.41 million in accordance with 49 CFR Part 26.65(b).

A business determines its size by averaging its annual gross receipts over the last three fiscal years. If the firm’s average gross receipts are under the SBA size standard for the firm’s industry sector and particular type of work and under $22.41 million, the business may be considered a small business concern. DBEs certified by the Florida UCP are eligible to participate as a small business concern.

2.10.2 Implementation

HART has incorporated the following race neutral activities into its DBE Program:

- Requiring all HART vendors to certify whether or not they meet the above definition of a small business concern when they register as a vendor with HART.
- Removing unnecessary and unjustified bundling of contract requirements that may preclude SBE participation in procurement as prime contractors or subcontractors;
- Letting prime contracts of a size that small businesses can reasonably compete for and perform.
3. GOALS, GOOD FAITH EFFORTS, AND COUNTING

3.1 Set-asides or Quotas [26.43]

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

3.2 Overall Goals [26.45]

HART will use the two-step methodology for calculating the overall goal in accordance with 49 CFR Part 26.45. Step one is to determine the base figure for the relative availability of DBEs. Step two, HART will examine evidence to determine what adjustment was needed to the base figure in order to arrive at the overall goal. A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program.

In accordance with Section 26.45[f], HART will submit its overall goal to DOT by August 1, every three years. HART may adjust the three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances. HART will submit an adjustment to FTA for review and approval.

HART will, at a minimum, consult with minority and general contractor's groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and HART's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, HART will publish a notice of the proposed overall goal. The notice of the proposed overall goal will, at a minimum, be posted on the HART website. The notice will 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 the public participation process and HART's responses.

HART will begin using the overall goal on October 1, unless HART has received other instructions from DOT.
3.3 Failure to meet Overall Goals [26.47]

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

- Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments and
- Establish specific steps and milestones to correct the problems identified in the analysis.

If HART does not have an approved DBE Program or overall goal, or if HART fails to implement the program in good faith, HART is in noncompliance with its failure and corrective action(s) must be documented. The analysis does not have to be transmitted to FTA. The analysis and corrective action(s) will be retained for three years and will be made available to the FTA upon request.

3.4 Transit Vehicle Manufacturers Goals [26.49]

HART will require each transit vehicle manufacturer (TVM), as a condition of being authorized to submit an offer on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, HART 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.

3.5 Breakout of Estimated Race-Neutral & Race-Conscious Participation [26.51 (a-c)]

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 of this program document. This section of the program will be updated when the goal calculation is updated.

3.6 Contract Goals [26.51 (d-g)]

HART will use contract goals to meet any portion of the overall goal HART 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.

HART will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. HART may 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, etc.].

HART will express a contract goal as a percentage of a total amount of a DOT assisted contract. HART will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided in 2.10 of this document.
3.7 Good Faith Efforts Procedures [26.53]

The obligation of the offeror is to make good faith efforts. The offeror can demonstrate that it has done so by either meeting the contract goal or documenting good faith efforts it took prior to the submission of its bid. Examples of good faith efforts are found in Appendix A of 49 CRF Part 26.

The DBE & Compliance Specialist is responsible for determining whether an offeror, who has not met the contract goal, has documented sufficient good faith efforts to be regarded as responsible.

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

Each solicitation, for which a contract goal has been established, will require the offeror 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;
- The percentage or 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 as provided in the prime contractor's commitment and
- If the contract goal is not met, evidence of good faith efforts.

3.7.1 Administrative Reconsideration [26.53 (d)]

Within 3 days of being informed by HART that the offeror is not responsible because they have not documented sufficient good faith efforts, an offeror may request administrative reconsideration. The offeror should make this request in writing to the following reconsideration official: Ms. Carla Williams, Director of Communications & Business Engagement & DBE Liaison Officer, 1201 East 7th Avenue, Tampa, FL 33605, (813) 384-6596, williamsc@goHART.org. The DBELO will not have played any role in the original determination that the offeror did not document sufficient good faith efforts.

As part of this reconsideration, the 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 offeror will have the opportunity to meet in person with the DBELO to discuss the issue of whether it met the goal or made adequate good faith efforts to do. HART will send the offeror a written decision on reconsideration, explaining the basis for finding that the offeror did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

3.7.2 Good Faith Efforts when a DBE is terminated or substituted on a contract [26.53 (f)]

HART requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without HART's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by 49 CFR Part 26.53(f)(3). of the DBE regulation.
Before transmitting its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice, in writing, to the DBE subcontractor, with a copy to HART, of its intent to request to terminate and/or substitute, and the reason for the request. The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise HART and the contractor of the reason(s), if any, why it objects to the proposed termination and why HART should not approve the prime contractor's action. If required as a matter of public necessity (i.e. safety, etc.), a response period short than five days may be provided. These provisions apply to pre-award deletions or substitutions in negotiated procurements and post award terminations.

In those instances where "good cause" exists to terminate a DBE's contract, HART 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. HART will require the prime contractor to notify the HART Contracting Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, HART will require the prime contractor to obtain prior written 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, HART Contracting Officer will 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 issue a termination for default proceeding.

3.8 Sample Bid Specification [26.53]

The requirements of 49CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of HART 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 has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A 49CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder 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/offerors 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 (6) if the contract goal is not met, evidence of good faith efforts.

When a contract goal is established pursuant to the DBE program, requirements to make good faith efforts are incorporated into the solicitation document to notify bidders/offerors.

HART includes an exhibit entitled “Disadvantaged Business Enterprise Provisions” in all federally assisted contracts. A sample of the exhibit for federally assisted contracts with a DBE goal (including the forms used to collect information) is incorporated into this program as Attachment 8. A sample of the
exhibit for federally assisted contracts without a DBE goal is Attachment 9 of this program.

3.9 Counting DBE Participation [26.55]

HART will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. Only the value of the work actually performed by the DBE will count toward DBE goals. Such value will be counted as follows:

- The entire amount that is performed by the DBE.
- The entire amount of reasonable fees or commissions charged by a DBE firm for providing a bona fide service or for providing bonds or insurance required for the performance of the DOT-assisted contract.
- The value of work subcontracted by a DBE to another DBE is counted toward DBE goals.
- When a DBE performs as part of a joint venture, the portion of the total dollar value of the contract equal to the distinct defined portion of the work of the contract that the DBE performs will be counted.
- Expenditures to a DBE contractor will be counted toward DBE goals only if the DBE is performing a commercially useful function on that contract as set forth in 49 CFR Part 26.55[c] [1-5]. For determining whether a trucking company is performing a commercially useful function, HART will refer to 49 CFR Part 26.55[d] (1-6).
- For establishing whether expenditures for materials or supplies count toward DBE goals, HART will refer to 49 CFR Part 26.55[e].
- A DBE's participation will not be counted toward DBE goals of the prime contractor or HART's overall goal until the DBE is paid.

4. CERTIFICATION STANDARDS [26.61-26.73]

HART is a non-certifying member of the Unified Certification Program [UCP] in the State of Florida. All firms must apply through the UCP to be certified in the State of Florida.

The local certifying agency in the Tampa Bay area is the Hillsborough County Aviation Authority [HCAA] located at the Tampa International Airport. HART will use the DBE directory administered by the Florida Department of Transportation [FDOT] and listed on the UCP website to verify if a firm is DBE certified by the Florida UCP.

The Florida UCP certifies DBEs in accordance to the Federal Regulations. An Annual Meeting of the Florida UCP is scheduled for all members to attend and discuss any issues or needed changes to the UCP Program.

5. CERTIFICATION PROCEDURES [26.81]

HART is a non-certifying member of the Unified Certification Program [UCP] administered by the Florida Department of Transportation Equal Opportunity Office, 605 Suwannee Street, MS 65, Tallahassee, Florida
HART DBE PROGRAM


Any firm or complainant may appeal a Florida UCP decision matter to DOT. Such appeals may be sent to:

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

HART will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for HART’s DOT-assisted contracting.

7. INFORMATION, CONFIDENTIALITY, COOPERATION [26.109]

In responding to requests for information concerning any aspect of the DBE program, HART complies with Chapter 119, Florida Statutes, and applicable Federal, state and local laws. HART will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state and local law.

8. PARAGRAPh NUMBERING

Paragraphs identified above have the relevant 49 CFR Part 26 reference. For example, paragraph 1.1 Objectives is fashioned after 49 CFR Part 26.1.

Effective: July 28, 2016
Revised: July 28, 2016

Benjamin Limmer, Chief Executive Officer
Dated: 9/18/2019
Attachment 2

DBE Directory

The Florida Unified Certification Program

HART is required to participate in the Uniform Certification Program [UCP]. The combined statewide directory, identifying all firms eligible to participate as a certified DBE, may be located at the Florida Department of Transportation website direct link to the DBE directory:

Attachment 3

Monitoring and Enforcement Mechanisms

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

HART 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.

HART will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

HART 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 requiring the Contractor to notify HART of the amount paid to their subcontractors each time a payment is made to them by HART. The subcontractor will then be required to confirm or contest this information. HART will utilize its web-based Vendor Compliance System to generate the automated emails to prime and subcontractors to carry out these audits of each payment.

In addition, an onsite visit form will be filled out, when feasible, to verify that the DBE is actually performing the work identified on contract documents (Attachment 6).

HART will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of HART or DOT. This reporting requirement also extends to any certified DBE subcontractor.
Attachment 4

Documentation of Proposed FY20, FY21 and FY22 DBE Goal and Methodology

Methodology used to calculate overall goal

Step 1: 26.45(c) Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

Federally funded projects anticipated to be awarded in FY20, FY21, and FY22 were identified (with the HART Interim CFO), as well as the anticipated federal dollar amount for each project. The elements of work for each project, the dollar amount for each element of work, Certified DBEs from the UCP Directory and from the 2016 US Census Bureau County Business Pattern, data for the number of non-DBE firms available were entered into the DBE goal-setting Matrix. This was to determine the weight for each element of work (% of total work) by the weighted relative available to determine the DBE goal by work element. Consistent with 49 CFR Part 26.45(c) (1 ), DBE Directory and Census Bureau Business Pattern Data was used to determine DBE and non-DBE availability. The State of Florida was used as the market area of ready, willing and able businesses available.

The base figure for the total overall goal equaled 3.4%.

Step 2: 26.45(d) Adjust the base figure.

After calculating the 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. No additional objective and verifiable data were available that required further adjustments to the goal setting process. Although HART considered the evidence presented in a disparity study conducted by the Tampa International Airport in 2015 it determined that these findings do not match the nature and scale of the anticipated contracts to be issued by HART during the FYFY20-22 DBE cycle. Therefore, the findings in that disparate study were not incorporated in this methodology. Additionally, data on statistical disparities or other evidence on employment, self-employment, education, training, union apprenticeship were not available.

Historical HART DBE data for FY15, FY16, FY17, FY18 and FY19 was shown to have a median of 12.3%. By taking the base figure (3.4%) and adding the median (12.3%), the total calculates to 8%. (12.3%+3.4%=15.70/2=7.85% (rounded up to 8%).

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Step 1 Base Goal</th>
<th>% Dollars to DBE Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>10.8</td>
<td>12.3</td>
</tr>
<tr>
<td>16</td>
<td>108</td>
<td>2.7</td>
</tr>
<tr>
<td>17</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>18</td>
<td>10.8</td>
<td>3</td>
</tr>
<tr>
<td>19</td>
<td>10.8</td>
<td>28.7</td>
</tr>
</tbody>
</table>

HART determined that it's Overall Adjusted Base Figure for FY20, 21, and 22 is 8%.
Attachment 5

Breakout of estimated race conscious and race neutral participation 26.51(c)

The race/gender-neutral and race/gender-conscious division of the goal is an exceedingly important component of the goal setting process. HART must meet the maximum feasible portion of the overall goal by using race/gender neutral means of facilitating DBE participation. HART has carefully projected its ability to achieve the level of race/gender-neutral participation based on past participation.

HART determined the median race/gender-neutral participation as follows:

Utilizing the above figures to determine that the Race Neutral achievement for the past five years was 4.8%.

HART took the median for past participation Race Neutral achievement: (0%;0%;4.8%;9.4%;10.9%) and derived 4.8%. This number is used as evidence supporting projection of 4.8% race/gender-neutral participation.

HART then took its Total Adjusted Goal of 8% and subtracted the race/gender-neutral goal of 4.8% to establish a 3.2% race/conscious goal for FY 20, 21 and 22.

HART will include goals on contracts, where appropriate, until the goal is within reach of attainment. The size of the contract goal will be adapted to the circumstances of each contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

Not all federally funded contracts will have a DBE goal. HART will express a contract goal as a percentage of a total amount of the DOT assisted contract. HART will discontinue using contract goals if the goal is exceeded.

HART will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. HART carries out the following activities designed to increase DBE participation on contracts through race-neutral means, where possible, and ensure that DBEs and SBEs have the equal opportunity to participate in contracts:

• Participate in training seminars and community outreach activities for the purpose of informing potential contractors of available business opportunities for DBEs and SBEs.
• Email procurement advertisements to businesses that have been identified as certified DBEs and SBEs, which are likely to participate on the contract.
• Encourage DBE and SSE attendance at solicitation conferences.
HART DBE PROGRAM

For reporting purposes, race-neutral DBE participation includes, but is not limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

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

Publication Requirement 26.45 (g) (2)

HART published the FY20, FY21 and FY22 proposed goal of 10% on the HART website, http://www.gohart.org, from June 28, 2019 through the month of August 2019. HART also published an ad in LA GACETA and the Florida Sentinel on June 28, 2019, allowing 30 days following the notice for inspection and notifying that HART would accept comments on the goals. (See below) No comments were received and no inspections occurred. The initial, federally funded projects HART believed would be performed changed. The initial projected goal of 10% was found to be higher than the final goal of 8%. The HART 3 year DBE goal changed on July 28, 2019, which was too late to change on the website and newspapers.

Publisher's Affidavit

LA GACETA
PUBLISHED WEEKLY
Tampa, Hillsborough County, Florida

State of Florida
County of Hillsborough,
Before the undersigned authority personally appeared
Patrick Mantelgu

who under oath says he is the Publisher of La Gaceta, a weekly newspaper published in Tampa, Hillsborough County, Florida, that the attached copy of

PUBLIC NOTICE

in the matter of

DISADVANTAGED BUSINESS ENTERPRISE (DBE)
FY20, FY21, FY22 GOAL

In the Thirteenth Judicial Circuit Court, was
published in said newspaper in the issues of 06/28/2019

Affiant further says that the said La Gaceta is a newspaper published in Tampa, in said Hillsborough County, Florida, that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each week and has been entered as second class mailing matter at the post office in Tampa, in said Hillsborough County, Florida, for a period of one year preceding the first publication of the attached copy of advertisement, and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

personally known sworn to and subscribed before me
on this 28TH day of JUNE, A.D. 2019

[Signature]

[Seal]

EFFECTIVE: 01/1/2019

Consolidated 01-262000
Effective March 30, 2019
Issued This Pay Plan Insurance 000-000-0010

23
June Birthday Celebrants

Happy Birthday to past and present Villagers celebrating this month: Stanley Williams and James Lott, 6/19; and Honea Daniels and Richard Barry, 6/26.

Happy belated birthday to Jerome Green, who celebrated his 85th birthday on 6/20, and Kevin Anderson who celebrated his 65th on 6/27.

July Birthday Celebrants

Shelly Galvans, 7/4; Bruce Bachtell, Mary Ingam and Ronnie Vans, 7/5; Victoria Brown, 7/6; Angela Rivero-Williams, 7/7; Crystal Ball-Sanders, 7/8; Michael Allen, 7/9; Jeff Key and Janice Reese, Jr., 7/10; Jackie Davis-Mix, 7/12; Ronald Brooks and Erica Burnz, 7/13; Harrell Williams, 7/16; Wanda Key and Gloria Burnz, 7/16; Jeff Key and Janice Reese, Jr., 7/18; Keith Hernandez, 7/20; and Gloria Hall, 7/22.

Sick And Dist-lins

We’re lifting up our fellow Villagers and friends in prayer: Mary Heikey, Marlon Washington, Olivia Darby, Kayla Flowers, Turner, Geawanda Small, Hillie Kemp Jr., Harold Williams, Robert Leak, Sr., Floris Jones, Cleonie McCray, Eulochie Griffis, Thelma Singleton, Lee- cille Beck, Katherine Clark, Arthia Scott, Nana Small, Rudolph Tolbert, Lillian Tolbert, James Reese, Jr., and Ira Dean Biggs.

Expressions Of Sympathy

Our prayers and condolences to the families of the Progress Village Community who have lost family members these past weeks. Please lift up the LaTetta, Caldwell and Flowers families in their celebration of the homegoing of Cheryl Caldwell-Latson.

Also, to Stanley-Jones Williams and family in the passing of his father, Raymond James, Jr., who passed on 6/17; the Green family on the passing of Allen Green on 6/24; prayers to the Harris/Pear- relli family as they celebrate the love and memories of Mrs. Irene Ferehill-Sta-

Bible and to Willie Thomas and family in the homegoing of his brother, Bernard “Bishop Bill Winkle” Thomas.

Earth has no sorrow that Heaven cannot heal.

Family Fun Day

Family Fun Day is Saturday, July 6, at Larry Sanders Sports Complex, 2855 S. 78th St. The fun begins at 11 a.m., and continues until 3 p.m. There will be Free Food, Variety House and other fun activities, plus prize giveaways.

For more info contact:_Toalosare@gmail.com

Save The Date

As Old School Dance Party; re micement of the big Park Dance back in the day (Audiotoy Only), will be held on Saturday, July 26th, at the Samuel P. Johnson Gym, 2855 S. 78th St. A small donation is asked.

Progress Village Civic Council News

A Special Community Meeting will be held on Monday, July 22nd, 2019 at 7 p.m., at Samuel P. Johnson Community Center, 2855 S. 78th St.

Call your news for Progress Village and surrounding areas to Linda Washington, (202) 741-3624.

Independence Day Holiday - Thursday July 4th

All Library locations will be closed.

Who Was Madame Fortune Taylor Monday, July 21, 2019 at 10 A.M. - 5 P.M.

African American Historical Marker.

For more info: contact: Toalosare@gmail.com

Galaxy Art Bazaar - (Registration Required)

Friday, July 19, 2019 at 4 P.M. - 9 P.M.

African American Historical Marker.

For more info: contact: Toalosare@gmail.com

Learn how to turn an old t-shirt into an wearable work of art, using simple bleaching techniques. Participants will be required to bring a t-shirt to be decorated.

Annual Youth Baking Contest (registration required) - Saturday, July 20, 2019 at 10 A.M. - 5 P.M.

Community Room C1 and D1

Your favorite dessert could make you a winner in the Annual Youth Baking Contest Prize! Special prizes for the Most Unusual, Best Tasting and Best Library Theme. Contest rules and permission slips available at the Library starting June 30. Registration required. Limited to 50 participants. Each participant must register separately. Entry Drop Off: 10 a.m. - 1 p.m. Awards and Tasting Party: 5:30 p.m.

Movies @ The Library:

-Pacific Rim: Uprising - rated PG-12 - Friday, July 12, 2019 at 7:30 P.M.

-John F. Kennedy Auditorium

-College Readiness Workshop For High School Students - Saturday, July 13, 2019 at 3:00 P.M.

-Diegetics: A Wrinkle in Time - rated PG-12 - Saturday, July 13, 2019 at 3:00 P.M.

-Diegetics: Town & Country Two Room - WALL-E - rated G - Wednesday, July 17, 2019 at 7:30 P.M.

-Community Room B8

We will offer assistance to any high school student in ways to research potential colleges, scholarships and funding sources and how to

Hillsborough Transit Authority (HART)

Disadvantaged Business Enterprise (DBE) FY20, FY21, FY22 Goal

HART received USDOT funds with dis-advantaged business enterprises (DBE) funds. HART is committed to increasing DBE participation in projects. HART will make a commitment to the goals set forth in the DBE program. HART will achieve these goals through the utilization of DBE in the construction projects. HART will ensure DBE participation in construction projects.
Attachment 6

HART DBE Program

Project: _______________________________ Contract/Task Order Number: ________

Prime Contractor Company: ______________________________________________________

Prime Contractor PM: ___________________________________________________________

Name of DBE Company on the job: ________________________________________________

Date & Time Observed: ______________ Location Observed: _________________________

Name of DBE Employee Interviewed: __________________________ # of Employees on site:

Identification of DBE Employee Matches: Yes _____ No _____ Unable to Determine ______

What was the DBE’s begin date? _________________________________________________

What date does the DBE anticipate completion of their portion of the work? __________

What work is the DBE employee doing? ___________________________________________

Has the DBE subcontracted to other companies Yes _____ No ______

List, with contact info: _________________________________________________________

Do uniforms have DBE’s company name? Yes _____ No ______

Is the DBE’s name painted or a permanent decal installed on equipment? Yes _____ No ______

Appears to be the DBE’s equipment? Yes ___ No __________

DBE appears to supervise/control their work? Yes ___ No __________

Observations and/or comments by the HART Employee: ____________________________

Signature of the DBE employee interviewed: ___________________________ Date: ________

Signature of HART Employee verifying the DBE: __________________________ Date: ________

HART Observer’s Name (Print): _____________________________________________

Submit to DBE & Compliance Specialist

______________________________

DBE Specialist Review Payments

DBE Specialist uploads to Vendor Compliance System

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Attachment 7

Forms 1 & 2 for Demonstration of Good Faith Efforts

HART includes an exhibit entitled "Disadvantaged Business Enterprise Provisions" in all federally-assisted contracts. A sample of the exhibit for federally assisted contracts with a DBE goal is incorporated into this program as Attachment 8.

Form 1: DBE Utilization

The "Attachment 2 to Exhibit G: DBE Utilization - Summary of Subcontractor(s)/Sub-consultant(s)/Supplier(s)" form is included within Attachment 8 of this program.

Form 2: Letter of Intent

The "Attachment 1 to Exhibit G: DBE Intent to Perform as a DBE Subcontractor for a Contract Award" form is included within Attachment 8 of this program.
1. Definitions and Interpretations

The Authority will utilize the following definitions to identify Disadvantaged Business Enterprise (DBE) Program eligibility standards. The following definitions and any other definitions related to the DBE program have the same meaning as defined in 49 CFR Part 26.

(a) "Disadvantaged Business Enterprise" or "DBE" means a for profit small business concern: (1) which is at least 51% owned by one or more socially or economically disadvantaged individuals, or in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(b) "Small Business Concern" means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in section 26.65(b).

(c) "Socially and Economically Disadvantaged Individual" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and includes any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese cultures or origin, regardless of race;

(3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands, Republic of Palau, the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
(5) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;

(6) Non-minority American Women;

(7) "Tribally-owned concern" means any concern at least 51 percent owned by an Indian tribe;

(8) "Any individual groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA) at such times as the SBA designation becomes effective; and

(9) Any individual who the Authority finds to be socially and economically disadvantaged on a case-by-case basis.

(d) "DOT" means the U.S. Department of Transportation including the Federal Transit Administration (FTA).

(e) "Good Faith Efforts" means efforts to achieve a DBE goal or other requirement that, by their scope, intensity and appropriateness to the objective, can reasonably be expected to fulfill the DBE program requirement.

2. Banks and Financial Institutions

The Contractor is encouraged to utilize the services of disadvantaged, minority and woman-owned banks and financial institutions. The identity of such banks is available at https://www.federalreserve.gov/supervisionreg/minority-depository-institutions.htm and Bureau of the Fiscal Service >Minority Bank Deposit Program >

3. Certification and Directory of DBEs

(a) All prospective DBEs must be certified through the Florida Unified Certification Program (UCP). The UCP provides "one-stop shopping" to applicants for DBE certification, such that an applicant need apply only once for a DBE certification that will be honored by all UCP members in Florida. HART is a member of the Florida UCP.

(b) The DBE firm will be verified as a certified DB through the Florida UCP Directory. The UCP maintains an electronic DBE directory of all firms certified in Florida. The directory is located at https://idotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx

(c) The eligibility of a DBE certified joint venture will be determined on a project-by-project basis by HART.

(d) Offerors are reminded that only certified DBEs may participate in Authority contracts in such capacities. If Offerors propose using a DBE not currently certified, it is strongly urged that HCAA be contacted well in advance of the date set for receipt of offers in order to enable review of the proposed DBE's eligibility.

4. Credit Toward Goals

The Authority will count DBE participation toward the overall and contract goals as provided in 49 CFR 26.55. In addition, if the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals; do not count 100 percent of the cost.

5. QBE Modifications or Substitutions

This Provision applies to all modifications and substitutions under this Contract. The Contractor will be required to comply with this Provision to the extent needed to achieve the DBE goals agreed to at the time of contract award.

(a) If a prime contractor wishes to terminate or substitute a DBE subcontractor listed as fulfilling its contract goal, and then performs the work of the terminated DBE subcontractor with its own forces, an affiliate, a non-DBE subcontractor or with another DBE subcontractor, it must submit written documentation prior to the termination or substitution of the DBE subcontractor to the Contracting Officer. This will include any changes to items of work, material, services, or DBE firms that differ from those identified on the Intent to perform as a DBE Subcontractor form(s) on file with the Contracting Officer. The Offeror/Contractor must provide any and all documentation and information as may be requested with respect to the requested change.
(b) The Offerer's/Contractor's documentation shall include the specific reasons for the proposed change. Specific reasons that are acceptable include, but are not limited to: the DBE was not able to perform; the DBE was unable to produce acceptable work; and/or the DBE has submitted an unreasonable escalation in price. In the case of a DBE subcontractor being substituted by another DBE subcontractor, the Contractor should include the name, address, certification number and principal office of the proposed DBE firm. After providing an opportunity to the DBE Liaison to make a recommendation, the Contracting Officer will approve or disapprove the change.

(c) If the change involves a subcontractor substitution, the Offerer/Contractor must make good faith effort to replace one DBE with another DBE. The substitute DBE firm must be certified by the Florida UCP in order for the Offerer/Contractor to receive credit toward fulfilling its DBE participation goal for the contract. In the event that the Offerer/Contractor is unable to contract with another DBE firm, good faith effort documentation must be provided to the Contracting Officer describing the unsuccessful attempts to locate a substitute DBE. In all situations, the Contractor may not terminate or substitute a DBE subcontractor without the prior written consent of the Contracting Officer.

(d) The Offerer/Contractor must submit a new Intent to Perform as a DBE Subcontractor form for the substitute DBE firm(s) with the request for change, to verify that the new DBE firm(s) is certified by the Florida UCP. The Contracting Officer shall notify the Offerer/Contractor in writing of his decision as expeditiously as possible. If the contract has been awarded and the Contracting Officer approves the proposed substitution in writing, the Contractor shall provide a copy of the executed subcontract agreement with the proposed DBE firm to the Contracting Officer within ten (10) business days of its receipt of the substitution approval.

(e) If the change involves a modification, the Contractor must submit, if applicable, the Intent to Perform as a DBE Subcontractor form specified for contract modifications for any DBE subcontractor affected by this change. This form may be obtained from the Contracting Officer.

(f) If the Contractor does not comply with this Provision, the Authority may elect to apply contract remedies as defined in 49 CFR Part 26, or other contract remedies, as appropriate. Additionally, the Contracting Officer may order that the profits from the terminated portion of the DBE subcontract be forfeited by the Contractor.

6. Demonstration of Good Faith Effort

(a) If an Offerer does not meet the DBE goal, it shall nevertheless be eligible for award of the contract if it can demonstrate to the Contracting Officer that it has made a good faith effort to meet the DBE goal. This good faith efforts documentation should be submitted when the initial response to the Authority's solicitation is due. All contractors, including DBE prime contractors, are required to submit good faith efforts documentation, if necessary. In evaluating an Offerer's good faith effort submission, the Authority will only consider those documented efforts that occurred prior to the good faith efforts determination.

(b) In the event that a firm submitted by an Offerer in accordance with the requirements of the Submission of DBE Utilization Forms and Related Documentation provision cannot be certified, the Offerer will be notified and given an opportunity to substitute that firm with a certified DBE firm. The Offerer will have ten (10) calendar days from the date of notification to accomplish the substitution. In the event the Offerer is unable to contract with another substitute DBE firm, the good faith efforts that the Offerer made in attempting to contract with a substitute DBE firm must be documented to the Contracting Officer at the end of the same ten (10) calendar day period.

(c) In making a determination that the Offerer has made a good faith effort to meet the DBE goal, the Offerer shall furnish to the Authority, as part of its DBE utilization information provided under the Submission of DBE Utilization Forms and Related Documentation provision, such specific documentation concerning the steps it has taken to obtain DBE participation. By way of illustration and not limitation, the Authority will consider the following information:

1. Whether the Offerer attended any pre-bid or pre-proposal meetings scheduled by the Authority to discuss, among other matters, DBE participation opportunities and acknowledged receipt of DBE certified vendor lists;

2. Whether the Offerer advertised in general circulation, trade association, and/or minority/women-focus media concerning subcontracting opportunities;

3. Whether the Offerer provided written notice to a reasonable number of DBEs that their interest in the contract was being solicited in sufficient time to allow DBEs to participate effectively;
whether the Offeror followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested.

(5) Whether the Offeror selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down the contract into economically feasible subcontracts to facilitate DBE participation);

(6) Whether the Offeror provided interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the contract;

(7) Whether the Offeror negotiated in good faith with interested DBEs regarding their capabilities, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation;

(8) Whether the Offeror negotiated in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBE firms;

(9) Whether the Offeror made efforts to assist interested DBEs in obtaining bonding, lines of credit, insurance, etc., as required by the Authority or the Offeror;

(10) Whether the Offeror made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;

(11) Whether the Offeror effectively used the services of available minority and women community organizations; contractor groups; local, state, and Federal business assistance offices; and other organizations that provide assistance in the identification of DBEs;

(12) Whether the Offeror obtained written documentation from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the DBE being rejected as a potential subcontractor for failing to obtain Offeror-required bonding. Documentation furnished by a surety company will be subject to verification by the Authority; and

(13) Whether other Offerers have attained a sufficient level of DBE participation to meet the contract goals.

(d) The Authority will look not only at the different kinds of efforts that the Offerer has made, but also the quantity and intensity of those efforts. Efforts that are merely pro forma are not good faith efforts to meet the goal (even if they are sincerely motivated) if, given all relevant circumstances, the Offerer’s efforts could not reasonably be expected to produce a level of DBE participation sufficient to meet the goal.

(e) Offerers are reminded that the issue of whether or not the Offerer has met or exceeded the established goal and/or demonstrated good faith efforts is considered a matter of the Offerer’s responsibility. The Authority will only award contracts to Offerers determined to be responsible. The Contracting Officer, after affording the Authority’s DBE personnel an opportunity to make a recommendation, shall be responsible for determining the sufficiency of an Offerer’s good faith effort to meet contract goals.

(f) An Offerer that the Contracting Officer determines is not responsible may request administrative review and reconsideration under the Authority’s Procurement Regulations. As part of any reconsideration, if requested, the Offerer may elect to meet in person with the Reconsideration Official (Chief of Administration) to discuss credit toward meeting the DBE goal or whether the Offerer made adequate good faith efforts.

7. Offeror’s DBE Obligation

The Offeror’s DBE Obligation is outlined in an Exhibit C provision entitled Disadvantaged Business Enterprise (DBE) Participation, and the provision entitled Non-Discrimination Assurance found in Exhibit E of this Contract.

The requirements of 49CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of HART 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/offerers, including those who qualify as a DBE. A DBE contract goal of has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.
The bidder 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/offerer'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 (6) if the contract goal is not met, evidence of good faith efforts.

8. Prompt Payment Documentation and Reporting

The Contractor agrees to pay each subcontractor under the prime contract for satisfactory performance of its contract no later than 10 calendar days from receipt of each payment the prime contractor receives from HART. The prime contractor must agree further to return retainage payments to each subcontractor within 10 calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval of HART. This language applies to both DBE and non-DBE subcontracts. Failure to satisfy prompt payment to subcontractors no later than 10 calendar days from the receipt of payment from HART may constitute a breach of contract and may result in termination of the Contractor for default or such remedy as the Authority may deem appropriate.

The Contractor and any subcontractors shall report and verify prompt payment through the Authority's Vendor Compliance System. The Contractor and all subcontractors are responsible for responding by any noted response date or due date to any instructions or request for information, and to check the Vendor Compliance System on a regular basis to manage contract information and contract records.

As provided elsewhere in this Contract, the Authority may withhold all or part of any payment otherwise due the Contractor if the Contractor fails to respond to the Authority by noted response dates and/or make prompt payments to its subcontractors, suppliers, materialmen or laborers.


Failure of the Contractor to carry out the Authority's DBE program provisions shall constitute a breach of contract and may result in termination of the Contractor for default or such remedy as the Authority may deem appropriate. The Authority reserves the right to apply legal and contract remedies available under Federal, state and local law, including but not limited to, responsibility determinations in future contracts, suspension and debarment procedures as outlined in 49 CFR Part 29, and forfeiture of profits as provided for elsewhere. The Authority 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 steps provided in 49 CFR Section 26.107.

10. Submission of Subcontractor Utilization Forms and Related Documentation

(a) Each Offerer should submit to the Authority an executed Intent to Perform As a DBE Subcontractor form (Attachment 1) for each proposed subcontractor when the initial response to the Authority's solicitation is due. Good faith documentation (if necessary) should also be submitted at this time. The submission of this information is considered an issue of responsibility, and the Authority will not award a contract to any Offerer who has not supplied this documentation.

(b) The Intent to Perform As a DBE Subcontractor form for each proposed subcontractor shall constitute a representation by the Offerer to the Authority that it believes such firm is ready, willing, and able to perform the work indicated. It shall also represent a commitment by the Offerer that if it is awarded the contract, it will enter into a subcontract with such subcontractor for the work described at the approximate price set forth in the Intent to Perform as a DBE Subcontractor form.

(c) If the DBE Subcontractor participation changes after the forms have been submitted, but prior to award of the contract, the Offerer will be required to immediately notify the Contracting Officer of the changed amount and the reason(s) for the change. The modification and substitutions of DBE firms that occur shall be governed by DBE Modification or Substitutions provision of this Exhibit.

(d) Except as authorized by the Contracting Officer, the successful Offerer shall enter into formal agreements with the subcontracting firms shown in the submitted Intent to Perform As A DBE Subcontractor form(s) within ten (10) business days after receipt of a contract executed by the Authority. The successful Offeror (Contractor) shall provide the Contracting Officer two copies of each agreement within three (3) business days of execution.
If an Offeror is a DBE and lists itself on the Intent to Perform As A DBE Subcontractor form, it is required to perform the work indicated with its own work force.

11. Vendor Compliance System

The Authority's Vendor Compliance System is web-based and can be accessed at the following internet address:
https://gohart.dbecompliance.com

The Contractor and any subcontractors shall provide any noted and/or requested contract compliance-related information electronically in the Authority's Vendor Compliance System. The Contractor and all subcontractors are responsible for responding by any noted response date or due date to any instructions or request for information, and to check the Vendor Compliance System on a regular basis to manage contract information and contract records. The prime contractor is responsible for ensuring all subcontractors have completed all requested items and that their contract information is up to date.
HART DBE PROGRAM
HILLSBORO EAST TRANSIT AUTHORITY (HART)
TAMPA, FLORIDA

ATTACHMENT 1 TO EXHIBIT G
(INTENT TO PERFORM AS A DBE SUBCONTRACTOR FOR A CONTRACT AWARD)

All DBE subcontracting firms to be used on this solicitation must fill out this form.

DBE firms participating in HART's contracting opportunities must have "current" certification status with Florida's Unified Certification Program (UCP) prior to award of this contract. If HART determines that the firm is not an eligible DBE firm for HART contracts and subcontracts, the prime contractor will be notified of the ineligibility of the listed firm. The submission of this form is considered an issue of responsibility and HART will not award a contract to any Offeror who has not supplied this documentation.

1. HART Solicitation#: ____________________________
2. Name of DBE Subcontracting Firm ____________________________
3. Has the DBE subcontractor been certified as a DBE by a Florida UCP agency? ____________________________
4. The DBE subcontractor is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both):

   and at the following price $ ____________________________. (If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals).

BY: _____________________________________________ DATE: __/__/____

(Signature of DBE subcontracting Owner, President or Authorized Agent)

(Print or Type Name of Signature of Owner, President or Authorized Agent of DBE subcontracting firm)

DECLARATION OF PRIME CONTRACTOR

I HEREBY DECLARE AND AFFIRM that I am ____________________________

And a duly authorized representative of ____________________________

(to Name of Prime Contractor)

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Perform As A DBE subcontractor form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the subcontracting firm signed this form in the place indicated, and no material facts have been omitted.

Except as authorized by the Contracting Officer, the undersigned will enter into a formal agreement with the listed DBE subcontracting firm for work as indicated by this form within ten (10) business days after receipt of the contract executed by the Hillsborough Area Regional Transit Authority. The undersigned will provide the Contracting Officer a copy of that agreement within three (3) business days of execution.

The Prime contractor designated the following person as their DBE Liaison Officer:

(________________________) (________________________)

(Name-Please Print) (Phone)

Pursuant to 49 CFR Section 26.107, any person [entity] who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes and may be referred to the Department of Transportation, and possibly the Department of Justice, for prosecution.

Name of Declarant ____________________________

Signature: ____________________________________ (Date)
**HART DBE PROGRAM**

**BELLEAIR BEACH TRANSIT AUTHORITY (HART)**

**ATTACHMENT 2 TO EXHIBIT G**

**(SUBCONTRACTOR UTILIZATION - SUMMARY OF SUBCONTRACTOR(S)/SUBCONSULTANT(S)/SUPPLIER(S))**

Offerors should provide information on file of their prospective subcontractor(s)/subconsultant(s)/supplier(s) who will participate in this solicitation. Use additional sheets as necessary.

**Project Name:**

**HART Solicitation #**

<table>
<thead>
<tr>
<th>NAME:</th>
<th>TYPE OF WORK TO BE PERFORMED</th>
<th>ETHNICITY &amp; GENDER OF OWNER</th>
<th>PREVIOUS YEAR'S ANNUAL GROSS RECEIPTS</th>
<th>$AMOUNT ON CONTRACT</th>
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<td>CONTACT PERSON:</td>
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The undersigned bidder/offerer has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

- The bidder/offerer is committed to a minimum of ________% DBE utilization on this contract.

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

Name of bidder/offeror's firm: ________________________________

Print Name/Title of Person completing this form:

Signature: ___________________________________________ Date: __________

Email: ___________________________________________ Phone: ____________________

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HART's FY17, FY18, FY19 DBE Goal is 10%. For assistance or with questions concerning the provisions in this Exhibit ONLY, contact Renee Pratt-Cocroft, DBE & Compliance Specialist at (813) 384-6626.

1. DBE Goal

A DBE Goal has not been assigned to this particular contract; however, HART encourages Offerors to provide contract opportunities to DBEs.

The Offeror's summary of subcontractor utilization (Attachment 1) is to be submitted when the initial response to the Authority's solicitation is due, as described in #4 below.

2. Banks and Financial Institutions

The Contractor is encouraged to utilize the services of disadvantaged, minority and woman-owned banks and financial institutions. The identity of such banks is available at [https://www.federalreserve.gov/supervisionreg/minority-depository-institutions.htm](https://www.federalreserve.gov/supervisionreg/minority-depository-institutions.htm).

3. Directory of DBE's

Unified Certification Program (UCP) maintains an electronic DBE directory of all firms certified in Florida. The directory is located at [http://www3.dot.state.fl.us/Equityopportunityoffice/Directory/CustomSearch.aspx](http://www3.dot.state.fl.us/Equityopportunityoffice/Directory/CustomSearch.aspx). The local certifying UCP agency is the Hillsborough County Aviation Authority (HCAA) located at the Tampa International Airport. Appropriate forms to apply for DBE certification are available at [https://www.tampaairport.com/program-directories-and-certifications](https://www.tampaairport.com/program-directories-and-certifications). The Contractor is also encouraged to utilize the Authority's Vendor Registry to search for vendors that have registered to do business with HART.

4. Submission of Subcontractor Utilization Forms and Related Documentation

All Offerors shall submit the Subcontractor Utilization form (Attachment 1 to Exhibit G) when the initial response to the Authority's solicitation is due. The Offeror shall indicate the names of any subcontractor(s), subconsultant(s) or supplier(s) to be used in this contract (DBE-certified or non DBE-certified firms), or indicate that no portion is intended to be subcontracted.

The Contractor must provide a copy of each subcontract agreement to the Contracts Specialist for this solicitation within three (3) business days of execution and must notify the HART Contract Specialist for any change in subcontractor utilization. HART encourages Contractors to bring copies of subcontracts to kick-off meetings.

The subcontractor will report payments to subcontractors, subconsultants or suppliers by using the Vendor Compliance System (See #5 below) or by requesting from the HART Contracts Specialist a reporting form that must accompany the Contractor's invoice submittals.

5. Vendor Compliance System

The Authority's Vendor Compliance System is web-based and can be accessed at the following internet address: [https://gohart.diversitycompliance.com/](https://gohart.diversitycompliance.com/)

The Contractor and any subcontractors shall provide any noted and/or requested contract compliance-related information electronically in the Authority's Vendor Compliance System. The Contractor and all subcontractors are responsible for responding by any noted response date or due date to any instructions or request for information, and to check the Vendor Compliance System on a regular basis to manage contract information and contract records. The prime contractor is responsible for ensuring all subcontractors have completed all requested items and that their contract information is up to date. The Contractor and any subcontractors, subconsultants or suppliers are required to self-report and verify prompt payment through the Authority's Vendor Compliance System.
ATTACHMENT 1 TO EXHIBIT G
(SUMMARY OF SUBCONTRACTOR(S)/SUBCONSULTANT(S)/SUPPLIER(S))

Offerers should provide information on all of their prospective subcontractor(s)/subconsultant(s)/supplier(s) who will participate on this solicitation. Use additional sheets as necessary.

**Project Name:** HART Solicitation

<table>
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<tr>
<th>NAMES AND ADDRESSES OF SUBCONTRACTOR(S)/SUBCONSULTANT(S)</th>
<th>TYPE OF WORK TO BE PERFORMED</th>
<th>ETHNICITY &amp; GENDER OF OWNER</th>
<th>PREVIOUS YEAR'S ANNUAL GROSS RECEIPTS</th>
<th>$ AMOUNT ON CONTRACT</th>
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<td>More Than $5M</td>
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<td>Other</td>
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The offeror does not intend to subcontract on this contract.

**Name of bidder/offeror's firm:**

**Print Name/Title of Person completing this form:**

**Signature:** ___________________________ **Date:** __________

**Email:** ___________________________ **Phone:** ___________________________
Attachment 10

Regulation: 49 CFR Part 26

49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs can be located at the following link:
http://www.transit.dot.gov/grants