



Disadvantaged Business Enterprise Program

June 22, 2020 (Draft for Review)

Disadvantaged Business Enterprise Program

June 22, 2020

Move People & Goods. Create Jobs.
Strengthen Communities.

Our Mission: To collaboratively plan, prioritize, and fund the delivery of diverse transportation options.

Our Vision: Our work will have measurable positive impact by ensuring transportation projects are well selected, funded, and delivered.

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Policy Statement

Objectives/Policy Statement (§26.1, §26.23)

The Broward Metropolitan Planning Organization (MPO) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the Federal Transit Administration (FTA), 49 CFR, Part 26. The Broward MPO has received Federal financial assistance from FTA and, as a condition of receiving this assistance, has signed an assurance that it will comply with 49 CFR, Part 26. This requirement most recently was reinstated by Congress in the Fixing America's Surface Transportation (FAST) Act, Public Law 114-94.

It is the policy of the Broward MPO to ensure that DBEs as defined in Part 26 have an equal opportunity to receive and participate in FTA-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of FTA-assisted contracts.
2. To create a level playing field on which DBEs and small businesses can compete fairly for FTA-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 and small businesses in FTA-assisted contracts.
6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by the Broward MPO.
7. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Erica Lychak, Broward MPO's Communications & Outreach Senior Manager and Title VI/DBE Coordinator, has been delegated as the DBE Liaison Officer (DBELO). The DBELO is responsible for implementing all aspects of the DBE program. Other Broward MPO staff will assist the DBELO, as needed, with DBE requirements and compliance. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Broward MPO in its financial assistance agreements with FTA.

The Broward MPO has disseminated this policy statement to the Broward MPO Board and all components of our organization. The Broward MPO has published and distributed notice of this document and the DBE goal in general circulation publications and on the Broward MPO website.

Gregory Stuart
Executive Director

Date

Subpart A—General Requirements

Objectives (§26.1)

The eight objectives of the Broward MPO's DBE Program are found in the policy statement at the beginning of this document.

Applicability (§26.3)

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

This DBE Program is also applicable to all Broward MPO sub-recipients. Broward MPO sub-recipients are not anticipated to have any contracting opportunities between fiscal years (FYs) 2021 and 2023 using US Department of Transportation (DOT)-assisted funding that would impact this DBE Program or the corresponding goal applicable during this period. Sub-recipients are required to sign annual certifications and assurances confirming their compliance with Broward MPO and Federal, State, and local regulations, as appropriate.

Definitions of Terms (§26.5)

The Broward MPO will adopt the definitions contained in 49 CFR, §26.5 for this program.

Nondiscrimination Requirements (§26.7)

The Broward MPO 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 its DBE program, the Broward MPO 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 (§26.11)

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

The Broward MPO will report DBE participation to FTA using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to Part 26.

Bidders List (§26.11(c))

The Broward MPO has created and maintains a bidders list consisting of information about all DBE and non-DBE firms that bid or quote on its contracting opportunities. The bidders list will include names, addresses, and DBE/non-DBE status. The Broward MPO will collect this information by requiring prime bidders to report the names, addresses, and possibly other information of DBE subcontractors to the Broward MPO prior to the time of bid opening or finalization of a contract agreement. For non-formal bids, such information will be required on the quotation.

Record Keeping (§26.11(d))

The Broward MPO will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Broward MPO or FTA. This reporting requirement also extends to any certified DBE subcontractor.

The Broward MPO will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

The Broward MPO will keep a running tally of actual payments to DBE firms for work committed to them at the time of the contract award. The Broward MPO will perform interim reviews of contract payments to DBEs and will monitor payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting (§26.11(e))

FDOT will report to the USDOT's Office of Civil Rights, by January 1st of each year, the percentage and location in the state of certified DBE firms in the Unified Certification Program (UCP) Directory controlled by the following:

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

Federal Financial Assistance Agreement (§26.13)

The Broward MPO has signed the following assurance, applicable to all FTA-assisted contracts and their administration. When the Broward MPO has sub-recipients, this language will appear in financial assistance agreements with such sub-recipients and will require their signature.

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

The following language will appear in financial assistance agreements with sub-recipients:

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

26.13(b) Contract Assurance

The Broward MPO will ensure that the following clause is placed in every FTA-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 FTA-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- 1. Withholding monthly progress payments;*
- 2. Assessing sanctions;*
- 3. Liquidated damages; and/or*
- 4. Disqualifying the contractor from future bidding as non-responsible.*

Subpart B—Administrative Requirements

DBE Program Updates (\$26.21)

The Broward MPO will continue to carry out this program until all funds from FTA financial assistance have been expended. The Broward MPO will provide to FTA updates representing significant changes in the program.

DBE Liaison Officer (\$26.25)

The Broward MPO has designated the following individual as the DBELO:

Erica Lychak
Communications & Outreach Senior Manager, Title VI/DBE Coordinator
Broward MPO
100 West Cypress Creek Road, 6th Floor, Suite 650
Fort Lauderdale, FL 33309
(954) 876-0033
lychake@browardmpo.org

The DBELO is responsible for developing, implementing, and monitoring the DBE program in coordination with other appropriate officials. To assist in the administration of the program, the DBELO has access to Broward MPO staff for support, as necessary. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FTA.
2. Reviews third-party contracts and purchase requisitions for compliance with this program.
3. Sets overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment, as appropriate) and identifies ways to improve progress.
6. Analyzes the Broward MPO's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings, as appropriate.
8. Advises the Broward MPO Board on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids and obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Acts as a liaison to the State of Florida UCP, as necessary.

12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the Broward MPO's updated directory on certified DBEs.

An organization chart displaying the DBELO's position in the organization is provided in Attachment 1.

DBE Financial Institutions (§26.27)

It is the policy of the Broward MPO 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 FTA-assisted contracts to make use of these institutions. The Broward MPO has reviewed FDOT's DBE Directory and has determined there are no listings for financial institutions owned and controlled by socially and economically disadvantaged individuals. The Broward MPO will reevaluate every twelve (12) months whether DBE financial institutions are available.

Prompt Payment Mechanisms (§26.29)

26.29(a) Prompt Payment (§26.29(a))

The Broward MPO will include the following clause in each FTA-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from The Broward MPO. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Broward MPO. This clause applies to both DBE and non-DBE subcontracts.

Retainage (§26.29(b))

The Broward MPO does not collect retainage payments.

Satisfactory Completion (§26.29(c))

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

26.29(d) Monitoring and Enforcement

The Broward MPO will require in all FTA-funded contracts language that allows it to monitor and enforce that prompt payment is, in fact, occurring on any contract that involves sub-contracting. Previous payment and disbursement forms required for payment are included in Attachment 2. Any delay or postponement of payment among the parties may take place only for good cause with prior written approval by the Broward MPO. The following mechanisms are to be used in all USDOT-funded contracts to ensure prompt payment:

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

The Broward MPO will bring to the attention of FTA any false, fraudulent, or dishonest conduct in connection with the program, so that FTA 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 Section 26.109. The Broward MPO will also consider similar action under State legal authorities, including responsibility determinations in future contracts, removal of firms from the prequalified bidder and consultant lists, or revocation of DBE certification if applicable, pursuant to Section 337.105, 337.16, and 339.0805, F.S.

Directory (§26.31)

The Broward MPO uses the FDOT DBE directory, which is available on-line at <http://www.dot.state.fl.us/equalopportunityoffice/eoc.shtm>.

FDOT's website provides a list of UCP agencies that provide certification services and non-certification services in Florida, which includes the Broward County Office of Economic and Small Business Development, at <http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20CERTIFYING%20ADDRESSES%200516.pdf>.

The Broward MPO website provides a link to the State of Florida UCP Directory on its Title VI/DBE webpage under the "Working with MPO" section of the MPO's website at <https://osd.dms.myflorida.com/directories>.

Overconcentration (§26.33)

The Broward MPO has not identified that overconcentration exists in the types of work that DBEs perform. The Broward MPO will continue to monitor DBE participation and

usage and will use appropriate measures designed to assist DBEs if any overconcentration areas are identified.

Business Development Programs (§26.35)

The Broward MPO fosters mentoring/business development for DBEs and small businesses through the following activities:

- Regularly displaying the Transportation Improvement Program (TIP) interactive tool at various outreach events. Broward MPO staff attend and staff a table at small business events, such as Chambers of Commerce meetings and Conference of Minority Transportation Officials (COMTO) events, to promote the TIP as a business development tool.
- Participating in annual workshops for the Minority Institutes of Higher Education (MIHE) to provide the opportunity for Broward MPO staff to talk about transportation and research possibilities to universities and colleges throughout Florida.

Monitoring & Enforcement Mechanisms (§26.37)

The Broward MPO will use the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR, Part 26:

1. Bring to the attention of FTA any false, fraudulent, or dishonest conduct in connection with the program, so that FTA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FTA Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109.
2. Consider similar action under its own legal authorities, including responsibility determinations in future contracts.
3. Provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs; this compliance monitoring will include the following steps:
 - a) The prime contractor will provide the Broward MPO with an accurate list of all DBEs who are or who are anticipated to be subcontractors working on the project, which list will include the allocation of contract budget assigned to each DBE (see Attachment 2). This list will be updated any time there is a change in the DBEs working on the project or a change in the allocation of work between or among DBEs. The prime contractor will provide this list with a sworn certification that it is true and accurate. The Broward MPO may request, and prime contractor will provide, copies of any subcontracts or other contractual documentation between prime contractor and any subcontractors to confirm the scope of work for each.

- b) The prime contractor will provide to the Broward MPO a subcontractor utilization form (see Attachment 2) in its invoice package so that the Broward MPO can verify DBE participation in the project.
 - c) The prime contractor and its subcontractors will agree to comply with any further measures that the Broward MPO determines to be necessary or appropriate to impose for the purpose of verifying DBE participation in the project.
4. Require the prime contractor to keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award, verified at the time of any payment to the prime contractor for the project, and verified at the time DBE firms certify to the Broward MPO that they have been paid, as required under the prime contractor's subcontractor agreement.

A list of contract remedies available to the Broward MPO is provided in Subpart F of this program.

Fostering Small Business Participation (§26.39)

The Broward MPO instituted a small business participation program effective February 28, 2013. To facilitate competition by small businesses in projects, funded in part by FTA, the Broward MPO may unbundle projects as appropriate to help eliminate obstacles to small business participation.

Small Business Definition

The Broward MPO uses the Small Business Administration's (SBA) definition and size standards (as it may be amended from time to time) to define a small business:

...a small business concern is one that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period.

Set-Asides

The Broward MPO has historically exceeded its DBE goal and has not used small business set-asides to facilitate participation. However, as part of the next triennial update of its DBE goal, the Broward MPO's DBELO will seek to coordinate with the Broward County Office of Economic and Small Business Development to assess small business participation in its FTA-assisted contracting opportunities. This assessment may determine if implementing measures for increasing small business participation, including small business set-asides, is necessary.

Mega Project

Projects that are multi-year design-build or other large contracts as determined by the Broward MPO are considered "mega projects." Bidders on a prime contract of a mega

project will specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform. Lack of small business participation will require a bidder to provide evidence of the good faith efforts that were made. The good faith effort requirement will be the same as identified in §26.53, Good Faith Procedures.

Implementation

To support small businesses, the Broward MPO collaborates with local and regional partners whose initiatives encourage forming strong partnerships with small businesses. The Broward MPO will continue to support its partners offering technical assistance and training to those individuals pursuing entrepreneurialism. The objectives of this collaboration are to:

- Develop stronger workforce development systems.
- Support startup or expansion of new companies.
- Assist entrepreneurs and small businesses with technical assistance and assessments.
- Offer feasibility and technical assistance for small to mid-size companies.
- Increase awareness of transportation-related work opportunities in the South Florida region.
- Strengthen and develop community college programs to support small business needs.
- Provide support to disadvantaged workers to access job training.

The Broward MPO will:

- Encourage prime contractors to subcontract portions of work normally done by their own forces when subcontractors submit a lower quote.
- Provide assistance in overcoming limitations that impede participation in the industry, such as inability to obtain bonding, financing, etc., by providing information on available resources through Broward MPO outreach activities and communications along with various trainings and workshops.
- Connect small businesses with local and regional partner resource.
- Circulate upcoming contracting opportunities, training classes in business management, etc.
- Continue community outreach to foster small business development through business development workshops and training.

Subpart C—Goals, Good Faith Efforts, and Counting

Quotas (§26.43)

The Broward MPO does not use quotas in any way in the administration of this DBE program.

Overall Goal (§26.45)

In accordance with §26.45, the Broward MPO will submit its triennial overall DBE goal to FTA on or before August 1, 2020. The Broward MPO will also request use of project-specific DBE goals as appropriate and/or will establish project-specific DBE goals as directed by FTA. Project- or contract-specific goals are adapted to the circumstances of each contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The process used by the Broward MPO to establish overall DBE goals conforms with §26.45 of 49 CFR and is based on the demonstrable evidence of DBE firms ready, able, and willing to participate/perform contracting opportunities derived from the Broward MPO's FTA-assisted projects/contracts. The goal reflects the level of DBE participation anticipated, absent the effects of discrimination. Through this process, the Broward MPO has established an overall goal of 7% for DBE participation in FTA-assisted contracts during FYs 2021–2023. The calculations and data sources supporting this goal are included in Attachment 3.

Before establishing the overall three-year goal, the Broward MPO published notice on its website and advertisements in the *Sun-Sentinel*, *South Florida Times*, and *El Sentinel* per its Public Participation Plan. The Broward MPO also conducted the required direct outreach activities to inform the public of the proposed overall goal and its rationale. Flyers, email announcements, the Broward MPO's website, and other communication sources were used to communicate the proposed goal to the public and seek input. The proposed goal was also be available for inspection during normal business hours at the Broward MPO office for thirty (30) days following the date the proposed goal was made available on the Broward MPO website. The notice will inform the public that the Broward MPO will accept comments on the goal for thirty (30) days from the date of the notice and the direct consultation opportunity required by 49 CFR Part 26. The notice includes addresses to which comments may be sent and addresses (including offices and websites) at which the proposal may be reviewed. Documentation of the specific outreach efforts conducted for the FY 2021–2023 overall DBE goal setting process are included in Attachment 4.

The Broward MPO submission to FTA will include the goal, including the breakout of estimated race-neutral and race-conscious participation, as appropriate; a copy of the

methodology used to develop the goal; a summary of information and comments received during the public participation process and the Broward MPO's responses; and proof of publication of the goal in any media outlets.

The Broward MPO will begin using the overall goal on October 1st of each year, unless it has received other instructions from FTA. If the Broward MPO establishes a goal on a project basis, it will begin using its goal by the time the first solicitation for an FTA-assisted contract for a project is advertised.

Goal Setting and Accountability (§26.47)

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

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

Transit Vehicle Manufacturers Goals (§26.49)

The Broward MPO has not historically used FTA-assisted funding or otherwise to procure transit vehicles. If this changes in the future, the Broward MPO will require each transit vehicle manufacturer to certify that it has complied with the requirements of this section as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements,. Alternatively, the Broward MPO 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 transit vehicle manufacturers (TVM) complying with this element of the program.

Meeting Overall Goals and Contract Goals (§26.51)

Race-Neutral and 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. This section of the program will be updated every three years when the goal calculation is updated. The Broward MPO will use contract goals to meet any portion of the overall goal the Broward MPO does not project being able to meet using race-neutral means.

Contract Goal (§26.51(d-e))

The Broward MPO will use contract goals to meet any portion of the overall goal that it 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.

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

The Broward MPO will express the contract goals as a percentage of the total amount of an FTA-assisted contract.

Good Faith Efforts Procedures (§26.53)

Award of Contracts with a DBE (§26.53(a))

In instances in which a contract-specific DBE goal is included in procurement or solicitation, the Broward MPO will not award the contract to a bidder that does not either (1) meet the contract goal with verified, countable DBE participation or (2) document that it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate that it has made sufficient good faith efforts prior to submission of its bid.

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

The Broward MPO treats bidder compliance with good faith effort requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require each bidder to submit the following information:

1. Names and addresses of DBE firms that will participate in the contract.
2. Description of the work that each DBE will perform; to count toward meeting a goal, each DBE firm must be certificated in a NAICS code application to the kind of work the firm would perform on the contract.
3. 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 contractor's commitment.
6. Evidence of good faith efforts if the contract goal is not met (see Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

Demonstration of Good Faith Efforts (§26.53(c))

The obligation of bidder is to make good faith efforts. A bidder 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 of Part 26.

The DBELO and the project manager are responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

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

26.53(d) Administrative Reconsideration (§26.53(b))

Within three (3) working days of being informed by the Broward MPO that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. A bidder must make this request in writing to the following reconsideration official: Deputy Executive Director, Broward MPO, Trade Centre South, 100 West Cypress Creek Rd., Suite 650, Ft. Lauderdale, FL 33309-2112. The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder 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 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 so. The Broward MPO will send the bidder 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 FTA.

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

The Broward MPO requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without its prior written consent. Prior written consent must be provided where there is "good cause" for termination of the DBE firm, as established by §26.53(f)(3) of Part 26.

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

In those instances in which “good cause” exists to terminate a DBE's contract, the Broward MPO 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. The Broward MPO will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the Broward MPO will require the prime contractor to obtain 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 Broward MPO Executive Director or his designee 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 Executive Director or his designee may issue a termination for default proceeding.

Counting DBE Participation (§26.55)

The Broward MPO will count DBE participation toward overall and contract goals as provided in 49 CFR, §26.55.

Subparts D and E—Certification Standards and Procedures

Unified Certification Programs (§26.81)

It is the policy of the Broward MPO to accept DBE certifications from agencies that have reviewed and certified the DBE firms in accordance with 49 CFR, Part 26. The Broward MPO is not a certifying agency and will use the UCP or information provided by the Broward County Office of Office of Economic and Small Business Development, which is a certifying member of the UCP. For information about the certification process or to apply for certification, firms should contact FDOT's Equal Opportunity Office at <http://www.dot.state.fl.us>.

Re-Certification (§26.83)

The re-certifications of firms as DBEs will be based on UCP standards and will be conducted by the certifying agency listed above.

The Broward MPO will require all DBEs to inform it, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership, or control criteria of 49 CFR, Part 26 or of any material changes in the information provided.

The Broward MPO will also require all owners of all DBEs to submit, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of §26.83(j). The affidavit should, at a minimum, include the following language:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR, Part 26. There have been no material changes in the information provided with [name of DBE firm]'s application for certification, except for any changes about which you have provided written notice to the Broward MPO under §26.83(j).

The Broward MPO requires DBEs to submit with the affidavit documentation of the DBE firm's size and gross receipts.

The Broward MPO will notify all currently certified DBE firms of these obligations in writing. This notification will inform DBE firms that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she or the firm fails to meet a Part 26 eligibility requirements (e.g., personal net worth), the obligation to submit a notice of change applies.

De-Certification (§26.87)

The de-certification of firms as DBE's will be based on UCP standards and will be conducted by the certifying agency listed above.

Certification Appeals (§26.89)

Any firm or complainant may appeal a decision in a certification matter to the certifying agency listed above.

Procedures for Certification Decisions (§26.91)

The Broward MPO distributes information on FDOT's website that provides a list of UCP agencies that provide certification services and non-certification services in Florida at <http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20CERTIFYING%20ADDRESSES%200516.pdf>.

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

U.S. Department of Transportation
Office of Civil Rights
Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington, DC 20590

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

SUBPART F—Compliance and Enforcement

Confidentiality (§26.109)

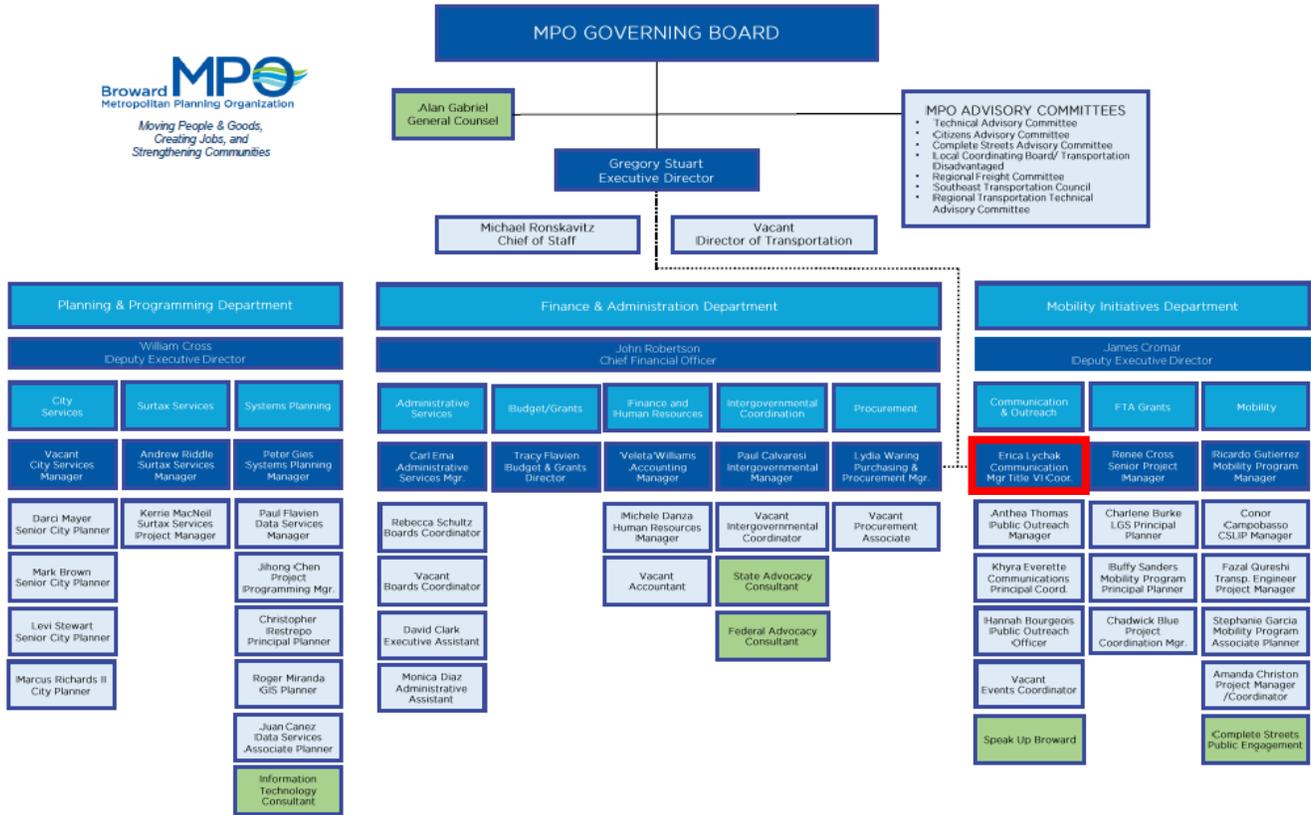
The Broward MPO will safeguard from disclosure information to third parties that may reasonably be regarded as confidential business information, consistent with Federal, State, and local law. Notwithstanding any contrary provisions of State or local law, the Broward MPO will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than FTA) without the written consent of the submitter.

Consequences of Non-Compliance

In the event of a contractor's failure or refusal to comply with the terms of this program, as set forth in such contractor's contract with the Broward MPO, the Deputy Executive Director will issue an order to:

1. Withhold payments to the contractor under the contract until the contractor complies; and/or
2. Cancel, terminate, or suspend the contract, in whole or in part.

Attachment 1—Broward MPO Organization Chart



MISSION
To collaboratively plan, prioritize, and fund the delivery of diverse transportation options.

VALUES
We provide responsibility and the authority to deliver. We deliver what we have committed to. We are aware of our own limitations and support each other in our path of continuous improvement. We champion the organization and our colleagues over self.

VISION
Our work will have measurable positive impact by ensuring transportation projects are well selected, funded, and delivered.

 Indicates Broward MPO's DBELO

Attachment 2—Monitoring and Compliance Mechanisms

Subcontractor's Certificate of Previous Payment

Note: The Prime Contractor shall attach this statement to current payment invoices, completed by each Subcontractor whose work appears on the previous payment invoice.

KNOW ALL MEN BY THESE PRESENTS, That (name) _____
representing _____, whose
address is _____, with the
title of _____, whom after being first duly sworn, upon oath
deposes and says that pursuant to the provisions of the contract for:

CONTRACT NO. _____

CONTRACT NAME: _____

that all monies due him, in accordance with the agreed upon payment schedule, have been paid
to him by _____, the Firm.

NOTARY STATEMENT
STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____,
20__, by _____ who is personally known to me or who has
produced _____ as identified and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, 20__.

Signature of Notary

My Commission Expires _____



Certificate of Disbursement of Previous Periodic Payment to Subcontractors

RFP/RFQ No. _____ Date _____

Project Name: _____

Period of Work Invoiced For: ____/____/____ to ____/____/____

The Contractor for the above referenced contract, hereby certifies that all subcontractors and vendors having interest in this contract have received their pro rata share of all previous periodic payments made to date by the Broward Metropolitan Planning Organization for all work, materials and equipment furnished under the contract.

Firm

(Signature of Authorized Representative)

NOTARY STATEMENT

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by the means of ___ physical presence or ___ online notarization, this _____ (date) by _____ (name of officer or agent, title of officer or agent) of _____, (name of corporation) a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produce _____ as identification.

Signature of Notary
(Notary Seal)

Name typed, printed or stamped

Title or rank

Serial number, if any

My Commission Expires _____

VENDOR NAME/LOGO

Address
City, State, Zip
Tel #

DBE REPORTING

Service Period -

DBE Contract Amt:

DBE Firm A: Company Name A
 DBE Firm B: Company Name B
 DBE Firm C: Company Name C
 DBE Firm D: Company Name D
 DBE Firm E: Company Name E
 DBE Firm F: Company Name F
 DBE Firm G: Company Name G
 DBE Firm H: Company Name H
 DBE Firm I: Company Name I
 DBE Firm J: Company Name J

DBE Firm A Amount Allocated:
 DBE Firm B Amount Allocated:
 DBE Firm C Amount Allocated:
 DBE Firm D Amount Allocated:
 DBE Firm E Amount Allocated:
 DBE Firm F Amount Allocated:
 DBE Firm G Amount Allocated:
 DBE Firm H Amount Allocated:
 DBE Firm I Amount Allocated:
 DBE Firm J Amount Allocated: _____
\$ -

DBE Firm	Amt Allocated	DBE Prev Billed	DBE Billed this period	YTD DBE Billed	DBE Remaining	Cummulative total % of DBE prev billed	% DBE this period	% YTD DBE
Company Name A	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name B	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name C	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name D	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name E	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name F	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name G	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name H	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name I	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Company Name J	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!
Total	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	#DIV/0!	#DIV/0!

Attachment 3—2021-2024 FTA Overall DBE Goal Calculation (\$26.45)

As a recipient of FTA funds, the Broward MPO must establish a DBE goal in accordance with 49 CFR §26.45.

The Broward MPO's current DBE goal effective through July 31, 2020 is 7% of the Federal financial assistance expended in FTA-assisted contracts. The DBE goal must be updated every three (3) years in accordance with FTA regulations and is due to FTA by August 1, 2020.

The Broward MPO's DBE goal for FYs 2021–2023 is calculated to remain at 7%. The calculation steps, data sources, and assumptions to support this calculation are documented herein.

DBE Goal-Setting Process Overview

The DBE goal-setting process consists of two steps, as described below.

Step 1. Determining the "Base" DBE Goal

Step 1.A. Identifying Future FTA-Assisted Contracts and Associated NAICS Codes

1. The budget for proposed projects or any other relevant documents is examined to ascertain the type and scope of projects involving FTA funds proposed for the upcoming three years.
2. The list of projects is analyzed to determine the types of firms/services by North American Industry Classification System (NAICS) codes with which the Broward MPO would likely engage to execute FTA-assisted projects.
3. Using Census definitions, a list of relevant NAICS codes is compiled based on the firm types identified in Step 1.A.2.

Step 1.B. Determining the Relative Availability of DBEs in the Market Area

1. The reasonable market area for procuring goods and services identified in Step 1.A must be identified to establish geographic parameters for statistical analysis. Consistent with the current DBE goal and the Broward MPO's past experience drawing contractors, the market area includes the five counties within FDOT District 4 (Broward, Indian River, Martin, Palm Beach, and St. Lucie) and the two counties within FDOT District 6 (Miami-Dade and Monroe).
2. Once the geographic scope of the market area is determined, the availability of DBEs in the market area can be ascertained. The primary source for this determination will be the State of Florida Unified Certification Program (UCP)

directory. The UCP is a searchable listing of all certified DBE firms eligible to perform work under the Federal DBE Program. The list of available DBEs is narrowed down through the identification of only firms that performed work relevant to Broward MPO's upcoming FTA-assisted projects/expenditures (i.e., the same NAICS codes identified in Step 1.A.2).

3. The DBE firms identified in Step 1.B.2 for each NAICS code are tallied.

Step 1.C. Determining Relevant Market Conditions

1. Using the NAICS codes identified in Step 1.A.3, the most recent US Census County Business Patterns (CBP) database is used to tally all firms available in the market area for each NAICS code.

Step 1.D. Calculating the "Base" DBE Goal

1. The total number of all available firms from the relevant NAICS categories from Step 1.C serves as the denominator and the total number of DBE firms determined in Step 1.B.3 serves as the numerator.
2. The resulting percentage is the "base" DBE goal.

Step 1.E. Calculating the "Weighted Base" DBE Goal

1. The percentage of available DBEs in the market area (from Step 1.B.3) relative to total number of firms for each NAICS code (from Step 1.C) for each contracting category is multiplied by the percentage of future FTA-assisted projects from Step 1.A.1 for each contracting category.
2. The summation of the percentages from Step 1.E.1 is the "weighted base" DBE goal.

Step 2. Determining Adjustments for the "Overall" DBE Goal

After the base DBE goal has been calculated in Step 1, additional information and data relevant to Broward MPO's historical contracting experiences is considered to determine what adjustment, if any, to the base goal is appropriate to arrive at the final overall goal.

FYs 2021–2023 DBE Goal Calculations

Broward MPO, in compliance with 49 CFR, §26.45 has estimated an overall FTA DBE goal of 7% for FYs 2021–2023.

The goal was developed using the methodology previously described. The specific calculations and data sources supporting the calculated DBE goal are provided below.

Step 1. Calculation of Base Goal

Broward MPO's future anticipated FTA-assisted contracting opportunities for FYs 2021–2023 were identified and include the following projects:

- Speak Up Broward Phase II
- Planning Support

- Mobility Hub Construction
- Complete Streets Community Engagement
- Complete Streets Planning Assistance
- Multimodal Data Collection

Table 1 presents the base goal calculation.

First, the 2017 NAICS codes (most current available) from the US Census Bureau relative to the Broward MPO’s upcoming FTA-assisted contracting opportunities for FYs 2021–2023 (listed above) were identified.

Second, the total number of DBEs within the identified market area (FDOTs District 4 and 6) from the FDOT UCP DBE Directory for each NAICS code were identified.

Third, the total number of available firms for each NAICS category for the same geographic market from the U.S. Census CBP were identified.

Fourth, the total number of DBEs relative to the total number of firms for these NAICS codes in the geographic market area is used to calculate the base goal figure of 6.5%.

Table 1: Base DBE Goal Determination

NAICS Codes ¹	Number of DBE Firms ²	Total Firms ³
541820: Public Relations	23	269
237310: Highway, Street, and Bridge Construction	52	134
518210: Data Processing, Hosting, and Related Services	10	401
541330: Engineering Services	65	1,558
541320: Landscape Architectural Services	18	213
Total	168	2,575
Base Goal⁴	6.5%	

¹ Source: US Census Bureau, <https://www.census.gov/eos/www/naics/index.html>.

² Source: FDOT UCP DBE Directory for FDOT Districts 4 and 6 (Broward, Indian River, Martin, Miami-Dade, Monroe, Palm Beach, and St. Lucie counties).

³ U.S. Census CBP for FDOT Districts 4 and 6.

⁴ Total number of DBE firms (Item 2) divided by total firms (Item 3).

Table 2 illustrates the allocation of future FTA-funded projects under each contracting opportunity and associated NAICS codes. For each contracting opportunity, the percentage of available DBEs in the market area is calculated. Due to the nature of these upcoming projects, firms listed under Engineering (NAICS Code 541330) could be eligible for project awards under multiple contracting categories. Also, the Mobility Hub Construction project includes engagement funds allocated to that contracting category.

Table 3 summarizes the total anticipated FTA-funded contract values for FYs 2021–2023 allocated to each contracting category.

Table 2: DBE Availability by Contracting Category

Contracting Category ¹	FY 2021-2023 Project ²	NAICS Codes ³	DBE Firms ⁴	Total Firms ⁵	% DBE ⁶
Community Engagement	<ul style="list-style-type: none"> • Speak Up Broward Phase II • Mobility Hub Construction (2% of total contract) • Complete Streets Engagement 	541820: Public Relations	23	269	8.6%
Construction	<ul style="list-style-type: none"> • Mobility Hub Construction (98% of total contract) 	237310: Highway, Street, and Bridge Construction 541330: Engineering Services	52 65	134 1,558	6.9%
Data Collection	<ul style="list-style-type: none"> • Multimodal Data Collection 	518210: Data Processing, etc. 541330: Engineering Services	10 65	134 1,558	3.8%
Planning/Engineering	<ul style="list-style-type: none"> • Planning Support • Complete Streets Planning Assistance 	541330: Engineering Services 541320: Landscape Architectural Services	65 18	1,558 213	4.7%

^{1,2} Broward MPO Unified Planning Work Program FYs 2021/2022 and MPO staff.

³ Source: US Census Bureau <https://www.census.gov/eos/www/naics/index.html>.

⁴ Source: FDOT UCP DBE Directory for FDOT Districts 4 and 6.

⁵ U.S. Census CBP for FDOT Districts 4 and 6.

⁶ Total number of DBE firms (Item 4) divided by total number of firms for each contracting category (Item 5).

Table 3: Allocation of Total Contract Value by Contracting Category

Contracting Category	Total Contracting Opportunity	% of Total Contracting Value
Community Engagement	\$501,426	5.0%
Construction	\$9,042,640	89.5%
Data Collection	\$126,000	1.2%
Planning/Engineering	\$435,505	4.3%
Total	\$10,105,571	100%

Source: Broward MPO Unified Planning Work Program FYs 2021/2022 and MPO staff.

The weighted base goal is calculated by multiplying the percent of available DBEs for each contracting opportunity from Table 2 by the percent of the total contracting opportunity value from Table 3. The resulting sum is the weighted DBE goal of 6.8%.

Table 4: Weighted DBE Goal

Contracting Category	% DBE ¹	% of Total Contracting Value ²	Weighted DBE Goal ⁴
Community Engagement	8.6%	5.0%	0.4%
Construction	6.9%	89.5%	6.2%
Data Collection	3.8%	1.2%	0.0%
Planning/Engineering	4.7%	4.3%	0.2%
Total	--	100%	
Weighted Base Goal			6.8%

¹ Source: Table 2.

² Source: Table 3.

³ Sum of % DBE x % of Total Contracting Value for each category.

Step 2. Adjustment to Base Goal

Step 2 of the goal setting process is to examine all evidence available to determine what adjustment, if any, to the base figure is appropriate. Evidence to be considered for an adjustment include:

- Past participation of DBE firms
- Evidence from disparity studies
- Statistical disparities relating to financing, bonding, and insurance
- Data on employment, self-employment education/training, and union apprenticeship programs
- Other data at Broward MPO staff's discretion

In this case, historical DBE payments are most appropriate to consider for a potential adjustment to the base goal given that the upcoming FTA-assisted contracting opportunities are very similar to those awarded over the past three years. Since DBE firms are often subcontractors to non-DBE firms for Broward MPO projects, examining bid responsiveness may not accurately portray DBE firm's participation in these similar contracts.

Over the past three years, the Broward MPO has achieved a median 7.1% of payments to DBE firms relative to all FTA-assisted contract payments (Table 5). As noted previously, these contracts are similar in scope to those planned for the upcoming three years. To calculate the final adjusted goal in Table 6, the weighted base goal from Table 4 was averaged with the historical median DBE payment percentage from Table 5. **The final adjusted overall DBE goal for FYs 2021–2023 was rounded up to 7%.**

Table 5: Historical DBE Participation in FTA-Assisted Contracts

Semi-Annual Reporting Period Ending	DBE Contractor Payments ¹	Total Contractor Payments ¹	% DBE ²
Apr 01, 2017 - Sept 30, 2017	\$28,945	\$428,072	6.8%
Oct 01, 2017 - March 31, 2018	\$24,966	\$169,044	14.8%
Apr 01, 2018 - Sept 30, 2018	\$24,260	\$393,466	6.2%
Oct 01, 2018 - March 31, 2019	\$48,451	\$581,447	8.3%
Apr 01, 2019 - Sept 30, 2019	\$5,104	\$109,009	4.7%
Oct 01, 2019 - March 31, 2020	\$40,495	\$547,452	7.4%
Total	\$172,221	\$2,228,490	
Median Historical DBE Payments			7.1%

¹ Source: Broward MPO Semi-Annual DBE Reports submitted to FTA.

² DBE contractor payments divided by total contractor payments for each reporting period.

Table 6: Final FY 2021-2023 DBE Goal

Weighted Base DBE Goal ¹	Median Historical Participation ²	Adjusted Overall DBE Goal ³	Final DBE Goal (Rounded)
6.8%	7.1%	6.9%	7%

¹ Source: Table 4.

² Source: Table 5.

³ Average of weighted base goal (Item 1) and median historical participation (Item 2).

⁴ Adjusted overall DBE goal (Item 3) rounded.

Attachment 4—Public Outreach Activities for Goal-Setting

DBE Goal-Setting Public Outreach/Consultation Requirements

Section 26.45(g) of Title 49, CFR Part 26 requires specific consultation activities as part of the overall DBE goal setting process as follows:

(g)(1) In establishing an overall goal, you must provide for consultation and publication. This includes:

(i) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.

(ii) A published notice announcing your proposed overall goal before submission to the operating administration on August 1st. The notice must be posted on your official Internet Web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal must be posted on your official Internet Web site.

(g)(2) At your discretion, you may inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at your principal office and for a 30day comment period. Notice of the comment period must include addresses to which comments may be sent. The public comment period will not extend the August 1st deadline set in paragraph (f) of this section.

DBE Goal-Setting Public Consultation Activities

As part of the Broward MPO's 2020 DBE goal setting process, several outreach activities will be completed to meet requirements of §26.45(g) of Title 49, CFR Part 26. These activities are described in the remainder of this attachment. It should be noted that the Broward MPO's DBE update occurred during the COVID-19 pandemic. Due to social distancing requirements, only virtual activities could be accommodated during this period.

Public Comment Period

The required 30-day public comment period was established as June 21 – July 21, 2020.

Advertisements and Email Communications

Notice of the proposed 2020 DBE goal was posted to the Broward MPO's website on June 23, 2020, under its Title VI/DBE webpage. Per the procedures outlined in the Broward MPO's Public Participation Plan, newspaper advertisements were also posted in the *Sun-Sentinel* on June 21, 2020, and the *South Florida Times* and *El Sentinel* on June 25, 2020. Copies of the newspaper advertisements are provided in this attachment.

During the 30-day public comment period, the Broward MPO sent email announcements pertaining to its 2020 DBE goal setting process and associated outreach opportunities. These announcements were sent to approximately 2,100 email contacts, which includes those on the Broward MPO's consultant distribution list and emails for DBE contractors obtained from FDOT's UCP dataset pulled for this goal setting process.

2020 DBE Program Informational Flyer

An informational flyer specific to the 2020 DBE goal update process was prepared and posted to the Broward MPO's website and distributed via links to the flyer in the email blasts. A copy of this informational flyer is provided in this attachment.

Direct Consultation Activity (Webinar)

The required direct consultation activity completed for the Broward MPO's 2020 overall FTA goal update process will be a webinar presentation on July 2, 2020, at 1:00 pm. This presentation will provide an overview of the Broward MPO and its core products and an overview of the DBE goal requirements and explained the 2020 DBE goal-setting process and results. Both a PDF of the presentation and an audio/visual recording of the webinar will be available on the Broward MPO's Title VI/DBE webpage after July 2nd.



Move People | Create Jobs | Strengthen Communities

BROWARD METROPOLITAN PLANNING ORGANIZATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

The Broward MPO is requesting public comment on its 2020 Disadvantaged Business Enterprise (DBE) Program and Goal in accordance with 49 CFR, Part 26. The 2020 overall Federal Transit Administration (FTA) DBE goal is 7%. The required 30 day public comment period for the 2020 overall DBE goal will close **July 21, 2020**. The program, goal, and methodology may be viewed at the Broward MPO's web site BrowardMPO.org under the "Working With the MPO" or "Equal Opportunity" tabs, or directly at <http://browardmpo.org/index.php/title-vi-dbe>. The Broward MPO is hosting a webinar regarding the 2020 overall DBE goal on July 2, 2020 from 1-2 PM EDT. Information about this meeting can be found on the above webpage. Comments may be directed to the attention of Erica Lychak, DBE Coordinator at (954) 876-0058, by mail at the address above, or by email at Lychake@browardmpo.org.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability or family status. Persons who require special accommodations under the American with Disabilities Act or persons who require translation services (free of charge) should contact Erica Lychak, Title VI Coordinator at (954) 876-0058 or Lychake@browardmpo.org at least seven days prior to the meeting. If hearing impaired, telephone 1-800-273-7545 (TDD).

For complaints, questions or concerns about civil rights or non-discrimination please contact: Erica Lychak, Public Title VI Coordinator at the numbers or e-mail above.



ORGANIZACIÓN DE PLANIFICACIÓN METROPOLITANA DE BROWARD PROGRAMA DE EMPRESA COMERCIAL EN DESVENTAJA (DBE)

La MPO de Broward está solicitando comentarios públicos sobre su Programa y Meta para Empresas Comerciales en Desventaja (DBE) de 2020 de acuerdo con el CFR 49, Parte 26. La meta general del DBE de la Administración Federal de Tránsito (FTA) para 2020 es del 7%. El periodo requerido de comentarios públicos de 30 días para la meta general del DBE de 2020 se cerrará el **21 de julio de 2020**. El programa, la meta y la metodología se pueden ver en el sitio web de la MPO de Broward en BrowardMPO.org bajo la secciones "Working With the MPO" ("Trabajando con la MPO") o "Equal Opportunity" ("Igualdad de Oportunidades"), o directamente en <http://browardmpo.org/index.php/title-vi-dbe>. La MPO de Broward está organizando un seminario web sobre el objetivo general del DBE 2020 el 2 de julio de 2020 de 1-2 PM EDT. Puede encontrar información sobre esta reunión en la página web anterior. Los comentarios pueden dirigirse con atención a Erica Lychak, Coordinadora del DBE al (954) 876-0058, por correo a la dirección anterior, o por correo electrónico a Lychake@browardmpo.org.

Se solicita la participación pública sin distinción de raza, color, origen nacional, edad, sexo, religión, discapacidad o estado familiar. Las personas que requieren adaptaciones especiales bajo la Ley de Estadounidenses con Discapacidades o las personas que requieren servicios de traducción (sin cargo) deben comunicarse con Erica Lychak, Coordinadora del Título VI al (954) 876-0058 o Lychake@browardmpo.org por lo menos siete días antes de la reunión. Si tiene problemas de audición, llame al 1-800-273-7545 (TDD).

Para quejas, preguntas o inquietudes sobre los derechos civiles o la no discriminación, comuníquese con: Erica Lychak, Coordinadora del Título VI Público, a los números o al correo electrónico que figuran arriba.

FTA Overall DBE Goal (FYs 2021-2023)

What Is the Broward MPO Disadvantaged Business Enterprise (DBE) Program?

The Broward Metropolitan Planning Organization (Broward MPO) is dedicated to serving our community, including ensuring nondiscrimination of disadvantaged business enterprises (DBEs) in the award and administration of U.S. Department of Transportation (DOT) Federal Transit Administration (FTA)-assisted contracts. The goals of the program are:

- To remedy past and current discrimination against DBEs.
- To ensure a "level playing field" in which DBEs can compete fairly for FTA-assisted contracts
- To improve the flexibility and efficiency of the DBE program.
- To reduce burdens on small businesses.

FYs 2021-2023 FTA Overall DBE Goal

The Broward MPO has calculated an overall **DBE goal of 7%** for FYs 2021-2023, which must be submitted to FTA by August 1, 2020.

This is consistent with the current DBE goal of 7%, which expires on July 31, 2020. The goal setting process must include a 30-day public comment period, which extends from June 22 – July 22, 2020. The next update of the Broward MPO's DBE goal is due to FTA no later than August 1, 2023.

For complaints, questions or concerns about civil rights or nondiscrimination; or for special requests under the Americans with Disabilities Act, please contact Erica Lychak, Title VI/DBE Coordinator at (954) 876-0033 or lychake@browardmpo.org.

What is a Disadvantaged Business Enterprise?

A disadvantaged business enterprise or DBE means a for profit small business concern—

- (1) That is at least 51% owned by one or more individuals who are both socially and economically disadvantaged 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 operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Source: Title 49 of the Code of Federal Regulations (CFR) Part 26

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

DBE Program Webinar

Please join the Broward MPO for a webinar on the FY 2021-2023 FTA DBE goal on July 2, 2020 at 1 pm. The webinar will include a brief presentation on the goal setting process followed by a Q&A session.

A link to register for the webinar can be found on the Broward MPO's DBE Program webpage under the "Working with the MPO" tab at the top of our homepage at www.browardmpo.org. Please contact Erica Lychak, Title VI/DBE Coordinator, at lychake@browardmpo.org to for more information.

Attachment 5—Breakout of Estimated Race-Neutral & Race-Conscious Participation

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

The Broward MPO historically has exceeded its DBE goal through race-neutral measures and estimates that in meeting the overall goal of 7%, 7% will be obtained from race-neutral participation and 0% through race-conscious measures. The following is a summary of the basis of the Broward MPO's estimated breakout of race-neutral and race-conscious DBE participation:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE participation.
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing.
3. Providing technical assistance.
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities. These information and communication programs may include, but are not limited to the following:
 - a) Annually, the Broward MPO will provide all small businesses that have bid on contracts during the last fiscal year a summary on major policy manuals or important changes in contracting procedures.
 - b) The Broward MPO will supply the same information to all firms applying for DBE certification.
 - c) The Broward MPO will provide a summary of key DBE policies to persons responsible for contracting activities in the FDOT's Central Office and Districts.
 - d) The Broward MPO will provide DBEs with job listings and listings of the potential prime bidders.
5. Providing services to help DBEs improve long-term development, increase opportunities to participate in a variety of kinds of planning work, handle increasingly significant projects, and achieve eventual self-sufficiency. These services may include but are not limited to:
 - a) Providing semi-annual workshops for newly-certified DBE businesses to explain Broward MPO business processes; and
 - b) Conducting conferences at least once per year to bring together DBEs and the Broward MPO's prime contractors.

To ensure that the Broward MPO's DBE program will be narrowly tailored to overcome the effects of discrimination, if it uses contract goals, it will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see §26.51(f)), and it will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

- DBE participation through a prime contract it 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.
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.



Move People & Goods | Create Jobs | Strengthen Communities

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For more information on activities and projects of the Broward MPO, please visit:

BrowardMPO.org

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For more information, please contact:

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