

# DBE Program

# 2025



CapMetro

# DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

March 1, 2025

Grantee ID 5143  
Capital Metropolitan Transportation Authority  
Carlos Balderas, DBE Liaison Officer  
Diversity, Equity, and Inclusion  
2910 E. 5<sup>th</sup> Street  
TEL 512.574-4853



**TABLE OF CONTENTS**

1. GENERAL INFORMATION..... 3

2. OBJECTIVES /POLICY STATEMENT (§26.1, §26.23) ..... 4

3. NONDISCRIMINATION. (§26.7)..... 5

4. DBE PROGRAM UPDATES (§26.21) ..... 5

5. QUOTAS (§26.43)..... 5

6. DBE LIAISON OFFICER (DBELO) (§26.25) ..... 5

7. FEDERAL FINANCIAL ASSISTANCE AGREEMENT ASSURANCE (§26.13) ..... 7

8. DBE FINANCIAL INSTITUTIONS (§26.27)..... 8

9. UNIFORM REPORT, SHORTFALL ANALYSIS, & BIDDER'S LIST..... 8

10. OVERCONCENTRATION (§26.33) ..... 9

11. PROMPT PAYMENT MECHANISMS (§26.29)..... 9

12. MONITORING MECHANISMS & RUNNING TALLY (§26.37) ..... 10

13. FOSTERING SMALL BUSINESS PARTICIPATION(§26.39) .....11

14. OVERALL GOALS (§26.45) ..... 14

15. TRANSIT VEHICLE MANUFACTURERS .....17

16. CONTRACT GOALS (§26.51) ..... 17

17. GOOD FAITH EFFORTS (§26.53)..... 19

18. COUNTING DBE PARTICIPATION (§26.55)..... 22

19. CERTIFICATION (§26.61 - §26.91) ..... 29

**ATTACHMENTS**

1. ATTACHMENTS LIST..... 30

2. ORGANIZATIONAL CHART ..... 31

3. LINK TO DBE DIRECTORY ..... 32

4. DBE PROGRAM POLICY & PROCEDURS ..... 33

## 1. GENERAL INFORMATION


### *Applicability:*

CapMetro is a recipient of U.S. Department of Transportation (DOT) funds and has a Disadvantaged Business Enterprise (DBE) Program that meets the requirements of the Federal Transit Administration (FTA) for federally funded projects under 49 CFR Part 26.

### *Definitions of Terms*

The terms used in this program have the meanings defined in 49 CFR §26.5.

## 2. OBJECTIVES/POLICY STATEMENT (§26.1, §26.23)

	<b>DISADVANTAGED BUSINESS ENTERPRISE</b>	Issued: October 1999 Revised: August 2024
	<b>Diversity, Equity, and Inclusion</b>	Approved by: Dottie Watkins President/CEO

### PURPOSE


CapMetro has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. CapMetro has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, CapMetro has signed an assurance that it will comply with 49 CFR Part 26 including new provisions as approved in the final rule change approved by Congress in April 2024. Federal regulations require that CapMetro have an approved DBE policy in this form under Sections 49 CFR Part 26.1 and Part 26.23.

### POLICY

It is the policy of CapMetro to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy to:

1. Ensure nondiscrimination in the award and administration of DOT assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts; and
6. Assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The DBE Liaison Officer within the Diversity, Equity, & Inclusion Office oversees all facets of the DBE program and ensures its implementation. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by CapMetro in its financial assistance agreements with the Department of Transportation.

Signature:   
Dottie Watkins, President/CEO

Date: 8/7/2024

### 3. NONDISCRIMINATION (§26.7)

CapMetro 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, CapMetro 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.

### 4. DBE Program Updates (§26.21)

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

### 5. Quotas and Set Asides (§26.43)

CapMetro does not use quotas in any way or set-aside contracts for DBEs in the administration of this DBE program except as permitted by law.

### 6. DBE LIAISON OFFICER (§26.25)

CapMetro has designated the following individual as our DBE Liaison Officer: **Carlos Balderas**, 2910 E. 5<sup>th</sup> Street, Austin, Texas 78702; (512) 369-6255; [Carlos.Balderas@capmetro.org](mailto:Carlos.Balderas@capmetro.org). In that capacity, Mr. Balderas is responsible for overseeing all aspects of the DBE program and ensuring that CapMetro complies with all provisions of 49 CFR Part 26. He has direct, independent access to the Chief Executive Officer concerning DBE program matters. CapMetro's DBE staff includes three positions: DBE Liaison Officer (DBELO), who is responsible for implementing all aspects of the DBE program and two Supplier Diversity Specialists, who assists with in the coordination of outreach in the business community, and monitoring compliance through B2Gnow vendor payment software. An organizational chart displaying the DBELO's position in the organization is found in *Attachment 1* to this program.

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

1. Analyzes CapMetro's progress toward goal attainment and identifies ways to improve progress;

2. Advises the Chief Executive Officer and CapMetro Board of Directors on DBE matters and achievement;
3. Develops outreach programs and maintains public relations with businesses and other agencies to increase participation with DBE businesses;
4. Monitors compliance throughout the contracting process through presentations at pre-proposal and pre-bid conferences, advising on evaluation/review panels, reviewing and approving contract language and monitoring contracts for compliance;
5. Tracks actual payments to DBE vendors and sends the reports to the FTA and the President/CEO;
6. Maintains and utilizes working relationships with DBE Program counterparts in an effort to remain current on techniques and to share resources;
7. Monitors changes to the DBE regulations by Internet research and interaction with Federal Transit Administration and DBE Program counterparts;
8. Maintains DBE records and ensures compliance with established policies and procedures;
9. Performs database management activities including the entering, retrieving, and manipulating of DBE record information; prepares reports as requested;
10. Tracking actual payments to DBE vendors;
11. Compiles materials or other information needed for vendors and assists with pre-proposal and pre-bid conferences as directed; and,
12. Prepares of reports to the FTA and the President/CEO.

The duties and responsibilities of the Supplier Diversity Specialists:

1. Prepares materials to inform the public: special reports, newsletters, and other publications;
2. Establishes goals, monitor contracts, and ensure compliance with all aspects of the DBE program;
3. Ensures that applicable federal laws that pertain to DBE are adhered to;
4. Communicates with prime and subcontractors to ensure contractor is DBE certified and that the certification is valid;
5. Engages in and monitors activities to ensure DBE compliance; and,
6. Initiates community outreach programs through CapMetro sponsored workshops, meeting presentations and participation in various events and meetings that enhance DBE utilization and that increase CapMetro DBE visibility and commitment at various events.

## 7. FEDERAL FINANCIAL ASSISTANCE AGREEMENT ASSURANCE (§26.13)

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

“Recipient 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. The recipient shall take all the necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient'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 Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*)”

Additionally, CapMetro will ensure that the following language is included in financial assistance agreements with sub-recipients and require the prime contractor to impose the same requirement on each subcontract the prime contractor signs with a subcontractor:

*“The contractor, subrecipient 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.*

*A finding by CapMetro of discrimination by the contractor or subcontractor or a failure by the contractor to include the non-discrimination clause in its subcontract agreement is a material breach of this Contract which may result in the termination of this Contract or such other remedy as CapMetro deems appropriate. Such remedies may include, but are not limited to:*

- i. Withholding monthly progress payments;*
- ii. Assessing sanctions;*
- iii. Liquidated damages; and/or*
- iv. Disqualifying the contractor from future bidding as non-responsible.*



## **8. DBE FINANCIAL INSTITUTIONS (§26.27)**

It is the policy of CapMetro 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. CapMetro has researched and collected information on the availability of DBE owned financial institutions in our area at <http://www.federalreserve.gov/releases/mob/>. The list will be available at the Office of Diversity, Equity, & Inclusion (DEI) and CapMetro will also re-evaluate the availability of DBE financial institutions every year.

## **9. UNIFORM REPORT, SHORTFALL ANALYSIS, & BIDDERS LIST**

### **Uniform Report**

CapMetro will submit a report on DBE participation to the FTA via TrAMS, containing all the information described in the Uniform Report. This report will be submitted at the intervals required by, and in the format acceptable to the FTA. Participation will be reported to FTA on a semi-annual basis by June 1<sup>st</sup> and December 1<sup>st</sup> each year. The reports will reflect awards and commitments to DBEs and non-DBEs, goal attainment, and payments to DBEs and non-DBEs. Supporting documentation will be provided when applicable and may include a copy of the Uniform Report Worksheet from B2GNow.

### **Shortfall Analysis (§26.47)**

If CapMetro does not attain its goal at the end of the fiscal year, CapMetro will conduct an analysis and corrective action plan following (§26.47), to be submitted by December 31<sup>st</sup>. CapMetro will retain this analysis for 3 years and make it available to the FTA.

### **Bidders List (§26.11(c))**

CapMetro maintains a bidders list of all DBE and non-DBE contractors and subcontractors who seek to work on CapMetro's DOT-assisted contracts, and is updated frequently. The Bidders List will be submitted to the FTA by December 1<sup>st</sup> each year. The Bidders List includes the following data:

- Firm name,
- Firm address including Zip code,
- Firm's status as a DBE or non-DBE,
- Race and gender information for the firm's majority owner,
- NAICS code applicable to each scope of work the firm sought to perform in its bid,
- Age of firm, and
- The annual gross receipts of the firm.

CapMetro uses information captured on the Schedule C Form and bid tabs on all submitted solicitation proposals to generate the Bidders List. A current copy of our bidders list may be received upon request. CapMetro provides all vendors wishing to do business with CapMetro a free subscription to PlanetBids to be added to our list of vendors.

#### **10. OVERCONCENTRATION (§26.33)**

CapMetro has not identified that overconcentration exists in the types of work that DBEs perform.

#### **11. PROMPT PAYMENT MECHANISMS (§26.29)**

##### **Prompt Payment (§26.29(a))**

CapMetro will include the following clause in each DOT-assisted prime contract and it will apply to payments made to both DBE and non-DBE subcontractors:

##### **Subcontractor and Supplier Payments**

*In accordance with Texas Government Code, Title 10 Chapter 2251 Sec. 2251.022, the Contractor shall provide payment to each Subcontractor and Supplier within ten (10) calendar days after receiving payment from CapMetro for amounts previously invoiced for work performed or materials furnished under the Contract. Subcontract payment provisions shall require payments to subcontractors within ten (10) calendar days after the prime Contractor received payment from CapMetro. Interest on late payments is subject to the provisions of Texas Government Code, Title 10, Chapter 2251, regarding payments to subcontractors. Under Sec. 2251.023, subcontractors are also required to make payments to their subcontractors no later than the 10<sup>th</sup> day after the date the subcontractor receives payment from Contractor. Failure to pay subcontractors within 10 days and/or failure to submit appropriate certification of subcontractor payment will be considered in the review of the Contractor's performance of the contract and may result in the withholding of payment to the Contractor.*

##### **Retainage (§26.29(b))**

CapMetro will ensure the Contractor agrees to return retainage payments to each subcontractor within 10 days after the subcontractor's work is satisfactorily completed. This also applies to all lower-tier subcontractors.

##### **Completion of Work (§26.29(c))**

CapMetro acknowledges a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by CapMetro. 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.

**Monitoring and Enforcement (§26.29(d), (e), & (f))**

CapMetro has established mechanisms to ensure prompt payment and will include it in all contractual agreements. B2GNow will be used to monitor, enforce, and document prompt payment, and apply to lower-tier subcontractors. Sanctions for non-compliance are outlined in each contract/solicitation with the prime contractor.

**Billing Disputes**

If a payment dispute arises between the Contractor and any Subcontractor or Supplier related to this Contract, the Contractor shall provide a written response to the Subcontractor or Supplier, with a copy to the Contract Administrator, specifically addressing any disputed amounts. The Contractor should resolve all disputed invoices at the earliest time to avoid a delay in the submission of required subcontractor/supplier payment certifications that could delay payment to the Contractor. In the event that the Contractor cannot resolve a subcontractor or supplier disputed invoice, the Contractor shall bring the matter to the attention of the Contracting Officer at the time of submitting the Contractor's invoice for payment. The Contracting Officer will investigate the situation and make a determination whether the Contractor's invoice should be processed for payment without the required subcontractor or supplier certification. The Contracting Officer will not mediate the dispute between the Contractor and any subcontractor or supplier in the resolution of disputed invoices. At no time will the Contractor invoice CapMetro for amounts in dispute without prior notification to the Contracting Officer.

**12. MONITORING MECHANISMS & RUNNING TALLY (§26.37)**

CapMetro will bring to the attention of the DOT 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 26.107. CapMetro will also consider similar action under our own legal authorities, including responsibility determinations in future contracts. Sanctions for non-compliance are outlined in each contract/solicitation with the prime contractor.

**Running Tally**

CapMetro utilizes the B2Gnow compliance monitoring program to ensure that it has developed a monitoring process to comply with this regulation and mechanism to effectively implement a running tally.

1. Contractors will be required to submit updates on their contract(s) with payment and payment information on each subcontractor or vendor monthly, and to document their compliance with the DBE participation and prompt payment regulations. Contractors will be required to use B2GNow to report, monitor and maintain their subcontractor or vendor's participation through monthly contract audits that also require payment confirmation from the subcontractor or vendor's representative in the B2GNow program. The B2GNow system will support a running tally of actual payments to DBE firms for work committed to them at the time of contract award through the term of the contract, which will allow for a frequent comparison of:
  - Cumulative of DBE awards/commitments to DOT-assisted prime contract awards to determine whether CapMetro's current implementation of contract goals is projected to be sufficient to meet your annual goal. This mechanism will inform CapMetro's decisions to implement goals on contracts to be advertised according to your established contract goal-setting process; and,
  - Payments made to each listed DBE relative to the progress of work, including payments for such work to the prime contractor to determine whether the contractor is on track with meeting its DBE commitment and whether any projected shortfall exists that requires the prime contractor's good faith efforts to address to meet the contract goal pursuant to 49CFR §26.53(g).

### CUF Review

CapMetro provides a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. In addition to the payment verification system, CapMetro DBE staff will conduct CUF reviews to ensure the DBE is carrying out its responsibilities by actually performing, managing, and supervising the work involved; and it furnishes the supervision, labor, and equipment necessary to perform its work. CapMetro DBE staff tracks these visits using one of the three (3) standard CUF forms that are used and documented in B2GNow.

### **13. FOSTERING SMALL BUSINESS PARTICIPATION (§26.39)**

CapMetro's DBE Program includes a strategy to foster a small business participation for inclusion with CapMetro's procurement process. CapMetro has incorporated non-discriminatory elements into its DBE program in order to facilitate competition on DOT-assisted public works projects and taking all reasonable steps to eliminate obstacles for participation by small business (both DBEs and non- DBE small businesses). In addition,

CapMetro's program is intended to provide full and fair opportunities for equal participation to small businesses and DBEs on CapMetro procurement initiatives.

Outreach and technical assistance are key to enhancing opportunities for small businesses. To that end, CapMetro will also focus efforts on outreach and technical assistance. The objective of these initiatives will be to:

1. Increase DBE participation in CapMetro contract opportunities;
2. Understand DBE obstacles and participation on CapMetro procurement opportunities;
3. Garner participation in CapMetro's Business Development Program; and,
4. Encourage small businesses to become DBE certified.

**Implementation:**

The small business participation strategy will utilize various outlets to initiate and communicate CapMetro's DBE initiatives that include, but are not limited to the following:

- Participate in pre-bid conference to educate prime contractors on where and how to locate DBEs using available directories;
- Provide training to internal and external stakeholders on CapMetro's DBE Program requirements;
- On prime contracts with a 0% DBE goal, encourage prime contractors to consider DBEs for potential subcontract opportunities;
- Meet with the Procurement department to identify alternative acquisition strategies and to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete as prime contractors;
- Meet with the Procurement department to determine if there are procurement opportunities available at a reasonable size that small businesses, including DBEs, can compete and perform;
- Meet with the Procurement department to determine if, for selected procurement initiatives, whether scopes can be unbundled to allow for DBEs to competitively compete on procurement opportunities;
- Host of DBE events to provide information on CapMetro project initiatives and in doing business with CapMetro;
- Participation at DBE or supplier diversity related events where information can be shared on CapMetro initiatives, doing business with CapMetro, and schedule One-on-One meetings;
- Send communication to DBEs via B2GNow outreach campaigns on doing business with CapMetro;

- Educate and train small businesses through a Small Business Development Program;
- Send communication to DBEs via Recipients administering CapMetro's BDP;
- Host One-on-One meetings with DBEs to provide technical assistance in doing business with CapMetro that includes where to find procurement opportunities, understanding the different Co-Op contracts utilized, locating currently active contracts, understanding CapMetro contracts, where to locate future contract opportunities, and other business-related information based on the small business;
- Work with Procurement and other departments to make information available on how to do business with CapMetro on the website;
- Send out surveys to small businesses to gather quantitative and qualitative data on their efforts to do business with CapMetro, participation in small business training, and other business-related items that can be used to measure our outreach initiatives and impacts in growing DBE participation on contract opportunities;
- Work closely with small business chambers and organizations to provide information to their members on CapMetro procurement opportunities and how to do business with CapMetro; and,
- Collaborate with other small business departments (i.e., City of Austin, TxDOT, Travis County, AISD, etc.) to learn and share tools and resources, and join efforts to promote and grow small business and DBE participation.

### **Reporting and Data Analysis**

The effectiveness of the DBE program is measured by a review of data indicating prime and subcontract awards to small businesses. The DEI team plans to analyze the data periodically to determine an accurate goal setting methodology for this program.

Upon request, staff will prepare and submit an annual report to the Board of Directors that may include:

1. The number of contracts awarded to small businesses and paid;
2. The percentage of total award and payment to small businesses by race, gender, and ethnicity;
3. A description of the general categories of contracts awarded to small businesses;
4. The dollar value of contracts awarded to small businesses;
5. The dollar value and number of contracts awarded to small businesses as prime contractors;
6. Annual goal achievement analysis, and
7. Other relevant statistics.

## 14. OVERALL GOALS (§26.45)

### Amount of Goal

CapMetro will calculate its triennial overall DBE goal and publish it to show what percentage of the Federal financial assistance in DOT-assisted contracts CapMetro will expend, exclusive of FTA funds to be used for the purchase of transit vehicles. The goal will reflect CapMetro's determination of the level of DBE participation expected to be absent from the effects of discrimination. The final triennial goal will be submitted to the FTA, via TrAMS on August 1<sup>st</sup>.

### Methodology

The following is a summary of the method used to calculate the triennial goal.

#### *Step 1: Base Figure*

CapMetro will establish a base figure for the relative availability of DBEs. The base figure is contingent to demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on DOT-assisted contracts. Determining this includes the use of:

1. DBE Directories and Census Bureau Data,
2. Bidders List,
3. Data from Disparity Studies,
4. Using the goal from another DOT recipient, or
5. Alternative methods.

The Base Figure will be calculated using the following formula:

$$\text{Base Figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing, and able (including DBEs and non-DBEs)}}$$

#### *Step 2: Adjustments to Base Figure*

CapMetro will examine all the evidence available in CapMetro's jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made. Evidence that must be considered when adjusting the based figure includes, but is not limited to the following:

1. Current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

2. Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure;
3. If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.
4. Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;
5. Data on employment, self-employment, education, training, and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program;
6. CapMetro will also analyze current and future CapMetro FTA funded contracts, NAICS codes associated with the contracts, and its geographic market area to estimate the availability of DBEs.
7. Amount by which past goals were exceeded; and,
8. Past history of CapMetro attaining triennial goal.

Part 26, §26.45(d)(3), and the DOT Tips caution that any adjustment to the base figure to account for the continuing effects of past discrimination or effects of an ongoing DBE program, must be based on demonstratable evidence that is logically and directly related to the effect for which the adjustment is sought.

### ***Step 3: Final Adjustments to Base Figure***

Final adjustments will use the Base Figure, and any adjustments identified to calculate the Overall, RC, and RN goals.

1. Overall Goal – Based on the average of overall DBE goal attainment from the past 5 years.
2. RN – Based on the median RN goal attainment in the past 5 years.
3. RC – Based on remaining percentage from RN to make up overall goal.

### ***Step 4: Consultation***

Consultation and publication of the triennial goal will be provided and communicated through 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 will include a schedule, 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 will occur before the submission deadline to FTA for review. The consultation will be included in the report, documenting the process taken for public consultation.

***Step 5: CapMetro Board Approval***

The report and a presentation will be presented to the board prior to publication.

***Step 6: Publication and Submission***

CapMetro will publish a notice announcing its proposed overall DBE goal, along with the report, before submitting the report to the FTA for review on August 1st. A ticket request will be submitted to the Marketing Department to add the report and any other documentation to the DBE webpage on CapMetro's website.

***Step 7: Public Comment Period and Submission***

CapMetro may, at its discretion, inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at CapMetro's principal office and for a 30-day 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.

CapMetro's overall goal submission to FTA by August 1<sup>st</sup> via TrAMS will include a summary of information and comments received during this public participation process and our responses. CapMetro will use the overall goal on October 1 of each year unless CapMetro has received other instructions from FTA.

Means used to meet overall goals §26.51

CapMetro will attempt to meet its overall goal by maximizing race-neutral participation, while facilitating race-neutral DBE participation. In addition, CapMetro will meet the annual goal by setting DBE goals for selected procurements with a value of \$50,000 or greater to obtain Race-Neutral participation. CapMetro uses the following race-neutral means to increase DBE participation:

- Setting DBE Goals as outlined in the Fostering Small Business Participation provisions (§26.39)
- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small

business participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);

- Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs and other small businesses on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; providing information in languages other than English, where appropriate);
- Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses; and,
- Ensuring distribution of TUCP DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

If it appears that participation through "race neutral" means is exceeding or not meeting this level, CapMetro may adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and 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 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 in a prime contract which exceeds 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.

#### **15. TRANSIT VEHICLE MANUFACTURERS (§26.49)**

CapMetro will require each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements and to certify that it has complied with the requirements of this Part 26. Alternatively, CapMetro may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles from specialized manufacturers when a TVM cannot be identified. Within 30 days of becoming contractually required to procure a transit vehicle, CapMetro will report to FTA: (1) the name of the TVM that was the successful bidder; and, (2) the Federal share of the contractual commitment at that time.

#### **16. CONTRACT GOALS (§26.51), (d) & (e)**

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

projects it will not be able to meet using race-neutral means CapMetro does not project being able to meet using race-neutral means. CapMetro will establish contract goals on DOT-assisted contracts that have subcontracting possibilities. For those contracts by which CapMetro does not identify a possibility of subcontract opportunities to establish a contract goal, a 0% goal will be applied.

CapMetro uses a goal setting methodology (*See Attachment 3*) to conduct an analysis for goal setting. Factors that will be used to determine the possibility of subcontracting include the following:

- Project Type,
- Total Procurement Amount,
- Project Days,
- Work categories under the procurement,
  - NAICS,
  - Description of work,
  - Number of units,
  - Quantity,
  - Total dollar amount, and
  - Total percentage of amount,
- Similar contracts,
  - Contract name,
  - Contract number,
  - Contract value,
  - DBE goal, and
  - Goal attainment,
- Overall DBE opportunities,
  - Total dollar of DBE opportunities,
  - Total percentage of DBE opportunities, and
  - Number of DBE availability,
- Percentage of DBE Relative Availability,
  - Ready, willing, and able DBE vs All firms ready, willing, and able
- Current RC/RN participation for the fiscal year,
  - Goal setting will be adjusted based on RN and RC participation for the year,
- Threshold for goal setting,
  - Table breakdown of potential goal.

## 17. GOOD FAITH EFFORTS (§26.53)

When a DBE contract goal has been established, CapMetro will award the contract only to a bidder/offeror who makes a good faith effort to meet the goal. CapMetro considers the bidder/offeror in compliance with good faith efforts requirements as a matter of responsiveness to the requirements of the solicitation.

Each solicitation for which a contract goal has been established will include good faith effort requirements based on §26.53 (b) (*See Attachment 3*) and will require the bidders/offerors to submit, by the time/date the bid or proposal is due, the following forms:

### 1. Good Faith Effort Form

- Checklist documenting good faith efforts taken to meet the goal if the goal is not met.

### 2. Schedule C forms (*See Attachment 3*), that includes, but is not limited to the following:

- The names and addresses of DBE firms that will participate in the contract;
- NAICS code and a description of the work that each DBE will perform;
- The percentage and 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; and,

### 3. Intent(s) to Perform as a DBE Subcontractor (*See Attachment 3*) serving as a

- Written and signed confirmation from the DBE subcontractor that it is participating in the contract as provided in the prime contractor's commitment.

If the contract goal is not met, evidence of good faith efforts, based on 26.53 (b) (*See Attachment 3*), must be submitted by the bidder/offeror by the time/date the bid or proposal is due.

If the bidder/offeror does not submit this information by the time/date the bid or proposal is due, CapMetro has grounds to deem the bidder/offeror non-responsive for failure to comply with the advertised requirements (i.e., DBE section) of the solicitation. The decision deeming the bidder/offeror non-responsive for failure to submit this information by the time/date the bid or proposal is due is administratively appealable to CapMetro DBE Reconsideration Officer. (*See Administrative Reconsideration section below*)

The following personnel are part of the three-person Good Faith Efforts Determination Committee and are responsible for determining whether a bidder/offeror who has not

met the contract goal has documented sufficient good faith efforts to be regarded as responsive: DEI Director, DBE Liaison Officer, and Supplier Diversity Specialist.

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

**DBE Reconsideration: (§26.53(d))**

CapMetro will notify an apparent successful bidder/offeror of its determination that the bidder/offeror failed to meet the good faith efforts requirement. The bidder/offeror has a right to appeal the decision within five (5) business days of the date of the notice of the decision by filing a written appeal for reconsideration to the DBE Reconsideration Officer: Chief Counsel, CapMetro, 2910 E. Fifth Street, Austin, TX 78702. As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether the bidder/offeror met the goal or made adequate good faith efforts to do so. The DBE Reconsideration Officer will not play any role in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.

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

**Good Faith Efforts during Design-Build (§26.53(e))**

CapMetro will set goals on design-build projects using an Open-Ended DBE Performance Plan (OEPP). CapMetro will require the contractor to provide a commitment to meet the DBE goal, provide details of the types of subcontracting work or services (with projected dollar amount) that the contractor will solicit to DBEs to perform, and estimated timeframe in which actual DBE subcontracts would be executed. After award, CapMetro will monitor and provide oversight to evaluate whether the contractor is using good faith efforts to comply with the OEPP schedule. CapMetro and the contractor may agree to make written revisions to the OEPP throughout the life of the project (e.g., replacing the type of work items to solicit DBEs, adjusting the proposed schedule) as long as the contractor continues to use good faith efforts to meet the goal.

*Good Faith Efforts When a DBE is terminated on a Contract with Contract Goals (§26.53(f))*

CapMetro requires the prime contractor to notify the Diversity Equity & Inclusion Department, Project Manager, and Contract Administrator immediately of a DBE's inability or unwillingness to perform the work and provide reasonable documentation of such. Requirements for termination of a DBE will be included in the solicitation & contract language, and the prime contractor will also be required to complete the DBE Termination & Substitution Request Form (*See Attachment 3*).

CapMetro requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without CapMetro's prior written consent. Prior written consent will only be provided where there is a "good cause" termination of the DBE subcontractor as established by Section §26.53(f)(3). CapMetro will require a prime contractor to make good faith efforts to replace a DBE subcontractor.

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

In those instances, where "good cause" exists to terminate a DBE's contract, CapMetro will require the prime contractor to make good faith efforts to replace a DBE subcontractor that is terminated or otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal.

In this event, CapMetro will require the prime contractor to obtain its 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, CapMetro's contracting office 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 terminate the contract.

Any DBE that has been approved by CapMetro to be replaced has the right to appeal the decision directly to the DBELO if the DBE disagrees with the decision. Appeals must be submitted to the DBELO in writing or by email within five (5) business days of being notified. If the DBELO does not concur with the Prime Contractor, the DBE may use the "DBE Reconsideration" process noted in this section and submit an appeal of the decision

to CapMetro's DBE Reconsideration Officer.

## **18. COUNTING DBE PARTICIPATION (§26.55)**

### **Participation Towards Overall & Contract Goal**

CapMetro counts DBE participation toward overall and contract goals as provided in 49 CFR §26.55(a) & (b) that include:

- Counting only the value of the work actually performed by the DBE will count toward the goal (whether a prime or a subcontractor);
- Counting the entire amount of that portion of a construction contract (or other contract not covered by paragraph 26.55(a)(2)) that is performed by the DBE's own forces. This includes the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate);
- Counting the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services; and,
- When a DBE performs as a participant in a joint venture, CapMetro will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

If a DBE subcontracts part of its contract to another firm, the value of the subcontracted work will be counted if the subcontractor is a DBE certified firm. Work subcontracted to a non-DBE firm will not be counted towards the DBE goal.

If a firm is not currently certified as a DBE in accordance with the standards of this part at the time of the execution of the contract, CapMetro will not count the firm's participation toward any DBE goals, except as provided for in 49 CFR §26.87(j)).

CapMetro will not count the participation of a DBE subcontractor toward the prime contractor's DBE achievements or overall goal until the amount being counted toward

the goal has been paid to the DBE.

**Commercially Useful Function**

CapMetro counts expenditures to a DBE contractor toward DBE goals only if the DBE is performing a Commercially Useful Function (CUF) on the contract as provided in 49 CFR §26.55(c). A DBE performs a CUF when:

1. It is responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved; and,
2. Responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

To determine whether a DBE is performing a CUF, CapMetro's DBE Program will:

1. Evaluate the amount of work subcontracted;
2. Industry practices;
3. Whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work; and,
4. Other relevant factors.

CapMetro **does not** count a DBE as performing a CUF if:

1. Its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate; and,
2. It does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, CapMetro's DBE Program will presume that it is not performing a commercially useful function. CapMetro will allow the DBE to present evidence to rebut the presumption. The DBE will submit evidence to CapMetro within five business days of being notified. CapMetro will notify the DBE of its determination in writing. The DBE may appeal the determination decision to the DBE Reconsideration Officer within five business days of the date



of the notice. The DBE Reconsideration Officer's decision is final and not appealable.

CapMetro uses the following factors in determining whether a DBE trucking company is performing a CUF as provided in 49 CFR §26.55(d), which includes:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
5. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If CapMetro chooses this approach, it must obtain written consent from the appropriate DOT operating administration.
6. The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
7. For purposes of 49 CFR §26.55(d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from

working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

CapMetro requires the Prime Contractor and Subcontractor to submit a Schedule C (Hauling) Form (*See Attachment 3*) to track DBEs using owned and leased vehicles to perform the work and will review participation during the CUF.

CapMetro counts expenditures with DBEs for materials or supplies toward DBE goals following 49 CFR §26.55(e), which includes:

1. CapMetro will count 100 percent of the cost of the materials or supplies if the materials or supplies are obtained from a DBE manufacturer.
  - a. A manufacturer is a firm that owns (or leases) and operates a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications. Manufacturing includes blending or modifying raw materials or assembling components to create the product to meet contract specifications. When a DBE makes minor modifications to the materials, supplies, articles, or equipment, the DBE is not a manufacturer. Minor modifications are additional changes to a manufactured product that are small in scope and add minimal value to the final product.
  - b. CapMetro has established a system to determine that a DBE is a manufacturer. To ensure the eligibility of the DBE to meet the 100 percent requirement, CapMetro will require the Prime Contractor to submit a Schedule C (Material Supplier) Form (*See Attachment 3*), communicate with the DBE to verify that the company is a legitimate manufacturer, and CapMetro will review operations during the CUF.
2. If the materials or supplies are purchased from a DBE regular dealer, CapMetro will count 60 percent of the cost of the materials or supplies (including transportation costs).
  - a. A regular dealer is a firm that owns (or leases) and operates, a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and

required under the contract are bought, kept in sufficient quantities, and regularly sold or leased to the public in the usual course of business. Items kept and regularly sold by the DBE are of the “general character” when they share the same material characteristics and application as the items specified by the contract.

- b. CapMetro has established a system to determine that a DBE regular dealer, over a reasonable period of time, keeps sufficient quantities and regularly sells the items in question. CapMetro also ensures the regular dealer of bulk items owns/leases and operates distribution equipment for the products it sells. To ensure the eligibility of the DBE to meet the 60 percent requirement, CapMetro will require the Prime Contractor to submit a Schedule C (Material Supplier) Form (*See Attachment 3* and DBE Regular Dealer-Distributor Affirmation Form (*See Attachment 3*) to track the material supplies provided by the DBE, CapMetro will communicate with the DBE to ensure bulk stock of the material supplies through inventory records, and CapMetro will review operations during the CUF.
  - i. To be a regular dealer, the firm must be an established business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A DBE supplier performs a CUF as a regular dealer and receives credit for 60 percent of the cost of materials or supplies (including transportation cost) when all, or at least 51 percent of, the items under a purchase order or subcontract are provided from the DBE's inventory, and when necessary, any minor quantities delivered from and by other sources are of the general character as those provided from the DBE's inventory.
  - ii. A DBE may be a regular dealer in such bulk items as petroleum products, steel, concrete or concrete products, gravel, stone, or asphalt without owning and operating a place of business as provided in paragraph 49 CFR §26.55(e)(2)(ii) if the firm both owns and operates distribution equipment used to deliver the products. Any supplementation of regular dealers' own distribution equipment must be by a long-term operating lease and not on an ad hoc or contract-by-contract basis.
  - iii. A DBE supplier of items that are not typically stocked due to their

unique characteristics (*e.g.*, limited shelf life or items ordered to specification) will be considered in the same manner as a regular dealer of bulk items per 49 CFR 26.55(e)(2)(iv)(B) of this section. If the DBE supplier of these items does not own or lease distribution equipment, as described above, it is not a regular dealer.

- iv. Packagers, brokers, manufacturers' representatives, or other persons who arrange, facilitate, or expedite transactions are not regular dealers within the meaning of 49 CFR §26.55(e)(2).
3. If the materials or supplies are purchased from a DBE distributor that neither maintains sufficient inventory nor uses its own distribution equipment for the products in question, CapMetro will count 40 percent of the cost of materials or supplies (including transportation costs).
    - a. A DBE distributor is an established business that engages in the regular sale or lease of the items specified by the contract. A DBE distributor assumes responsibility for the items it purchases once they leave the point of origin (*e.g.*, a manufacturer's facility), making it liable for any loss or damage not covered by the carrier's insurance.
    - b. A DBE distributor performs a CUF when it demonstrates ownership of the items in question and assumes all risk for loss or damage during transportation, evidenced by the terms of the purchase order or a bill of lading (BOL) from a third party, indicating Free on Board (FOB) at the point of origin or similar terms that transfer responsibility of the items in question to the DBE distributor.
    - c. If these conditions are met, DBE distributors may receive 40 percent for drop-shipped items. Terms that transfer liability to the distributor at the delivery destination (*e.g.*, FOB destination), or deliveries made or arranged by the manufacturer or another seller do not satisfy this requirement.
    - d. CapMetro has established a system to determine the eligibility of a DBE distributor to meet the 40 percent requirement, which will require the Prime Contractor to submit a Schedule C (Material Supplier) Form (*See Attachment 3*) and DBE Regular Dealer-Distributor Affirmation Form (*See Attachment 3*) to track the material supplies provided by the DBE, CapMetro will communicate with the DBE to ensure bulk stock of the

material supplies through inventory records, and CapMetro will review operations during the CUF.

4. With respect to materials or supplies purchased from a DBE that is neither a manufacturer, a regular dealer, nor a distributor, the prime contractor counts the entire amount of fees or commissions charged that CapMetro deems to be reasonable, including transportation charges for the delivery of materials or supplies. CapMetro will not count any portion of the cost of the materials and supplies themselves.
  - a. CapMetro has established a system to determine that a DBE regular dealer, over a reasonable period of time, keeps sufficient quantities and regularly sells the items in question. Also, ensures the regular dealer of bulk items owns/leases and operates distribution equipment for the products it sells. To ensure the amount counted for credit towards the DBE goal, CapMetro will require the Prime Contractor to submit a Schedule C (Material Supplier) Form (*See Attachment 3*), CapMetro will communicate with the DBE to discuss material, goods, or services provided, and CapMetro will review operations during the CUF.

Based on 49 CFR, §26.55(f),(g), &(h):

1. If a firm is not currently certified as a DBE at the time of the execution of the contract, CapMetro will not count the firm's participation toward any DBE goals, except as provided for in 49 CFR, § 26.87(j));
2. CapMetro will not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward the overall goal; and,
3. CapMetro will not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the contractor has paid the DBE the amount being counted.

CapMetro's DBE program includes a monitoring and enforcement system (i.e., B2GNow) to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism includes a written certification that CapMetro has reviewed contracting records and monitored work sites for this purpose. The monitoring to which this paragraph refers will be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).

This system (i.e., B2GNow) provides for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In its reports of DBE participation, CapMetro will display both commitments and attainments.

CapMetro's DBE program monitors CUFs through the B2Gnow vendor management system. For each contract, the contractor is required to update payment and payment information on each subcontractor or vendor monthly to document in written or electronic format their use of committed DBE subcontractors. Contractors are required to report, monitor, and maintain their subcontractor or vendor's participation through monthly contract audits that require confirmation from the subcontractor or vendor's representative in B2Gnow.

CapMetro's DBE program also completes periodic work site visits to confirm and enforce committed DBE subcontractor use and evaluate the DBE subcontractors' commercially useful functionality according to industry standards. The DBE program will utilize three (3) standard CUF forms to certify the DBE firms' execution, management and supervision of work committed to in the proposed bid documentation. These signed and documented CUF certifications will be maintained through B2Gnow in a dedicated module. Samples of these forms are available upon request.

CapMetro's DBE Program will track and monitor the Prime Contractor's Schedule C, and require an update to the Prime Contractor's Schedule C, and if applicable, completion of a DBE Regular Dealer/Distributor Affirmation Form, should modifications to the contract, project work, or subcontractors occur.

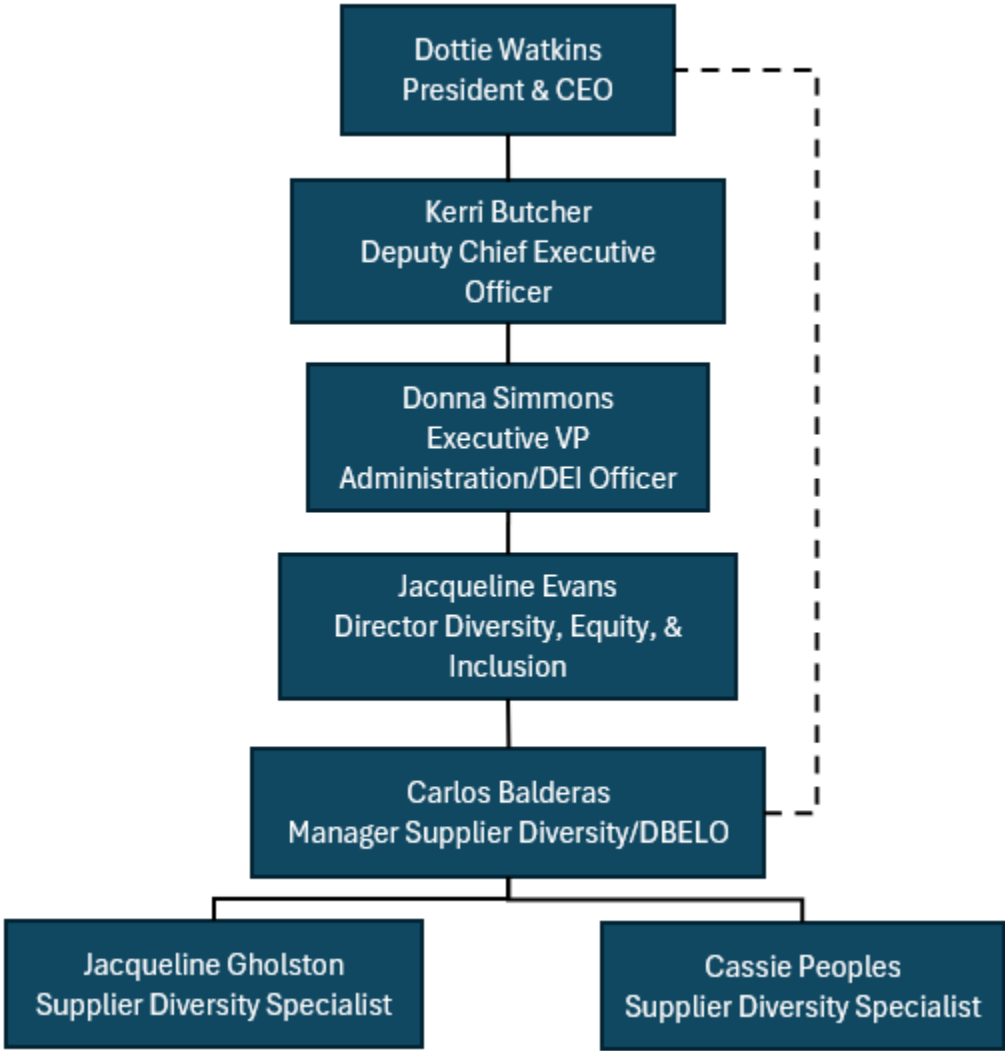
#### **19. Certification (§26.61 - §26.91)**

CapMetro is not a certifying agency. CapMetro utilizes DBEs that receive certification from the Texas Unified Certification Program or other DBEs that are certified and authorized to do work in Texas.

## ATTACHMENT LIST

1. Organizational Chart
2. Link to DBE TUCP Directory
3. DBE Program Policy & Procedures
  - a. Exhibit D: DBE Solicitation Language
  - b. Goal Setting Worksheet
  - c. Goal Setting Memo
  - d. Schedule C & Intent to Perform: Hauling Services
  - e. Schedule C & Intent to Perform: Material Services
  - f. Schedule C & Intent to Perform: Other Subcontract Services
  - g. DBE Good Faith Effort Form
  - h. DBE Regular Dealer/Distributor Affirmation Form
  - i. Bid Review Memo
  - j. Subcontractor Utilization Plan
  - k. Termination & Substitution Request Form
  - l. Final DBE Report
  - m. New User – Vendor Information Form

**ATTACHMENT 1: ORGANIZATIONAL CHART**






## **ATTACHMENT 2: LINK TO DBE DIRECTORY**

Live Link to TxDOT UCP Directory:

<https://txdot.txdotcms.com/>

**ATTACHMENT 3: DBE PROGRAM POLICY & PROCEDURES**

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>Table of Contents</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

P

**TABLE OF CONTENTS**  
**POLICY & PROCEDURES**

**Chapter I – INTRODUCTION**


Section	I-1	INTRODUCTION	3
	1.1	POLICY	3
	1.2	AUTHORITY	3
	1.3	ELIGIBILITY	3
	1.4	PROCEDURES OVERVIEW	4

**Chapter II – PROCUREMENT & CONTRACT PHASE**

Section	II-2	PROCUREMENT & CONTRACT PHASE	5
	2.1	DEI PROCUREMENT PHASE	5
	2.2	GOAL SETTING	4
	2.3	DBE LANGUAGE & DOCUMENTATION	9
	2.4	PRE-BID CONFERENCE	10
	2.5	SOLICITATION REVIEWS	10
	2.6	DEI CONTRACT PHASE	13
	2.7	POST AWARD MEETING	14
	2.8	CONTRACT DATA INTEGRATION FROM ORACLE TO B2GNOW	14
	2.9	CONTRACT LOCK-IN	15
	2.10	VENDOR ACCESS TO CAPMETRO B2GNOW	20
	2.11	CONTRACTOR & DBE SUBCONTRACTOR AGREEMENT REVIEW	21
	2.12	SUBCONTRACTOR UTILIZATION PLAN (SUP)/OPEN ENDED PERFORMANCE PLAN	21
	2.13	COMMERCIALY USEFUL FUNCTION	23
	2.14	MONTHLY COMPLIANCE AUDIT	25
	2.15	CONTRACT MODIFICATIONS & TASK ORDERS	27
	2.16	DBE TERMINATION AND SUBSTITUTION	28
	2.17	CONTRACT CLOSEOUT & FINAL PAYMENT TO DBE SUBCONTRACTOR	30

**Chapter III – REPORTING**

Section	III-3	OVERVIEW	32
	3.1	FTA SEMI-ANNUAL DBE UNIFORM REPORT	32
	3.2	SHORTFALL ANALYSIS	33
	3.3	VEHICLE AWARD REPORT	33
	3.4	TRIENNIAL GOAL SETTING	33
	3.5	SEMI-ANNUAL & ANNUAL CAPMETRO BOARD REPORT	36
	3.6	BIDDERS LIST	36

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures Table of Contents DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

**Chapter IV – SMALL BUSINESS PARTICIPATION STRATEGY**

Section	IV-4	SMALL BUSINESS PARTICIPATION STRATEGY	37
---------	------	---------------------------------------	----

**Chapter V – BUSINESS DEVELOPMENT PROGRAM**

Section	V-5	BUSINESS DEVELOPMENT PROGRAM (BDP)	39
---------	-----	------------------------------------	----

**Chapter VI – MENTOR PROTÉGÉ PROGRAM**


Section	VI-6	MENTOR PROTÉGÉ PROGRAM	40
---------	------	------------------------	----

**ATTACHMENTS**

A	GOAL SETTING DOCUMENT	42
B	GOAL SETTING MEMO	43
C	EXHIBIT D: DBE SOLICITATION LANGUAGE	44
D	SCHEDULE C & INTENT TO PERFORM (MATERIAL SUPPLIER)	58
E	SCHEDULE C & INTENT TO PERFORM (OTHER SUBCONTRACT SERVICES)	60
F	SCHEDULE C & INTENT TO PERFORM (HAULING/TRUCKING SERVICES)	62
G	DBE GOOD FAITH EFFORT FORM	64
H	DBE REGULAR DEALER/DISTRIBUTOR AFFIRMATION FORM	67
I	DBE BID REVIEW MEMO	68
J	SUBCONTRACTOR UTILIZATION PLAN (SUP)/OPEN ENDED PERFORMANCE PLAN (OEPP)	69
K	DBE TERMINATION & SUBSTITUTION REQUEST FORM	70
L	DBE FINAL REPORT	74
M	NEW USER – VENDOR INFORMATION FORM	75

**CHANGE LOG**

DATE	REASON FOR UPDATE

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;">Director of DEI</p>	<p>Issued:      <b>December 2024</b></p> <p>Created &amp; Revised: <b>Carlos Balderas</b></p> <p>Approved by:</p>
---	---	---

**CHAPTER I – INTRODUCTION**  
**POLICY & PROCEDURES**

**I-1    Introduction**

**1.1 Policy**

The Disadvantaged Business Enterprise (DBE) Program Policy & Procedures of Capital Metropolitan Transportation Authority (CapMetro) sets forth the minimum standards for implementing DBE Program requirements in accordance with [Title 49 C.F.R. Part 26](#) and USDOT guidelines. These policies are furnished to ensure that materials and services are obtained timely, efficiently, and economically, adhering to principles of good administrative practices and sound business judgment, utilizing DBE firms for procurements federally funded by USDOT (i.e., FTA, FHWA, FAA).

**1.2 Authority**

CapMetro has placed the Diversity, Equity, and Inclusion (DEI) Department as the authority responsible for CapMetro’s DBE Program. All procedures outlined in this document address DEI Department role and responsibilities in administering the DBE Program in CapMetro operations and in accordance with the CapMetro Strategic Plan.

**1.3 Eligibility**

The [Texas Unified Certification Program \(TUCP\)](#) is the entity responsible for certifying firms as DBEs in the State of Texas. This means the Authority will accept certifications from any of the certifying agencies that have agreed to perform the certification of DBEs within the state of Texas under the [TUCP](#).

DBEs can be found on the [TUCP Directory](#). The participating agencies are:

- Texas Department of Transportation
- North Central Texas Regional Certification Agency
- South Central Texas Regional Certification Agency
- City of Houston, Office of Business Opportunity
- City of Austin, Small and Minority Business Resources Department
- Corpus Christi Regional Transportation Authority

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

## **1.4 Procedures Overview**

The procedures outlined in this document address the following:

1. DEI Procurement Phase,
  - a. Goal setting
  - b. DBE Language
  - c. Pre-bid conference
  - d. Solicitation reviews
  
2. DEI Contract Phase,
  - a. Post award meeting
  - b. Contract Data Integration from Oracle to B2GNow
  - c. Contractor & DBE agreement review
  - d. Subcontractor Utilization Plan (SUP)/Open Ended Performance Plan (OEPP)
  - e. Commercially Useful Function (CUF)
  - f. Monthly compliance audit
  - g. Contract modifications & task orders
  - h. Contract closeout
  
3. Outreach,
4. Reporting,
5. Business Development Program, and
6. Mentor Protégé Program.

Where applicable, a procedure has been developed for each process from inception to its closeout. Particular emphasis has been placed on certain aspects of the DBE process where warranted by the importance of the subject matter. For sections addressing B2GNow system, B2GNow's user manuals may be utilized for step-by-step instructions.

	<p align="center"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p>
	<p align="center">Director of DEI</p>	<p><b>Approved by:</b></p>

**CHAPTER II – PROCUREMENT & CONTRACT PHASE**  
**POLICY & PROCEDURES**

**II-2 Procurement & Contract Phase**

**2.1 DEI Procurement Phase**

The following section addresses DEI’s processes when administering the following:

- Goal setting
- DBE language & documentation
- Pre-bid conference
- Solicitation reviews

In accordance with [49CFR §26.53\(a\)](#) when a DBE contract goal is established, CapMetro must award the contract only to a bidder/offeror who makes good faith efforts to meet it. Bidders/Offerors that fail to comply with this section will be deemed non-response. CapMetro will be required to re-post the solicitation if there is no Bidder/Offeror that is responsive to requirements under this section.

**2.2 Goal Setting**

The following outlines DEI’s process for goal setting on CapMetro procurements.

**Step 1:** DEI receives a notification from procurement with a request for goal setting. Procurement will provide all relevant documentation necessary for goal setting. Documentation will include, but not limited to the following:

- DBE Request Memo,
- ICE,
- Backup to the ICE (i.e., Itemized project estimate), and
- Scope of Work (SOW).

**Step 2:** DEI sends an email request to the grants department confirming that Federal Transit Administration (FTA) funds will be used. If FTA funds are not used, the procurement and contract will follow SBE policy and procedures.

**Step 3:** DEI’s utilizes its goal setting document to conduct an analysis for goal setting. DEI will take 2-3 business days to establish the goal. Depending on the nature of the procurement, additional days may be needed for goal setting. DEI will notify the Procurement Department if additional days are needed for this or other reasons. The factors used in the goal setting document include the following information and data pertaining to the procurement:

- Project number,
- Project name,

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

- Department,
- Project Manager Name,
- Total Procurement Amount,
- Total DBE Estimate,
- Relative Availability of DBEs,
- Past Contracts,
- Project Days, and
- Information received from other sources (i.e., Project Manager).

The goal setting document will be used to analyze:

- Work categories under the procurement,
  - NAICS,
  - Description of work,
  - Number of units,
  - Quantity,
  - Total dollar amount, and
  - Total percentage of amount,
- Similar contracts,
  - Contract name,
  - Contract number,
  - Contract value,
  - DBE goal, and
  - Goal attainment,
- Overall DBE opportunities,
  - Total dollar of DBE opportunities,
  - Total percentage of DBE opportunities, and
  - Number of DBE availability,
- Percentage of DBE Relative Availability
  - Ready, willing, and able DBE vs All firms ready, willing, and able
- Current RC/RN participation for the fiscal year
  - Goal setting will be adjusted based on RN and RC participation for the year.
- Threshold for goal setting,
  - Table breakdown of potential goal.

**Step 3.1:** Add the following information in the goal setting document pertaining to the procurement:



	<p align="center"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p>
	<p align="center"><b>Director of DEI</b></p>	<p><b>Approved by:</b></p>

- Project number,
- Project name,
- Department,
- Project Manager Name,
- Total Procurement Amount,
- Project Days, and
- Any additional information that will be used for goal setting.

**Step 3.2:** Use the backup to the ICE (i.e., Itemized project estimate) to input the description of work, unit of measures, quantity, and unit price in each designated field in the goal setting document. Review and ensure the information and dollars match or are close to the information and dollars taken from the backup to the ICE. If there are any discrepancies or clarifications are needed, you may reach out to the Procurement Department or Project Manager to receive clarification or remedy any discrepancy. The overall total dollars for the procurement estimate and DBE are calculated under the document’s **Project Description** section in their designated field.

**Step 3.2.1:** There may be an instance when a backup to the ICE is not available. Communicate and work with the Project Manager to determine what information and data can be provided for inclusion in the goal setting document. A solution may be needed to complete this section of no information and data is available.

**Step 3.3:** Search CapMetro’s B2GNow system for a similar contract(s) that will be used as a reference. Include relevant information in designated fields under Past Contracts in the goal setting document. Identify and include at least three (3) contracts. More may be included. The Procurement Department or the Project Manager may be contacted to identify similar contracts or to provide clarification regarding the contract comparisons or differences. Understanding contract comparisons and differences will help when determining DBE availability.

**Step 3.4:** Use the description(s) of work to determine the NAICS codes assigned to each description in the goal setting document. Use the [Texas Department of Transportation \(TxDOT\) Texas Unified Certification Program \(TUCP\) directory](#) or CapMetro’s B2GNow vendor certification directory to search NAICS codes.

**Step 3.5:** Use the NAICS codes identified to search in CapMetro’s B2GNow vendor directory for DBEs and non-DBEs. In B2GNow under “Search” use “Vendors” to search. The totals collected will be used to calculate DBE relative availability in the goal setting document. Save all vendors listed to the procurement/contract file in SharePoint.

**Step 3.5.1:** When searching for DBEs, use the defaults under “Search Parameters”. The only selection item that will be use is “Commodity Codes”, which will be used to select the NAICS codes used to search for DBEs.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 3.5.2:** Under “Certification Parameters” select and click ONLY the TUCP Member’s DBE box listed in the dropdown under the “Certifications” section.

**Step 3.5.3:** Click “Search” at the bottom to receive the DBEs under the NAICS codes selected. The number of DBEs identified for each NAICS code will be placed under “**Ready, willing, and able DBEs**” in the goal setting document.

**Step 3.5.4:** When searching for non-DBEs, use the defaults under “Search Parameters”. The only selection item that will be use is “Commodity Codes”, which will be used to select the NAICS codes used to search for non-DBEs.

**Step 3.5.5:** Under “Certification Parameters” leave all boxes under the “Certifications” section **unchecked**.

**Step 3.5.6:** Click “Search” at the bottom to receive the non-DBEs under the NAICS codes selected. The number of DBEs identified for each NAICS code will be placed under “**All Firms ready, willing, and able**” in the goal setting document.

**Step 3.6:** Use the total number of DBEs and non-DBE of each NAICS code to calculate the DBE percentage of relative availability.

**Step 3.7:** Review the RN/RC participation for the year to determine if you will be setting a low, medium, or high goal. Pull the Uniform report in B2GNow monthly to review current RN/RC attainment.

**Step 3.8:** The goal table provides goal ranges that can be placed on the project. The table can be adjusted by changing the amount of the first percentage. This may be adjusted based on the overall dollar of DBE opportunities.

**Step 3.9:** Communicate with the Project Manager for any other information that may impact the assigned goal.

**Step 3.10:** Conduct an analysis of the procurement, considering all information included in the goal setting document, to determine the goal. Include a summary of your analysis in the **Comments** section under the goal table.

**Step 3.11:** DEI considers, but not limited to the following for goal setting, when tracking CapMetro’s overall DBE goal attainment for the fiscal year:

- If CapMetro is not on track in meeting its race-conscious or race-neutral goals, then the highest goal that may be placed on the track will be applied;
- If CapMetro is on track in meeting its race-conscious and race-neutral goals, then the target goal for the contract will be applied; and,

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

- If CapMetro is exceeding its race-conscious goal but not the race-neutral goal, then a lower to 0% goal may be applied.

**Step 3.12:** Input the assigned goal in the **Goal** section highlighted in yellow under the goal table.

**Step 3.13:** DEI completes the goal setting memo and submits it to the Procurement Department and all other applicable personnel to be placed in procurement file.

**Step 3.14:** Save all documentation received by and submitted to procurement in DEI's section of SharePoint in the "**Contracts-Solicitation**" folder under "**NEW DBE Folder**". A folder will be created if one is not already available. The naming convention used for file naming will be "**6-digit solicitation# - Project Name**".

## **2.3 DBE Language & Documentation**

### **2.3.1 DBE Language**

DBE Language will be included in all solicitations, even for procurements with a 0% DBE goal assigned. In accordance with 49CFR, §26.51, CapMetro is required to meet the maximum feasible portion of its DBE goal through race-neutral means. Race-neutral DBE participation is attained when a:

- DBE wins a prime contract,
- DBE subcontractor is awarded a subcontract on a contract that does not carry a DBE goal, or
- Prime's DBE participation exceeds the assigned DBE goal on the procurement. The total percentage beyond the assigned DBE goal is race-neutral participation.

DEI will coordinate with the Procurement Department every three years or when necessary to review the DBE language to ensure its up to date in accordance with 49CFR Part 26.

### **2.3.2 Schedule C & Intent to Perform**

The bidder/offeror will submit the **DBE Schedule C, Intent to Perform**, and supporting documentation (i.e., good faith effort) by or before the bid submission deadline which will include, but not limited to the following:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

- a. To count a DBE toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
- The dollar amount/percentage of the participation for each DBE firm participating;
  - Written documentation of the bidder/offeree's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and,
  - Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - If the contract goal is not met, evidence of good faith efforts must be submitted using the **DBE Good Faith Effort** form and include supporting documentation.

**Note: There are three types of Schedule Cs (see attachments). The Schedule C submitted by the bidder/offeree will be determined by the good/service provided by the DBE. See section 2.12.12 for Design-Build type projects.**

## **2.4 Pre-Bid Conference**


The Procurement Department notifies the DEI Department via a meeting invited through Outlook to participate in a pre-bid conference. The DEI Department is responsible for providing information related to the DBE requirements of the contract. The DBE script will be used by DEI staff when addressing DBE requirements.

## **2.5 Solicitation Reviews**

The following outlines DEI's process for conducting solicitation reviews of a bidder/offeree's DBE goal participation commitment. DEI will take 2-3 business days to complete this request. Depending on the nature of the review, additional days may be needed for goal setting. DEI will notify the Procurement Department if additional days are needed for this or other reasons.

### **2.5.1 Bidder/Offeree Requesting Change to Schedule C:**

**Post bid submission due date**, if the bidder/offeree needs to make a revision to their Schedule C, a written request must be submitted indicating the changes being requested.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

The DEI Department will conduct a review of the request, and an approval will be made by the DEI Supplier Diversity Manager or Director. The following reasons may be accepted:

- The subcontractor’s company has gone out of business;
- The subcontractor cannot perform the work; or,
- The subcontractor has asked to be removed from the Schedule C.

The DEI Supplier Diversity Manager or Director may forward its determination to Legal for review and approval. The DEI Supplier Diversity Manager or Director will communicate the determination with the vendor based on the review conducted.

**2.5.2 Review Schedule C & Intent to Perform:**

**Step 1:** Procurement sends an email to DEI requesting a solicitation review of DBE participation. The email will include each respondent’s bid submission.

**Step 2:** DEI uses the **Bid Review Memo** to document its review and determination. The memo will be sent to the procurement staff that sent the request and copy all other applicable procurement staff and project managers.

**Step 3:** In the designated location of the Goal Review Memo, include the goal assigned by DEI.

**Step 4:** DEI reviews the ***DBE Schedule C, Intent to Perform***, and supporting documentation to ensure all information is provided and completed. **If this documentation is not provided, the contractor is non-compliant for failure to comply with the advertised requirements of the solicitation. See section 2.5.3 if the Bidder/Offeror does not meet the contract goal or utilize DBEs.**

**Step 4.1:** DEI communicates with the prime contractor via email and copy the procurement administrator for clarification or any additional information needed to complete the review.

**Step 5:** DEI conducts a review of each subcontractor to confirm their DBE certification. Use the [Texas Department of Transportation \(TxDOT\) Texas Unified Certification Program \(TUCP\) directory](#) or CapMetro’s B2GNow vendor certification directory to confirm DBE certification.

**Step 6:** Using the standard format in the Goal Review Memo, provide the following information for each prime vendor and their subcontractor(s):

- Prime contractor name,
- DBE goal commitment by prime contractor,

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

- Subcontractor name,
- Subcontractor Ethnicity/Gender,
- Subcontractor goal commitment,
- Subcontractor City & State Location,
- Under City & State, input “**DBE Certification Confirmed**” to affirm that the subcontractor’s certification has been confirmed and is DBE certified.
- Under “DBE Certification Confirmed” list the goods or services to be provided by the DBE subcontractor.

**Step 7:** DEI saves the memo as a PDF document. The DEI representative conducting the review includes their initials next to their name next to the “**From:**” section in the document.

**Step 8:** DEI submits the Goal Review Memo to the Procurement Department and all other applicable personnel to be placed in the procurement file.

**Step 9:** All documentation received by and submitted to procurement will also be saved in DEI’s section of SharePoint in its designated folder in the “**Contracts-Solicitation**” folder under “**NEW DBE Folder**”.

**2.5.3 Bidder/Offeror Does Not Meet the Contract Goal or Utilize DBEs:**

**Step 1:** In accordance with 49CFR, Appendix A, Guidance Concerning Good Faith Efforts, the bidder/offeror will be responsible for submitting the **DBE Good Faith Effort Form** and supporting documentation (i.e., market research conducted, lists of DBEs contacted, emails, faxes, certified letter, etc.) to show evidence of considering DBEs as subcontractors.

**Step 1.1** DEI may reach out to the prime contractor for clarification when needed and copy the procurement administrator.

**Step 2:** DEI includes comments in the memo under the Bidder/Offeror indicating:

- “**Compliant**” if the information provided demonstrates Good Faith Effort.
- “**non-Compliant**” if the information provided does not demonstrate Good Faith Effort.

**2.5.4 Bidder/Offeror Appeal Regarding “Non-Compliance”**

If DEI determines that the apparent successful bidder/offeror has failed to meet the Good Faith Effort requirements, CapMetro will, before awarding the contract, provide the bidder/offeror an opportunity to submit an appeal to the DBE Reconsideration Officer.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

As part of this reconsideration:

- The bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so;
- CapMetro’s decision on reconsideration must be made by an official who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so. The Reconsideration Officer will be responsible for conducting the secondary review;
- If requested by the bidder/offeror, CapMetro will provide them with the opportunity to meet in person with the Manager for Supplier Diversity, DEI Director, or DBE Reconsideration Officer to discuss the issue of whether it met the goal or made adequate good faith efforts to do so; and,
- DEI will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

The result of the reconsideration process is not administratively appealable to the Department of Transportation.


**2.6 DEI Contract Phase**

The following section addresses DEI’s processes when administering the following:

- Post Award Meeting,
- Contract data integration from Oracle to CapMetro VRS/B2GNow,
- Contract Lock-In,
- Vendor Access to CapMetro VRS/B2GNow,
- Contractor & DBE Subcontractor agreement review,
- Subcontractor Utilization Plan (SUP)/Open Ended Performance Plan (OEPP),
- Commercially Useful Function (CUF),
- Monthly compliance audit,
- Contract modifications & task orders, and
- Contract closeout & final payment to DBE subcontractor.

In accordance with [49CFR, §26.13](#), the contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

- (3) Liquidated damages; and/or,
- (4) Disqualifying the contractor from future bidding as non-responsible.

## **2.7 Post Award Meeting**

DEI participates in or hosts a post award meeting following the contract award to address the DBE requirements of the contract. The following outlines the process under this section.

**Step 1:** The Procurement Department sends a notification via email to DEI of the contract award to designated prime contractor.

**Step 2:** Should the Procurement Department hold a post award meeting, a meeting invite via Outlook will be sent to DEI to present DBE requirements of the contract.

**Step 2.1:** Should the Procurement Department not hold a post award meeting, DEI schedules a meeting with the awarded prime contractor, sending an email requesting their participation and follow-up with a meeting invite sent via Outlook. The contract administrator and project manager will be copied on both notifications.

**Step 3:** During the post award meeting the DEI Department provides a presentation addressing the following topics:

- Agreements with Subcontractors,
- CapMetro VRS/B2GNow,
- Monthly Compliance Audits,
- Contract Changes,
- Commercially Useful Functions (CUF),
- Non-Compliance,
- Tips for Success, and
- Share DEI Contact information.

## **2.8 Contract and Payment Data Integration from Oracle to B2GNow**

CapMetro IT will work with B2GNow Liaisons to integrate new contracts and payments in CapMetro's VRS/B2GNow system. The following outlines the data integration process. Follow B2GNow's training when editing contract data or adding/removing payments.

**Step 1:** The Procurement Department inputs contract and payment data into Oracle. In Oracle, the contract must be activated by Procurement to show "**Open**" status. The "**Open**" status allows for the contract to be exported.



	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 2:** On the 1<sup>st</sup> and 15<sup>th</sup> of each month, CapMetro IT exports new contract and payment data from Oracle and compiles the data in the prescribed format following B2GNow guidelines.

**Step 2.1:** If needed, CapMetro IT may require DEI to complete a review of the contract and payment data.

**Step 4:** CapMetro IT will submit the data to B2GNow.

**Step 5:** B2GNow will review the data prior to import.

**Step 5.1:** B2GNow will communicate any issues to CapMetro IT and DEI to remedy for completion and resubmission.

**Step 6:** B2GNow will import that data into CapMetro’s B2G platform.

**Step 7:** DEI reviews for any contract errors or payments not uploaded via the import process. Errors or payments not uploaded can be found in B2GNow’s platform by going to “Tools” and “Data Management” in the selection field. Follow B2GNow’s training when using the selections under “Data Management”.

**Step 8:** Errors identified may be communicated with Procurement if additional data or information is required to complete the contract activation in B2GNow. Communication may also be addressed with B2GNow if user assistance is needed.

## **2.9 Contract Lock-In**

Contracts requiring a contract lock-in will appear under the Contracts table in the B2GNow System Dashboard under “Pending Lock-in”. A lock-in allows the contract to be activated in the system to track and monitor DBE compliance. The following outlines the process for under this section. Contracts under Interlocal Agreements (ILA) or for the purchase of buses will be deleted from B2GNow because they are not applied against numbers reported in the DBE report. Some vendors may need to be registered with B2GNow. Follow B2GNow’s training when adding New Users. Use the **New User Vendor Information Form** when registering New Users.


### **2.9.1 Master Contract**

**Step 1:** Under the B2GNow dashboard, DEI clicks “Pending Lock-in” under “Contracts” to open the list of contracts to lock-in.

**Step 2:** Uncheck the BLUE check box at the top left-hand side of the page to view the contracts pending lock-in.

**Step 3:** Click “View” to open the contract.

**Step 4:** Under the Contract Alerts section, click "Review Contract".

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 5:** A pop-up window will appear. Click “Ok”.

**Step 6:** Review the contract shell and add information not included in each section, which includes the following:

- Contact Information,
- Contract Dates,
- Prime Contractor Information, and
- Organization Contacts.

**Step 6.1:** Contract information that may be needed to input missing information can be found in SharePoint under Procurement’s folder.

**Step 6.1.1:** In Procurement’s SharePoint, click “Public Contracts & Solicitations Library” to access solicitations and contracts.

**Step 6.1.2:** Using the search field in the page, input the contract number to conduct a search.

**Step 6.1.3:** Solicitation and contract documentation will be available to use to complete the contract lock-in.

**Step 6.1.3.1:** If solicitation or contract documentation is not available, reach out to the contract administrator in the Procurement Department.

**Step 6.1.3.2:** Some contracts in B2GNow may also be created as a result of a purchase order that may not have been solicited or have a formal contract.

**Step 6.2:** Contract information is also available in Oracle. To receive access, communicate with upper management.

**Step 6.2.1:** In Oracle, click on “Procurement” at the top. Scroll through the headers to find Procurement.

**Step 6.2.2:** Options will appear under Procurement. Click “Purchase Orders” to begin a contract search.

**Step 6.2.3:** On the far-right side of the next page, there are four vertical icons. Click on the top icon to open “Tasks”.

**Step 6.2.4:** A hidden tab will open with three options. Click “Manage Agreements” under Agreements.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 6.2.5:** In the search field, delete your name in the “Buyer” field and select “No” if not in default under the “Include Closed and Expired Documents” field.

**Step 6.2.6:** Input the contract number in the “Agreement” field and click “Search”.

**Step 6.2.7:** The contract will populate in search results.

**Step 6.2.8:** Click the contract number to open the contract that will include contract information that may be used when conducting a contract lock-in.

**Step 7:** After inputting information for items in Step 6, complete the “Contract Settings” section.

**Step 7.1:** Following the contract, input the contract DBE goal in the designated field.

**Step 7.2:** Input the percentage of funding sources for federal and state. CapMetro follows an 80/20 split when FTA funding is used.

**Step 7.3:** Input 80% in the FTA field and click “Calculate” to bring the percentage into the federal percentage proportion, and 20% in the local percentage proportion.

**Step 8:** Select the Contract Category the contract is under. If needed, reach out the Contract Administrator for guidance if one cannot be determined.

**Step 9:** Leave all default options under the “Compliance Audit Settings” section remain as they are.

**Step 10:** Under the “Contract Summary” section click “Add Commodity Codes” to search NAICS codes that will be listed as the services/goods under the contract.

**Step 10.1:** Enter a keyword search to find the NAICS code that will be used. Ensure the dropdown under the keyword search field show “NAICS: North American Industry Classification System.”

**Step 10.2:** Click “Add” to include the NAICS code under the contract.

**Step 10.3:** Click “Return” to go back to the contract.

**Step 10.4:** A contract summary or special notes may also be included under the Contract Summary section.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 11:** If available, attach the master contract document and other related contract documents. Use Steps under 6.1 – 6.1.3.2 of this section to locate contract documentation in SharePoint under Procurement.

**Step 12:** Click “Review” to review the contract before saving and activating the contract.

**Step 13:** Click “Save” to activate and save the contract in B2GNow.

### 2.9.2 DBE Prime Contractor for Credit

**Step 1:** If the prime contractor is a DBE they will be counted for credit. Click the “Subs” tab at the top of the page in the contract to add them as a DBE for credit.

**Step 2:** Click “Add Subcontractor” to search for the contractor’s name.

**Step 3:** Input the contractor’s name in the search and click Enter to search.

**Step 4:** Select the vendor to add by clicking “Select Vendor”.

**Step 5:** Complete the fields under the Vendor Information section.

**Step 6:** Under the Subcontract Information section, input the amount they will be awarded. The awarded amount may be reduced due to subcontractor participation.

**Step 7:** Select “**Self-Performing Prime Contractor**” in the “Type of Participation” field under the Subcontract Information section.

**Step 8:** Under the Settings section leave the defaults as they are and select “**Yes**” under the **Count Towards Certified Goal** field and **DBE** under the **Goal Type** dropdown menu.

**Step 9:** Complete the remaining fields under Settings, inputting required dates, work description and adding NAICS codes.

**Step 10:** Skip the Additional Information section and click “Review”.

**Step 11:** Scroll to the bottom of the page and click save to add the prime contractor as a self-performing prime contractor.

### 2.9.3 Adding DBE Subcontractors for Credit

**Step 1:** If subcontractors will be utilized, click the “Subs” tab at the top of the page in the contract to add subcontractors.

**Step 2:** Click “Add Subcontractor” to search for the contractor’s name.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 3:** Input the contractor’s name in the search and click Enter to search.

**Step 4:** Select the vendor to add by clicking “Select Vendor”.

**Step 5:** Complete the fields under the **Subcontractor Information** section. Use the prime contractor’s Schedule C to complete this section.

**Step 5.1:** Complete the Subcontractor Tier using the dropdown menu to select which tier the subcontractor is under.

**Step 5.2:** Skip Reference Identifier field.

**Step 5.3:** Complete the Contract Percent & Amount field using either the amount or percentage. **NOTE:** amount is easier to track.

**Step 5.4:** Complete the Type of Participation field using the dropdown menu. The type selected is based on whether the subcontractor is providing a good or service and the type of subcontractor they represent. The selection made will impact the percentage amount that may be counted for credit.

***Note:** Reference Exhibit D of the solicitation/contract and 49CFR, §26.55 regarding how credit is counted based on goods and services.*

**Step 5.5:** Skip Starting Paid to Date Amount.

**Step 6:** Under Settings leave defaults as they are.

**Step 7:** Under Settings, if the subcontractor is a DBE click “**Yes**” in the **Count Towards Certified Goal** field and select “**DBE**” in the dropdown menu under **Goal Type**.

**Step 7.1:** If the subcontractor is a non-DBE subcontractor, select “**No**”.


**Step 8:** Input the **Subcontractor Award Date** using the contract award date.

**Step 9:** The Work Start Date and Work End Date will be provided through communication with the Prime and the Subcontractor Utilization Plan (SUP).

**Step 10:** Input the work description as shown in the prime contractor’s Schedule C.

**Step 11:** Under Work Codes, click “Add Work Codes” to include the NAICS codes based on work description.

**Step 12:** Under Additional Information, attach contract-related documents (e.g., contract between DBE and prime contractor).

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 13:** Click “Review”.

**Step 14:** Review the information for the newly added subcontractor and click “Save” at the bottom of the page when completed.

## **2.10 Vendor Access to CapMetro VRS/B2GNow**

The DEI Department is responsible for registering and providing prime contractor staff with access to CapMetro’s VRS/B2GNow system. The following outlines the process under this section.

**Step 1:** DEI will confirm if the prime contractor staff assigned to the contract is already in the system by conducting a vendor search.

**Step 2:** Using the tool bar on the left side of the system, click “**Search**” to open a dropdown selection.

**Step 3:** Click “Vendor” to open the vendor search field.

**Step 4:** Input the Contractor’s name in the “Business Name/DBE” field under Search Parameters.

**Step 5:** Select the correct company name from the options provided.

**Step 6:** A box will open in the system with option. Click “User” to view a list of staff registered in the system.

**Step 7:** Review the list of staff to confirm registration.

**Step 8:** If the staff representative is already registered, DEI will send them an email notification using the “**Message**” tool under “**Actions**”. In the message, DEI will provide a response to confirm their registration in the system and to contact B2GNow’s Help & Support for assistance regarding system access.

**Step 8.1:** If the staff representative is not registered, DEI will send an email to the prime contractor to complete and submit the **Vendor Information Form**.

**Step 9:** To add a staff representative, DEI will first follow Steps 2 – 6 above to return to the list of contractor staff registered in the system.

**Step 10:** Click “Add User” button to register the staff representative.

**Step 11:** Use the Vendor Information Form to complete the registration.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 12:** leave the defaults under Account Preferences.

**Step 13:** Check the radio button “Notify new user with an email notice containing username and temporary password.

**Step 14:** Send an email notification to the contractor staff representative indicating that they should expect a separate email notification regarding their registration in the B2GNow system.

**2.11 Contractor & DBE Subcontractor Agreement Review:**

In accordance with 49CFR, §26.53 & §26.13, the awarded contractor is required to submit a copy of all agreements with DBE subcontractors within 15 days from the time they receive the Notice to Proceed form from CapMetro. Within the agreement the contractor includes language:

- That all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with the DBE requirements of the contract;
- Addressing nondiscrimination and assurances that the contractor, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of the contract;
- Addressing the scope of work to be performed by the subcontractor;
- Addressing prompt payment and return of retainage clause; and,
- Addressing options for legal remedies.

Agreements with lower-tier DBE subcontractors, and an agreement between a DBE prime contractor and non-DBE subcontractor is also required for submission.

Any agreement reached between the Contractor and DBE subcontractor may not modify or nullify federal regulations or it will be considered a breach of the contract between Capital Metro and the Contractor. The agreement must be signed by both the Contractor and subcontractor to be considered valid.

**Note:** Detailed information regarding the requirements under this section is found in Exhibit D of CapMetro solicitations and contracts.

**2.12 Subcontractor Utilization Plan (SUP)/Open Ended Performance Plan (OEPP):**

**2.12.1 Subcontractor Utilization Plan (SUP)**

The section is administered in accordance with and to support 49CFR, §26.53 & §26.55(c), (d). CapMetro requires the completion of a ***DBE Subcontractor Utilization Plan*** Form for all contracts with DBE subcontractors under the Schedule C & Intent to

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

Perform to ensure utilization of the certified firms participating in CapMetro contracts. The DEI Department will use the SUP to track DBE participation during the contracts.

The following outlines the process under this section.

**Step 1:** DEI communicates with and trains the prime contractor on the SUP during the post award conference.

**Step 2:** The DEI Department schedules an alert via the B2GNow system to notify the prime contractor and DEI every six months regarding the SUP.

**Step 3:** The prime contractor submits the SUP per the 15-day requirement from the time they receive the Notice to Proceed (NTP) form from CapMetro. The prime contractor may reach out to DEI if assistance is needed.

**Step 4:** DEI reviews the SUP and communicates approval, via email.

**Step 4.1:** DEI communicates with the prime contractor if any clarification or additional information is needed.

**Step 5:** The prime contractor informs DEI during change/task orders of no change or any changes to the information provided in the SUP. This can also include any changes to the Schedule C.

**Step 6:** The prime contractor submits an updated SUP for review and approval. Any changes that occur are subject to DBE requirements under the CapMetro contract, and may impact the Schedule C.

**Step 7:** Documentation is saved in B2GNow under the prime contractor’s contract. Under the contract in B2GNow, click the “Docs” tab to open and save documents.

**2.12.2 Open Ended Performance Plan (OEPP)**

**ONLY APPLICABLE FOR DESIGN-BUILD TYPE PROJECTS.** the **Subcontractor Utilization Plan (SUP)/Open Ended Performance Plan (OEPP)** must be completed and submitted by the bid submission deadline. In the OEPP, the contractor shall provide a commitment to meet the DBE goal, provide details of the types of subcontracting work or services (with project dollar amount) that would be solicited to DBEs to perform, and estimated timeframe in which actual DBE subcontracts will be executed. This process will replace the Schedule C and Intent to Perform documents **during bid submission.** **Following the award,** the **Schedule C & Intent to Perform** will be completed during the term of the contract along with demonstration and documentation of good faith efforts. CapMetro and the contractor may agree to make written revisions to the OEPP



	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

throughout the life of the project (e.g., replacing the type of work items to solicit DBEs, adjusting the proposed schedule) as long as the contractor continues to use good faith efforts to meet the DBE goal.

**2.13 Commercially Useful Function (CUF):**

In accordance with 49CFR, §26.55(c), DEI will conduct a Commercially Useful Function (CUF) review to ensure a DBE is being counted for credit towards the DBE goal under the contract is performing at least 30% of the total cost of its contract with its own workforce. A DBE must be responsible for execution of the work of the contract and carrying out its responsibilities by performing, managing, and supervising the work involved. The DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating prices, determining quality and quantity, ordering the material, and installing, where applicable, and paying for the material itself. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed to obtain the appearance of DBE participation.

**2.13.1 CUF Review**

The following outlines the process under this section. During the CUF review, the prime contractor and subcontractor will provide all of the information needed to conduct the review. **Communicate with the Project Manager and Contract Administrator if additional information and insight is necessary.**

**Step 1: The prime contractor notifies the DEI Department when the DBE begins work via the Subcontractor Utilization Plan (SUP) and email communication.**

**Step 1.1:** If the DBE is a prime contractor, DEI conducts audits when work is being performed.

**Step 2:** The DEI Department sends an email to the prime contractor and DBE subcontractor notifying that a CUF review will be conducted pertaining to the actual work being performed by the DBE. A meeting invite will also follow the email to schedule a date for the CUF review.

**Step 3:** Depending on whether the subcontractor is providing a good or service determines the type of CUF review performed. There are three CUF review options in B2GNow to select from that include:

- DBE CUF Review Form – Construction,
- DBE CUF Review Form – Professional Services, and
- DBE CUF Review Form – Material Supplier.

	<p align="center"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p align="center"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**NOTE:** Reference Exhibit D of the contract, Schedule C, and 49CFR, §26.55 regarding how credit is counted based on goods and services to ensure the proper credit is being applied.

**Step 3.1:** Open the contract in B2GNow and click the “Reviews” tab at the top of the page.

**Step 3.2:** In the next page click “New Review” to open the CUF review forms.

**Step 3.3:** Select the CUF Form that will be used to conduct the review. The selection of the form is based on the scope of work committed to the subcontractor.

**Step 3.4:** The Procurement Department’s “Certified Payroll” report may be used to assist in identifying dollars associated with full time employees and contract employees and percentage of work done by DBE. Communicate with the Procurement Director to access data.

**DBE CUF Review Form**

Each form includes a series of questions separated by the following sections by CUF Review Type:

<p><b>DBE CUF Review Form – Construction</b></p> <ul style="list-style-type: none"> <li>• General Information,</li> <li>• Scope of DBE Services,</li> <li>• Management,</li> <li>• Performance,</li> <li>• Equipment,</li> <li>• Trucking/Delivery,</li> <li>• Commensurate,</li> <li>• Commercially Useful Function Determination,</li> <li>• Non-Commercially Useful Function Determination,</li> <li>• Additional Information, and</li> <li>• Attachments.</li> </ul>	<p><b>DBE CUF Review Form – Professional Services</b></p> <ul style="list-style-type: none"> <li>• General Information,</li> <li>• Scope of DBE Services,</li> <li>• Management,</li> <li>• Performance,</li> <li>• Equipment,</li> <li>• Commensurate,</li> <li>• Commercially Useful Function Determination,</li> <li>• Non-Commercially Useful Function Determination,</li> <li>• Additional Information, and</li> <li>• Attachments.</li> </ul>	<p><b>DBE CUF Review Form – Material Supplier</b></p> <ul style="list-style-type: none"> <li>• General Information,</li> <li>• Scope of DBE Services,</li> <li>• Management,</li> <li>• Purchasing,</li> <li>• Materials,</li> <li>• Equipment,</li> <li>• Trucking/Delivery,</li> <li>• Funding,</li> <li>• Commercially Useful Function Determination,</li> <li>• Non-Commercially Useful Function Determination,</li> <li>• Additional Information, and</li> <li>• Attachments.</li> </ul>
--	---	---

**2.13.2 Commercially Useful Function Determination**

**Step 1:** A DEI reviewer will complete this section, documenting their determination based on the review by selecting “Yes” or “No” to the question in this section, and including their name in the Reviewer (Signature/Certification) field.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 2:** DEI reviewer will complete the CUF review by including their name in the Staff Approval (Signature/Certification) field, include the date of approval, and ensure any supporting documentation is attached before closing out the review.

**Step 2.1** Management may seek clarification from the Reviewer, prime contractor, or subcontractor, if needed.

**2.13.3 Non-Compliance Commercially Useful Function Determination**

**Step 1:** If non-compliance is identified, DEI Management notifies the DBE that it's not performing a CUF and copy the Project Manager (PM).

**Step 2:** The DBE is given the opportunity to present evidence to rebut the finding of non-compliance of not performing a CUF.

**Step 3:** The DEI reviewer reviews any evidence provided by the DBE along with the information collected during the review to render its final determination and address any corrective actions to be completed by the prime contractor and/or subcontractor, and documentation of the completion of the corrective actions taken. The project manager and contract administrator will be copied.

**Step 4:** The DEI reviewer completes the CUF review by including their name in the Staff Approval (Signature/Certification) field, include the date of approval, and ensure any supporting documentation is attached before closing out the review.

**NOTE:** Decisions on CUF Reviews are subject to review by CapMetro Administration but are not administratively appealable to DOT.

**2.13.4 CUF Saved Under Contract**

Information collected for the review, including attachments, will be saved, and managed under the prime contractor's CUF Review.

**2.14 Monthly Compliance Audit:**

In accordance with 49CFR, Appendix B, CapMetro is required to keep accurate data regarding the contracting opportunities available to firms paid for with DOT dollars for reporting to FTA.

B2GNow is used to manage the requirements under this section. B2GNow's user manual and training videos are available for the prime contractor and subcontractor with step-by-step instructions. The following outlines the process under this section:

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

### 2.14.1 Monthly Compliance Audit

**Step 1:** Monthly, prime contractors and subcontractors receive alerts to report and complete compliance audits that require the following:

- Prime contractor confirmation of payment from CapMetro,
- Reporting of subcontractor payments to DBEs, and
- Subcontractor confirmation payment by prime contractor.

**Step 2:** The prime contractor confirms payments reported by CapMetro.

**Step 3:** The prime contractor reports payments to subcontractors (i.e., DBE & non-DBE).

**Step 4:** The prime subcontractor will confirm payments reported by prime contractor.

### 2.14.2 Payment Discrepancy

**Step 1:** DBE subcontractor reports discrepancies with payments in B2GNow when confirming payment.

**Step 2:** DEI staff receives an email alert regarding contract discrepancy.

**Step 3:** DEI staff communicates with the subcontractor and prime contractor to remedy and document the discrepancy.

### 2.14.3 Notification of Incomplete Audits

**Step 1:** At the end of the month/reporting period DEI uses the “**Unresponsive Vendors**” report in B2GNow found in Full List under Reporting.

**Step 2:** A date range for the reporting period is inputted and then click “View Report”.


**Step 3:** Emails are sent to each vendor to complete the monthly audit.

### 2.14.4 Extend Compliance Audit Reporting Period for Unresponsive Prime Contractors and Subcontractors

There are two options for extending compliance audits for a given reporting month.

#### 2.14.4.1 Extend Through Compliance Audit List

**Step 1:** In the prime contractor’s contract, click on the “Compliance Audit List” tab at the top of the page.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 2:** Scroll to the bottom of the page and click “Extend Reporting Deadline By Two Weeks From Today”.

#### **2.14.4.2 Extend Through Actions under Compliance Audit List**

**Step 1:** In the prime contractor’s contract, click on the “Compliance Audit List” tab at the top of the page.

**Step 2:** Click “View Audit” found on the same line as the reporting month.

**Step 3:** Scroll to the middle of the page and Click “Extend Reporting Deadline By Two Weeks From Today”.

**Step 4:** Scroll to the bottom of the page. There will be two options depending on the status of the compliance audit report.

**Step 4.1:** Click “Resend Reporting Notice to Prime” for the prime contractor to receive an email alert.

**Step 4.2:** Click “Resend Reporting Notice to Subcontractor” for the subcontractor to receive an email alert.

#### **2.14.5 Unresponsive Prime Contractor and Subcontractor**

If the prime contractor or subcontractor continues to be non-responsive, DEI sends an email communication to the prime contractor and subcontractor pertaining to them being unresponsive and non-compliant with the monthly compliance audit and schedule a meeting to remedy the non-compliance. **The Contract Administrator and Project Manager may be copied if non-compliance persists.**

#### **2.15 Contract Modifications & Task Orders:**

In accordance with 49CFR, §26.53 DEI will monitor and manage contract changes and task orders under CapMetro contracts for DBE compliance.

The following outlines the process under this section:

##### **2.15.1 Managing Task Orders**

Task Orders under a contract act as a purchase order for goods or services to be provided by the prime contractor.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 1:** Procurement sends an email notification to DEI that a Task Order has been initiated.

**Step 1.1:** DEI replies to the email notification reminding the prime contractor of the DBE requirements under the contract that include the SUP, Schedule C, and CUF.

**Step 2:** DEI saves the Task Order under the prime contractor’s contract in B2GNow.

**Step 2.1:** In the contract, click the “Docs” tab at the top of the page.

**Step 2.2:** Click “Add Document”.

**Step 2.3:** In the dropdown menu, select “Contract: General File” and click “Upload Document(s)”.

**Step 2.4:** Click “Choose File”.

**Step 2.5:** Click “Upload File(s) to save the document under the contract.

**2.15.2: Managing Change Orders/Contract Modifications**

Change Orders/Contract Modifications under the contract initiate changes to a contract. DEI reviews, and addresses the following:

- Change in contract amount;
- Change to contract term date; or
- Change to scope of work.

**Step 1:** Procurement sends an email notification to DEI that a Contract Modification has been initiated.

**Step 1.1:** DEI replies to the email notification reminding the prime contractor of the DBE requirements under the contract that include the SUP, Schedule C, and CUF Review.

**Step 2:** DEI may communicate with the Contract Administrator or Project Manager to understand reasons for the change in contract amount, date, or scope of work.

**2.16 DBE Termination and Substitution**

In accordance with 49CFR, §26.53(f) DEI will monitor terminations and substitutions of DBEs on CapMetro contracts to ensure compliance with DBE requirements under this section. The ***DBE Termination or Substitution Request Form*** shall be used to request termination or substitution of DBE subcontractors.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

Before a prime contractor can terminate or substitute DBE subcontractor on a contract, the prime contractor must seek written consent from DEI and follow the requirements to terminate or substitute a DBE subcontractor. The following outlines the process under this section.

**2.16.1 Termination of DBE Subcontractor**

**Step 1:** The prime contractor completes and submits the ***DBE Termination or Substitution Request*** form to DEI via email and copy the contract administrator and project manager. The Termination Request form requires the prime contractor to provide “Good Cause” for termination. Criteria for “Good Cause” is listed in the form and can provide other forms of “Good Cause” if needed.

**Step 2:** The prime contractor sends a notification to the DBE subcontractor of their intent to terminate their company from the project and copy DEI, contract administrator, and project manager.

**Step 2.1:** The DBE subcontractor is given 5 business days to respond to the notice and provide reasons, if any, why the DBE subcontractor objects to the proposed termination and why the contractor’s request to terminate should not be approved.

**Step 3:** DEI reviews the documentation received from the prime contractor and, if received, the response submitted by the DBE subcontractor.

**Step 3.1:** DEI completes the CapMetro section of the form to document its determination.

**Step 4:** DEI sends a determination letter to the prime contractor following review.

**Step 4.1:** If DEI determines the “Good Cause” is valid, a letter of approval is sent to the prime contractor and request an updated Schedule C.

**Step 4.1.2:** The DBE subcontractor is given the right to appeal the decision to CapMetro’s DBE Reconsideration Officer and will be given five business days to appeal the decision.

**Step 4.2:** If DEI determines the “Good Cause” is not valid, a letter of non-approval is sent to the prime contractor.

**Step 4.2.1:** DEI schedules a meeting with the prime contractor, contract administrator, and, if needed, project manager to discuss next steps.

**Step 5:** DEI saves all documentation under the prime contractor’s file in B2GNow.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

### 2.16.2 Substitution of DBE Subcontractor

**Step 1:** The prime contractor completes and submits the ***DBE Termination & Substitution Request*** form to DEI via email and copy the contract administrator and project manager.

**Step 2:** DEI completes the CapMetro section of the form to document its determination.

**Step 3:** A determination letter is sent by DEI to the prime contractor following review.

**Step 3.1:** If approved, DEI requires the prime contractor to submit an updated Schedule C & Intent to Perform document.

**Step 3.2:** If not approved, DEI communicates next steps to remedy, which will be based on the information provided by the prime contractor.

**Step 4:** DEI saves all documentation under the prime contractor’s file in B2GNow.

### 2.17 Contract Closeout & Final Payment to DBE Subcontractor:

The following outlines the process under this section when initiating a contract closeout.

#### 2.17.1 Final Payment to DBE Subcontractor

**Step 1:** The prime contractor indicates final payment in B2GNow when completing the compliance audit.

**Step 2:** The DBE or Non-DBE subcontractor confirms final payment by the prime contractor.

**NOTE: Contract closeout cannot occur until the Procurement Department completes the contract closeout process.**

#### 2.17.2 Contract Closeout

**Step 1:** The procurement department sends an email notification with a link to a document for DEI to review and sign to close out the contract. This document is routed at the management level.

**Step 1.1:** If a formal contract closeout is not used, send an email to the contract administrator confirming that a closeout document is not available and **skip to Step 5.**

**Step 2:** Before signing the contract, DEI reviews the following for compliance in B2GNow:



	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---


- Final payments to DBEs or Non-DBEs,
- Confirm goal attainment,
- Completion of the DBE Final Report,
- Confirmation from DBEs regarding final payment received, and
- Any pending DBE compliance issue addressed.

**Step 3:** Following review, DEI Supplier Diversity Manager or Director will sign the contract closeout document.

**Step 4:** DEI receives an electronically generated email indicating completion of the Closeout Document. Management will forward the form to DEI team for inclusion under the contract in B2G. The contract administrator is another point of contact for the Closeout document.

**Step 5:** DEI completes a closeout of the prime contractor’s contract in B2GNow.

- In B2GNow under the prime contractor's contract, click the “Closeout” tab at the top of the page.
- Input the date the contract closed in the “Close Date” field.
  - a. “Closed Date” is the ending term date of the contract.
- Attach the Closeout document and any other documents that need to be included.
  - a. If a Closeout document is not available, make note in the comments that the document was not available.
  - b. Upload and attach the email confirmation with the closeout.
  - c. Include comments regarding DBE compliance either met or not met by the contractor (i.e., Reference DBE Final Report, etc.).
- Click “Close Out Contract” to close out the contract.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;">Director of DEI</p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	---	---

**CHAPTER III – Reporting**  
**POLICY & PROCEDURES**

**III-3 Overview**

In accordance with the 49CFR, Part 26, CapMetro is required to submit reports to the FTA and establish Triennial DBE goals. The following section addresses CapMetro’s reporting requirements and process for reporting data and information that include the following:

- FTA DBE Semi-Annual Uniform Report,
- Shortfall Analysis,
- Vehicle Award Report, and
- Triennial Goal Setting.

**3.1 FTA Semi-Annual Uniform Report**

CapMetro is required to submit the FTA DBE Semi-Annual Uniform Report of DBE awards, commitments, and payments, which is due June 1, data covering October 1–March 31 and December 1, data covering April 1–September 30. The following addresses the steps to submit the uniform report.

**Step 1:** In B2GNow, under reporting, click on “Full List”.

**Step 2:** Under the “Contracts” section click on the “U.S. DOT Uniform Report of DBE Awards/Commitments and Payments (2014 Version with Change Orders)”.

**Step 3:** In the report, use the filters to select the following:

- Reporting timeframe,
- Funding Source (FTA),
- Goal Type (DBE),
- Exclude All Change Orders, and
- Leave the other filters under their default:
  - ARRA - Include,
  - Multiply By Funding Percent – Yes, and
  - Subcontracts on Prior Periods - Include.

**Step 4:** Click “View Report”.

**Step 5:** Download the report in an excel or pdf file and save it in SharePoint under Office of Diversity Only Documents, New DBE Folder, DBE- SBE Reports, Current fiscal year folder, in the DBE folder.

**Step 6:** Access TrAMS at <https://faces.fta.dot.gov/suite/> to report the data from the Uniform Report.

**Step 7:** After accessing TrAMS, click the “Reports” tab at the top of the page.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 8:** During the reporting session TrAMS will have the Semi-Annual Report unlocked to report data.

**Step 9:** Open the Semi-Annual Report for the fiscal year.

**Step 10:** The Semi-Annual Report from B2GNow will be used to report data in TrAMS.

**Step 11:** Once data is submitted, click “Submit” to submit the report.

### **3.2 Shortfall Analysis**

In accordance with 49CFR, §26.47, in the event CapMetro does not meet or exceed its annual fiscal year DBE goal at the end of the second Semi-Annual Uniform Report, CapMetro will be required to submit a shortfall analysis to FTA within 90 days of the end of the fiscal year to ensure its DBE Program remains compliant. The analysis will include the following in order to be regarded by FTA as implementing a DBE program in good faith:

- Analysis and details regarding the reasons for the difference between the overall goal and CapMetro’s awards and commitments in that fiscal year; and,
- Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year.

The final analysis will be submitted via TrAMS following the same steps in Section 4.1.


### **3.3 Vehicle Award Report**

In accordance with 49CFR §26.49, CapMetro will report to FTA within 30 days of becoming contractually required to procure a transit vehicle: the name of the TVM that was the successful bidder; and the Federal share of the contractual commitment at that time. This will be reported using FTA’s [Transit Vehicle Award Reporting Form](#) found on [FTA’s TVM webpage](#).

### **3.4 Triennial Goal Setting**

In accordance with 49CFR, §26.45, a triennial DBE goal for FTA assisted contracts will be established that CapMetro will make a good faith effort to attain each fiscal year. **The triennial goal to the FTA is due August 1<sup>st</sup> via TrAMS.** The overall goal is a combination of the following two sub-goals:

- Race-Conscious (RC) – Based on any DBE credit that meets or is under the DBE contract goal assigned.
- Race-Neutral (RN) – Based on the following factors:

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b>  <b>Director of DEI</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>  <b>Approved by:</b>
---	---	--

- DBE awarded as a prime contractor;
- Any DBE credit beyond the DBE contract goal assigned; or,
- Any DBE credit awarded on a contract that does not carry a DBE contract goal.

CapMetro must meet the maximum feasible portion of its overall goal using RN means.

**NOTE: To establish this DBE triennial goal, CapMetro DEI may seek a consultant to assist.**

### **3.4.1 Goal Setting Process**

**Step 1** – Establish a base figure of DBE availability using data from resources that include, but are not limited to the following:

- DBE Directories,
- Census Bureau Data,
- Bidders List,
- Disparity Study,
- Other DOT Recipient Goal, or
- Alternative Methods listed under 49CFR, §26.45.

The Base Figure will be calculated using the following formula:

**Base Figure** = Ready, willing, and able DBEs / All firms ready, willing, and able (including DBEs and non-DBEs)

**Step 2** – Examine all the evidence available in CapMetro’s jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made. Evidence that must be considered when adjusting the based figure includes, but is not limited to the following:

- Current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;
- Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure;
- If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.
- Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;
- Data on employment, self-employment, education, training, and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program;

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

- CapMetro will also analyze current and future CapMetro FTA funded contracts, NAICS codes associated with the contracts, and its geographic market area to estimate the availability of DBEs.
- Amount by which past goals were exceeded; and,
- Past history of CapMetro attaining triennial goal.

Part 26, §26.45(d)(3), and the DOT Tips caution that any adjustment to the based figure to account for the continuing effects of past discrimination or effects of an ongoing DBE program, must be based on demonstratable evidence that is logically and directly related to the effect for which the adjustment is sought.

**Step 3** – Final adjustments will use the Base Figure, and any adjustments identified to calculate the Overall, RC, and RN goals.

- Overall Goal – Based on the average of overall DBE goal attainment from the past 5 years.
- RN – Based on the median RN goal attainment in the past 5 years.
- RC – Based on remaining percentage from RN to make up overall goal.

**Step 4** – Consultation and publication of the triennial goal will be provided and communicated through 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 will include a schedule, 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 will occur before the submission deadline to FTA for review. The consultation will be included in the report, documenting the process taken for public consultation.

**Step 5** – The report and a presentation will be presented to the board prior to publication.

**NOTE: Reference CapMetro’s board meeting processes when completing this step.**

**Step 6** – The report and notice are published announcing the overall goal and submitted to the FTA for review on August 1<sup>st</sup> via TrAMS. A ticket request will be submitted to the Marketing Department to add the report and any other documentation to the DBE webpage on CapMetro’s website.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

**Step 7 (Not a Requirement)** – CapMetro *may, at its discretion*, 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 30-day 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.

### **3.5 Semi-Annual & Annual CapMetro Board Report**

CapMetro DEI is required to submit its report of DBE awards, commitments, and payments to be reported to and given at the CapMetro Board Meeting. The report is due June 1, data covering October 1–March 31 and December 1, data covering April 1–September 30. The following addresses the steps to submit the uniform report.

Using the data taken from Section 3.1 of this Chapter, input the data using the PowerPoint format that will be given and presented to the Board. Some data will be merged with SBE data.

### **3.6 Bidders List**

In accordance with 49CFR §26.11(c), (2) & (3) CapMetro is required to maintain a Bidders List with the following data and submit the data in FTA’s designated system no later than December 1<sup>st</sup> following the fiscal year in which the relevant contract was awarded:

- Firm, Name;
- Firm address including ZIP code;
- Firm's status as a DBE or non-DBE;
- Race and gender information for the firm's majority owner;
- NAICS code applicable to each scope of work the firm sought to perform in its bid;
- Age of the firm; and
- The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate what gross receipts bracket they fit (e.g., less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million; etc.) rather than requesting an exact figure from the firm.

In the case of a “**Design-Build**” contracting situation where subcontracts will be solicited throughout the contract period as defined in a DBE Performance Plan pursuant to §26.53(e), the data must be entered no later than December 1 following the fiscal year in which the design-build contractor awards the relevant subcontract(s).

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;">Director of DEI</p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	---	---

**CHAPTER IV – Small Business Participation Strategy**  
**POLICY & PROCEDURES**

**IV-4 Small Business Participation Strategy**

CapMetro DEI develops a small business participation strategy targeting DBEs and small businesses to:

- Increase DBE participation in CapMetro contract opportunities;
- Update and formalize existing practices and implement new procedures to more effectively assist DBE participation;
- Garner participation in CapMetro’s Business Development Program; and
- Encourage small businesses to become DBE certified.

The small business participation strategy utilizes various outlets to initiate and communicate CapMetro DEI’s DBE initiatives that include, but are not limited to the following:

- Participation in pre-bid conferences to educate prime contractors on where and how to locate DBEs using available directories;
- Encourage prime contractors to consider DBEs for potential subcontract opportunities on procurements with a 0% DBE goal,;
- Meeting with the Procurement department to identify alternative acquisition strategies and to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete as prime contractors;
- Meeting with the Procurement department to determine if there are procurement opportunities available at a reasonable size that small businesses, including DBEs that can compete and perform;
- Meet with the Procurement department to determine if, for selected procurement initiatives, whether scopes can be unbundled to allow for DBEs to competitively compete on procurement opportunities;
- Hosting DBE events to provide information on CapMetro project initiatives and in doing business with CapMetro;
- Participation at DBE or supplier diversity related events where information can be shared on CapMetro initiatives, doing business with CapMetro, and schedule One-on-One meetings;
- Sending communication to DBEs via B2GNow outreach campaigns on doing business with CapMetro;
- Educating and training small businesses through a Small Business Development Program;
- Sending communication to DBEs via Recipients administering CapMetro’s BDP;
- Hosting One-on-One meetings with DBEs to provide technical assistance in doing business with CapMetro that includes where to find procurement opportunities, understanding the different Co-Op contracts utilized, locating currently active contracts, understanding CapMetro contracts, where to locate

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

future contract opportunities, and other business-related information based on the small business;

- Work with Procurement and other departments to make information available on how to do business with CapMetro on the website;
- Send out surveys to small businesses to gather quantitative and qualitative data on their efforts to do business with CapMetro, participation in small business training, and other business-related items that can be used to measure our outreach initiatives and impacts in growing DBE participation on contract opportunities;
- Work closely with small business chambers and organizations to provide information to their members on CapMetro procurement opportunities and how to do business with CapMetro;
- Collaborate with other small business departments (i.e., City of Austin, TxDOT, Travis County, AISD, etc.) to learn and share tools and resources, and join efforts to promote and grow small business and DBE participation.



	<p style="text-align: center;"> <b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b> </p> <p style="text-align: center;"> <b>Director of DEI</b> </p>	<p> <b>Issued: December 2024</b> </p> <p> <b>Created &amp; Revised: Carlos Balderas</b> </p> <p> <b>Approved by:</b> </p>
---	--	---

**CHAPTER V – Business Development Program**  
**POLICY & PROCEDURES**

**V-5 Business Development Program (BDP)**

In accordance with 49CFR, Appendix C to Part 26, CapMetro will develop and implement a Business Development Program (BDP). The purpose of the program is to further develop DBEs including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and other available resources provided for assistance.

CapMetro DEI develops and implements the BDP program plan following the requirements of the 49CFR reference under this section. The BDP program will be reviewed annually to determine any necessary modifications. CapMetro will determine funding sources, which may include grant funding via USDOT FTA.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;">Director of DEI</p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	---	---

**CHAPTER VI – Mentor Protégé Program**  
**POLICY & PROCEDURES**

**VI-6 Mentor Protégé Program**

In accordance with 49CFR, Appendix D to Part 26, CapMetro DEI will develop a Mentor Protégé Program to be implemented under the BDP.

**7.1 Purpose**

The purpose of the Mentor Protégé Program is to provide continued developmental guidance and assistance to Disadvantaged Business Enterprises (DBE). Developmental guidance and assistance will be provided by a general contractor through their partnership with a DBE. Guidance and assistance provided by the contractor will be based on areas of deficiency within a DBE’s business identified by the vendor administering the BDP, CapMetro, Contractor, and DBE.

**7.2 Goal**

The goal of the Mentor Protégé Program is to assist the DBE with, but not limited to the following:

- Increasing DBE’s ability in understanding of how to do business with CapMetro;
- Contracting directly or indirectly as a subcontractor under a CapMetro contract;
- Overcoming barriers that may inhibit or restrict the success of a DBE in seeking contract opportunities under CapMetro; and,
- Fostering long-term relationships with a general contractor(s).

**7.3 Agreement**

An agreement is signed between the Contractor and DBE to document, but not limited to, the responsibilities of the Contractor, DBE, and CapMetro under the program.

**7.4 Quarterly Report**

Quarterly reports submitted by the DBE are reviewed to evaluate the progress of the Contractor and DBE under the program.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

## ATTACHMENTS

- A: GOAL SETTING DOCUMENT
- B: GOAL SETTING MEMO
- C: EXHIBIT D: DBE SOLICITATION LANGUAGE
- D: SCHEDULE C & INTENT TO PERFORM (MATERIAL SUPPLIER)
- E: SCHEDULE C & INTENT TO PERFORM (OTHER SUBCONTRACT SERVICES)
- F: SCHEDULE C & INTENT TO PERFORM (HAULING/TRUCKING SERVICES)
- G: DBE GOOD FAITH EFFORT FORM
- H: DBE REGULAR DEALER/DISTRIBUTOR AFFIRMATION FORM
- I: DBE BID REVIEW MEMO
- J: SUBCONTRACTOR UTILIZATION PLAN (SUP)/OPEN ENDED PERFORMANCE PLAN (OEPP)
- K: DBE TERMINATION & SUBSTITUTION REQUEST FORM
- L: DBE FINAL REPORT
- M: NEW USER – VENDOR INFORMATION FORM



**Disadvantaged Business Enterprise Policy & Procedures**  
**DEI – 100.00**

**Director of DEI**

**Issued: December 2024**

**Created & Revised: Carlos Balderas**

**Approved by:**

**Attachment A: Goal Setting Document**

Project #	Project Description	Metric	Descriptor	Unit of Measure	Quantity	Unit Price	Total Amount	Start	Finish	\$ DEI	% DEI	Min. Available	Total Available
001	DEI Goal	0.0%					\$0.00			\$0.00	0.0%		
<p><b>Comments:</b></p>													

Contract Name	Contracted Value (DEI/DBE Goal Attainment)	Goal	Comments
GOALS	\$0.00	0.0%	
AVERAGES (AVERAGE DBE/DBE Points)	\$0.00	0.0%	

\*Go to the "Average" tab to view the goal setting document.  
 \*Click the "Average" tab to view the goal setting document.  
 \*Click the "Average" tab to view the goal setting document.

	<p style="text-align: center;">Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</p> <p style="text-align: center;">Director of DEI</p>	<p>Issued: December 2024</p> <p>Created &amp; Revised: Carlos Balderas</p> <p>Approved by:</p>
---	--	--

**Attachment B: Goal Setting Memo**



**REQUEST FOR DBE DETERMINATION**

TO: <Procurement Representative, Title>  
 FROM: <Supplier Diversity Representative, Title?>  
 DATE: <Date>  
 SUBJECT: DBE Goal

Requisition No: ##### Requisition Amount: Total: \$

Project Title: <Title>

Contract Administrator: <Name>

Project Manager: <Name>

Date Received by DEI: <Date>

DBE Goal: \_\_\_%

Mailing List (Check One)  Yes  No

*Race-Neutral Participation: Percentage of participation beyond the assigned contract goal that will be applied towards the annual goal. For DBE related contracts CapMetro MUST meet its annual goal maximizing Race-Neutral participation.*

NAICS Codes:  
 <Code, Description>

Signed by: \_\_\_\_\_ Dated: \_\_\_\_\_

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b>  <b>Director of DEI</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>  <b>Approved by:</b>
---	---	--

**Attachment C: Exhibit D – DBE Solicitation Language**

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

**EXHIBIT D  
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
FOR USDOT FUNDED CONTRACTS**

It is the policy of the Authority that Disadvantaged Business Enterprises (“DBEs”), as defined in U.S. Department of Transportation (“DOT”) regulations 49 C.F.R. Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. It is also the policy of the Authority to (1) ensure nondiscrimination in the award and administration of DOT-assisted contracts; (2) to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts; (3) ensure that the DBE program is narrowly tailored in accordance with applicable law; (4) ensure that only firms that fully meet the 49 C.F.R. part 26 eligibility standards are permitted to participate as DBEs; (5) help remove barriers to the participation of DBEs in DOT-assisted contracts and procurement activities; and (6) assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

The Authority is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code or Title I, II, and V of the Teas-21, Pub. L. 105-178. Consequently, the DBE requirements of 49 C.F.R. Part 26 apply to this contract. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The requirements of 49 C.F.R. Part 26 and the Authority’s DOT-approved Disadvantaged Business Enterprise (DBE) program are incorporated into this Contract by reference.

**1. DEFINITIONS**

- (a) *Disadvantaged business enterprise or DBE* means a for-profit small business concern – (1) that is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% 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.
- (b) *Small business concern* means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 C.F.R. Part 121) that also does not exceed the cap on average annual gross receipts, or the relevant size standard as specified in 13 C.F.R. Section 121.402.
- (c) *Socially and economically disadvantaged individual* means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is: (1) any individual who CapMetro finds to be a socially and economically disadvantaged individual on a case-by-case basis; (2) any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged as defined in CFR Part 26.5:
  - (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 culture or origin, regardless of race;
  - (3) “Native Americans,” which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, 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;



Disadvantaged Business  
Enterprise Policy &  
Procedures  
DEI – 100.00

Issued: December 2024

Created &  
Revised: Carlos Balderas

Director of DEI

Approved by:

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

- (5) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
  - (6) Women;
  - (7) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
- (d) For the purposes of this Exhibit, "CapMetro" and "the Authority" refer to the Capital Metropolitan Transportation Authority.

**2. SUBMISSION OF DBE FORMS**

- (a) The contractor shall submit, along with its response to this solicitation, a completed **Schedule C.1: DBE Subcontractor Participation & Intent to Perform (Material Supplier)**, **Schedule C.2 DBE Subcontractor Participation & Intent to Perform (Other Subcontract Services)**, and/or **Schedule C.3 DBE Subcontractor Participation & Intent to Perform (Hauling/Trucking Services)** form listing all proposed subcontractors, DBE and non-DBE, and a signed Intent to Perform for each individual DBE and non-DBE subcontractor listed on the Schedule C. As required in Section 5 of this Exhibit, adequate good faith effort documentation (if necessary) must be submitted at this same time. If the contractor does not submit this information by the time the solicitation response is due, CapMetro may deem the contractor non-responsive and such decision is non-appealable. The contractor may protest the decision in accordance with the Authority's protest procedure set forth in Exhibit C of this solicitation.

- (1) ONLY APPLICABLE FOR DESIGN-BUILD TYPE PROJECTS: the Subcontractor Utilization Plan (SUP)/Open Ended Performance Plan (OEPP) must be completed and submitted by the bid submission deadline. In the OEPP, the contractor shall provide a commitment to meet the DBE goal, provide details of the types of subcontracting work or services (with project dollar amount) that would be solicited to DBEs to perform, and estimated timeframe in which actual DBE subcontracts will be executed. This process will replace the Schedule C and Intent to Perform documents during bid submission. Following the award, the Schedule C & Intent to Perform will be completed during the term of the contract along with demonstration and documentation of good faith efforts. CapMetro and the contractor may agree to make written revisions to the OEPP throughout the life of the project (e.g., replacing the type of work items to solicit DBEs, adjusting the proposed schedule) as long as the contractor continues to use good faith efforts to meet the DBE goal.**

**A prime contractor or subcontractor must be DBE certified at the time of contract award for the prime contractor to receive credit towards meeting the contract goal.**

- (b) The listing of a DBE by a contractor shall constitute a representation by the contractor to the Authority that it believes such DBE firm to be technically and financially qualified and available to perform the work. It shall also represent a commitment by the contractor that if it is awarded the contract, it will enter into a subcontract with such DBE (provided that the DBE is certified as provided herein) for the work described and at the price set forth in both the Schedule C and the Intent to Perform. If the price of a DBE subcontract changes after the form has been submitted but prior to award of the contract, the contractor will immediately notify the Authority's Diversity, Equity, & Inclusion (DEI) Department of the changed amount and the reason(s) for the change.
- (c) In the event that the contractor wishes to modify its Schedule C and Intent to Perform after its offer is submitted but before contract award, the contractor must notify the Authority's DEI Department in writing to [dbe@capmetro.org](mailto:dbe@capmetro.org) and request approval of the modification. This will include any changes to items of work, material, services, or DBE firms which differ from those identified on the Schedule C and Intent to Perform forms on file. The contractor must cooperate in supplying the Authority with additional information with respect to the requested modification. No changes may be affected without the Authority's prior written approval.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

**3. CREDIT TOWARDS THE CONTRACT GOAL**

- (a) Only work performed by DBE firms certified by one of the Texas Unified Certification Program (TUCP) agencies (listed in Section 6) will count towards the contract goal. Out-of-state entities may apply for interstate certification through one of the TUCP Members and must be certified at the time of award of contract to the prime bidder.
- (b) The dollar value of work performed under a contract with a firm after it has ceased to be certified cannot count toward the contract goal. Participation of a DBE subcontractor cannot count toward the contractor's DBE achievements until the amount being counted has been paid to the DBE.
- (c) Only expenditures to a DBE that performs a Commercially Useful Function may be counted towards the contract goal. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved and is responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. Please reference section 10 pertaining to compliance audits conducted by CapMetro's DEI Department.
- (d) The contractor may count only the value of the work actually performed by the DBE toward DBE goals. This may be calculated by counting the entire amount of that portion of the Contract that is performed by a DBE's own forces. It includes the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the contractor or its affiliate). The Contractor may also count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- (e) When a DBE performs as a participant in a joint venture, the contractor may count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the Contract that the DBE performs with its own forces toward DBE goals.
- (f) The contractor may count one hundred percent (100%) of the cost of the materials and supplies towards the DBE goal provided that the DBE is a **manufacturer**. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- (g) The contractor must submit a completed **DBE Regular Dealer/Distributor Affirmation** form for each DBE Regular Dealer or Distributor utilized under the project. The form will determine the DBE percentage applied for credit towards the contract goal.
  - (1) When utilizing a **DBE Regular Dealer**, the contractor may count towards the DBE goal **sixty percent (60%)** of the cost of the materials or supplies (including transportation costs). A DBE performs a Commercially Useful Function (CUF) when all, or at least 51% of the items under a purchase order or subcontract are provided from the DBE's inventory, and when necessary, any minor quantities delivered from and by other sources are of the general character as those provided from the DBE's inventory. A Regular Dealer is a firm that owns (or leases) and operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. A DBE may be a Regular Dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the person both owns/leases and operates distribution equipment for the products. Any supplementing of the Regular Dealers' owned/leased distribution equipment shall be by a long-term





Disadvantaged Business  
Enterprise Policy &  
Procedures  
DEI – 100.00

Director of DEI

Issued: December 2024

Created &  
Revised: Carlos Balderas

Approved by:

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

lease agreement and not on an ad hoc or contract-by-contract basis. A DBE supplier of items that are not typically stocked due to their unique characteristics (e.g., limited shelf life or items ordered to specifications) should be considered in the same manner as a Regular Dealer of bulk items. If the DBE supplier of these unique items does not own or lease distribution equipment, as described in this section, it is not a Regular Dealer. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not Regular Dealers.

- (2) When utilizing a **DBE Distributor** that neither maintains sufficient inventory nor uses its own distribution equipment for the products in question, the contractor may count towards the DBE goal **forty percent (40%)** of the costs of materials or supplies purchased (including transportation costs). A DBE Distributor is an established business that engages in the regular sale or lease of the items specified by the contract. A DBE Distributor assumes responsibility for the items it purchases once they leave the point of origin (e.g., a manufacturer's facility), making it liable for any loss or damage not covered by the carrier's insurance. A DBE Distributor performs a CUF when it demonstrates ownership of the items in question and assumes all risk for loss or damage during transportation, evidenced by the terms of the purchase order or a bill of lading (BOL) from a third party, indicating Free on Board (FOB) at the point of origin or similar terms that transfer responsibility of the items in question to the DBE Distributor. If these conditions are met, the contractor may receive **forty percent (40%)** credit for items drop-shipped by a DBE firm. Terms that transfer liability to the distributor at the delivery destination (e.g., FOB destination), or deliveries made or arranged by the manufacturer or another seller do not satisfy this requirement.
  - (3) When utilizing a DBE for materials or supplies purchased from a DBE that is neither a manufacturer, a regular dealer, nor a distributor, the contractor may count towards the DBE goal, the entire amount of **fees or commissions** charged (including transportation costs). Do not count any portion of the cost of the materials and supplies themselves.
  - (4) The contractor may count towards the DBE goals the amount of **fees or commissions** charged by a DBE for providing bona fide services, such as professional, technical, consultant, or for providing bonds or insurance specifically required for the performance of the contract, provided the Authority determines that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
- (h) The contractor may count towards the DBE goal hauling or trucking services provided by the DBE. A completed **Schedule C.3: DBE Subcontractor Participation & Intent to Perform (Hauling/Trucking Services)** must be submitted when using DBE haulers for credit. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on the contract, and there cannot be a contrived arrangement for the purpose of meeting the DBE goals. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract. A DBE that leases a truck must show proof or evidence that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE. The following addresses how the contractor may count towards the DBE goal when using a DBE for hauling or trucking services:
- (1) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
  - (2) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE received credit for the total value of the transportation services the lessee DBE provides on the contract.
  - (3) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b>  <b>Director of DEI</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>  <b>Approved by:</b>

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

fee or commission it receives as a result of the lease arrangement. If a contractor chooses this approach, the contractor must obtain written consent from the Authority.

- (4) The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
- (i) When a DBE is decertified, its participation will be counted toward the DBE goal as follows:
  - (1) If a contractor has made a commitment to use a decertified subcontractor, but a subcontract has not been executed, the decertified subcontractor's work does not count toward the DBE goal. The contractor must meet the DBE goal with an eligible DBE to the extent needed to meet the DBE goal or must demonstrate that it has made a good faith effort to do so.
  - (2) If a contractor has executed a subcontract with a DBE before the certifier notified the subcontractor of its decertification, the contractor may continue to use the firm and continue to receive credit toward the DBE goal for the subcontractor's work. In such event, the contract may not extend or add work to the subcontract after the subcontractor was notified of its decertification without the express prior written consent of CapMetro's DEI Department.
  - (3) If CapMetro has awarded a contract to a DBE prime contractor, but the contract has not been executed before decertification, the decertified contractor's work does not count toward the DBE goal. The contractor must meet the DBE goal with an eligible DBE to the extent needed to meet the DBE goal or must demonstrate that it has made good faith efforts to do so.
  - (4) If CapMetro has executed a contract with a DBE that is later decertified, the portion of the decertified DBE's performance of the contract remaining after the certifier issued the notice of decertification may continue to count toward satisfying the contract goal.
- (j) The following exceptions apply to this section on decertification:
  - (1) If a certifier decertifies a DBE solely because it exceeds the DBE program business size standard during the performance of the contract, CapMetro will continue to count the portion of the decertified DBE's performance of the contract remaining after the firm received notice of its decertification toward the DBE contract goal.
  - (2) If a certifier decertifies a DBE because it was acquired by or merged with a non-DBE, CapMetro and/or the contractor will not continue to count the portion of the decertified DBE's performance on the contract remaining after the certifier decertified the DBE toward the contract goal, even if the contractor has executed a subcontract with the DBE or CapMetro has executed a prime contract with the DBE that was later decertified. If eliminating the credit of the decertified firm will affect the contractor's ability to meet the goal, the contractor must subcontract to an eligible DBE to the extent needed to meet the DBE goal or must demonstrate that it has made a good faith effort to do so.

**4. DBE GOAL AND SUBCONTRACTING OPPORTUNITIES**

- (a) The DBE goal for this solicitation is \_\_\_\_%.
- (b) Possible subcontracting opportunities include, but are not limited to the following. A bidder can use DBEs certified in other codes to meet the contract goal, so long as the DBE will perform a CUF and it is certified to perform that NAICS codes scope of work:

6-digit NAICS Code	Industry Description



Disadvantaged Business Enterprise Policy & Procedures  
DEI – 100.00

Director of DEI

Issued: December 2024

Created & Revised: Carlos Balderas

Approved by:

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY


5. DEMONSTRATION OF AND DOCUMENTATION OF GOOD FAITH EFFORT

- (a) If the contractor does not meet the DBE goal, it shall nevertheless be eligible for award of the Contract if it can demonstrate to the satisfaction of the Authority that it has made a good faith effort to meet the DBE goal. In evaluating a contractor's good faith effort submission, the Authority will only consider those documented efforts that occurred prior to receipt of competitive sealed bids (IFB) or competitive sealed proposals (RFP). The Contractor will use the **DBE Good Faith Effort Form** to demonstrate good faith efforts to consider DBEs for sub-contract opportunities.
  - (1) ***ONLY APPLICABLE FOR DESIGN-BUILD TYPE PROJECTS: the Subcontractor Utilization Plan (SUP)/Open Ended Performance Plan (OEPP) must be completed and submitted by the bid submission deadline. In the OEPP, the contractor shall provide a commitment to meet the DBE goal, provide details of the types of subcontracting work or services (with project dollar amount) that would be solicited to DBEs to perform, and estimated timeframe in which actual DBE subcontracts will be executed. This process will replace the Schedule C and Intent to Perform documents during bid submission. Following the award, the Schedule C & Intent to Perform will be completed during the term of the contract along with demonstration and documentation of good faith efforts. CapMetro and the contractor may agree to make written revisions to the OEPP throughout the life of the project (e.g., replacing the type of work items to solicit DBEs, adjusting the proposed schedule) as long as the contractor continues to use good faith efforts to meet the DBE goal.***
- (b) In the event that a firm submitted by the contractor is not able to become DBE certified by the Texas UCP by the execution of the contract, the contractor will be notified and given an opportunity to substitute that firm with another DBE firm. The contractor will be given a deadline to accomplish the substitution. If the contractor is to substitute a DBE, it must submit and GFE documentation to the DEI Department.
- (c) To determine whether the contractor has made GFE to meet the DBE goal, the Authority shall consider, among other things it deems relevant, the criteria set forth below. The contractor shall furnish specific documentation concerning the steps it has taken to obtain DBE participation. Please refer to *Appendix A to Part 26 – Guidance Concerning Good Faith Efforts*, as amended, for illustrations:
  - (1) Whether the contractor conducted market research to identify small business contractors and suppliers and solicited through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising, and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The contractor must solicit this interest early in the acquisition process within sufficient time to allow the DBEs to respond to the solicitation. The contractor must determine with certainty if the DBEs are interested by taking appropriate steps to follow up on initial solicitations.
  - (2) Whether the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
  - (3) Whether the contractor provided interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
  - (4) Whether the contractor negotiated in good faith with interested DBEs. It is the contractor's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.



**Disadvantaged Business  
Enterprise Policy &  
Procedures  
DEI – 100.00**

**Director of DEI**

**Issued: December 2024**

**Created &  
Revised: Carlos Balderas**

**Approved by:**

**CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY**

- (5) A contractor using good business judgment would consider a number of factors in negotiating with sub-contractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a contractor's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the contractor of the responsibility to make good faith efforts. A contractor is not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- (6) Whether the contractor rejected DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the DBE goal.
- (7) Whether the contractor rejected the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the Contractor to accept unreasonable quotes in order to satisfy contract goals.
- (8) A contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.
- (9) Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by CapMetro or the contractor.
- (10) Whether the contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (11) Whether the contractor effectively used the services of available minority/women community organizations, minority/women contractors' groups, local, state, and Federal minority/women business assistance offices, and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- (d) In determining whether a contractor has made good faith efforts, the Authority will scrutinize its documented efforts. At a minimum, Authority will review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, the Authority may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, the Authority may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.
- (e) In determining whether the contractor has demonstrated good faith, the Authority will look not only at the different kinds of efforts that the contractor has made, but also the quantity and intensity of those efforts. Efforts that are mere pro forma are not good faith efforts to meet the goals (even if they are sincerely motivated) if, given all relevant circumstances, the contractor's efforts could not reasonably be expected to produce a level of DBE participation sufficient to meet the goals.
- (f) A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.

**6. GOOD FAITH EFFORTS APPEALS**

If the contractor does not meet the DBE goal or make adequate good faith efforts to do so, the Authority will so notify the contractor in writing. The contractor may appeal the decision within five (5) days of the date of the notice of decision by filing a written appeal for reconsideration. As part of this appeal, the contractor has the

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b>  <b>Director of DEI</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>  <b>Approved by:</b>
---	---	--

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

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 reconsideration will be made by the DBE Reconsideration Officer, an individual who did not take part in the original determination that the contractor failed to meet the goal or make adequate good faith efforts to do so. The contractor will have the opportunity to meet with the DBE appeals officer to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The result of the reconsideration process is final and not administratively appealable to the United States Department of Transportation. Appeals will be submitted to:

Brad Bowman  
DBE Reconsideration Officer  
Capital Metropolitan Transportation Authority  
2910 E. 5th St.  
Austin, TX. 78702  
Email: [brad.bowman@capmetro.org](mailto:brad.bowman@capmetro.org)

▲ **7. DBE CERTIFICATION**

- (a) The [Texas Unified Certification Program \(TUCP\)](#) is the entity responsible for certifying firms as DBEs in the State of Texas. The Authority will accept a certification from any TUCP member. Information about becoming certified is available at [\[insert web link\]](#). DBEs can be found on the [TUCP Directory](#). The participating agencies are:
- \* Texas Department of Transportation
  - \* North Central Texas Regional Certification Agency
  - \* South Central Texas Regional Certification Agency
  - \* City of Houston, Office of Business Opportunity
  - \* City of Austin, Small and Minority Business Resources Department
  - \* Corpus Christi Regional Transportation Authority
- (b) In the event the Authority determines that a firm identified by the contractor as a DBE does not qualify as a DBE during the term of the contract, the contractor shall be informed and will be provided with an opportunity to substitute firms meeting the certifying agency's DBE eligibility criteria for the Authority's consideration. Information concerning DBEs currently certified can be obtained by contacting the Authority's DEI Department.

**8. SUBCONTRACTOR'S OBLIGATION**

- (a) Each subcontract the contractor signs with a subcontractor must include the following assurance:
- (1) "The 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 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

**9. COMMERCIALLY USEFUL FUNCTION**

- (a) To determine whether a DBE is performing a commercially useful function, the Authority's DEI Department will conduct a Commercially Useful Function (CUF) review to evaluate the amount of work subcontracted, industry practices, whether the amount the subcontractor is to be paid under the contract is commensurate with the work it is actually performing, the DBE credit claimed for its performance of the work, and other relevant factors. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. If a DBE does not perform or exercise responsibility for at least thirty (30%) percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it is not performing a commercially useful function.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

- (b) The CUF review will include a written approval that CapMetro has reviewed contracting records and monitored work sites for this purpose. This monitoring will be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract). This mechanism provides for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

**10. SUBCONTRACT AGREEMENT**

- (a) The contractor is required to submit a signed subcontractor agreement between the contractor and each proposed DBE and non-DBE subcontractor within fifteen (15) days of the Notice to Proceed (NTP). Any agreement reached between the contractor and DBE subcontractor may not modify or nullify federal regulations or it will be considered a breach of the contract between CapMetro and the contractor. The agreement must be signed by both the contractor and subcontractor. The contractor must incorporate the following federal clauses into the subcontract agreement. Along with the scope of work and adherence to DBE requirements under Exhibit D, this agreement must include the following flow-down DBE federal clauses:

**(1) Non-Discrimination.**

- (a) The contractor, subrecipient 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.
- (b) A finding by CapMetro of discrimination by the contractor or subcontractor or a failure by the contractor to include the non-discrimination clause in its subcontract agreement is a material breach of this Contract which may result in the termination of this Contract or such other remedy as CapMetro deems appropriate. Such remedies may include, but are not limited to:
- (i) Withholding monthly progress payments;
  - (ii) Assessing sanctions;
  - (iii) Liquidated damages; and/or
  - (iv) Disqualifying the contractor from future bidding as non-responsible.

**(2) Prompt Payment and Return of Retainage.**

- (a) The contractor must pay all subcontractors for satisfactory performance of their contracts no later than ten (10) days from receipt of each payment the Authority makes to the contractor. In addition, each contract the contractor signs with a subcontractor must include a clause to require the Contractor to pay the subcontractor for satisfactory performance under the contract no later than ten (10) days from receipt of each payment CapMetro makes to the prime contractor.
- (b) CapMetro will ensure prompt and full payment of retainage from the contractor to the subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed. CapMetro will use one of the following methods to ensure compliance with this requirement:
- (i) CapMetro may decline to hold retainage from the contractors and prohibit the contractor from holding retainage from subcontractors;
  - (ii) CapMetro may decline to hold retainage from the contractor and require a contract clause obligating the contractor to make prompt and full payment of any retainage kept by the contractor to the subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed; or



**Disadvantaged Business  
Enterprise Policy &  
Procedures  
DEI – 100.00**

**Director of DEI**

**Issued: December 2024**

**Created &  
Revised: Carlos Balderas**

**Approved by:**

**CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY**

- (iii) CapMetro may hold retainage from the contractor and provide for prompt and regular incremental acceptance of portions of the prime contract, pay retainage to the contractor based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within ten (10) days after CapMetro's payment to the contractor.
  - (c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by CapMetro. When CapMetro has accepted an incremental portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. Any delay or postponement of payment among the parties may take place only for good cause, with CapMetro's prior written approval.
  - (d) CapMetro may require any or all of the following additional mechanisms to ensure prompt payment:
    - (i) A contract clause that requires the contractor to include language in their subcontract providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms as outlined in the Payment Disputes section of this Exhibit to resolve payment disputes;
    - (ii) A contract clause providing that the contractor will not be reimbursed for any work performed unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed; or
    - (iii) Other mechanisms, consistent with this Part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.
- (3) Legal Remedies**
- (a) CapMetro will implement appropriate mechanisms to ensure compliance with 49 CFR Part 26 by all program participants by applying legal and contract remedies available under Federal, state, and local law. As required in 49 CFR Part 26.37, contractors must include notice of CapMetro's legal remedies in all FTA-funded subcontracts, including, but not limited to, the following:
    - (i) Breach of contract action, pursuant to the terms of the contract;
    - (ii) Breach of contract reporting to the Office of Inspector General;
    - (iii) Breach of contract reporting to the USDOT's Office of Civil Rights;
    - (iv) Rescission of contract awards (in whole or in part);
    - (v) Administrative fines;
    - (vi) Forfeiture of profits;
    - (vii) Debarment from bidder's list; and
    - (viii) Suspensions from awards and other applicable sanctions.
  - (b) In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following:
    - (i) Suspension or debarment proceedings pursuant to 49 CFR Part 29;
    - (ii) Enforcement action pursuant to 49 CFR Part 31;
    - (iii) Prosecution pursuant to 18 USC 1001.

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

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 listed above.

**11. DBE PROGRAM KICK-OFF MEETING**

CapMetro may require a meeting to discuss DBE contractual requirements with the contractor and all DBE subcontractors. This conference will be held before the Notice to Proceed has been issued. Attendees will include CapMetro personnel from different points of service that will be involved with the satisfactory performance and completion of the contract. External attendees of both the contractor and subcontractors should include, but not be limited to, designated representatives, points of contact and/or contract compliance officers.

The conference will cover the following:

- (1) CapMetro staff and role on contract;
- (2) CapMetro's DBE program's requirements, guidelines and regulations;
- (3) The contractor and subcontractors' roles and responsibilities;
- (4) Introduction and use of B2Gnow vendor management system, user set-up, vendor payments, auditing requirements, and contract reporting;
- (5) CapMetro's requirements and procedures for monitoring and enforcement of DBE contracts;
- (6) Subcontractor Utilization Plan (SUP); and,
- (7) Commercially Useful Function (CUF) requirements and reviews.

**12. SUBCONTRACTOR UTILIZATION PLAN**

- (a) The contractor must provide the subcontractor the maximum allowable opportunities to participate and perform on the contract to which the subcontractor has committed. CapMetro will require the Contractor to complete and submit the **DBE Subcontractor Utilization Plan (SUP)** for each subcontractor or vendor that clearly identifies, outlines, and defines any requirements, including but not limited to:
  - (1) Each party's responsibilities and authorities;
  - (2) The minimum percentage or total dollar amount pledged to the certified DBE towards the overall contract goal;
  - (3) A list of supplies, services, and/or work areas the subcontractor is responsible for to fulfill their commitment;
  - (4) A description of deliverables or criteria of work performed by the subcontractor to be deemed satisfactory;
  - (5) A schedule for subcontractor usage and a timeframe of availability for the subcontractor to perform its required tasks;
  - (6) Any other appropriate and applicable terms and conditions.
- (b) The SUP must be made available to the Authority:
  - (1) Under sealed bid procedures, as a matter of responsiveness, or with initial proposal, under contract negotiation procedures; or
  - (2) No later than fifteen (5) days following the receipt of the Notice to Proceed (NTP).



	<b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b>  <b>Director of DEI</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>  <b>Approved by:</b>
---	---	--

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

- (c) The SUP will remain in effect for the duration of the contract and DEI will be informed of any changes. Any changes will require written pre-approval by the Authority prior to implementation.

**13. TERMINATION OR SUBSTITUTION OF DBE SUBCONTRACTORS**

- (a) The contractor must notify the Authority's DEI Department at [~dbe@capmetro.org](mailto:~dbe@capmetro.org) immediately if there is an intent to substitute or terminate a DBE or Non-DBE Subcontractor. The **DBE Termination & Substitution Request Form** shall be used to request termination or substitution of DBE subcontractors. The contractor must obtain express written approval from the DEI Department before terminating or substituting a DBE or making any change to the DBE participation listed on the Schedule C.
- (1) At no time will the contractor invoice the Authority for amounts pertaining to subcontractors terminated or substituted without prior approval of the Authority.
- (b) The contractor may not terminate a listed DBE subcontractor (or approved substitute), replace a subcontractor previously listed, permit a subcontract to be assigned or transferred, or allow that portion of the work to be performed by anyone, including its own company or affiliate, other than the listed subcontractor without the prior written consent of the Authority. For termination of a DBE subcontractor, prior written consent will only be provided where there is a "good cause" for termination as established by 49 C.F.R. Section 26.53(f)(3). Good cause includes the following circumstances:
- (1) The listed DBE fails or refuses to execute a written contract.
  - (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards; provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the contractor.
  - (3) The listed DBE subcontractor fails or refuses to meet the Contractor's reasonable, nondiscriminatory bond requirements.
  - (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
  - (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law.
  - (6) The Authority has determined that the listed DBE subcontractor is not a responsible contractor.
  - (7) The listed DBE subcontractor voluntarily withdraws from the project and provides the prime contractor written notice of its withdrawal.
  - (8) The listed DBE is ineligible to receive DBE credit for the type of work required.
  - (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.
  - (10) Other documented good cause that the Authority determines compels the termination of the DBE subcontractor, provided that good cause does not exist if the contractor seeks to terminate a DBE it relied upon to obtain the contract so that the contractor can self-perform the work for which the DBE contractor was engaged or so that the Contractor can substitute another DBE or non-DBE contractor after Contract award.
- (c) Before transmitting its request to terminate and/or substitute to the Authority, the contractor must give the DBE subcontractor written notice of its intent to terminate with a copy to the Authority at [~dbe@capmetro.org](mailto:~dbe@capmetro.org), of the contractor's intent to request to terminate and/or substitute, and the reason for the request. The DBE subcontractor shall have five (5) business days to respond to the contractor's notice and advise the Authority and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Authority should not approve the contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the Authority may allow for a response period shorter than five (5) business days.
- (d) When a DBE subcontractor is terminated or fails to complete its work on the contract for any reason, the Contractor must make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another certified DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal. Documentation of good faith efforts must be maintained and provided to the Authority within 7 days of a request, which

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b>  <b>Director of DEI</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>  <b>Approved by:</b>
---	---	--

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

may be extended for an additional 7 days if necessary, at the request of the contractor. The Authority will provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

Any DBE that has been approved by CapMetro to be substituted has the right to appeal the decision directly to the Authority's DBE Reconsideration Officer. Appeals should be sent to:

Brad Bowman  
DBE Reconsideration Officer  
Capital Metropolitan Transportation Authority  
2910 E. 5th St.  
Austin, TX. 78702  
Email: [brad.bowman@capmetro.org](mailto:brad.bowman@capmetro.org)

- (e) Failure of the contractor to carry out the requirements of this part shall constitute a material breach of the contract and may result in the termination of the contract as set forth in Exhibit "D" or such other remedies, including an order stopping all or part of payment/work until satisfactory action has been taken.

**14. PAYMENT DOCUMENTATION AND PAYMENT DISPUTES**

- (a) The DBE program regulation 49 CFR § 26.37 requires that CapMetro track and monitor every contract on which DBE participation is claimed to ensure that the work is actually performed by the DBEs to which the work was committed. CapMetro must have written certification that it has reviewed contracting records and monitored work sites located in Texas. CapMetro utilizes the B2Gnow compliance monitoring program to ensure that it has developed a monitoring process to comply with this regulation.
- (b) For each subcontract, the contractor must update payment and payment information on each subcontractor, including non-DBE subcontractors, or vendor monthly in B2Gnow to document its compliance with the DBE participation and prompt payment requirements. The contractor is required to report, monitor and maintain its subcontractor participation through monthly contract audits that require confirmation from the subcontractor representative in the B2Gnow program. Subcontractors are also required to confirm payments reported by the contractor.
- (c) If a payment dispute arises between the contractor and any subcontractor or supplier related to the contract, the contractor shall provide a written response to the subcontractor or supplier, with a copy to the DEI Department, specifically addressing any disputed amounts. The contractor shall resolve all disputed invoices at the earliest time to avoid a delay in the submission of required subcontractor/supplier payment certifications that could delay payment to the DBE. If the contractor cannot resolve a subcontractor or supplier disputed invoice, it shall bring the matter to the attention of the DEI Department at the time of submitting the contractor's invoice for payment. The DEI Department will investigate the situation and make a determination whether the contractor's invoice should be processed for payment without the required subcontractor or supplier certification. The DEI Department will not mediate the dispute between the contractor and any subcontractor or supplier in the resolution of disputed invoices. At no time shall the contractor invoice CapMetro for amounts in dispute without prior notification to the DEI Department.

**15. SANCTIONS FOR NONCOMPLIANCE WITH THE AUTHORITY'S DBE PROGRAM REQUIREMENTS**

- (a) Failure by the contractor to carry out CapMetro's DBE Program Requirements or the terms of this Exhibit shall be deemed to be a material breach of the contract, which shall result in the termination of the contract or such other remedy as CapMetro deems appropriate.
- (b) If legal remedies are deemed necessary, the DEI Department shall notify the contractor of the findings and justification for the applied sanctions in writing. If the contractor believes the sanction(s) is not justified, the contractor will be allowed a five-day appeal period from the time of the notification to submit a written appeal with supporting documents to the DBE Reconsideration Officer at 700 Lavaca Street, Austin, TX 78701 or via

	<p style="text-align: center;"><b>Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</b></p> <p style="text-align: center;"><b>Director of DEI</b></p>	<p><b>Issued: December 2024</b></p> <p><b>Created &amp; Revised: Carlos Balderas</b></p> <p><b>Approved by:</b></p>
---	--	---

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

---

email at [dbecapmetro.org](mailto:dbecapmetro.org). The DBE Reconsideration Officer will evaluate documents and the DEI Department will inform the contractor of the decision within 10 days from the receipt of appeal.

- (c) The willful making of false statements or providing incorrect information shall be referred to the appropriate officials for legal action.

**16. DBE FINAL REPORT**

- (a) The contractor will complete and submit the **DBE Final Report** prior to contract closeout to show final DBE goal attainment under the contract, whether the contract DBE goal was attained or not attained, and justification if the DBE contract goal was not attained.

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> DEI – 100.00	Issued: December 2024
	Director of DEI	Created & Revised: Carlos Balderas
		Approved by:

**Attachment D: Schedule C & Intent to Perform (Material Supplier)**

	SCHEDULE C.1: Disadvantaged Business Enterprise (DBE) Subcontractor Participation & Intent to Perform (Material Supplier)	11/2024
	<b>DO NOT RECREATE OR CHANGE THIS DOCUMENT</b>	

**Instructions:** The Offeror (i.e., Prime Contractor) shall complete **all applicable information** in this form to show their "Good Faith Effort (GFE)" towards meeting the contract goal assigned to the contract or GFE to include DBEs on a contract. This form will be completed for subcontractors used for material supplies (i.e., Manufacturer, Regular Dealer, or Distributor). Those subcontractors which are listed on this form as DBEs must have current DBE certification by a member of the Texas Unified Certification Program at the time of execution of the contract to Offeror (see Exhibit D, Section 7). Additionally, the Intent to Perform must be completed by the Prime Contractor and DBE subcontractor(s) listed in this form.

Prime Contractor:	Contact Name:	<b>Ethnic/Gender Code:</b> A) Asian-Pacific American B) Black American H) Hispanic American N) Native American SA) Subcontinental Asian American NM) Non-Minority (Woman) M) Male F) Female
Project Name:	Title:	
IFB/RFP/SOQ#:	Phone#:	
Firm's Age:	Email Address:	
Firm's Annual Gross Receipts (\$):	Address:	

**Subcontractor Section (Material Supplier)**

COMPLETE THIS FORM FOR **ALL MATERIAL SUPPLIERS** IDENTIFIED FOR THIS PROJECT. **YOU MAY USE MULTIPLE FORMS.**

In accordance with 49 CFR (Code of Federal Regulations) Part 26, §26.53 & §26.55, when making good faith efforts DBE firms used for credit towards the contract goal must have a current certification status with a TUCP Certifying Agency (see Exhibit D, Section 7) at the time of execution of the contract. The DBE must be certified in the 6-digit NAICS code for the proposed scope of work to receive credit towards the DBE contract goal. CapMetro will also review the proposed DBE participation to ensure that it will perform a commercially useful function.

Material Supplier – Complete this section if using a Material Supplier												
Material Supplier Type: <b>Manufacturer (MFG)</b> (100% Credit) <b>Regular Dealer (RD)</b> (60% Credit) <b>Distributor (D)</b> (40% Credit or Fees/Commission) <b>(NOTE: Complete the Regular Dealer/Affirmation Form when determining % for credit)</b>												
Company Name	Contact Person, Phone#, & Address	Material Supplier Type	1 <sup>st</sup> or 2 <sup>nd</sup> Tier Sub.	DBE or Non-DBE	Ethnic Code/ Gender (Leave Blank if non-DBE)	Age of Firm	Annual Gross Receipts (\$)	Materials or Supplies Being Provided & 6-Digit NAICS Code	*Est. QTY of Materials	Price/Unit (\$)	Total \$ Commitment	Total % Commitment (Based on % of Credit)
												0.00%
												0.00%
												0.00%

\*Estimated Quantities of Materials may vary from what is listed above. An explanation may be required for any variation in the price and/or quantities.

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

The contractor shall inform the Project Manager and DBE Representative of the date the DBE will begin supplying materials or supplies to the project and when the DBE's responsibilities under this commitment end.

Complete the following for **EACH DBE Subcontractor** that is a **Regular Dealer or Distributor**.

Regular Dealer					
DBE Name	Address (Storage facility, warehouse, yard, etc.)	Provide name of manufacturer / Source	Party Responsible for Transportation of Goods	Established account with Supplier or Manufacturer (Yes or No)?	DBE Credit
					(60%) credit (%) will be counted of Total \$/% Commitment
Distributor					
DBE Name	Address/Point of Origin where materials are coming	Provide name of manufacturer / Source	Party Responsible for Transportation of Goods	Established account with Supplier or Manufacturer (Yes or No)?	(40%, or Fees / Commission) credit (%) will be counted of Total Commitment (\$) (Indicate % if Fees/ Commission)

### Intent to Perform

IFB/RFP/SOQ#: \_\_\_\_\_

The undersigned is currently certified under the Texas Unified Certification Program (TUCP) as a DBE. The undersigned is prepared to provide the following material services listed in connection with the above project number at the following price \$ \_\_\_\_\_ and/or \_\_\_\_\_ % of the total contract amount (should be the same \$ or % found on Schedule C).

Any and all subcontractors that a DBE subcontractor uses must be listed in Schedule C. (Low tier subcontractors must complete this section only when used by a DBE subcontractor.)

**IMPORTANT! A signature is required by the Offeror and each DBE listed on this form.**

*By signing this commitment, you affirm that all information provided is true and correct and agree to comply with all parts of 49 CFR, Part 26. A subcontract agreement or Purchase Order must be executed with the DBE and provided to CapMetro to be included in the DBE file under the contract.*

<b>Prime Contractor Name:</b> _____	<b>DBE Certified:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Representative Name:</b> _____	<b>Address:</b> _____ <b>City:</b> _____ <b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____ <b>Email:</b> _____
<b>Signature:</b> _____	<b>Date:</b> _____
<b>1<sup>st</sup> Tier Subcontractor Name:</b> _____	<b>DBE Certified:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Representative Name:</b> _____	<b>Address:</b> _____ <b>City:</b> _____ <b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____ <b>Email:</b> _____
<b>Signature:</b> _____	<b>Date:</b> _____

If the subcontractor anticipates that \_\_\_\_\_ % of the dollar value of this subcontract will be sublet and/or awarded to other contractors, complete the section below. Duplicate as needed.

<b>2<sup>nd</sup> Tier Subcontractor Name:</b> _____	<b>DBE Certified:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Representative Name:</b> _____	<b>Address:</b> _____ <b>City:</b> _____ <b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____ <b>Email:</b> _____
<b>Signature:</b> _____	<b>Date:</b> _____

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>
	<b>Director of DEI</b>	<b>Created &amp; Revised: Carlos Balderas</b>
		<b>Approved by:</b>

**Attachment E: Schedule C & Intent to Perform (Other Subcontract Services)**

	<b>SCHEDULE C.2: Disadvantaged Business Enterprise (DBE)</b> <b>Subcontractor Participation &amp; Intent to Perform (Other Subcontract Services)</b>	11/2024
	<b>DO NOT RECREATE OR CHANGE THIS DOCUMENT</b>	

**Instructions:** The Offeror (i.e., prime contractor) shall complete all applicable information in this form and the Good Faith Effort (GFE) Form to show its GFE towards meeting the contract goal assigned to the contract and include DBEs on a contract. This form will be completed for **Other Subcontract Services** that include but is not limited to the following: **(Architectural & Engineering, Information Technology, Landscaping, Construction, Vehicle Maintenance, Janitorial, etc.)**. This form **will not be used** for subcontractors that provide hauling/trucking services or material supplies. Those subcontractors which are listed on this form as DBEs must have current DBE certification by a member of the Texas Unified Certification Program at the time of contract execution to Offeror (see Exhibit D, Section 7). Additionally, the Intent to Perform must be completed by the Prime Contractor and DBE subcontractor(s) listed in this form.

<b>Prime Contractor:</b> _____ <b>Project Name:</b> _____ <b>IFB/RFP/SOQ#:</b> _____ <b>Firm's Age:</b> _____ <b>Firm's Annual Gross Receipts (\$):</b> _____	<b>Contact Name:</b> _____ <b>Title:</b> _____ <b>Phone#:</b> _____ <b>Email Address:</b> _____ <b>Address:</b> _____	<b>Ethnic/Gender Code:</b> A) Asian-Pacific American B) Black American H) Hispanic American N) Native American SA) Subcontinental Asian American NM) Non-Minority (Woman) M) Male F) Female
---	---	---

**Subcontractor Section (Other Subcontract Services)**

Subcontract Services include but are not limited to the following: (Architectural & Engineering (A&E), Information Technology, Landscaping, Construction, Vehicle Maintenance, Janitorial, etc.)


COMPLETE THIS FORM FOR **ALL SUBCONTRACTORS** IDENTIFIED FOR THIS PROJECT. **YOU MAY USE MULTIPLE FORMS.**

*In accordance with 49 CFR (Code of Federal Regulations) Part 26, §26.53 & §26.55, when making good faith efforts DBE firms used for credit towards the contract goal must have a current certification status with a TUCP Certifying Agency (see Exhibit D, Section 7) at the time of execution of the contract. The DBE must be certified in the 6-digit NAICS code for the proposed scope of work to receive credit towards the DBE contract goal. CapMetro will also review the proposed DBE participation to ensure that it will perform a commercially useful function.*

**Other Professional Services – Complete this section if using Other Subcontract Services (Use another form if needed)**

Company Name	Contact Person, Phone#, & Address, Email	1 <sup>st</sup> or 2 <sup>nd</sup> Tier Sub.	DBE or Non-DBE	Ethnic Code/ Gender (Leave Blank if non-DBE)	Age of Firm	Annual Gross Receipts (\$)	Work description & 6-digit NAICS Code	Total \$ Commitment (Use % for A&E or other professional services)	Total % Commitment
									0.00%
									0.00%
									0.00%

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

	<b>SCHEDULE C.2: Disadvantaged Business Enterprise (DBE)</b> <b>Subcontractor Participation &amp; Intent to Perform (Other Subcontract Services)</b>	11/2024
---	---	---------

**Intent to Perform**

IFB/RFP/SOQ#:

The undersigned is currently certified under the Texas Unified Certification Program (TUCP) as a DBE. The undersigned is prepared to perform the following described work with its own workforce and/or supply the material listed in connection with the above project number at the following price \$ \_\_\_\_\_ and/or \_\_\_\_\_ % of the total contract amount (should be the same \$ or % found on Schedule C).

Any and all subcontractors that a DBE subcontractor uses must be listed in Schedule C. (Low tier subcontractors must complete this section only when used by a DBE subcontractor.)

**IMPORTANT! A signature is required by the Offeror and each DBE listed on this form.**

*By signing this commitment, you affirm that all information provided is true and correct and agree to comply with all parts of 49 CFR, Part 26. A subcontract agreement or Purchase Order must be executed with the DBE and provided to CapMetro to be included in the DBE file under the contract.*

<b>Prime Contractor Name:</b> _____	<b>DBE Certified:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Representative Name:</b> _____	<b>Address:</b> _____ <b>City:</b> _____ <b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____ <b>Email:</b> _____
<b>Signature:</b> _____	<b>Date:</b> _____

<b>1<sup>st</sup> Tier Subcontractor Name:</b> _____	<b>DBE Certified:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Representative Name:</b> _____	<b>Address:</b> _____ <b>City:</b> _____ <b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____ <b>Email:</b> _____
<b>Signature:</b> _____	<b>Date:</b> _____

If the subcontractor anticipates that \_\_\_\_\_% of the dollar value of this subcontract will be sublet and/or awarded to other contractors, complete the section below. Duplicate as needed.

<b>2<sup>nd</sup> Tier Subcontractor Name:</b> _____	<b>DBE Certified:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Representative Name:</b> _____	<b>Address:</b> _____ <b>City:</b> _____ <b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____ <b>Email:</b> _____
<b>Signature:</b> _____	<b>Date:</b> _____

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> DEI – 100.00	Issued: December 2024
	Director of DEI	Created & Revised: Carlos Balderas
		Approved by:

**Attachment F: Schedule C & Intent to Perform (Hauling/Trucking Services)**

	SCHEDULE C.3: Disadvantaged Business Enterprise (DBE) Subcontractor Participation & Intent to Perform (Hauling/Trucking Services)	11/2024
	<b>DO NOT RECREATE OR CHANGE THIS DOCUMENT</b>	

**Instructions:** The Offeror (i.e., prime contractor) shall complete **all applicable information in this form** and the **Good Faith Effort (GFE) Form** to show its GFE towards meeting the contract goal assigned to the contract and include DBEs on a contract. This form will be completed for subcontractors used for **Hauling/Trucking** services. Those subcontractors which are listed on this form as DBEs must have current DBE certification by a member of the Texas Unified Certification Program at the time of execution of the contract to Offeror (see Exhibit D, Section 7). Additionally, the Intent to Perform must be completed by the Prime Contractor and DBE subcontractor(s) listed in this form.

Prime Contractor: _____	Contact Name: _____	<b>Ethnic/Gender Code:</b> A) Asian-Pacific American B) Black American H) Hispanic American N) Native American SA) Subcontinental Asian American NM) Non-Minority (Woman) M) Male F) Female
Project Name: _____	Title: _____	
IFB/RFP/SOQ#: _____	Phone#: _____	
Firm's Age: _____	Email Address: _____	
Firm's Annual Gross Receipts (\$): _____	Address: _____	

**Subcontractor Section (Hauling/Trucking Services)**

COMPLETE THIS FORM FOR **ALL HAULERS/TRUCKERS** IDENTIFIED FOR THIS PROJECT. **YOU MAY USE MULTIPLE FORMS.**


*In accordance with 49 CFR (Code of Federal Regulations) Part 26, §26.53 & §26.55, when making good faith efforts DBE firms used for credit towards the contract goal must have a current certification status with a TUCP Certifying Agency (see Exhibit D, Section 7) at the time of execution of the contract. The DBE must be certified in the 6-digit NAICS code for the proposed scope of work to receive credit towards the DBE contract goal. CapMetro will also review the proposed DBE participation to ensure that it will perform a commercially useful function.*

Trucking/Hauling – Complete this section if using a Trucking/Hauling Company (Use another form if needed)												
Company Name	Contact Person, Phone#, & Address	DBE or Non-DBE	1 <sup>st</sup> , 2 <sup>nd</sup> , or 3 <sup>rd</sup> Tier Sub.	Ethnic Code/Gender (Leave Blank if non-DBE)	Age of Firm	Annual Gross Receipts (\$)	Description of Trucking/Hauling Services & 6-Digit NAICS Code	Estimated Rate \$	Hauling Unit	Estimated Quantity of Materials	Total \$ Commitment	Total % Commitment
										Hour		0.00%
										Load		
										Hour		0.00%
										Load		
										Hour		0.00%
										Load		

**NOTE:** Reference Exhibit D, Section (3) of the solicitation for information on how credit is counted when using DBEs for hauling/trucking services. Complete the DBE Trucking Unit List. Include DBE and non-DBE Trucking/Hauling firms used as 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> Tier Subcontractors.



	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>
	<b>Director of DEI</b>	<b>Created &amp; Revised: Carlos Balderas</b>
		<b>Approved by:</b>

	<b>SCHEDULE C.3: Disadvantaged Business Enterprise (DBE)</b> <b>Subcontractor Participation &amp; Intent to Perform (Hauling/Trucking Services)</b>	11/2024
---	--	---------

Complete the Trucking Unit Listing for **EACH DBE Subcontractor** that will be used for Trucking/Hauling.


The CapMetro DBE Representative or Other Designee shall verify that the DBE trucking firm owns at least one truck and employs a driver of its own. If the DBE will be leasing trucks, the Design Build Contractor shall verify the DBE has the ability to lease the type of trucks needed for hauling the materials listed above.

Include DBE Trucking/Hauling firms non-DBEs will use as 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> Tier Subcontractors. **Attach ALL applicable supporting documentation.**

DBE Trucking Unit Listing (Use another form if needed)					
Trucking Firm Name or Truck Owner/Operator	Unit #	VIN #	Truck Type	Owned	Leased
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

Complete the following questions based on trucking/hauling services being provided above.

Trucking Firm Name	What location(s) will the materials be hauled to? <i>(Include To/From Location)</i>	How many trucks planned to be used on the project are OWNED by the DBE? <i>(Include Count (#))</i>	How many trucks planned to be used on the project are LEASED by the DBE? <i>(Include Count (#))</i>
	To: <input type="text"/> From: <input type="text"/>	Tractor/Trailer: <input type="text"/> Dump Trucks: <input type="text"/> Other Vehicle Type: <input type="text"/>	Tractor/Trailer: <input type="text"/> Dump Trucks: <input type="text"/> Other Vehicle Type: <input type="text"/>
	To: <input type="text"/> From: <input type="text"/>	Tractor/Trailer: <input type="text"/> Dump Trucks: <input type="text"/> Other Vehicle Type: <input type="text"/>	Tractor/Trailer: <input type="text"/> Dump Trucks: <input type="text"/> Other Vehicle Type: <input type="text"/>
	To: <input type="text"/> From: <input type="text"/>	Tractor/Trailer: <input type="text"/> Dump Trucks: <input type="text"/> Other Vehicle Type: <input type="text"/>	Tractor/Trailer: <input type="text"/> Dump Trucks: <input type="text"/> Other Vehicle Type: <input type="text"/>

	<b>SCHEDULE C.3: Disadvantaged Business Enterprise (DBE)</b> <b>Subcontractor Participation &amp; Intent to Perform (Hauling/Trucking Services)</b>	11/2024
---	--	---------

### Intent to Perform

IFB/RFP/SOQ#:

The undersigned is currently certified under the Texas Unified Certification Program (TUCP) as a DBE. The undersigned is prepared to perform the following hauling/trucking services listed in connection with the above project number at the following price \$ \_\_\_\_\_ and/or \_\_\_\_\_ % of the total contract amount (should be the same \$ or % found on Schedule C).

Any and all subcontractors that a DBE subcontractor uses must be listed in Schedule C. (Low tier subcontractors must complete this section only when used by a DBE subcontractor.)


**IMPORTANT! A signature is required by the Offeror and each DBE listed on this form.**

*By signing this commitment, you affirm that all information provided is true and correct and agree to comply with all parts of 49 CFR, Part 26. A subcontract agreement or Purchase Order must be executed with the DBE and provided to CapMetro to be included in the DBE file under the contract.*


<b>Prime Contractor Name:</b> _____		<b>DBE Certified:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Representative Name:</b> _____	<b>Address:</b> _____	<b>City:</b> _____	<b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____	<b>Email:</b> _____	
<b>Signature:</b> _____	<b>Date:</b> _____		
<b>1<sup>st</sup> Tier Subcontractor Name:</b> _____		<b>DBE Certified:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Representative Name:</b> _____	<b>Address:</b> _____	<b>City:</b> _____	<b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____	<b>Email:</b> _____	
<b>Signature:</b> _____	<b>Date:</b> _____		

If the subcontractor anticipates that \_\_\_\_\_ % of the dollar value of this subcontract will be sublet and/or awarded to other contractors, complete the section below. Duplicate as needed.

<b>2<sup>nd</sup> Tier Subcontractor Name:</b> _____		<b>DBE Certified:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Representative Name:</b> _____	<b>Address:</b> _____	<b>City:</b> _____	<b>State:</b> _____ <b>Zip:</b> _____
<b>Title:</b> _____	<b>Phone#:</b> _____	<b>Email:</b> _____	
<b>Signature:</b> _____	<b>Date:</b> _____		

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

**Attachment G: DBE Good Faith Effort Form**

	<b>Disadvantaged Business Enterprise (DBE)</b> <b>Good Faith Effort Form</b>	

**DO NOT RECREATE OR CHANGE THIS DOCUMENT**

For projects that have an established Disadvantaged Business Enterprise (DBE) contract goal, the bidder must make sufficient Good Faith Efforts ("GFE") to meet the goal. GFE requires the bidder to demonstrate that it took all necessary and reasonable steps to obtain sufficient participation by DBEs, even if the bidder was not fully successful. This means that enough work was made available to DBEs to meet the contract goal, at a minimum. The ability or desire of a bidder to perform the work with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Mere *pro forma* efforts are not good faith efforts to meet DBE contract requirements. This requirement can be met in either of two ways: (1) meet the goal by documenting commitments for participation; or (2) document adequate GFE for participation even if the bidder was unable to meet the goal. Bidders must allow for sufficient time to seek and respond to prospective DBEs. Additional costs incurred in finding and using DBE are not sufficient reason for failure to meet the goal, as long as such costs are reasonable. Bidders are not required to accept higher quotes from DBEs if the price differential is excessive or unreasonable. For guidance concerning the DBE Program GFE requirements, consult 49 CFR Part 26, Appendix A Guidance Concerning Good Faith Efforts.

If the bidder has not obtained sufficient DBE participation to meet the goal, the bidder must submit this Form, along with all supporting documentation, within five (5) calendar days after the bid opening. The Department will determine if the bidder has documented DBE participation and/or made adequate good faith efforts to meet the goal.

The Department reserves the right to request clarification or additional information pertaining to the efforts employed by the bidder. Any written or electronic documentation must be limited to that which existed at the time the good faith efforts submission was due, not new information created after the fact.

<b>I. BIDDER</b>			
Company Name:		Contact Person and title:	
Phone:	Email:		
<b>II. PROJECT</b>			
IFB/RFP/SOQ#:	Project Name:	DBE Goal:	%
Indicate the DBE commitment amount and DBE goal you are requesting approval by CapMetro.			
Total DBE participation commitment: \$	percentage:	%	Goal reduction or waiver amount: %
<b>III. GOOD FAITH EFFORTS</b>			
<p>Check the boxes that identify the GFE taken by the bidder to achieve the goal, even if the bidder was unsuccessful. Not all sections apply. The Department will consider all documented efforts, comprehensively to determine whether adequate GFEs were performed. Provide an explanation and supporting documentation for each type of GFE selected.</p> <p>Only firms listed in the Texas Unified Certification Program (TUCP) DBE Directory with the DBE designation are considered for DBE GFEs. DBEs can be found on the <a href="#">TUCP Directory</a>.</p> <p><b><u>In the comments field, explain why DBEs were or were not selected.</u></b></p> <p>Attach additional sheets as necessary.</p>			
<input type="checkbox"/> <b>A. Solicited through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs capable of performing the work on the contract through all reasonable and available means. The solicitation must be done within sufficient time to allow DBE to respond.</b>			
<p>Required documentation needed in support:</p> <ul style="list-style-type: none"> <li>A copy of the solicitation(s) sent to DBEs, including date(s) sent, method(s) of contact (e.g., phone number, text, email, etc.), and person contacted.</li> <li>Scope and dollar amount of work made available by contractor.</li> <li>List of DBE firms contacted and the North American Industry Classification System ("NAICS") code from the firm's certification associated with the work in the solicitation.</li> </ul> <p>Attach reports, spreadsheets, and other relevant documentation. Explain any follow-up with DBE:</p>			



**Disadvantaged Business Enterprise Policy & Procedures  
DEI – 100.00**

**Issued: December 2024**

**Created & Revised: Carlos Balderas**

**Director of DEI**

**Approved by:**



**Disadvantaged Business Enterprise (DBE)  
Good Faith Effort Form**

1/2023

**B. Effectively used the services of available minority/ women community organizations, business assistance offices and other organizations that provide assistance in the recruitment and placement of DBEs.**

Provide sufficient supporting documentation, including, but not limited to:

- Names of offices or organizations.
- Copies of publications, newspapers, emails, or ads to solicit bids.
- Details or specifics of the meeting or event attended, including the event flyer.
- A list of DBE firms provided by the organization(s), if applicable.
- A list of DBE firms met at any conference or event.

Attach reports, spreadsheets, and other relevant documentation.

**C. Provided interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation**

Provide sufficient supporting documentation, such as:

- Any communications demonstrating that project details were provided to those firms. The details must include dates when information was disseminated, method of contact, persons contacted, and outcomes.
- List of DBE provided plans, specifications, and requirements of the contract. Indicated the date the information was provided.
- The names of all DBE firms who submitted a quote to the bidder, including those the bidder did not solicit.
- All DBE quotes and quotes from non-DBE for the same work items.
- Dates and details of the bidder's follow-up with interested DBE.

Attach reports, tables, spreadsheets, and other relevant documentation. If you did not respond to an interested DBE, explain why:

**D. Selected portions of the work to be performed by DBE to increase the likelihood that the DBE goal will be achieved. This includes breaking out contract work items into economically feasible units or smaller tasks or quantities to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform the work items with its own forces.**

Provide sufficient supporting documentation, such as:

- Methods utilized to encourage participation from DBE, including a breakdown of the units of items into smaller tasks or quantities.
- List of work items, including those incidental or subsidiary to the bid item to facilitate DBE participation.
- An explanation of changes the contractor made to work items or scopes of work to obtain DBE participation.
- If applicable, a description of the work offered to DBE that the bidder typically self-performs.

Attach reports, spreadsheets and other relevant documentation.

**E. Negotiated in good faith with interested DBE.**

Provide sufficient supporting documentation, such as:

- Information as to why the DBE was not selected for the work. If a DBE quote was rejected without negotiation, explain why (include prequalification criteria, how you determined DBE capability, etc.)

Attach reports, spreadsheets, and other relevant documentation.

	<p align="center"><b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> DEI – 100.00</p> <p align="center">Director of DEI</p>	<p>Issued: December 2024</p> <p>Created &amp; Revised: Carlos Balderas</p> <p>Approved by:</p>
---	---	--



Disadvantaged Business Enterprise (DBE)  
Good Faith Effort Form

1/2023

**F. Made efforts to assist interested DBE in obtaining necessary equipment, supplies, materials, or related assistance or services in order to increase the likelihood of obtaining DBE participation.**

Provide a list of DBEs assisted indicating the types of assistance given and details of assistance offered and of specific agreements agreed upon.

**G. Made efforts to assist interested DBE in obtaining bonding, lines of credit, or insurance required by the Department.**

Provide relevant documentation.

**V. BIDDER'S SIGNATURE**

By signing this form, you agree that the bidder aggressively made good faith efforts sufficient to obtain DBE participation and meet the DBE contract goal in whole or in part. Providing false information on this governmental record is a violation of Texas Penal Code §37.10 and could result in criminal penalties.

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title

\_\_\_\_\_

Signature

\_\_\_\_\_

Date



Disadvantaged Business  
Enterprise Policy &  
Procedures  
DEI – 100.00

Issued: December 2024

Created &  
Revised: Carlos Balderas

Director of DEI

Approved by:

### Attachment H: DBE Regular Dealer/Distributor Affirmation Form

OMB Control #2105-0586 (Exp. 5/31/2027)



U.S. Department of  
Transportation

### DBE Regular Dealer/Distributor Affirmation Form

Bidder Name:

Contract Name/Number:

Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A),(B),(C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan.

DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

1. Will **all** items sold or leased be provided from the on-hand inventory at your establishment?  YES  NO

(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

- a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)?  YES  NO (If "YES," Go to Question 2. If "NO" Continue.)
- b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?  YES  NO\* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)

\*If 1., 1.a), and 1. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?  YES  NO<sup>1</sup>

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)

<sup>1</sup> If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacturer's facility)?  YES<sup>2</sup>  NO<sup>3</sup>

a) Will you be using sources **other than** the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?  YES<sup>2</sup>  NO<sup>3</sup>

<sup>2</sup> If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased **may** be counted at 40%.

<sup>3</sup> If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

	<p style="text-align: center;">Disadvantaged Business Enterprise Policy &amp; Procedures DEI – 100.00</p> <p style="text-align: center;">Director of DEI</p>	<p>Issued: December 2024</p> <p>Created &amp; Revised: Carlos Balderas</p> <p>Approved by:</p>
---	--	--

**Attachment I: DBE Bid Review Form**



MEMORANDUM

**To:** <Procurement Representative, Title>

**From:** <DEI Representative, Title>

**Date:** <Date>

**Subject:** <Solicitation Number, Name>

Two responses were submitted, and the following was found regarding the \_\_\_% DBE goal on this procurement.

**1. <Prime Contractor Name>** **SBE RESPONSIVE < >%**

- ❖ <SUBCONTRACTOR NAME> <CITY, STATE> <CERTIFICATION STATUS (i.e., DBE or non-DBE)>
- DBE CONFIRMATION: <YES OR NO> <CERTIFYING AGENCY>
- SERVICES: <DESCRIPTION OF WORK>

COMMENTS:

**2. Prime Contractor Name** **SBE RESPONSIVE < >%**



- ❖ <SUBCONTRACTOR NAME> <CITY, STATE> <CERTIFICATION STATUS (i.e., DBE or non-DBE)>
- DBE CONFIRMATION: <YES OR NO> <CERTIFYING AGENCY>
- SERVICES: <DESCRIPTION OF WORK>

COMMENTS:

<SOLICITATION NUMBER, NAME>

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

## Attachment J: Subcontractor Utilization Plan (SUP)/Open Ended Performance Plan (OEPP)

	Disadvantaged Business Enterprise (DBE) Subcontractor Utilization Plan (SUP) / Open Ended Performance Plan (OEPP)	12/2024
DO NOT RECREATE OR CHANGE THIS DOCUMENT		
<p>CapMetro requires the completion of a Subcontractor Utilization Plan (SUP) for all contracts with DBE subcontractors under the Schedule C &amp; Intent to Perform to establish a procedure to ensure timely utilization of the certified firms participating in CapMetro's DBE Program. <b>The approved SUP will remain in effect until a change/task order occurs.</b> The Diversity, Equity, &amp; Inclusion Office must be informed prior to a contract change occurring or any changes to the information provided in this form. <b>An updated SUP must be submitted for approval. Any changes that occur are subject to DBE requirements under the CapMetro contract.</b></p> <p><b>DIRECTIONS ONLY IF DESIGN-BUILD TYPE PROJECT:</b> Complete the first page and under the Subcontractor section ONLY complete the items with an asterisk (*) for work DBEs will perform. Click "Add Sub" to add additional subcontract opportunities.</p>		
Contract Start Date:	SUP Period End Date (Six Months):	
Contract Number:	Contract Name:	DBE Goal: 0.00%
Prime Contractor:	Project Manager: <small>CapMetro Rep.</small>	Contract Administrator: <small>CapMetro Rep.</small>
Prime Contractor Authorized Representative:		Prime Contractor Representative Title:
Number of DBE Subcontractors:		
<i>Complete the SUP for each subcontractor on the following page(s).</i>		
Total Anticipated Plan Period Utilization: \$Amount:	% of Total: 0.00%	
Contractor Signature	Contractor Name (Print)	Date Signed
<p><i>By signing this document, you affirm that the information provided in this Subcontractor Utilization Form (SUP) is true and correct and understand that authorized personnel of the Authority may confirm any information contain herein and you commit to cooperate if any additional information is required.</i></p>		
	Disadvantaged Business Enterprise (DBE)/Small Business Enterprise (SBE) Subcontractor Utilization Plan (SUP)	12/2024

**Subcontractor**

DBE Name: \_\_\_\_\_ \*DBE Participation Goal: 0.00%

DBE Representative Name: \_\_\_\_\_ DBE Representative Title: \_\_\_\_\_

**\*Work Category**

Material Supplier:    Manufacturer     Regular Dealer     Distributor     Trucking/Hauling

**\*Other Professional Services Type:** \_\_\_\_\_  
Ex.: Advertising, Architectural/Engineering, Building/Facility Maintenance, Construction, Consulting Service, General Planning Consulting, Information Technology, Janitorial Services, Landscaping Services, Management Services, Professional Services, Real Estate Services, Security Services, Surveying

\*Description of DBE scope of work: \_\_\_\_\_

\*Is this contract work spread over the contract term: Yes  No

\*Estimated timeframe/schedule for DBE work to begin (include details):  
 \_\_\_\_\_

How often is the DBE projected to provide the above service(s)?    Daily     Weekly     Monthly     Annually     As Needed


What is the payment agreement structure with the DBE subcontractor? \_\_\_\_\_

What percentage of work will the subcontractor be completing during the current plan period? 0.00%


\*Anticipated Plan Period Utilization: \$Amount: \_\_\_\_\_ % of Total: 0.00%

The contract between your company and the DBE has been submitted    Yes     No   
This is required 15 days after receiving a Notice to Proceed.

ADD SUB
DELETE SUB

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

**Attachment K: DBE Termination & Substitution Request Form**

	<b>Disadvantaged Business Enterprise (DBE)</b> <b>Termination &amp; Substitution Request</b>	

**DO NOT RECREATE OR CHANGE THIS DOCUMENT**

This form will be utilized when a contractor seeks to **terminate** a DBE subcontractor and **substitute** for another DBE that is being used for DBE goal credit on an USDOT (i.e., FTA) federal-aid project. If the contractor intends to terminate the DBE in whole or in part, the contractor must receive approval from CapMetro prior to submitting this form. The Schedule C & Intent to Perform must also be completed in its entirety and submitted with this form.

**This document will be completed for each DBE being terminated.**

<b>I. Intent to Terminate &amp; Substitute</b>			
Does your company intend to terminate a DBE Subcontractor?    Yes <input type="checkbox"/> No <input type="checkbox"/>			
Does your company intend to substitute the current DBE subcontractor with another DBE subcontractor?    Yes <input type="checkbox"/> No <input type="checkbox"/>			
<i>If not terminating a DBE and this is a partial substitution, skip the termination section and complete the substitution section.</i>			
<b>II. Contract Information</b>			
Prime Company Name:			
Contract#:	Contract Name:	DBE Goal:	%

**TERMINATION SECTION:**

<b>III. DBE Subcontractor Information</b>	
DBE Company:	DBE Commitment Amount & Percentage: \$ _____ , %
<b>IV. Notification to DBE</b>	
The contractor must notify the DBE subcontractor in writing of its intent to terminate and the reason(s) for such termination. The notice must give the DBE subcontractor five (5) calendar days to respond to the notice and provide reasons, if any, why the DBE subcontractor objects to the proposed termination and why the contractor's request to terminate should not be approved.	
A notification was sent to the DBE subcontractor and copied the CapMetro DEI Liaison, Project Manager, and Contract Administrator:    Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>V. Good Cause Reason for Termination</b>	
The contractor may request to terminate an approved committed DBE <b>only</b> if the contractor has good cause. Select the good cause reason(s) below. <i>Check all that apply.</i>	
<input type="checkbox"/> The listed DBE subcontractor fails or refuses to execute a written contract.	
<input type="checkbox"/> The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards.	
<input type="checkbox"/> The listed DBE subcontractor fails or refuses to meet the contractor's reasonable, nondiscriminatory bond requirements.	
<input type="checkbox"/> The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.	
<input type="checkbox"/> The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law.	
<input type="checkbox"/> CapMetro or the Contractor have determined that the listed DBE subcontractor is not a responsible contractor.	
<input type="checkbox"/> The listed DBE subcontractor voluntarily withdraws from the project and provided you written notice of its withdrawal.	
<input type="checkbox"/> The listed DBE is ineligible to receive DBE credit for the type of work required.	
<input type="checkbox"/> A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.	



	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>



**Disadvantaged Business Enterprise (DBE)  
Termination & Substitution Request**

9/2024

Other documented good cause (e.g., **de-scope of work due to contract modification**):  
(Go to next page to add comments.)

If needed, provide additional comments related to causes(s) selected above:

Did the contractor copy CapMetro on the notification sent to the DBE? *If so, provide documentation.* Yes  No

Did the DBE provide a response? *If so, provide documentation.* Yes  No

Will termination result in a goal shortfall? Yes  No  If yes, how much? \$ \_\_\_\_\_

**If the termination results in a goal shortfall the contractor must submit evidence of good faith efforts or Substitution Request within 7 days of receiving approval.**

**SUBSTITUTION SECTION:**

**VI. DBE Substitution**

The proposed DBE firm, if approved by CapMetro, **does not have to perform the same scope of work** as the previously approved DBE, but must be DBE certified in the appropriate NAICS code to perform the proposed work.

**VII. Substitution Explanation**

Is this a complete or partial substitution of a previously approved DBE? Complete  Partial

Will your company be substituting for a DBE or Non-DBE? DBE  Non-DBE

***If Non-DBE, Good Faith Effort MUST be completed and submitted to CapMetro for approval, and if it results in a shortfall of the race-conscious goal.***

If partial, summarize the work remaining under the commitment and the total dollar amount:

Total Dollar Amount Remaining with Current DBE Subcontractor: \$ \_\_\_\_\_

Summary of Work Remaining:

Shortfall amount due to approved termination: \$ \_\_\_\_\_  
*If the substitution results in a goal shortfall, the contractor must submit evidence of good faith efforts.*


Has the DBE subcontractor received payment for the work that was performed? Yes  No

Has final payment been made to the current DBE for the work or services performed? Yes  No

If yes: Payment Date: \_\_\_\_\_ Payment Amount: \$ \_\_\_\_\_

If no, please explain:

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>
	<b>Director of DEI</b>	<b>Created &amp; Revised: Carlos Balderas</b>  <b>Approved by:</b>

	<b>Disadvantaged Business Enterprise (DBE)</b> <b>Termination &amp; Substitution Request</b>	9/2024
---	---	--------

Will you be self-performing the work and meet the race-conscious goal on the contract? Yes  No  Not Applicable

If self-performing, indicate how you will perform the work using your own equipment, materials, supplies, or employees:

VIII: New DBE Subcontractor			
The proposed DBE firm, if approved by CapMetro, <b><u>does not have to perform the same scope of work</u></b> as the previously approved DBE, but must be DBE certified in the appropriate NAICS code to perform the proposed work.			
Previously Approved DBE - (i.e., DBE being Terminated)			
DBE Name: _____			
Work Paid to Date: \$ _____			
NAICS Code	Work Description	Committed \$ Amount	Remaining \$ Amount
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
<b>Total</b>		\$	\$
Proposed DBE or Non-DBE			
Proposed Subcontractor is: Subcontractor/subconsultant <input type="checkbox"/> Trucking/Hauling Firm <input type="checkbox"/> Regular Dealer (60% credit) <input type="checkbox"/> Manufacturer <input type="checkbox"/> Distributor 40% <input type="checkbox"/> or (Fees or Commissions) <input type="checkbox"/>			
DBE Name: _____			
Date DBE will begin work: _____			
NAICS Code	Work Description	Committed \$ & %	
		\$	%
		\$	%
		\$	%
		\$	%
		\$	%
<b>Total</b>		\$	%

*Include your printed name, title, signature, and date below. By signing this document, you are an authorized representative for the Prime Contractor on the Contract referenced above to affirm that all information included in this SBE Termination and Substitution Request is true.*

Contractor Authorized Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

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



Disadvantaged Business Enterprise Policy & Procedures  
DEI – 100.00

Issued: December 2024

Created & Revised: Carlos Balderas

Director of DEI

Approved by:



Disadvantaged Business Enterprise (DBE)  
Termination & Substitution Request

9/2024

**FOR CAPMETRO USE ONLY**

**TERMINATION:**

Verified that a notice of Intent to Terminate the DBE was sent to DBE and CapMetro? Yes  No  Not Applicable

The DBE responded to the termination? Yes  No  Not Applicable

DBE's response, if applicable:

Verified DBE requested removal, if applicable, and documentation received? Yes  No  Not Applicable

Verified Good Cause Reason of Termination? Yes  No  Not Applicable

**SUBSTITUTION:**

Verified Prime Contractor submitted updated DBE Schedule C & Intent to Perform? Yes  No  Not Applicable

If the request resulted in a goal shortfall, did the contractor submit evidence of good faith efforts, (e.g. Post-Award GFE form)? Yes  No  Not Applicable

Verified Prime Contractor substitution of new DBE or Non-DBE? Yes  No  Not Applicable

Verified Prime Contractor will be assigning a different scope of work to the new DBE? Yes  No  Not Applicable

Verified Prime Contractor's intent to meet or not meet the current assigned DBE goal? Yes  No

**DECISION:**

Approved  Not Approved

Reason(s) for Not Approved:

DBE Designee Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

**Attachment L: DBE Final Report**

	<b>Disadvantaged Business Enterprise (DBE)</b> <b>Final Report</b>	
		9/2024

**DBE Final Report**

This DBE Final Report form must be filled out by the Contractor named below for the referenced Contract Number below and submitted to the DEI Department with a copy to CapMetro’s Project Manager and Contract Administrator of the Contract upon completion of the contract. The report should reflect all DBE activity on the contract. The report will aid in expediting the final estimate for payment. If the DBE goal requirements were not met, documentation supporting good faith efforts must be submitted.

Contract Number: \_\_\_\_\_ Contract DBE Goal: \_\_\_\_\_%

Contract Name: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

This is to certify that \_\_\_\_\_% of the work was completed by DBEs towards the contract DBE goal listed above.

Was there a project under-run caused by a CapMetro change order that impacted DBE Goal attainment?

Yes  No  Change Order Number: \_\_\_\_\_ (List additional change orders below in comments.)

If the contract DBE goal was not attained, please provide justification for not meeting the contract DBE goal and provide attachments, if available.

*Include your printed name, title, signature, and date below. By signing this document, you are an authorized representative of Contractor for the Contract referenced above to affirm that all information included in this DBE Final Report is true.*

<div style="background-color: #e0e0e0; height: 25px; width: 100%;"></div>	<div style="background-color: #e0e0e0; height: 25px; width: 100%;"></div>	<div style="background-color: #e0e0e0; height: 25px; width: 100%;"></div>
Name/Title of Contractor Authorized Representative	Signature of Contractor Authorized Representative	Date

	<b>Disadvantaged Business Enterprise Policy &amp; Procedures</b> <b>DEI – 100.00</b>	<b>Issued: December 2024</b>  <b>Created &amp; Revised: Carlos Balderas</b>
	<b>Director of DEI</b>	<b>Approved by:</b>

**Attachment M: New User – Vendor Information Form**

	<b>Vendor Information Form</b>	1/2023
---	--------------------------------	--------

This form is being used to gather information needed regarding contractors or subcontractors under an agreement with CapMetro. Information gathered will be used to add contractors or subcontractors to CapMetro’s Vendor Reporting System’s vendor contact list. The vendor contact list allows CapMetro to select contractors or subcontractors to be added under a CapMetro agreement for reporting purposes.

Business Information	
Business Name:	
DBA Name:	
Tax ID#:	
Unique Entity Identifier (Ex. GSA#):	
DUNS Number (If available):	
Company Type:	Make a Selection
Company Ownership Ethnicity:	Make a Selection
Company Ownership Gender:	Make a Selection

Business Contact Information	
Main Company Email:	
Main Phone:	
Main Fax:	
Main Company Website:	
Company Address:	
City:	
State/Providence:	
Zip Code/Postal Code:	
Country:	

Company Contact Person	
Name:	
Title:	
Email (username):	
Phone Number:	
Mobile Number:	
Fax Number:	
Time Zone:	Make a Selection