



METRO

DBE/SBE PROGRAM CONTROLS & ANALYSIS AUDIT (21-03)

Terry Follmer, VP of Internal Audit

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EXECUTIVE SUMMARY

As part of our Fiscal Year 2021 Internal Audit Plan approved by the Capital Metro Board, we performed an audit of the DBE/SBE Program Control and Analysis. The audit objective is to determine whether CMTA has sufficient internal controls to prevent and detect errors and/or irregularities in the DBE/SBE program and ensure compliance with applicable laws and contract terms. The audit results, including the objective, scope, and conclusion, are as follows.

Background

The Federal DBE Program was created in the 1980s to provide an equal level playing field for small companies, minority-owned companies, and women-owned companies that adheres to the Code of Federal Regulations (CFR) Title 49, Part 26 – Participation by Disadvantaged Business Enterprise in Department of Transportation Financial Assistance Programs. To be eligible for the federal DBE designation, companies must be for-profit, a small business where socially and economically disadvantaged individuals own at least a 51% interest and control management of the daily business operations. The U.S. Department of Transportation (DOT) requires a DBE liaison officer to implement all aspects of the DBE program and ensure program compliance. The DBE liaison is responsible for the following: to have adequate staff to administer the program, a prompt payment mechanism to ensure the prime contractor is paying subcontractor, complete records of the DBE information including address, phone, number, type of work the firm has been certified to perform as a DBE and monitor to ensure that work performed is performed by the DBEs to which the work was committed. The DOT also requires that all federal funds recipients meet a 10% yearly DBE goal and allow each recipient to set an even higher goal for themselves. Goals and actuals are reported to the FTA and CapMetro Board twice a year as a requirement for receiving federal funds. The Small Business Enterprise (SBE) program offers small businesses another avenue to maximize their business opportunities. Companies interested in pursuing an SBE certification must meet the U.S. Small Business Administration size standards and submit a completed application by applying online to the Diversity Management Systems. Capital Metro has established an SBE program for locally funded contracts between \$25,000 - \$50,000 and greater than \$50,000 to ensure small businesses' opportunities to participate in all phases of the contracting activities. Capital Metro awarded 37 contracts with 13 DBE participation and 24 SBE participation for a total of \$31,037,330 for FY2019 and FY2020.

The Diversity and Compliance Department is better known as the Office of Diversity (OOD), is led by the Director of Diversity, Equity, and Inclusion and has three staff members that administer and oversee the DBE/SBE Programs. The department policies include a DBE Policy (OOD-005) establishing the DBE program according to the DOT and an SBE Policy (OOD-106) establishing the SBE program for locally funded contracts. In April 2018, the department further formalized the Disadvantaged Business Enterprise Program manual, outlining the department's general information, objectives, DBE Liaison Officer (DBELO) responsibilities, Diversity Specialist responsibilities, Prompt Payment, Monitoring, Billing Disputes, and other duties.

The DBE solicitation process is detailed in Appendix A and begins when a Project Manager completes a Requisition Checklist together with other documents, which are sent to the Procurement Department. A Contract Administrator is then assigned by Procurement, who notifies the OOD Department's Diversity Coordinator, who completes the Goal Determination Memo to be included in the request for proposals. The prime vendors are required to complete and submit Schedule C (Subcontractor Participation) if a goal is set for the project. The Intent to Perform as a DBE/SBE form (Appendix D) is required if the prime or the subcontractor is a DBE/SBE. The Diversity Coordinator will work with the prime vendor on verifying

DBE/SBE status to ensure completion of the required documents. The Contract Administrator collects all the documents and submits the proposed contract to the Board for approval. (See Appendix A DBE/SBE Pre and Post Solicitation Process)

In 2013, Capital Metro purchased the B2Gnow system, which provides comprehensive functionality to support the diversity programs and is used to track the goals, payments, DBE/SBE status, and contract documents. B2Gnow stands for Business to Government Now is a hosted software solution streamlines and automates data gathering, tracking, reporting, vendor management, and administrative processes. One of the system's features is an independent confirmation so that DBE/SBE prime and subcontractor can report work completed and receipt of payments. Several governmental entities in Austin use B2Gnow, including TxDOT, City of Austin, Travis County, AISD, and ACC.

After the Board approves the contract, the Diversity Coordinator enters the information in B2Gnow. The information entered includes the prime vendor information, contact name, start dates and end dates, CapMetro information, the subcontractor information, percent of participation, awarded contract amount, and updates as changes occur within the contract. Once a month, the payments made to the prime contractor in AX are imported into B2Gnow by the Application System Analyst because B2Gnow is not interfaced to the AX Accounting System. The system automatically notifies the prime vendor by email to enter payments made to DBE/SBE's and going forward, the prime vendor is required to enter the payments made to any subcontractors (e.g., DBE/SBE's). Also, monthly the subcontractor is required to log into the B2Gnow system and confirm the payments received. If the payment amounts in the system are not verified or match, the Diversity Coordinator is required to reach out to the prime and the subcontractors to obtain confirmation. The B2Gnow system has several canned reports available to monitor and manage the program, and the OOD department is responsible for addressing disputes or issues. (See appendix B for the B2Gnow Work & Payment Made/Received Compliance Process)

Audit Objective & Scope

The primary objective of this audit was to determine whether CMTA has sufficient internal controls to prevent and detect errors and/or irregularities in the DBE/SBE program and ensure compliance with applicable laws and contract terms. The scope included completing a flowchart of the DBE/SBE Pre-Post solicitation process (Appendix A), a flowchart of B2Gnow system tracking of work performed and payments made/received (Appendix B) and the department compliance process, reviewing B2Gnow data completeness and accuracy, ensuring AX payments made to the prime contractor match B2Gnow data, and reviewing contract documents. Testing included a review of awarded contracts for FY 2019 and FY2020. The total population was 37 prime vendors with 13 DBE's and 24 SBE's participation.

Opinion

Our testing of B2Gnow data and contracts documents concluded that all board-approved contracts over \$150,000 were entered into the system. Contract modifications of the contract amount for the period under review were also updated in the system. In our opinion, internal controls can be improved in the following four areas:

1. B2Gnow System – Data Completeness and Accuracy.
2. Accuracy of required Contractual Forms.
3. Develop SOP and Improve Oversight.
4. No Reconciliation is performed of the Systems.

More details regarding the issues/risks and recommendations can be found below in the detailed audit report. This audit was conducted in accordance with the U.S. Government Accountability Office's Generally Accepted Government Auditing Standards (GAGAS) and the Institute of Internal Auditors International Professional Practices Framework (IPPF). These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. The audit was conducted by the following staff members in the Capital Metro Internal Audit Department:

- Jeannette Lepe, Senior Auditor (Project Lead)
- Terry Follmer, VP of Internal Audit

Recommendations to strengthen internal controls and improve accountability were provided to management in the audit report. Management agrees with the internal audit recommendations and has provided target completion dates, which are included below. A follow-up audit is performed semi-annually (i.e., May and November) to ensure management action plans for all issued audit reports are completed timely. We appreciate the cooperation and assistance provided to us throughout this audit.

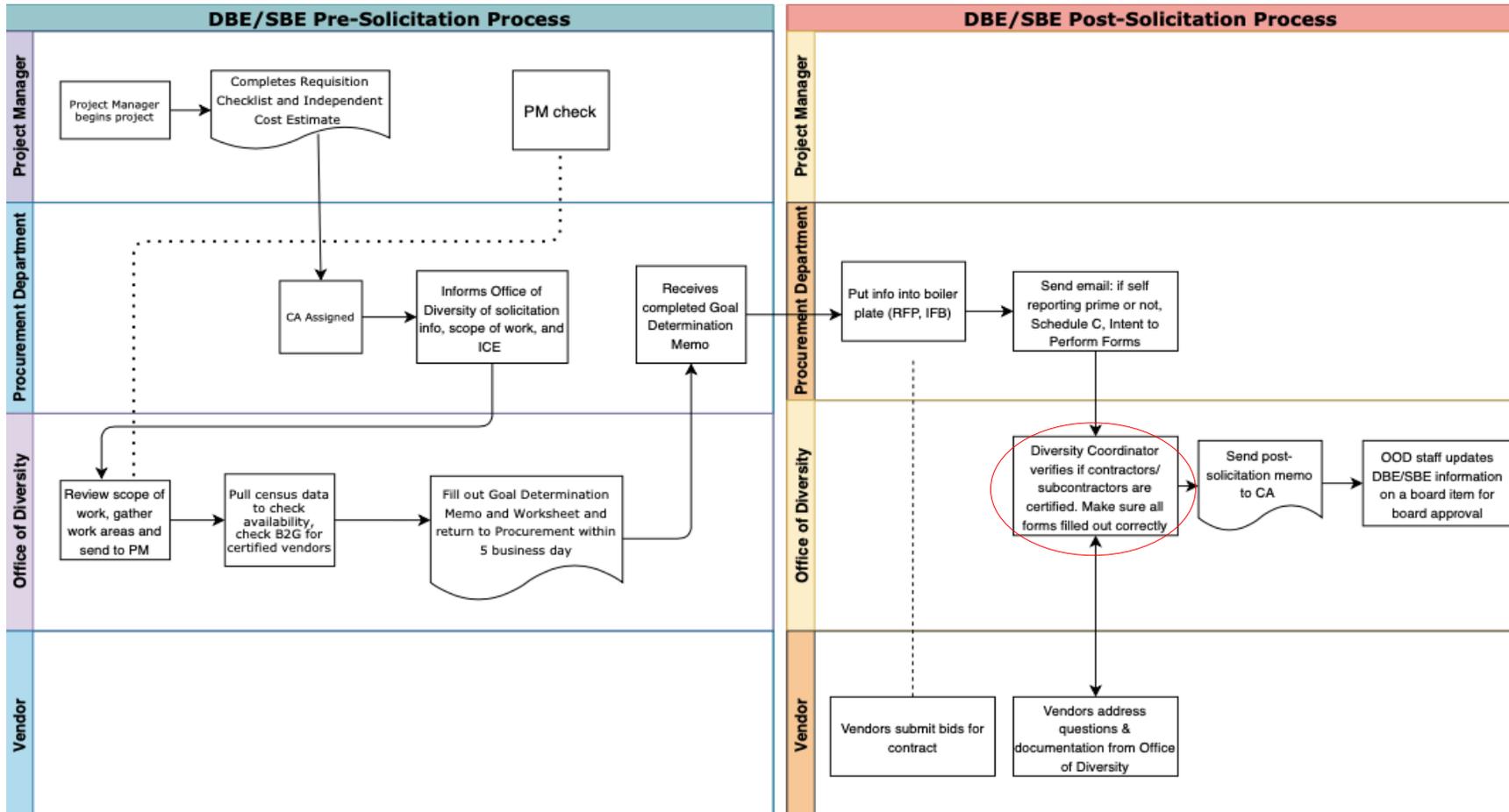
<i>Issues & Risk</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<p><u>1. B2GNOW SYSTEM – DATA COMPLETENESS AND ACCURACY</u></p> <p>After the Board approves the contract, the Diversity Coordinator enters the vendor and contract information into B2Gnow (e.g., prime vendor information, contact # and amount, start/end dates, subcontractor info, percent of DBE participation, etc.). The department did not specify required fields to be entered, and data from B2Gnow is not consistently reviewed after entry. We completed a review of the entire population of 37 contracts with DBE/SBE participation for FY2019 and FY2020. We identified 19 contracts with one or more missing fields as follows in the B2Gnow system:</p> <ul style="list-style-type: none"> • Five of the Contract Types (e.g., Construction, Engineering, IT). • Fourteen of the Contract Categories (aka Type of Service: Advertising, Employee, Consulting Services). • Various CapMetro Contact info fields (e.g. 4 Project Manager names, 4 PM’s Title, 18 PM’s department, 4 PM’s phone number, 4 PM’s email address). <p>The contract type and category information are not included currently in vendor documents and were not consistently captured in B2Gnow. Note, B2Gnow is the system of record for government compliance reporting related to DBE and SBE programs; therefore, process controls need improvement to ensure the completeness and accuracy of the data.</p>	<p>The OOD’s Compliance Manager should implement the following improvements:</p> <ol style="list-style-type: none"> a) Identify mandatory fields (e.g., contact info, contract type, etc.) in the B2Gnow system and configure the system to require mandatory fields to be populated; otherwise, an error code will be provided. Alternatively, if this cannot be automated in B2Gnow, then perform periodic manual checks (e.g., quarterly) to ensure all mandatory fields are being completed for vendors. b) Require prime contractors and subcontractors to periodically validate the completeness and accuracy of their data in the B2Gnow, which is relevant to their company and contract. 	<p>Management agrees with the recommendations and is working towards adding the contract automation module of the B2Gnow system. Also, Management will work with other departments to find a proper solution to acquire the information on contract type and category.</p> <p><u>Target Completion Date:</u></p> <p>09/30/21</p>

<i>Issues & Risk</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<p>2. <u>ACCURACY OF CONTRACTUAL REQUIRED FORMS</u></p> <p>Each solicitation for which a contract DBE/SBE goal has been established will require the bidders/offerors to submit the following forms: Schedule C and Intent to Perform as a DBE Subcontractor. The Schedule C form is documenting the commitment to use a DBE/SBE subcontractor whose participation is to meet the contract goal. The Intent(s) to Perform as a DBE form is documenting the participation goal in the prime contractor's commitment. Each form is required to be completed and signed. We compared the information entered in B2Gnow with the Schedule C form, Intent to Perform as a DBE form, contract value, and DBE/SBE goals and identified the following errors:</p> <ul style="list-style-type: none"> • Found one contract in which the DBE percent goal listed in B2Gnow did not match the Schedule C form. In the B2Gnow system, the DBE goal had a greater amount than the amount agreed upon on the Schedule C form, and the correct amount was listed on B2Gnow. • Found one contract in which the Intent to Perform as a DBE form listed the DBE participation percentage in the wrong area of the form; however, the DBE participation percent listed in the B2Gnow system was correct. <p>Upon our discovery, the OOD Department corrected the DBE percent goal on Schedule C, and the prime sign the form. The OOD Department should ensure these vendors' sign forms are accurately completed when received.</p>	<p>The Director of Diversity, Equity, and Inclusion and the OOD's Compliance Manager will consider the following improvements:</p> <ol style="list-style-type: none"> a) During the Post Solicitation, the OOD Department should work with the bidder to ensure contractual forms are accurately completed. b) Periodically (e.g., semi-annually), complete a review of the contracts in B2Gnow to ensure all documents are accurately completed and match the data in B2Gnow. 	<p>Management agrees with the recommendations and has taken action to remediate the issue.</p> <p><u>Target Completion Date:</u></p> <p>Implemented</p>

<i>Issues & Risk</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<p>3. <u>DEVELOP SOPs AND IMPROVE OVERSIGHT</u></p> <p>The OOD’s Compliance Manager is responsible for ensuring DBE records are accurate and in compliance with regulations, policies, and procedures. DBE Program Manual lists the department's overall responsibilities, but it does not provide written steps on how the oversight will be performed. We reviewed the process controls related to the DBE Program and identified that OOD has not defined and nor documented the procedures for several key control areas as follows (see Appendix A and B flowcharts):</p> <ul style="list-style-type: none"> • Review of vendor and contract documents. • Data entries into the B2Gnow system. • Contract modification updates. • Payments records and entries. • Closing contracts in the systems (B2Gnow & AX). • Review of compliance reports. • Reporting requirements both internal to CapMetro management and external (e.g., DOT, etc.). <p>The department processes can be made more efficient, accurate, and complete if key controls and processes are formally documented operations are outlined as defined in the flowchart. A contributing factor to this weakness is that the department was understaffed during FY2019 and FY2020.</p>	<p>The Director of Diversity, Equity, and Inclusion and the Compliance Manager will consider the following improvements:</p> <ol style="list-style-type: none"> a) Develop Standard Operating Procedures defining the processes to ensure DBE compliance. b) Define the reporting requirements to be completed monthly and biannual. c) Identify and develop the B2Gnow compliance reports and define the processes and actions to be taken. 	<p>Management agrees with the recommendations.</p> <p><u>Target Completion Date:</u></p> <p>09/30/21</p>

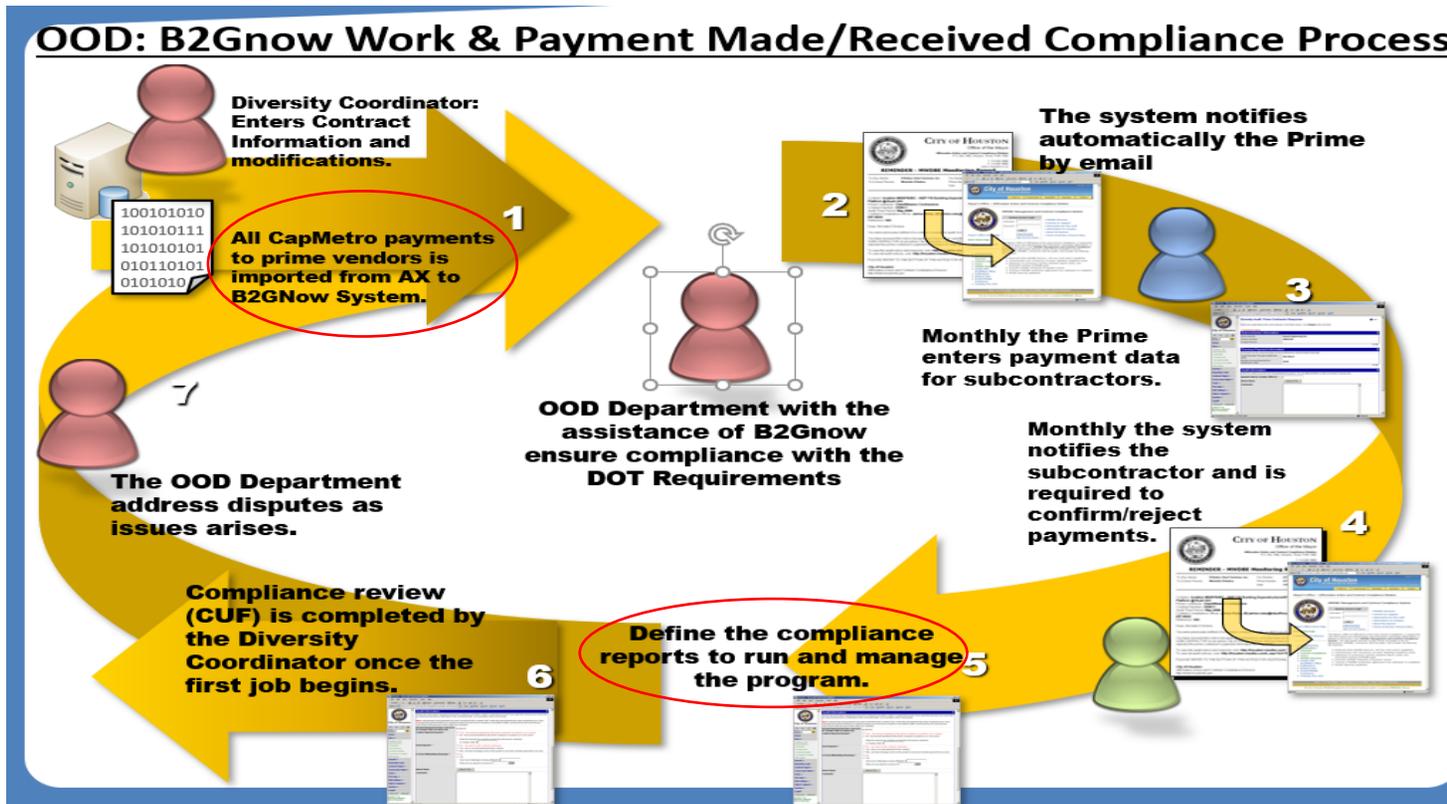
<i>Issues & Risk</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<p><u>4. NO RECONCILIATION IS PERFORMED OF THE SYSTEMS</u></p> <p>Only for those contracts that are coded in the AX with DBE/SBE participation, once a month payment made to the prime vendor by CapMetro using the AX ERP System are imported into the B2Gnow System. The Contract Administrator in the Procurement Department is responsible for coding the AX system with DBE/SBE participation. We noted the OOD department had no process to ensure that all contracts with DBE/SBE participation are coded to import AX payment data into the B2Gnow system. We tested the entire population of 37 contracts with either DBE/SBE participation for FY 2019 and FY 2020 by comparing the B2Gnow data to the AX ERP system. The following differences were noted:</p> <ul style="list-style-type: none"> • 11 of the 24 contracts with SBE participation were not coded to import CapMetro payments to prime contractors. However, no SBE goal was required on the 11 contracts. • 1 of the 13 DBE contracts was not coded to import CapMetro payments to prime contractors. <p>As a result of the payments to prime vendors not being imported to the B2Gnow system, thus CapMetro is losing visibility of the ten-business day deadline. Note, OOD requires that prime vendors pay their subcontractors within ten business days after receiving payment from CapMetro.</p>	<p>The Director of Diversity, Equity, and Inclusion and the OOD's Program Manager will consider the following improvements:</p> <ol style="list-style-type: none"> a) Define the process of the AX to B2Gnow system reconciliation (i.e., which contracts have DBE/SBE participation; and all prime payments are imported to B2Gnow) and included it in the standard operating procedures. b) Periodically (e.g., quarterly or semi-annually) perform a complete reconciliation of the systems to ensure the payments are accurately imported in B2Gnow. 	<p>Management agrees with the recommendations and is exploring manual options available for addressing the issue. When the new ERP system is implemented, we will work to ensure the system accurately captures all DBE/SBE participation even when a goal is not set.</p> <p><u>Target Completion Date:</u></p> <p>09/30/21</p>

Appendix A: DBE/SBE Pre-Post Solicitation Process



Note: The flowchart was created by the Internal Audit Department, and it illustrates the process of the DBE/SBE Pre-Post Solicitation. In the red circle above, we identified an opportunity for improvement as documentation errors were found in the Schedule D (Intent to Perform as a DBE) form completed by the prime.

Appendix B – B2Gnow Work & Payment Made/Received Compliance Process



Note: The flowchart was obtained by the B2Gnow system; however, the Internal Audit Department made some modifications to align with the OOD's compliance process. In the red circles above, we identified process improvement on the payments imported to B2Gnow and defined the reports to manage the DBE/SBE programs.

Appendix C: Schedule C of Subcontractor Participation

REQUIRED SUBMITTAL

**CAPITAL METRO
Schedule C of Subcontractor Participation**

Instructions: The Offeror shall complete this form by listing 1) Names of all proposed subcontractors. 2) Contact information, 3) Description of work to be performed/product to be provided, 4) Status as a DBE or non-DBE, 5) Ethnic Code of firm 6) Age of the firm, 7) Annual gross receipts of the firm, 8) % or \$ amount of Total Contract. Those subcontractors which are listed on this form as DBEs must have current certification as a DBE with a participating TUCP certifying agency (see Exhibit D paragraph 6). The DBE certification must be complete by the time the proposals are submitted. Additionally, those subcontractors which are listed on this form as DBEs must complete an Intent to Perform as a DBE Subcontractor agreeing to the information listed here.

Name of Prime Contractor (Offeror): _____
 Project Name: _____
 IFB/RFP Number: _____

Ethnic Code: **A)** African-American Male **B)** African American Female **C)** Asian- Indian Male
D) Asian- Indian Female **E)** Asian –Pacific Male **G)** Asian-Pacific Female **H)** Hispanic Male
I) Hispanic Female **J)** Native American Male **K)** Native American Female **L)** White Female **M)** Other

1) Name of Subcontractor	2) Address, Telephone # of DBE Firm (Including name of contact person)	3) Description of Work, Services Provided. Where applicable, specify "supply" or "Install" or both.	4) DBE or non-DBE	5) Ethnic Code	6) Age of Firm	7) Annual Gross Receipts	8) DBE % or \$ amount of Total Contract

This schedule must be completed as instructed above and include every subcontractor proposed on this project.

The undersigned will enter into a formal agreement with DBE contractors for work listed in this schedule upon execution of a contract with Capital Metro. The contractor agrees to the terms of this schedule by signing below and submitting the Intent to Perform as completed by the DBE subcontractors. The contractor also certifies that no more than 70% of the work for this project will be subcontracted.

 Signature of Authorized Representative of Offeror

 Date Signed

Note: The bidder/offeror is required to complete and signed this form as a commitment to use a DBE/SBE subcontractor that will participate in the contract, provide a description of the work perform and the percentage amount of the goal.

Appendix D: Intent to Perform as a DBE Contractor/DBE Subcontractor

REQUIRED SUBMITTAL

CAPITAL METRO
Intent to Perform as a DBE Contractor/DBE Subcontractor
IFB/RFP/SOQ # _____

(Note: In accordance with 49 CFR (Code of Federal Regulations) Part 26 and Board policy, DBE firms participating in Capital Metro's DBE Program must have "current" certification status with a TUCP Certifying Agency (see Exhibit D Paragraph 6) by the due date established for this IFB/RFP/SOQ.

1. TO: (name of Offeror/Prime Contractor) _____
2. The undersigned is either currently certified under the Texas Unified Certification Program (TUCP) as a DBE or will be at the time this solicitation is due.
3. The undersigned is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both) _____

_____ and at the following price \$ _____ and/or _____% of the total contract amount (should be the same \$ or % found on Schedule C).

With respect to the proposed subcontract described above, the undersigned DBE anticipates that _____% of the dollar value of this subcontract will be sublet and/or awarded to other contractors. Any and all subcontractors that a DBE subcontractor uses must be listed in Schedule C-1 and must also be DBE certified. (The DBE subcontractor should complete this section only if the DBE is subcontracting any portion of its subcontract.)

_____ (Name of DBE Firm)	_____ (Signature of Authorized Representative)	_____ (Phone Number)	_____ (Date Signed)
_____ (Name of Offeror/Prime Contractor)	_____ (Signature of Authorized Representative)	_____ (Phone Number)	_____ (Date Signed)

Note: The form is required to be signed by the prime contractor and DBE firm, and it is used to confirm the DBE/SBE participation in the contract.