

Disadvantaged Business Enterprise Program

September 2018
Revised November 2019
Revised October 2020

Contents

Section 26.1 – Program Statement	4
SUBPART A – General Requirements	5
26.1, 26.23 Purpose/Objectives	5
26.3 Applicability	5
26.5 Definitions	5
26.7 Non-discrimination Requirements	5
26.11 Record Keeping Requirements	6
26.11(a) Uniform Report of DBE Awards or Commitments and Payments	6
26.11(c) Bidders List	6
26.13 Assurances	6
26.13(a) Federal Financial Assistance Agreement Assurance	6
26.13(b) Contract Assurance	7
SUBPART B-ADMINISTRATIVE REQUIREMENTS	7
26.21 DBE Program Updates	7
DBE Liaison Officer- (DBELO)	7
26.27 DBE Financial Institutions	9
26.29 Prompt Payment Mechanisms	9
26.29(a) Prompt Payment	9
26.29(b) Retainage	9
26.29(d) Monitoring and Enforcement	9
26.31 Directory	10
26.33 Overconcentration	10
26.35 Business Development Program	10
26.37 Monitoring and Enforcement Mechanisms	10
26.39 Small Business Participation	11
Additional Efforts	11
Equitable Opportunity	11
SUBPART C -GOALS, GOOD FAITH EFFORTS, AND COUNTING	12
26.43 Set-asides or Quotas	12
26.45 Overall Goals	12
26.47 Goal Setting and Accountability	13

26.49	Transit Vehicle Manufacturers Goals.....	13
26.51	Meeting Overall Goals/Contract Goals	14
26.53	Good Faith Efforts Procedures	14
26.53(a) and (c)	Demonstration of good faith efforts	14
26.53(b)	Information to be submitted.....	14
26.53(d)	Administrative reconsideration	15
26.53(f)	Good Faith Efforts when a DBE is replaced on a contract.....	15
26.55	Counting DBE Participation	16
SUBPARTS D AND E- CERTIFICATION.....		16
26.61	Certification.....	16
26.81	Unified Certification Program	17
26.89	Certification Appeals.....	17
SUBPART F -COMPLIANCE AND ENFORCEMENT.....		17
26.109	Information, Confidentiality, Cooperation.....	17
	Monitoring Payments to DBE's	17
Attachment 1	.....	19
	Definitions.....	19
Attachment 2	.....	23
	Organizational Chart	23
Attachment 3	.....	23
	DBE Directory	24
Attachment 4	.....	24
	Good Faith Efforts.....	25
Attachment 5	.....	28
	Goal Methodology	28
Attachment 6	.....	31
CFR Title 49; Part 26		31

West Virginia University Disadvantaged Business Enterprise Program

Section 26.1 – Program Statement

West Virginia University (WVU) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the US Department of Transportation (DOT), 49 CFR Part 26. West Virginia University has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, West Virginia University has provided assurance that it will comply with 49 CFR Part 26.

It is the policy of West Virginia University to ensure that DBE's, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

The Director of Procurement has been designated as the DBE Liaison Officer. In that capacity, the Director of Procurement is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by WVU in its financial assistance agreements with the Department of Transportation.

WVU has disseminated this policy statement to all of the responsible components of our organization. WVU will endeavor to distribute this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

Robert Beck
Director of Procurement
Procurement Contracting and Payment Services
West Virginia University

West Virginia University Disadvantaged Business Enterprise Program

SUBPART A – General Requirements

26.1, 26.23 Purpose/Objectives

The purpose of the Disadvantaged Business Enterprise (DBE) Program is to implement the Transportation Equity Act for the 21st Century (TEA-21) that retains continuation of the Disadvantaged Business Enterprise (DBE) Program in highway and transit programs. The DBE Program is to ensure a "level playing field" and foster equal opportunity in Department of Transportation (DOT) assisted contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals.

The objectives are found in the policy statement on the first page of this program.

26.3 Applicability

WVU is the recipient of federal-aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107.

WVU 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, US Code, or Titles I, II, and V of the TEAS-21, Pub. L. 105-178.

26.5 Definitions

WVU will adopt the definitions contained in 49 CFR Section 26.5 for use in this program. (Attachment 1)

26.7 Non-discrimination Requirements

WVU 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, WVU 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.

26.11 Record Keeping Requirements

26.11(a) *Uniform Report of DBE Awards or Commitments and Payments*

WVU will report DBE participation to the relevant operating administration FTA on a semiannual basis using the Uniform Report of DBE Awards or Commitments and Payment form available in the FTA TrAMS-Web system. The report is due each June 1 and December 1.

26.11(c) *Bidders List*

In lieu of a bidders list, WVU will use appropriate contract clauses that require prime bidders to report the names and addresses of the firms who quote them on the subcontracting piece of the project. Also, WVU will invite firms to register on our public bid website so that they can receive email notifications about upcoming bids and request for proposals.

26.13 Assurances

26.13(a) *Federal Financial Assistance Agreement Assurance*

WVU has adopted the following assurance, applicable to all DOT-assisted contracts and their administration. This language will appear in financial assistance agreements with sub recipients.

WVU 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 WVU shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination 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 WVU 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.).

26.13(b) Contract Assurance

WVU will ensure that the following clauses are placed in DOT-assisted contracts and subcontracts:

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

SUBPART B- ADMINISTRATIVE REQUIREMENTS

26.21 DBE Program Updates

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

DBE Liaison Officer- (DBELO)

WVU has designated the following individual as our DBE Liaison Officer:

Robert Beck
Director of Procurement
Procurement, Contracting and Payment Services
West Virginia University
150 Clay Street, 2nd Floor
PO Box 6024
Morgantown, WV 26506
(304) 293-5711

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that WVU complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Vice President of Strategic Initiatives of West Virginia University. The DBELO will assign professional employees and staff as needed. An organizational chart displaying the DBELO's position in our organization is found in Attachment 2.

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

- A. Gathers and reports statistical data and other information as requested by DOT.
- B. Reviews third party contracts and purchase requisitions for compliance with this

Phone: 304-293-5711
Fax: 304-293-8152

150 Clay Street, 2nd Floor
PO Box 6024
Morgantown WV 26506-6024

program.

- C. Works with applicable departments to set overall annual goals.
- D. Ensures that bid notices and requests for proposals are available to DBE's in a timely manner.
- E. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results. This will be accomplished by utilizing the information in the Federal DBE database.
- F. Analyzes WVU progress toward goal attainment and identifies ways to improve progress. This will be accomplished by including the DBE participation sheet in all bid packages.
- G. Participates with the Program Manager and EEO Contract Specialist to determine contractor compliance with good faith efforts.
- H. Participates in DBE training seminars (Dynet).
- I. Acknowledges DBEs according to the certification criteria set by the WV State DOT.
- J. Provides outreach to DBEs and community organizations to advise them of opportunities by using bid website notifications and web site notices.
- K. Reviews the WV DOT list of certified DBE's at each award.

WVU is a decentralized entity in that the DBE Program Manager will be located in the procurement department or unit that is responsible for project management. The responsibilities of such personnel responsible for DBE Program implementation include:

- a. Review schedule of work for federally funded construction projects to determine the breakdown by work elements.
- b. Determine if prime contractors are fulfilling the DBE requirements of their contracts.
- c. Meet with prime contractors to ensure that they carry out their responsibilities regarding WVU's DBE Program.
- d. Maintain project files on contracts awarded to DBE's.
- e. Provide instruction and advice to Disadvantaged Business Enterprises regarding construction opportunities including, pre-qualification for construction; available projects; prime contractors looking for DBEs; where to seek technical advice; sources of supplies; and requirements for bonding.
- f. Gathers and reports statistical data and other information as required by DOT. Identifies contracts and procurements so that DBE goals are included in solicitations. Participates in pre-bid meetings.
- g. Participates in DBE training seminars.
- h. Provides outreach to DBEs and community organizations to advise them of opportunities.
- i. May attend various seminars for Small Business Enterprises and Disadvantaged Business Enterprises.

26.27 DBE Financial Institutions

To the extent allowed by law West Virginia University will endeavor to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, and to make reasonable efforts to use these institutions. WVU will also check to ensure no financial institution that meets these requirements has violated any state or federal banking laws and regulations.

26.29 Prompt Payment Mechanisms

26.29(a) *Prompt Payment*

WVU will require the prime contractors to pay each subcontractor under this prime contract for satisfactory performance, subsequent to a valid and legitimate invoice, no later than thirty (30) days from when the prime contractor receives payment from WVU. Any delay or postponement of payment from the 30-day time frame referenced above may occur only for good cause following written approval of WVU. This clause applies to both DBE and non-DBE subcontracts.

26.29(b) *Retainage*

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the 30-day time frame reference above may occur only for good cause following written approval of WVU. This clause applies to both DBE and non-DBE subcontracts.

26.29(d) *Monitoring and Enforcement*

WVU has available several remedies to enforce the DBE requirements contained in its contracts. Including, but not limited to, the following:

1. Breach of contract cause of action, pursuant to the terms of the contract
2. Breach of contract cause of action, pursuant to HEPC Title 133 Series 30, WV State Code §18B-5-3 through §18B-5-8

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:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26
2. Enforcement action pursuant to 49 CFR Part 26
3. Prosecution pursuant to 18 USC 1001, Page 16 of 22 49 CFR Part 26 07/16/02.

26.31 Directory

WVU refers to the West Virginia (WV) State Directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. WVU also maintains a vendor file that identifies small businesses.

26.33 Overconcentration

WVU has not identified any specific type of work where there is an over concentration. We will re-evaluate for overconcentration every 18 months.

26.35 Business Development Program

WVU has not established an in-depth business development program. WVU does participate in regional small business conferences and seminars and advertises on their website to potential vendors the opportunity to register with WVU Procurement to receive bid notifications on any and all advertised bids. Vendors have the opportunity to register with WVU and self-identify their company as a small or disadvantaged business. WVU Research Corporation is also home to the WV Small Business Development Center. And WVU is the home of the WV Community Business Center which offers coaching, mentorship training to help businesses succeed.

26.37 Monitoring and Enforcement Mechanisms

WVU will employ the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. WVU will bring to the attention of the U.S. Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that U.S.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 49 CFR Part 26.109.
2. Vendors may be suspended from doing business with the Governing Boards and their institutions for up to one year in accordance with Section 10 of the Higher Education Policy Commission (HEPC) handbook Title 133, Series 30, authorized by state code §18B-5-3 through §18B-5-8. Vendor reconsideration or appeals are also discussed in this section. This section also lists the regulations, provisions, and contract remedies available to WVU in the event of non-compliance with the DBE regulation by a participant in our procurement activities.

3. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

26.39 Small Business Participation

West Virginia University is committed to fostering small business participation by developing, preparing, and executing subcontracting plans and monitoring performance relative to the requirements of those subcontracting plans, and by performance of the following activities:

- a. For design-build or large contracts, require bidders to specify elements of the contract or specific subcontracts that a small business, including DBEs, can perform.
- b. For contracts that do not have DBE goals, encourage the prime contractor to provide subcontracting opportunities.
- c. Identification of other ways for small businesses, including DBEs, to compete for and to perform prime contracts.
- d. In order to meet the portion of the overall race-neutral goals, ensure that small businesses, including DBEs, are informed of the opportunity to perform on prime contracts.
- e. Will maintain contract and subcontract award records via required reporting standards.
- f. Will participate in Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, Procurement Conferences, and hold an annual vendor fair that focuses on small and diverse business participation and education.

Additional Efforts

Equitable Opportunity

To ensure that SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns have an equitable opportunity to compete for subcontracts, WVU may perform the following efforts:

- a. **Outreach efforts to obtain sources:**
 - 1) Contacting minority and small business trade associations;
 - 2) Contacting business development organizations and local chambers of commerce;
 - 3) Attending SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB procurement conferences and trade fairs;
 - 4) Requesting sources from the Small Business Administration (SBA) and other SBA and Federal agency resources; and,
 - 5) Partnering with local and state agencies to identify DBE companies
- b. **Internal efforts to guide and encourage purchasing Personnel:**
 - 1) Conducting workshops, seminars, and training programs;
 - 2) Establishing, maintaining, and utilizing SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB source lists, guides, and other data for soliciting

subcontractors; and
3) Monitoring activities to evaluate compliance with the subcontracting plan.

c. Flow Down Clauses

WVU will include the provisions under FAR 52.219-8, "Utilization of Small Business Concerns," in all acquisitions exceeding the simplified acquisition threshold that offers further subcontracting opportunities. All subcontractors, except small business concerns, that receive subcontracts in excess of \$650,000 (\$1,500,000 for construction) must adopt and comply with a plan similar to the plan required by FAR 52.219-9, "Small Business Subcontracting Plan." (Flow down is not applicable for commercial items/services as described in 52.212-5(e) and 52.244-6(c))

SUBPART C -GOALS, GOOD FAITH EFFORTS, AND COUNTING

26.43 Set-asides or Quotas

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

26.45 Overall Goals

In accordance with Section 26.45, WVU submitted its triennial overall DBE goal to the FAA, FHWA, or FTA on August 1, 2018

WVU will also request use of project-specific DBE goals as appropriate, and/or will establish project-specific DBE goals as directed by the FAA, FHWA, or FTA.

The process generally used by WVU includes the following steps:

1. Identification of the previous goal and the newly established goal;
2. Determination of the relevant market area;
3. Identification of the relative availability of firms;
4. Identification of the relative availability of DBE firms; and,
5. Calculation of the DBE participation goal.

Prior to establishing the overall goal each year, WVU will consult with the appropriate departmental personnel to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effect of discrimination on opportunities for DBEs, and WVU's efforts to establish a level playing field for the participation of DBEs.

WVU published a notice of the proposed goals on their website, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the offices of Procurement, Contracting and Payment Services for 30 days following the date of the notice, and informing the public that WVU and the DOT will accept comments on the goals for 30 days from the date of the notice. Normally, WVU issues this notice by June 15 of each year. The notice includes addresses, offices and websites where comments can be sent

and the proposal may be viewed. WVU reached out the following organizations, agencies and individuals for review and comment: The TriState Minority Supplier Development Council, the Eastern Minority Development Council, John Gaddis, (a minority local business owner), the local and regional offices of the Small Business Administration, the Contractor's Association of West Virginia, the Herbert Henderson Office of Minority Affairs, and Azimuth Inc. (a local women owned business) for review and comment of DBE program. Also, we consulted with local transit agency, and received feedback from that office. Based on the review and feedback, no adjust to the goal was needed.

The overall goal submission to DOT will include the goal (including the breakout of estimated race-neutral and race-conscious participation, if appropriate), a copy of the methodology and worksheets used to develop the goal, a summary of information and comments received during the public participation process and our responses, as well as proof of publication of the goal on our public website.

WVU began using the overall goal on October 1 of the specified year, unless we have received other instructions from the DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project. Our goal has remained effective for the duration of the three-year period established and approved by the FHWA and/or the FTA. Please see Attachment 5 for the current DBE goal and methodology.

26.47 Goal Setting and Accountability

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

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and,
3. Submit the plan to the FHWA and/or FTA within 90 days of the end of the affected fiscal year.

26.49 Transit Vehicle Manufacturers Goals

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

26.51 Meeting Overall Goals/Contract Goals

WVU will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. WVU uses the following race-neutral means to increase DBE participation (49 CFR 26.51).

WVU will track DBE participation and report participation. 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 on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award. In the event of a short-fall of the current goal race conscious means may be applied if applicable. WVU will not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract. Type and location of work, availability of DBE's to perform the particular type of work is considered.

WVU will express the contract goals as a percentage of the total amount of a DOT- assisted contract.

26.53 Good Faith Efforts Procedures

26.53(a) and (c) Demonstration of good faith efforts

The obligation of the bidder is to make good faith efforts. The bidder can demonstrate that it has done so by either meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to 49 CFR Part 26.

The following personnel are responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible:

Program Manager
Applicable Department

EEO Contract Specialist
Procurement

26.53(b) Information to be submitted

WVU treats low bidder's compliance with good faith efforts requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the low bidder to submit the following information:

- 1) The names and addresses of DBE firms that will participate in the contract;
- 2) A description of the work that each DBE will perform;
- 3) The dollar amount of the participation of each DBE firm;
- 4) Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- 5) Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
- 6) If the contract goal is not met, evidence of good faith efforts.

The low bidder who does not submit with the bid a DBE participation plan containing the information listed above shall submit the information within ten calendar days after the date of the receipt of written notification from the Division of Highways and prior to award.

26.53(d) *Administrative reconsideration*

Within 5 days of being informed by WVU that it is not responsible because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidder should make this request in writing to the following reconsideration official:

Robert Beck
Director of Procurement
Procurement, Contracting and Payment Services
West Virginia University
150 Clay Street, 2nd Fl
PO Box 6024
Morgantown, WV 26506-6024
304-293-5711

The reconsideration official will not have played any role in the original determination that the bidder did not make or document sufficient good faith efforts.

As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder will have the opportunity to meet in person with WVU's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. WVU will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

The result of the reconsideration process cannot be appealed administratively to the U.S. Department of Transportation.

26.53(f) *Good Faith Efforts when a DBE is replaced on a contract*

WVU will require a contractor to make a good faith effort to replace a DBE that has been terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. WVU will require the prime contractor to notify the DBE Liaison Officer immediately of the DBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, WVU will require the prime contractor to obtain prior approval of the substitute DBE from the DBE Liaison Officer and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor cannot prove good faith and the contractor fails or refuses to comply in the time specified, the WVU contracting office will issue an order stopping all or part of payment and/or work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

In this situation, WVU will require the prime contractor to obtain prior approval of the substitute DBE from the DBE Liaison Officer and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor cannot prove good faith and the contractor fails or refuses to comply in the time specified, the WVU contracting office will issue an order stopping all or part of payment and/or work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of West Virginia University to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal_ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information:

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

26.55 Counting DBE Participation

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

SUBPARTS D AND E- CERTIFICATION

26.61 Certification

WVU does not certify contractors as DBE's. WVU will utilize the federal DBE database information and the WV Department of Transportation EEO Division list of certified DBE's (wvdot.com) to determine DBE eligibility.

26.81 Unified Certification Program

WVU uses firms that have certification from the WV Dept. of Transportation (wvdot.com).

26.89 Certification Appeals

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

Department of Transportation
Office of Civil Rights
Certification Appeals Branch
400 7th St., SW, Room 2104
Washington, DC 20590

WVU will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for a WVU/DOT-assisted contract (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

SUBPART F -COMPLIANCE AND ENFORCEMENT

26.109 Information, Confidentiality, Cooperation

WVU will safeguard from disclosure to third-parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Notwithstanding any contrary provisions of state or local law, WVU will not release personal financial information submitted in response to requirement to a third party other than DOT without the written consent of the submitter.

Monitoring Payments to DBE's

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

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

Attachments:

Attachment 1	Definitions
Attachment 2	Organizational Chart
Attachment 3	DBE Listing
Attachment 4	Good Faith Efforts
Attachment 5	Overall Goals/Methodology
Attachment 6	49 CFR Part 26

Attachment 1

Definitions

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

(1) Except as otherwise provided in 13 CFR part 1 21, concerns are affiliates of each other when, either directly or indirectly:

(i) One concern controls or has the power to control the other; or

(ii) A third party or parties controls or has the power to control both; or

(iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Compliance means that a recipient has correctly implemented the requirements of this part.

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program!

Department or DOT means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged business enterprise or DBE means a for-profit small business concern- (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Phone: 304-293-5711
Fax: 304-293-8152

One Waterfront Place, 3rd Floor
PO Box 6024
Morgantown WV 26506-6024

Good faith efforts means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law, sister-in-law, brother-in-law and domestic partner and civil unions recognized under State law.

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Operating Administration or OA means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The "Administrator" of an operating administration includes his or her designees.

Primary industry classification means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual-United States, which is available on the Internet at the U.S. Census Bureau Web site:
<http://www.census.gov/eos/www/naics/>.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBE's, including women-owned DBE's.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., 'You must do XYZ' means that recipients must do XYZ).

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or SBA means the United States Small Business Administration.

Small business concern means, with respect to firms seeking to participate as DBE's 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 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

Socially and economically disadvantaged individual means any individual who *is* a citizen (or lawfully admitted permanent resident) of the United States and who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

(2) Any individual in the following groups, members of which are presumed to be socially and economically disadvantaged:

"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 Mariana Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

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

"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;

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

"Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

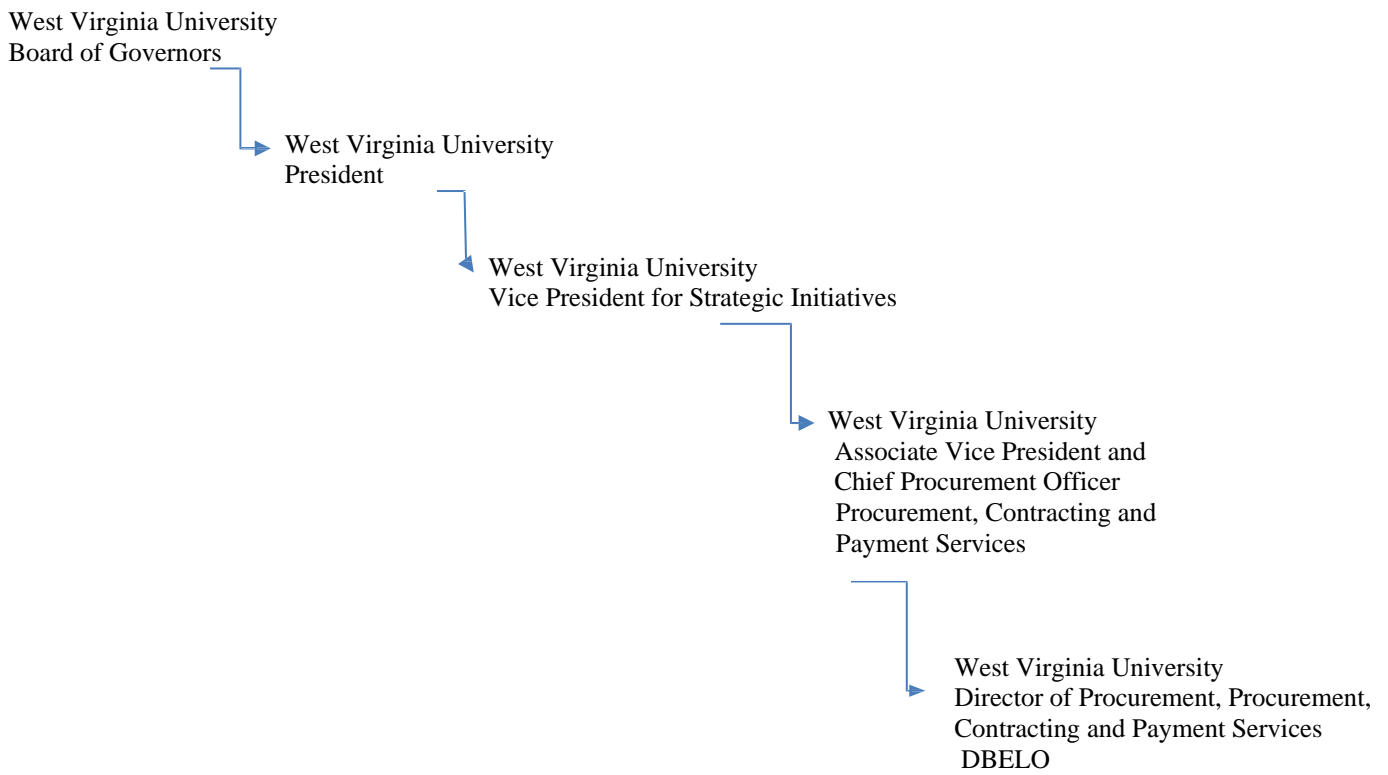
"Women.":

Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

Attachment 2

Organizational Chart



Attachment 3

DBE Directory

DBE Directory can be found as follows:

<http://transportation.wv.gov/eo/DBE/Pages/DBEConsultantListing.aspx>

Attachment 4

Good Faith Efforts

INTENT TO PERFORM AS A DBE SUBCONTRACTOR FOR A CONTRACT AWARD

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

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

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

_____ and at the following price \$_____. (If the materials or supplies are purchased from a **DBE** regular dealer, count 60 percent of the cost of the materials or supplies toward **DBE** goals). Amount of price listed above to count at 60 percent for a dealer \$_____.

BY: _____ DATE: ____/____/____
(Signature of **DBE** subcontracting Owner, President or Authorized Agent)
PHONE: (____) _____

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

DECLARATION OF PRIME CONTRACTOR

I HEREBY DECLARE AND AFFIRM that I am the

(Title of Declarant)
and a duly authorized representative of

(Name of Prime Contractor)

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

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

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

(Name-Please Print)

(Phone)

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

Name of Declarant

Signature

(Date)

SUMMARY OF SUBCONTRACTOR/SUBCONSULTANT/SUPPLIERS

Offerors should provide information on **all** of their prospective subcontractor(s)/subconsultant(s)/suppliers who submit bids/proposals in support of this solicitation.
Use additional sheets as necessary.

Project Name: _____ Solicitation # _____

Name of Prime Contractor: _____

NAMES AND ADDRESSES OF SUBCONTRACTOR(S)/SUBCONSULTANT(S)	TYPE OF WORK TO BE PERFORMED	ETHNICITY & GENDER OF OWNER		PREVIOUS YEAR'S ANNUAL GROSS RECEIPTS	NAICS & CORRESPONDING \$ AMOUNT ON CONTRACT										
NAME: ADDRESS: PHONE: FAX: E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE BY THE WVDOT UCP? YES <input type="checkbox"/> NO <input type="checkbox"/> IS THE FIRM A CERTIFIED SBE? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity: <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Subcont. Asian Amer <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Non-Minority	Gender: <input type="checkbox"/> Women <input type="checkbox"/> Men <input type="checkbox"/> Women <input type="checkbox"/> Men <input type="checkbox"/> Women <input type="checkbox"/> Men <input type="checkbox"/> Women <input type="checkbox"/> Men <input type="checkbox"/> Women <input type="checkbox"/> Men	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: right;">NAICS</td> <td style="width: 50%; text-align: left;">AMT</td> </tr> <tr> <td style="text-align: right;">_____</td> <td style="text-align: left;">\$ _____</td> </tr> <tr> <td style="text-align: right;">_____</td> <td style="text-align: left;">\$ _____</td> </tr> <tr> <td style="text-align: right;">_____</td> <td style="text-align: left;">\$ _____</td> </tr> <tr> <td style="text-align: right;">_____</td> <td style="text-align: left;">\$ _____</td> </tr> </table>	NAICS	AMT	_____	\$ _____	_____	\$ _____	_____	\$ _____	_____	\$ _____
NAICS	AMT														
_____	\$ _____														
_____	\$ _____														
_____	\$ _____														
_____	\$ _____														
NAME: ADDRESS: PHONE: FAX: E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE BY THE WVDOT UCP? YES <input type="checkbox"/> NO <input type="checkbox"/> IS THE FIRM A CERTIFIED SBE? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity: <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Subcont. Asian Amer <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Non-Minority	Gender: <input type="checkbox"/> Women <input type="checkbox"/> Men <input type="checkbox"/> Women <input type="checkbox"/> Men <input type="checkbox"/> Women <input type="checkbox"/> Men <input type="checkbox"/> Women <input type="checkbox"/> Men	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: right;">NAICS</td> <td style="width: 50%; text-align: left;">AMT</td> </tr> <tr> <td style="text-align: right;">_____</td> <td style="text-align: left;">\$ _____</td> </tr> <tr> <td style="text-align: right;">_____</td> <td style="text-align: left;">\$ _____</td> </tr> <tr> <td style="text-align: right;">_____</td> <td style="text-align: left;">\$ _____</td> </tr> <tr> <td style="text-align: right;">_____</td> <td style="text-align: left;">\$ _____</td> </tr> </table>	NAICS	AMT	_____	\$ _____	_____	\$ _____	_____	\$ _____	_____	\$ _____
NAICS	AMT														
_____	\$ _____														
_____	\$ _____														
_____	\$ _____														
_____	\$ _____														

Print Name/Title of Person completing this form: _____

Signature _____ Date _____

Attachment 5

Goal Methodology

Overall Disadvantaged Business Enterprise (DBE) Goal Methodology For Federal FY 2019-2021

(July 1, 2018)

Revised November 2019

Revised October 2020

Purpose

As required by the Code of Federal Regulations, specifically 49 CFR Part 26, West Virginia University (WVU) is required to submit to the Federal Transit Administration (FTA) its triennial Disadvantaged Business Enterprise (DBE) goal before October 1, 2018. The triennial goal covers the period starting October 1, 2019 through September 30, 2021 (or federal fiscal years 2019, 2020 and 2021).

A public notice was disseminated through the Tri-State Minority Supplier Development Council, and posted on WVU's Procurement, Contracting and Payment Services website at:

<https://procurement.wvu.edu/supplier-relationship-management/disadvantaged-business-enterprise-program>

No substantive comments were received, so WVU did not submit a change to the triennial goal to the FTA.

WVU's Proposed Triennial DBE Goal

WVU's proposed triennial goal is 4% of the total amount of FTA-assisted contract awards expected to occur during the triennial period. As required by 49 CFR Part 49, the 4% goal excludes the purchase of transit vehicles. WVU anticipates awarding FTA-assisted contracts totaling \$2,270,000. This means that WVU has set a DBE goal to award \$108,800 to DBEs during the triennial period.

Geographic Preference:

We decided that our market area encompasses the State of West Virginia. Included were all counties in West Virginia. This decision is in support of the West Virginia Forward (WV Forward) – a collaboration among West Virginia University, the West Virginia Department of Commerce and Marshall University. Over time, this partnership has developed into a larger, statewide effort to identify West Virginia's unique assets and pair them with economic trends that will leverage growth and development opportunities to strengthen and diversify all regions of the state. More information regarding WV Forward can be found at: <https://wvforward.wvu.edu/>.

Information Sources Used:

In calculating the over goal, we used the WV DOT UCP Directory, and the US Census Data.

Methodology Used to Calculate Overall Goal:

The methodology used by WVU to establish its 4% DBE goal is prescribed in 49 CFR Part 26:

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

Base Figure - Ready, willing and able DBE's (From WVDOT/DBE directory) 7
----- = 0.0131%
All Firms ready, willing and able (US Census Data) 535

Reference **Table B** – below.

Weighted Rate

The Weighted Rate is based on the formula:

# of DBEs in Work Category	÷	# of Total Firms In Category	X	% of Contract \$\$ in Category	X	10 0
----------------------------------	---	------------------------------------	---	--------------------------------------	---	---------

WVU reviews the contracting opportunities that are derived from its capital projects projections for federal fiscal year 2019 through 2021 and estimated funding from federal sources. The “Elements of Work” were identified along with the “Estimated Award per Element”, to determine the “Percentage of Total Award” for weighting purposes.

Table A

NAICS Code	NAICS Code Description	Amount of DOT funds on project:	% of total DOT funds (weight)
488490	Highway and Pedestrian Control	\$96,000.00	0.0353
238120	Structural Steel & Precast Concrete Contractors	\$879,000.00	0.3232
335999	Misc electrical equipment & component manufacturing	\$180,000.00	0.0662
327310	Cement Manufacturing	\$30,000.00	0.0110
532412	Construction, Mining & Forestry Machinery & Equipment Rental & Leasing	\$6,000.00	0.0022
237310	Highway, Street, and Bridge Construction	\$234,000.00	0.0860
238110	Poured Concrete Foundation & Structure Contractors	\$15,000.00	0.0055
423610	Electrical apparatus & equipment, wiring supplies & related equipment merchant wholesalers	\$384,000.00	0.1412
238210	Electrical contractors & other wiring installation contractors	\$448,000.00	0.1647
237130	Power & communication line & related structures construction	\$448,000.00	0.1647
			0.0000
Total FTA-Assisted Contract Funds		\$2,720,000.00	1.0000

Project Descriptions:

Fascia Repairs – The WVU PRT guideway has corten steel panels that line the outsides of the structure above areas accessible by the public. These corten steel panels prevent debris from falling from the guideway structure onto the public. A design flaw in the panels traps debris and water causing approximately 10 inches of the bottom of the panels to rust. This rust has made the bottom sections unstable and susceptible to falling. Each section weighs approximately 400 lbs. The resolution is to hire a contractor to cut and remove the rusted bottom section of the panel. WVU has identified and prioritized the worst sections of fascia to modified and plan to resolve the issue over the course of two years.

Structural Repairs - The WVU PRT guideway and structures are over 40 years old and need repair. WVU is hiring an outside consulting firm to conduct a full structural assessment of the PRT guideway and stations. This project will fund identified deficiencies that need repair.

MOCU Upgrade – The WVU PRT Manual Operation Control Units (MOCU) are utilized to manually drive WVU PRT vehicles for testing and when there are issues that prevent their automated operation. These units were designed and built in the early 1970s and have reached the end of their life. The units need a design update and new units are needed to replace the originals due to obsolescence of parts. This project will fund the design of a redesigned MOCU unit and the production of 10 units afterwards.

CCTV Camera Upgrade Project - The WVU PRT CCTV system is over 10 years old and need of an upgrade to leverage modern technologies. Parts for the legacy system are becoming hard to procure. The upgrade will increase WVU PRT safety by providing a larger viewing area and improved images to WVU PRT Central Control Operators.

Table C

Shows the # of DBEs and # of All Firms

The “# of DBE’s” and “# of All Firms” for each Element of Work were identified based on the West Virginia, Department of Transportation (DOT), and the 2016 United States Census for businesses in WVU’s market area.

: Relative Availability

The “Relative Availability” of each work element (weighted) was calculated dividing the # of DBEs by the # of All Firms

Weighted DBE Goal

The “Weighted DBE Goal” was calculated by multiplying the Relative Availability times the Percentage of Total Awards

Total DBE: Total DBE Goal.

Goal: The total DBE Goal of 4% was calculated by totaling the numbers in last Column.

Step 2: 26.45(d) Adjustments. After calculating a base figure for the relative availability of DBE’s, WVU attempted to apply other practical methods to determine if any adjustment were needed to the arithmetic 4% DBE goal determined in Step 1.

Past Participation: (the volume of work DBEs have performed in recent years) or other measure of demonstrated capacity. The work in this triennial goal is different than past projects; therefore, no adjustment was made in consideration of past participation.

Disparity Studies: no known disparity studies have been done in the market area designed.

No statistical disparities in the ability of DBEs to get financing, bonding and insurance was found or is documented.

Because the goods and services to be awarded using FTA-assistance during the triennial period (a) are highly specialized and unique to the “personal rapid transit systems” (there are only 2 similar systems nationwide), and (b) will replace systems that are not routinely purchased, there was limited historical and anecdotal data to draw upon in determining if the arithmetic calculation in Step 1; therefore no adjust was made.

To reflect as accurately as possible the DBE participation that would be expected in the absence of discrimination, the 4% figure has used as WVU’s triennial DBE goal.

WVU published a notice of the proposed goals on their website, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the offices of Procurement, Contracting and Payment Services for 30 days following the date of the notice, and informing the public that WVU and the DOT will accept comments on the goals for 30 days from the date of the notice. Normally, WVU issues this notice by June 15 of each year. The notice includes addresses, offices and websites where comments can be sent and the proposal may be viewed. No comments were received during the public comment period.

In addition to the published notice, WVU reached out the following organizations, agencies and individuals for review and comment: the TriState Minority Supplier Development Council, the Eastern Minority Development Council, John Gaddis, (a minority local business owner), the local and regional offices of the Small Business Administration, the Contractor’s Association of West Virginia, the Herbert Henderson Office of Minority Affairs, and Azimuth Inc. (a local women owned business) for review and comment of DBE program. Also, we consulted with local transit agency, and received feedback from that office. Based on the review and feedback, no adjust to the goal was needed.

Breakout of Estimated Race-Neutral & Race Conscious Participation:

26.51. WVU will meet the overall goal of 4% through race neutral participation

Table A

NAICS Code	NAICS Code Description	Amount of DOT funds on project:	% of total DOT funds (weight)
488490	Highway and Pedestrian Control	\$96,000.00	0.0353
238120	Structural Steel & Precast Concrete Contractors	\$879,000.00	0.3232
335999	Misc electrical equipment & component manufacturing	\$180,000.00	0.0662
327310	Cement Manufacturing	\$30,000.00	0.0110
532412	Construction, Mining & Forestry Machinery & Equipment Rental & Leasing	\$6,000.00	0.0022
237310	Highway, Street, and Bridge Construction	\$234,000.00	0.0860
238110	Poured Concrete Foundation & Structure Contractors	\$15,000.00	0.0055
423610	Electrical apparatus & equipment, wiring supplies & related equipment merchant wholesalers	\$384,000.00	0.1412
238210	Electrical contractors & other wiring installation contractors	\$448,000.00	0.1647
237130	Power & communication line & related structures construction	\$448,000.00	0.1647
			0.0000
Total FTA-Assisted Contract Funds		\$2,720,000.00	1.0000

Table B

NAICS Code	NAICS Code Description	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
488490	Highway and Pedestrian Control	0	11	0.0000
238120	Structural Steel & Precast Concrete Contractors	1	10	0.1000
335999	Misc electrical equipment & component manufacturing	0	1	0.0000
327310	Cement Manufacturing	0	2	0.0000
532412	Construction, Mining & Forestry Machinery & Equipment Rental & Leasing	0	20	0.0000
237310	Highway, Street, and Bridge Construction	2	57	0.0351
238110	Poured Concrete Foundation & Structure Contractors	2	56	0.0357
423610	Electrical apparatus & equipment, wiring supplies & related equipment merchant wholesalers	1	58	0.0172
238210	Electrical contractors & other wiring installation contractors	1	280	0.0036
237130	Power & communication line & related structures construction	0	40	0.0000
Combined Totals		7	535	0.0131 <i>Overall availability of DBEs</i>

Table C

NAICS Code	NAICS Code Description	Weight	x	Availability	Weighted Base Figure
488490	Highway and Pedestrian Control	0.03529	x	0.00000	
238120	Structural Steel & Precast Concrete Contractors	0.32316	x	0.10000	0.0323
335999	Misc electrical equipment & component manufacturing	0.06618	x	0.00000	
327310	Cement Manufacturing	0.01103	x	0.00000	
532412	Construction, Mining & Forestry Machinery & Equipment Rental & Leasing	0.00221	x	0.00000	
237310	Highway, Street, and Bridge Construction	0.08603	x	0.03509	0.0030
238110	Poured Concrete Foundation & Structure Contractors	0.00551	x	0.03571	0.0002
423610	Electrical apparatus & equipment, wiring supplies & related equipment merchant wholesalers	0.14118	x	0.01724	0.0024
238210	Electrical contractors & other wiring installation contractors	0.16471	x	0.00357	0.0006
237130	Power & communication line & related structures construction	0.16471	x	0.00000	
0	0	0.00000	x		
				Total	0.0386
				Expressed as a % (*100)	3.86%
				Rounded, Weighted Base Figure:	4%

Attachment 6

CFR Title 49; Part 26

Title 49: Transportation

***PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF
TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS***

<https://ecfr.io/Title-49/Part-26>