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***Department of Urban Development***

***P.O. Box 1898***

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***[www.hattiesburgms.com](http://www.hattiesburgms.com)***

***July 2021***

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**DEPARTMENT OF URBAN DEVELOPMENT  
HUB CITY TRANSIT DIVISION**

**DBE PROGRAM  
POLICY STATEMENT**

**Section 26.1, 26.23 Objectives/Policy Statements**

The City of Hattiesburg has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Hattiesburg [Recipient] has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Hattiesburg has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Hattiesburg to ensure that DBEs are defined in 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 DBEs 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 DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Director of the Department of Urban Development has been delegated as the DBE Liaison Officer. In that capacity, the Director 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 the City of Hattiesburg in its financial assistance agreements with the Department of Transportation.

The City of Hattiesburg has disseminated this policy statement to the City Council and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The DBE Policy Statement is posted on the City of Hattiesburg website and has been mailed to certified DBE business organizations located within the Hattiesburg Urbanized Area and the surrounding counties of Forrest, Lamar, Jones, Marion and Perry.

\_\_\_\_\_  
Mayor, City of Hattiesburg

\_\_\_\_\_  
Date

Attest:  
  
\_\_\_\_\_

( S E A L )

City Clerk, Hattiesburg, Mississippi

## **GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

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

### **Section 26.3 Applicability**

The City of Hattiesburg 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 21<sup>st</sup> Century (TEA-21, Pub. L. 105-178, 112 Stat. 107).

The City of Hattiesburg is the recipient of federal transit fund 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 Titles I, II, and V of the Teas-21, Pub. L. 105-178.

### **Sections 26.5 Definitions**

The City of Hattiesburg will adopt, as a part of this document the definitions contained in 49 CFR § 26.5 for this program (see "Definitions of Terms" section of this document).

### **Section 26.7 Non-discrimination Requirements**

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

In administering its DBE program, the City of Hattiesburg 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.

### **Section 26.11 Record Keeping Requirements**

#### **Reporting to DOT: 26.11(b)**

City of Hattiesburg shall report DBE participation to DOT as follows:

City of Hattiesburg shall report DBE participation on a semi-annual basis, using DOT Form 4630. These reports shall reflect payments actually made to DBE's on DOT-assisted contracts.

**Bidders List: 26.11(c)**

City of Hattiesburg does not maintain a bidders list.

The City of Hattiesburg shall collect this information in the following ways:

1. All contracts shall require prime bidders to report the names/addresses, and other pertinent information of all firms that gave quotes to them for any subcontracted work.
2. Require all prime bidders to request that firms quoting on subcontracts to report information on their firm directly to the City of Hattiesburg.
3. Any other method deemed to be sound and accurate at the time of the bid.

**Section 26.13 Federal Financial Assistance Agreement**

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

Assurance: 26.13(a)

City of Hattiesburg 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.

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

This language (verbatim) will appear in financial assistance agreements with sub recipients.

Contract Assurance: 26.13b

City of Hattiesburg will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of 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.

This language (verbatim) will appear in financial assistance agreements with sub recipients.

## **SUBPART B – ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

Since the City of Hattiesburg has received a grant of \$250,000 or more in FTA planning, capital, and/or operating assistance in a federal fiscal year the City of Hattiesburg will continue to carry out this program until all funds from DOT financial assistance have been expended. The City of Hattiesburg will provide to DOT updates representing significant changes in the program.

### **Section 26.23 Policy Statement**

The Policy Statement is elaborated on the third page of this program.

### **Section 26.25 DBE Liaison Officer (DBELO)**

The City of Hattiesburg has designated the following individual as the DBE Liaison Officer:

*Andrew Ellard, Director  
Urban Development  
The City of Hattiesburg  
P.O. Box 1898  
Hattiesburg, MS 39403-1898  
(Phone) 601-545-4609 (Fax) 601-544-0392  
(Email) mpo@hattiesburgms.com*

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Hattiesburg complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City of Hattiesburg's Office of the Mayor concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment #1** to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of one (1) (the MPO Division Manager) to be to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchasing requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations
6. Analyzes the City of Hattiesburg's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the governing body on DBE matters and achievement.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to advise them of opportunities.

## **Section 26.27 DBE Financial Institutions**

It is the policy of the City of Hattiesburg's 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 contract to make use of these institutions. The City of Hattiesburg's has made phone calls to all financial institutions within the City of Hattiesburg's in an effort to identify and use such institutions. We will also re-evaluate the availability of DBE financial institutions every three years. To date we have identified there are no institutions in the local area and based on this search there are no DBE owned banks in the State of Mississippi.

## **Section 26.29 Prompt Payment Mechanisms**

The City of Hattiesburg will include the following clause in each DOT-assisted prime contract:

Prompt Payment: 26.29(a): The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the City of Hattiesburg.

Retainage: 26.29(b): The prime contractor agrees further 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 above referenced time frame may occur only for good cause following written approval of the City of Hattiesburg. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement: 26.29(d): The City of Hattiesburg recognizes that prompt payment requirements are an important race-neutral mechanism that can benefit both DBEs and non-DBEs. The City of Hattiesburg will require that the following clause be included in each U.S. DOT-assisted prime contract:

"The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contractor receives from the City of Hattiesburg. The City of Hattiesburg does not hold retainage on the Prime Contractor and therefore the Prime Contractor may not withhold retainage on the subcontractors. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Hattiesburg. This request for delay or postponement should be made to the City of Hattiesburg's, Department of Federal and State Programs prior to the 15-day deadline for making prompt payments to the subcontractor(s). This clause applies to both DBE and non-DBE subcontractors. Failure to comply with the prompt payment requirement will result in the prime contractor's monthly estimates being withheld until the requirements of prompt payment have been fulfilled."

## **Section 26.31 Directory**

The City of Hattiesburg participates in the State of Mississippi's Disadvantaged Business Enterprises Unified Certification Program. Under this program, the Mississippi Department of Transportation (MDOT) maintains a 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. MDOT revises the Directory annually.

The City of Hattiesburg makes the Directory available as follows:

1. A link on the City of Hattiesburg website under the Department of Federal and State Program Metropolitan Planning Organization.

2. A copy is kept in the Office of the Department of Federal and State Programs office located at 200 Forrest Street, Hattiesburg, MS 39401 and the Hattiesburg-Petal-Forrest-Lamar Metropolitan Planning Organization, 308 Newman Street, Hattiesburg, MS 39401 at all times.

The Directory may be found in **Attachment #2** of this program document.

### **Section 26.33 Over Concentration**

The City of Hattiesburg has not identified that over concentration exists in the types of work that DBEs perform.

### **Section 26.35 Business Development Programs**

The City of Hattiesburg established the Emerging Business Enterprise (EBE) Program on the 22nd day of December, 2020.

The City of Hattiesburg is facing a regional and local shortage of certified ready, willing, and able underutilized business enterprises (UBE). The current relative availability of socially and economically disadvantaged business enterprises across all relevant industries within a 90-mile radius of the city of Hattiesburg is only 1.7%.

The efforts to set and achieve meaningful and significant participation from UBEs for future contracts resulted in the discovery that it is necessary to create a less cumbersome local registration process to provide increased and immediate opportunities for eligible minority firms, and thereby increase the pool of ready, willing and able socially and economically disadvantaged business enterprises within our relevant markets.

The City of Hattiesburg has enacted measures and adopted rules and regulations to create the Emerging Business Enterprise (EBE) Program.

The city shall grant provisional EBE designation to local minority businesses identified as African American, Hispanic American, Native American, Asian-Pacific American, Subcontinent Asian American, Female Armed Forces Veteran, LGBTQ+, or Disabled and businesses which are certified by the Mississippi Department of Transportation's Unified Certification Program for Disadvantaged Business Enterprise ("DBE"), the Mississippi Development Authority's Minority and Women-owned Business Enterprise ("MBE/WBE") Program, the U.S. Small Business Administration's 8(a) Program, and other federal – or state – recognized minority certification programs as deemed eligible by the appropriate staff or committee;

- Such provisional designation shall entitle a business to be considered a valid EBE by the City of Hattiesburg, with all the rights associated with such designation.
- Such programs will be inclusive of a registration program; EBE list publication; EBE bid notifications; and contractor reporting of EBE utilization within applications to bid, requests for proposals, or requests for qualifications.

It is the City of Hattiesburg's policy to practice nondiscrimination based on social and economic disadvantage, race, color, gender, sexual orientation, disability, and national origin in the award and performance of contracts.

The City of Hattiesburg is committed to providing opportunities to local businesses owned and controlled by socially and economically disadvantaged persons and is charged with ensuring their meaningful participation in the contraction activities of the city that involve public spending or private projects utilizing public funding.



### **Section 26.37 Monitoring and Enforcement Mechanisms**

The City of Hattiesburg shall take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. The City of Hattiesburg shall bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. The City of Hattiesburg shall consider similar action under our own legal authorities, including responsibility determinations in future contracts. **Attachment #3** lists the regulation, provisions, and contract remedies available to The City of Hattiesburg in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. The City of Hattiesburg shall monitor, enforce, and verify that work committed to DBEs at contract award is actually performed by the DBEs.
4. The City of Hattiesburg shall keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

### **Section 26.39 Small Business Participation**

The City of Hattiesburg will incorporate the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted projects by small business concerns (both DBEs and non-DBE small businesses) and to ensure that the maximum feasible portion of the City of Hattiesburg's overall DBE goal is met by using race-neutral means, The City of Hattiesburg will establish SBE participation goals on its federally funded contracts. Prime contractors may use DBE and/or SBE firms in order to satisfy these SBE goals. The City of Hattiesburg will ensure as a part of the larger DBE program, including elements that:

1. Require bidders on large contracts to identify and/or provide specific subcontracts appropriate for small business participation;
2. Include letting prime contract of a size that small businesses can reasonably compete for and perform, provide outreach, technical assistance and training opportunities for small businesses through various partnerships. The City of Hattiesburg advertises contracting opportunities through various outlets, including local newspapers, minority-based publications and trade publications as well as on its website.

The City's small business program is an active part of the city's DBE program, but does not replace or act as a substitute for other critical elements of the city's DBE program, including use of contract goals (as appropriate), good faith efforts evaluations, etc.]

## SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

### Section 26.43 Set-asides or Quotas

The City of Hattiesburg does not use quotas in any way in the administration of this DBE program.

### Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment #4** to this program. This section of the program will be updated every three years.

#### Amount of Goal

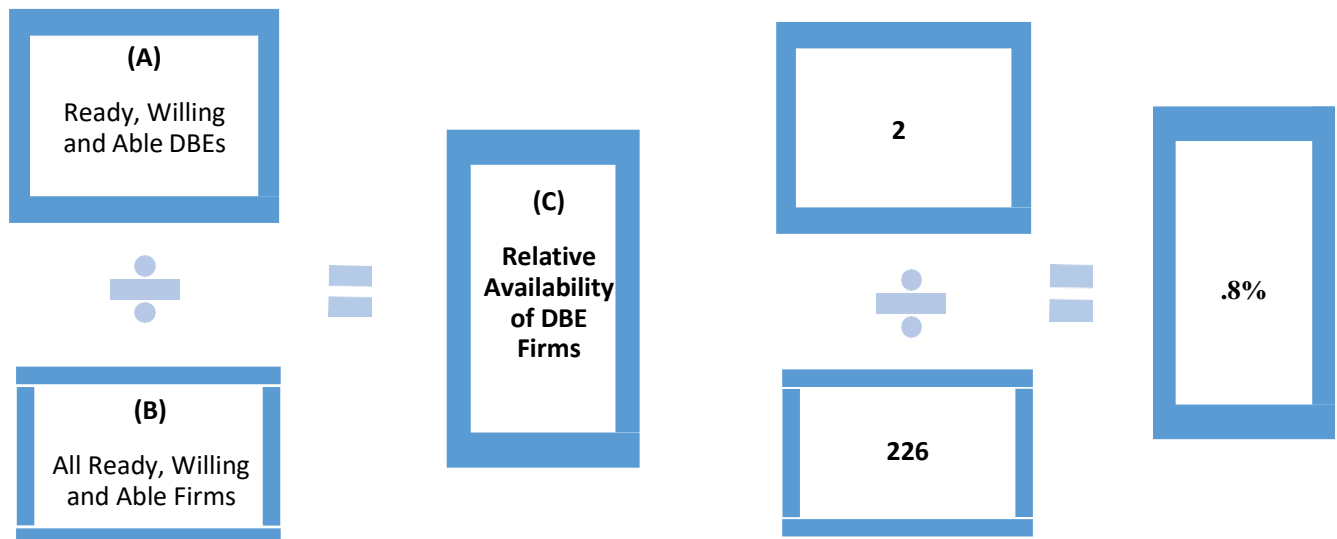
1. The City of Hattiesburg’s overall goal for the following time period 2021-2022 is the following: 1.2% of the Federal financial assistance we will expend in DOT-assisted contracts.

#### Methodology

The method used to establish the relative availability of DBEs is to determine the portion or percentage of “Ready, Willing, and Able DBEs” that exist among the population of “ALL Ready, Willing, and Able Firms.”

Ready, Willing, Able DBEs (A) / ALL Ready, Willing, Able Firms (B) = Relative Availability of DBE Firms (C)

For the City of Hattiesburg, firms and DBEs within Forrest and Lamar Counties were identified as the most relevant for the purpose of this calculation. See **Attachment 2** for a detailed accounting of the number of DBEs and total firms used.



Dividing for the quotient, we arrive at a Relative DBE Availability of .8%, which is also referred to as the Step One Base Figure and has herein been established as the City’s DBE goal.

## **Adjustments and Weighting**

After calculating the base figure of relative availability of DBEs, all available evidence was considered to determine whether any adjustment to the figure was needed in order to arrive at the overall goal. The City of Hattiesburg chose to adjust the base figure particularly given the limited number of identifiable DBEs specifically available in the Hattiesburg area. This challenge will be addressed through additional outreach opportunities described herein, with particular emphasis on supporting the continuing development of local firms through the new City of Hattiesburg's Emerging Business Enterprise Program (EBE).

No weighting was applied because the majority of our sub-recipients are incurring routine cost spending on such things as fuel/oil, vehicle maintenance/repair, and/or tires. Because of those routine cost, vendor spending will vary significantly within a program year. It would be very difficult to single a specific cost category.

## **Data Sources**

Data sources for Ready, Willing, and Able DBEs included DBE directories at the Mississippi Department of Transportation (MDOT) as well as the Mississippi Development Authority (MDA), which were both specifically reviewed for North American Industry Classification System (NAICS) codes most applicable to DOT/FTA funded work in the City of Hattiesburg. Ultimately, MDOT figures were relied upon as the number of DBEs within that directory in relevant NAICS codes were generally higher.

The data for All Ready, Willing, and Able firms was derived from the U.S. Census Bureau County Business Pattern for Forrest and Lamar Counties, Mississippi.

In order to ensure that the calculation for a DBE goal not under-represent DBE firms in the area, this calculation has used the above referenced DBE directories to identify all DBE firms in specified NAICS codes within the State of Mississippi, but have used the U.S. Census figures to identify total firms only in the Forrest County and Lamar County area. Specifically, County Business Patterns for the related NAICS codes from the 2019 tables were used, as those were the most recently published tables.

The City of Hattiesburg maintains a directory with its Hub City Transit Division and with the Metropolitan Planning Organization (MPO) of firms identified within this calculation as DBEs and will periodically add to the list any firms in other NAICS codes that identify themselves as DBEs, which may have opportunity for incidental business with those divisions. This is not a list of firms certified by the City of Hattiesburg, but rather only a reference to the firms identified in the original sources of data.

The Mississippi Department of Transportation data source can be accessed at:

[https://aashtoreports.mdot.ms.gov/trnsreportspublic/Reports/cr\\_brk.aspx](https://aashtoreports.mdot.ms.gov/trnsreportspublic/Reports/cr_brk.aspx)

The U.S. Census Bureau data source can be accessed at:

<https://www.census.gov/programs-surveys/cbp/data/tables.html>

In accordance with Section 26.45(f) The City of Hattiesburg shall submit its overall goal to DOT on August 1 of each year. Before establishing the overall goal each year, The City of Hattiesburg shall consult with the minority, women and general contractor groups as well as other community organizations in an effort to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Hattiesburg efforts to establish a level playing field for the participation of DBEs.

Following this consultation, the City of Hattiesburg will publish a notice in two newspapers in circulation in the City of Hattiesburg area and in the region (The Hattiesburg Post and the Clarion Ledger) and on its website of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at its principal office for 30 days following the date of the notice, and inform the public that the City of Hattiesburg and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, this notice will be issued by June 1 of each year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed. The City of Hattiesburg's overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

The City of Hattiesburg will begin using its overall goal on August 1 for the year of triennial cycle, unless it has received other instructions from DOT. If the city establishes 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.

### **Section 26.47 Goal Setting and Accountability**

If the awards and commitments shown on the City of Hattiesburg's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, 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 FTA within 90 days of the end of the affected fiscal year. The City of Hattiesburg is not required but will still perform the analysis, establish and implement a corrective action plan, and maintain information/records regarding the analysis and efforts made.

### **Section 26.49 Transit Vehicle Manufacturers Goals**

The City of Hattiesburg 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, the City of Hattiesburg may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the transit vehicle manufacturer complying with this element of the program.

### **Section 26.51 Meeting Overall Goals/Contract Goals**

#### **Breakout of Estimated Race-Neutral & Race-Conscious Participation**

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

The City of Hattiesburg will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The City of Hattiesburg will attempt to use the following race neutral means to increase DBE participation:

1. Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE's and other small businesses;
2. Providing technical assistance and other services;

3. Carrying out information and communications programs on contracting procedures and specific contract opportunities;

We estimate that, in meeting our goal, we obtain half from race-neutral and half through race-conscious measures. The City of Hattiesburg has DBE history for its transit services. Therefore, the City will establish contract goals to meet any portion of its overall goal that it does not project being able to meet using race-neutral means.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious including the use of outside directories, census data and other related facts to determine relative availability.

### **MEANS TO MEET OVERALL GOALS**

The City of Hattiesburg will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation.

The City of Hattiesburg will attempt to use the following race-neutral means to increase DBE participation:

Arrange solicitations, times for presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE's and other small business participation.

- Provide technical assistance and other services;
- Provide services to help DBE's and other small businesses improve long-term development, increase opportunities to participate in a variety of kind of work;
- Carrying out information and communications programs on contracting procedures and specific contract opportunities;
- The City of Hattiesburg established a contract goal to meet any portion of its overall goal does not project being able to meet using race-neutral means.

We estimate that, in meeting our overall goal of 1.2%, we will obtain 1.0% from race neutral and .2% through race conscious measures. Because of the lack of DBE firms and because of the procurement requirements germane to the City of Hattiesburg, the City of Hattiesburg will ensure that the DBE program continues to be tailored to overcome the effects of discrimination.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

The City of Hattiesburg will establish goals to determine race-neutral and race-conscious including the use of outside directories, census data and other related facts to determine relative availability.

The City of Hattiesburg will make an effort to collect data as a result of this program, will review performance data including race-neutral and race-conscious means and their effectiveness, and will participate in outreach meetings with both DBE's and non DBE's willing to participated in transit programs.

## **Contract Goals**

The City of Hattiesburg shall use contract goals to meet any portion of the overall goal that City of Hattiesburg does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of City of Hattiesburg's overall goal that is not projected to be met through the use of race-neutral means. City of Hattiesburg shall establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. City of Hattiesburg need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.) We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

### **Section 26.53 Good Faith Efforts Procedures**

Demonstration of good faith efforts (26.53(a) & (c)). The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26. The Transit Administrator is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

The City of Hattiesburg shall ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before it commits to the performance of the contract by the bidder/offeror. Information to be submitted (26.53(b))

The City of Hattiesburg treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established shall require the bidders/offerors 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 participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment and
6. If the contract goal is not met, evidence of good faith efforts.

### **Administrative reconsideration (26.53(d))**

Within 10 days of being informed by the City of Hattiesburg that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the City of Hattiesburg:

*Andrew Ellard, Director  
Urban Development  
The City of Hattiesburg  
P.O. Box 1898  
Hattiesburg, MS 39403-1898  
(Phone) 601-545-4609 (Fax) 601-544-0392  
(Email) mpo@hattiesburgms.com*

The Director of Urban Development will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts. 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. The bidder/offeror will have the opportunity to meet in person with the MPO Division Manager to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The MPO Division Manager shall 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.

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

The City of Hattiesburg shall require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The City of Hattiesburg shall require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. In this situation, the city 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, the City of Hattiesburg shall issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the City of Hattiesburg may proceed with a breach of contract action pursuant to the terms of the contract and the laws of the State of Mississippi.

### ***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 the City of Hattiesburg to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 1% 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. This prime Contractor obligation can be met by completing Form 1 and Form 2 as found in **Attachment #6**.

#### **Section 26.55 Counting DBE Participation**

The City of Hattiesburg shall count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

### **SUBPART D – CERTIFICATION STANDARDS**

#### **Section 26.61 – 26.73 Certification Process**

The City of Hattiesburg is a member of a Unified Certification Program (UCP) administered by the Mississippi Department of Transportation (MDOT) and will rely upon their certification procedures.

### **SUBPART E – CERTIFICATION PROCEDURES**

#### **Section 26.81 Unified Certification Programs**

The City of Hattiesburg is a member of a Unified Certification Program (UCP) administered by the Mississippi Department of Transportation (MDOT). The UCP will meet all of the requirements of this section. This UCP can be found at **Attachment #8**.

#### **Section 26.83 Procedures for Certification Decisions**

Re-certifications 26.83(a) & (c) the City of Hattiesburg was not required to have a DBE program under former part 23 and therefore is not required to participate in any re-certifications. For firms that the City has certified or reviewed and found eligible under part 26, we will again review their eligibility every three (3) years. These reviews will include the following components:

1. Completion of new application, including Financial Statement(s)
2. Review of application and components "No Change" Affidavits and Notices of Change (26.83(j)) the City shall require all DBEs to inform it, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the city's application for certification.

The City shall also require all owners of all DBEs the City has certified to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The test of this affidavit is the following:



*I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the City under 26.83(j). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million. The City shall require DBEs to submit with this affidavit documentation of the firm's size and gross receipts. The City shall notify all currently certified DBE firms of these obligations by mail on an annual basis. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.*

### **Section 26.85 Denials of Initial Requests for Certification**

If the City of Hattiesburg denies a firm's application or decertifies it, it may not reapply until 12 months have passed from the date of the denial.

### **Section 26.87 Removal of a DBE's Eligibility**

In the event that the City of Hattiesburg proposes to remove a DBE's certification, it will follow procedures consistent with 26.87. **Attachment #9** to this program sets forth these procedures in detail. To ensure separation of functions in a de-certification, the City has determined that the Director of Urban Development will serve as the decision-maker in de-certification proceedings. The City has established an administrative "firewall" to ensure that the Director of Urban Development will not have participated in any way in the de-certification proceeding against the firm (including in the decision to initiate such a proceeding).

### **Section 26.89 Certification Appeals**

Any firm or complainant may appeal the City of Hattiesburg decisions in certification matters to DOT. Such appeals may be sent to:

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

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

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

The City of Hattiesburg shall safeguard from disclosure to third parties any 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, the City of Hattiesburg shall not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

### ***Monitoring Payments to DBEs***

The City of Hattiesburg shall require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records shall be made available for inspection upon request by any authorized representative of the City or DOT. This reporting requirement also extends to any certified DBE subcontractor. The City shall perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

## **ATTACHMENTS**

Attachment 1 Organizational Chart

Attachment 2 DBE Directory

Attachment 3 Monitoring and Enforcement Mechanisms

Attachment 4 Overall Goal Calculation

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

Attachment 6 Form 1 & 2 for Demonstration of Good Faith Efforts

Attachment 7 Certification Application Forms

Attachment 8 Unified Certification Program

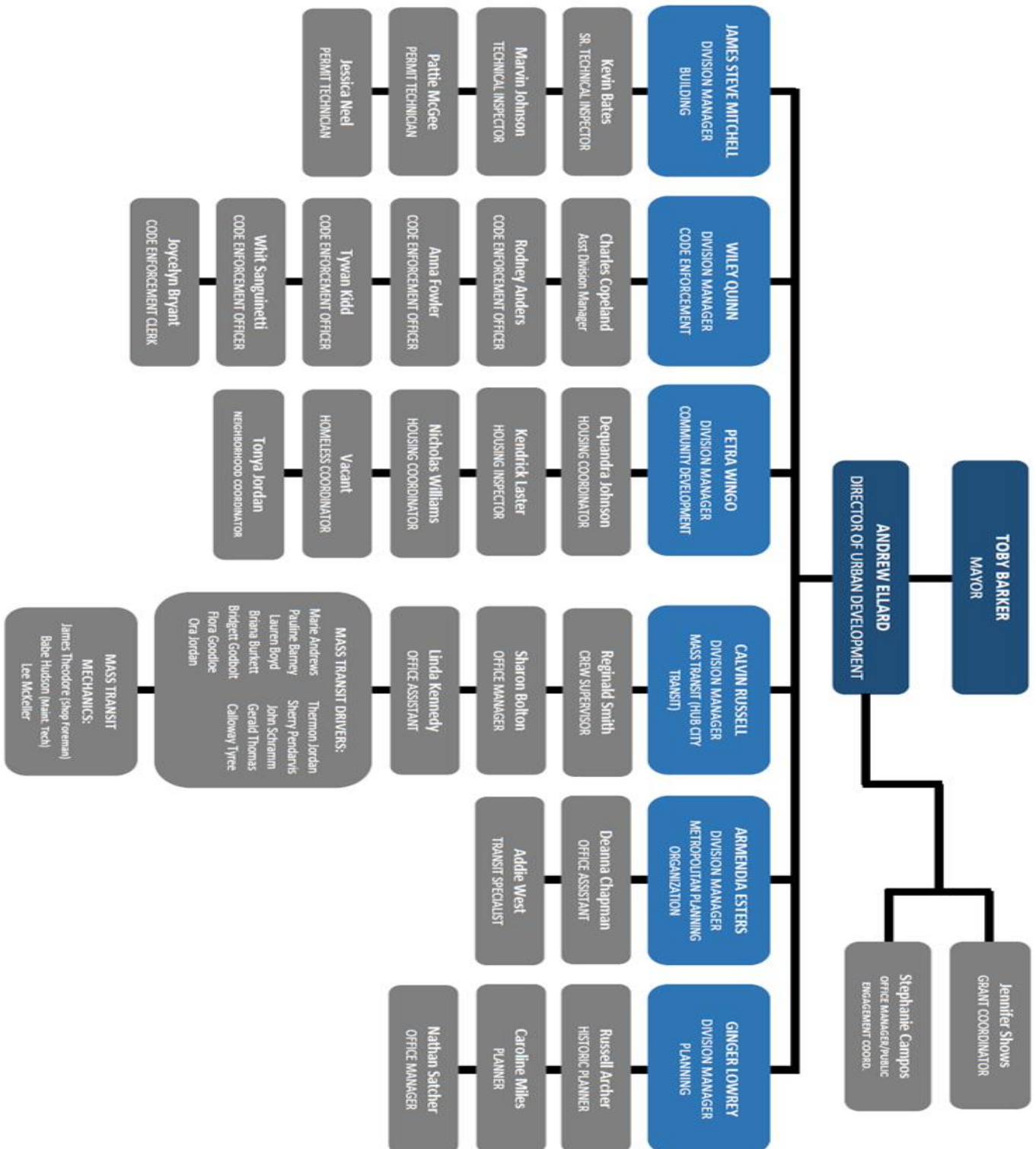
Attachment 9 Procedures for Removal of DBE's Eligibility

Attachment 10 Regulations: 49 CFR part 26

Attachment 11 DBE Definitions

ATTACHMENT (1)

Department of Urban Development Organizational Chart



## **ATTACHMENT (2)**

### **DBE DIRECTORY**

[https://mdot.ms.gov/bidsystem\\_data/bidderspdf/DBE%20Listing.pdf](https://mdot.ms.gov/bidsystem_data/bidderspdf/DBE%20Listing.pdf)

The City of Hattiesburg maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as DBE. We will use the Directory of the State of Mississippi Department of Transportation List of Certified DBE Contractors. The Directory will be made available at the City of Hattiesburg City Clerk's Desk.

## **ATTACHMENT (3)**

### **Monitoring and Enforcement Mechanisms**

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 31
3. Prosecution pursuant to 18 USC 1001.

We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109. We also will consider similar action under our own legal authorities, including responsibilities determinations in future contracts.

## **ATTACHMENT (4)**

### **Section 26.45: Overall Goal Calculation**

#### **Amount of Goal**

1. The City of Hattiesburg's overall goal for the following time period 2021-2023 is the following: 1.2% of the Federal financial assistance we will expend in DOT-assisted contracts.

**Methodology used to Calculate Overall Goal**

The methodology used to calculate the relative availability of DBE’s is a percentage figure calculated by dividing the number of representing available DBE’s by a number of businesses representing all firms.

The data source to determine the base figure for relative DBE’s was calculated as follows:

$$\begin{array}{rcl} & \text{Ready, Willing and Able DBE’s} & 2 \\ \text{Base Figure} = & \text{-----} & \text{-----} = .8\% \\ & \text{All firms ready, willing and able} & 226 \end{array}$$

The data source or demonstrated evidence used to derive the numerator was the Mississippi Contract Procurement Center located in Biloxi, Mississippi for Small Businesses and the Mississippi Department of Transportation Web Page Site for Disadvantage Business Enterprise (DBE’s).

The data source or demonstrated evidence used to derive the denominator was the U.S. Census Bureau County Business Pattern for Forrest County, Mississippi. The City established its goals based on a methodology that takes into account several factors contained in 49 CFR 26.45. These factors include: use of other DBE directories, Census Bureau data, use of alternative methods, adjusting for demonstrated evidence of local market conditions. Data to support this methodology was obtained from available DBE directories.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 1.0%. After calculating a base figure of the relative availability of DBE’s evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal. In order to reflect as accurately as possible the DBE participation, we have no adjustments to our base figure of 1.2%.

The reason we chose not to adjust our figure using this data was that it reflected the number of qualified/certified businesses that met the standards of DBE certification. The “relative availability” of DBE’s in Hattiesburg contracting areas is estimated at 1.0%. This figure was derived by comparing the number of certified DBE’s in Standard Industrial Classification (SIC) Codes with the total number of small businesses in the SIC code that are thought to be ready, willing and able to bid on contracts and subcontracts. Some SIC codes do little transit work. In doing so, the City has determined because of the limited number of DBE firms, it is necessary for the City not to adjust the base figure.

## Attachment 5

### **BREAKOUT OF ESTIMATED RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION**

The City of Hattiesburg will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The City of Hattiesburg will attempt to use the following race neutral means to increase DBE participation:

- Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE's and other small businesses;
- Providing technical assistance and other services;
- Carrying out information and communications programs on contracting procedures and specific contract opportunities;

We estimate that, in meeting our overall goal of 1.2%, we obtain 1.0% from race-neutral and .2% through race-conscious measures. The City of Hattiesburg has DBE history for its transit services. Therefore, the City will establish contract goals to meet any portion of its overall goal that it does not project being able to meet using race-neutral means.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious including the use of outside directories, census data and other related facts to determine relative availability.

#### **MEANS TO MEET OVERALL GOALS**

The City of Hattiesburg will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation.

The City of Hattiesburg will attempt to use the following race-neutral means to increase DBE participation: Arrange solicitations, times for presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE's and other small business participation.

- Provide technical assistance and other services;
- Provide services to help DBE's and other small businesses improve long-term development, increase opportunities to participate in a variety of kind of work;
- Carrying out information and communications programs on contracting procedures and specific contract opportunities;
- The City of Hattiesburg established a contract goal to meet any portion of its overall goal does not project being able to meet using race-neutral means.

We estimate that, in meeting our overall goal of 1.2%, we will obtain .2% from race neutral and 1.0% through race conscious measures. Because of the lack of DBE firms and because of the procurement requirements germane to the City of Hattiesburg, the City of Hattiesburg will ensure that the DBE program continues to be tailored to overcome the effects of discrimination.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

The City of Hattiesburg will establish goals to determine race-neutral and race-conscious including the use of outside directories, census data and other related facts to determine relative availability.

The City of Hattiesburg will make an effort to collect data as a result of this program, will review performance data including race-neutral and race-conscious means and their effectiveness, and will participate in outreach meetings with both DBE's and non DBE's willing to participated in transit programs.

**Attachment 6**

**Form 1 for Demonstration of Good Faith Efforts**

[Forms 1 and 2 should be provided as part of the solicitation documents.]

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract.

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

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Title



Attachment 6

Forms 2 for Demonstration of Good Faith Efforts

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

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The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_  
(Signature) (Title)

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each DBE subcontractor.)

**Attachment 7**  
**Certification Application Forms**

This application can be obtained from the Mississippi Department of Transportation Website.  
<https://mdot.ms.gov/documents/Civil%20Rights/Programs/DBE/DBE%20Certification%20Application.pdf>

**Attachment 8**  
**Unified Certification Program**

<https://mdot.ms.gov/documents/Civil%20Rights/Programs/DBE/MS%20Unified%20Certification%20Program%20Letter.pdf>

**Attachment 9**  
**Procedures for Removal of DBE's Eligibility**

The procedure for removal of DBE's Eligibility can be obtained from the Mississippi Department of Transportation website listed below:

<https://mdot.ms.gov/documents/Civil%20Rights/Manuals/DBE/DBE%20Program%20Manual.pdf>

*Any person may file a written complaint alleging that a currently certified firm is ineligible. The complaint must specify the reasons why the firm is ineligible. The complaint will be investigated by the certifying agency. The records on the firm will be reviewed along with any information or supporting documentation provided by the complainant. The confidentiality of the complainant's identity will be protected as provided in paragraph 26.109(b). Additional information may be requested from the firm to properly investigate the complaint.*

*If there is a reasonable cause to believe the firm is ineligible, the reviewing agency must provide written notice to the firm setting forth the reasons for the recommendation to find the firm ineligible. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.*

*If, based on notification by the firm of a change in its circumstances or other information that comes to the certifying agency's attention, it is determined that there is reasonable cause to believe that a currently certified firm is ineligible, written notice must be provided to the firm that the agency proposes to find the firm ineligible setting forth the reasons for the determination.*

*When the firm is notified there is reasonable cause to remove its eligibility, the firm must be given the opportunity for an informal hearing. The firm must follow the Appeal Process as outlined in the next section of this document.*

**Appeal Process**

*A DBE whose eligibility is removed by a recipient may make a written request to appeal that decision within 30 days of the letter of removal. Upon receipt of the request for an appeal, the denying agency must contact MDOT to schedule a hearing. In order to maintain consistency, MDOT will be responsible for scheduling the hearings and for all administrative costs associated with holding the hearing. The removing agency will be responsible for providing legal representation, expert witness testimony and the production of records at its own costs. Full cooperation with the hearing officer is also required.*

*At the conclusion of the hearing, an official transcript will be provided to the parties. The hearing officer will render a decision within seven (7) days. The recommendation will be forwarded to the parties. Either party may file written objections within ten (10) days of receipt of the hearing officer's report. A copy must be provided to the opposing party by certified mail. The opposing party may submit a written response to objections within seven (7) days. The denying agency may refer the matter back to the hearing officer for consideration of the objections and responses. The hearing officer shall consider these objections and submit a supplementary report and recommendation to the denying agency within five (5) days after such referral. The denying agency will render a decision within fourteen (14) days after the expiration of the time for submissions from the opposing party and the hearing officer.*

*The opposing party may appeal an adverse determination by the denying agency as provided under CFR part 26, subpart E pursuant to 49 CFR Section 26.89 to the United States Department of Transportation. A letter must be sent to the Department within 90 days of the date of the denying agency's final decision, containing information and arguments concerning why the denying agency's decision should be reversed. The firm which is removed from certification will not be eligible to reapply to be certified for a minimum of 12 months from the date it was removed.*

**Attachment 10****Regulations: 49 CFR Part 26**

The regulations may be reviewed on the Mississippi Department of Transportation Website listed below:

[49 CFR §26 Participation By Disadvantaged Business Enterprises In Department Of Transportation Financial Assistance Programs - Code of Federal Regulations \(ecfr.io\)](#)

## Attachment 11

### Definitions of Terms

#### 49 CFR §26.5.

**Affirmative Action** means taking specific steps to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve disadvantaged business enterprises fully in contracts and programs funded by the Department.

**Alaska Native** means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktia Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mothered is regarded as an Alaska Native.

**Alaska Native Corporation (ANC)** means any Regional Corporation, Village Corporation, Urban Corporation or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C 1601, et seq.)

**Applicant** means one who submits an application, request, or plan to be approved by a Department official or by a primary recipient as a condition to eligibility for DOT financial assistance.

**Application** means such an application, request or plan.

**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.

**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.

**Good faith efforts** mean 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.

**Indian tribe** means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

**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.

**Native Hawaiian** means any individual whose ancestors were natives, prior to 1778, of the area, which now comprises the State of Hawaii.

**Native Hawaiian Organization** means any community service organization serving Native Hawaiians in the State of Hawaii, which is a not-for-profit organization, chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

**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.

**Personal net worth** means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include: The individual’s ownership interest in an applicant or participating DBE firm; or the individual’s equity in his or her primary place of residence. An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse.

**Primary Industry Classification** means the four-digit Standard Industrial Classification (SIC) code designation, which best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its website ([www.ntis.gov/naics](http://www.ntis.gov/naics)).

**Primary recipient** means a recipient that receives DOT financial assistance and passes some or all of it 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 where top management's business records are kept. 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 for DBE program purposes.

**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 DBEs, including women-owned DBEs.

**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.

**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 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 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 –

(1) Any individual who a recipient 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:

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 American Indians, Eskimos, Aleuts, or Native Hawaiians;
4. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
5. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
6. 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.

**Tribally owned concerns** mean any concern at least 51 percent owned by an Indian tribe as defined in this section.

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

## Public Participation

The City of Hattiesburg published the DBE goal information and a draft of the new Program Plan in these publications:

**The Hattiesburg Post & the Clarion Ledger (6/10/2021)**

**The City of Hattiesburg website ([www.hattiesburgms.com](http://www.hattiesburgms.com))**

The City of Hattiesburg held a public comment period from June 10, 2021 to July 12, 2021

The City of Hattiesburg received comments from these individuals or organizations:

\*\*\*\*\*

Summaries of these comments are as follows:

\*\*\*\*\*

The City of Hattiesburg responses to these comments are:

\*\*\*\*\*