



DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

July 2014 – July 2017

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**BROWARD METROPOLITAN PLANNING ORGANIZATION
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

POLICY STATEMENT

(a) Objectives/Policy Statement (§26.1, §26.23)

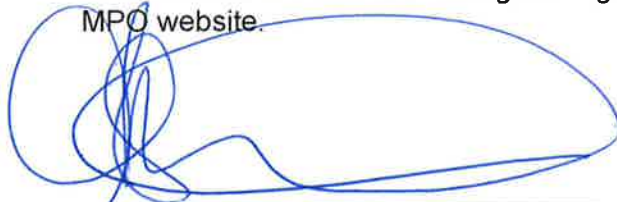
The Broward Metropolitan Planning Organization (Broward MPO) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the Federal Transit Administration (FTA), 49 CFR, Part 26. The Broward MPO has received Federal financial assistance from FTA and as a condition of receiving this assistance, the Broward MPO has signed an assurance that it will comply with 49 CFR, Part 26.

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

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

Chris Ryan has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. Other Broward MPO staff will assist the DBELO, as needed, with DBE requirements and compliance. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Broward MPO in its financial assistance agreements with the FTA.

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



Gregory Stuart
Executive Director

9/10/14
Date

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SUBPART A - GENERAL REQUIREMENTS

A-1 Definitions of Terms (§26.5)

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

A-2 Nondiscrimination (§26.7)

The Broward Metropolitan Planning Organization (Broward MPO) will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin. In administering its DBE program, the Broward MPO will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

A-3 Record Keeping & Reporting (§26.11)

Bidders List

The Broward MPO will create a bidders list consisting of information about all DBE and non-DBE firms that bid or quote on Federal Transit Administration (FTA) -assisted contracts in the State of Florida. The purpose of this requirement is to allow use of the bidders' list approach to calculating the overall goal. The bidders list will include the name, address and DBE/non-DBE status.

The Broward MPO will collect this information by requiring prime bidders to report the names, addresses and possibly other information of DBE subcontractors prior to the Broward MPO's issuance of a solicitation and at the time of bid opening. For non-formal bids, such information will be required on the quotation.

Payments to DBEs

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

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

Reporting to FTA

The Broward MPO will report DBE participation to FTA on a semiannual basis. These reports will reflect payments actually made to DBEs on FTA-assisted contracts.

A-4 Federal Financial Assistance Agreement (§26.13)

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

The Broward MPO shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR, Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of FTA-assisted contracts. The recipient's DBE Program, as required by 49 CFR, Part 26 and as approved by FTA, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Broward MPO of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Broward MPO will ensure that the following clause is placed in every FTA-assisted contract and subcontract.

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

SUBPART B - ADMINISTRATIVE REQUIREMENTS

B-1 DBE Program Updates (§26.21)

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

B-2 DBE Liaison Officer (§26.25)

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

1. Gathers and reports statistical data and other information as required by FTA;
2. Reviews third party contracts and purchase requisitions for compliance with this program;
3. 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 (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress;
6. Analyzes the Broward MPO's progress toward attainment and identifies ways to improve progress;
7. Participates in pre-bid meetings;
8. Advises the Broward MPO Board on DBE matters and achievement;
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance;
10. Plans and participates in DBE training seminars;
11. Provides outreach to DBEs and community organizations to advise them of opportunities; and
12. Maintains the Broward MPO's updated directory on certified DBEs.

An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

B-3 DBE Financial Institutions (§26.27)

It is the policy of the Broward MPO to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on FTA-assisted contract to make use of these institutions. The Broward MPO has currently not identified a local financial institution.

Information on the availability of such institutions can be obtained from the DBELO.

B-4 Prompt Payment Mechanisms (§26.29)

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from The Broward MPO. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors 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 Broward MPO. This clause applies to both DBE and non-DBE subcontracts.

B-5 Directory (§26.29)

The Broward MPO utilizes the Florida Department of Transportation (FDOT) DBE directory. The directory is available on-line at the following website: <http://www.dot.state.fl.us/equalopportunityoffice/eoc.shtm>.

B-6 Overconcentration (§26.33)

Broward MPO has not identified that overconcentration exists in the types of work that DBEs perform. The Broward MPO will continue to monitor DBE participation and usage and will utilize appropriate measures designed to assist DBEs if any overconcentration areas are identified.

B-7 Monitoring & Enforcement Mechanisms (§26.37)

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

1. Bring to the attention of the FTA any false, fraudulent, or dishonest conduct in connection with the program, so that FTA can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FTA Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109;
2. Consider similar action under own legal authorities, including responsibility determinations in future contracts;
3. Provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by monitoring payment records, including employee payroll, supervision of employees, meeting attendance; and
4. Keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

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

B-8 Fostering Small Business Participation (§26.39)

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

Small Business Definition

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

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

Set Asides

The Broward MPO's transportation projects historically are of a size and magnitude (range \$25,000 to \$500,000) that already accommodate small business participation; therefore, the Broward MPO will not use small business set asides to facilitate participation.

Mega Project

Projects that are multi-year design build or in excess of \$2,000,000 is considered a “*mega project*”. Bidders on a prime contract of a “mega project” will specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

Implementation

To actively implement the small business program, the Broward MPO has partnered and collaborated with local, regional and national partners' initiatives that are encouraging greater collaboration to form strong partnerships with small businesses. The Broward MPO and its partners are offering technical assistance and training to those individuals pursuing entrepreneurialism. The objectives of these programs are:

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

The Broward MPO will:

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

SUBPART C - GOALS, GOOD FAITH EFFORTS & COUNTING

C-1 Quotas (§26.43)

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

C-2 Overall Goal (§26.45)

In accordance with §26.45, the Broward MPO will submit its triennial overall DBE goal to the FTA on August 1 of the year specified by FTA. The Broward MPO will also request use of project-specific DBE goals as appropriate and/or will establish project-specific DBE goals as directed by FTA.

The Broward MPO has established an overall goal of 8 percent for DBE participation in FTA-assisted contracts from 2014 through 2017. The goal is based upon evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and available to participate on FTA-assisted contracts. The goal reflects the level of DBE participation anticipated, absent the effects of discrimination. To calculate the Broward MPO DBE goal, the base figure calculation was measured by the volume of work DBEs performed in recent years thus utilizing the average of the two measures. The Broward MPO will submit its overall goal to FTA on August 1st of each year.

The Broward MPO will publish a notice in newspapers, available minority-focused media, trade publications and the Broward MPO website to inform the public of the proposed overall goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice. The notice will inform the public that the Broward MPO will accept comments on the goal for 45 days from the date of the notice. Normally, the Broward MPO will issue this notice by June 1st of each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The Broward MPO submission to FTA will include a summary of information and comments received during this public participation process and the responses. The Broward MPO will begin using the overall goal on October 1st of each year, unless the Broward MPO has received other instructions from FTA. If the Broward MPO establishes a goal on a project basis, the Broward MPO will begin using its goal by the time the first solicitation for a FTA-assisted contract for a project is advertised.

Step 1: §26.45(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

$$\frac{\text{Numerator (Ready, willing, and able DBEs)}}{\text{Denominator (All firms ready, willing and able)}} = \text{Base Goal \%}$$

The data source or demonstrable evidence used to derive the numerator was:

Total number of certified DBEs in the Unified Certification Program (UCP) directory within Broward County with the North American Industry Classification (NAICS) that covers the available contracting opportunities during the goal period.

The data source or demonstrable evidence used to derive the denominator was:

All available firms derived from the latest available U.S. Census Bureau's County Business Patterns (CBP) for the same area using the same NAICS codes.

Step 2: §26.45(d)

After calculating a base goal percentage of the relative availability of DBEs, 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, in the absence of discrimination, the Broward MPO will adjust the base figure by adding the historical median of actual DBE achievements over the preceding three (3) years, the average of the three (3) year medians of FDOT and South Florida Regional Transit Authority (SFRTA) to the result of Step 1 and then divide by three (3). The reason the Broward MPO adjusts the figure using this data is to more accurately reflect the DBE participation the Broward MPO could expect.

A description of the two-step process to calculate the overall goal of 8 percent is found in Attachment 2 of this program.

C-3 Transit Vehicle Manufacturers Goals (§26.49)

The Broward MPO 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 Broward MPO may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the transit vehicle manufacturers (TVM) complying with this element of the program.

C-4 Breakout of Estimated Race-Neutral & Conscious Participation (§26.51)

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

1. Arranging solicitations, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE participation.
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing.
3. Carrying out information and communication programs on contracting procedures and specific contract opportunities. These information and communication programs may include, but are not limited to:

- a. Annually, the Broward MPO will provide all small businesses which have bid on contracts during the last fiscal year a summary on major policy manuals or important changes in contracting procedures;
 - b. The Broward MPO shall supply the same information to all firms applying for DBE certification;
 - c. The Broward MPO shall provide a summary of key DBE policies to persons responsible for contracting activities in the FDOT's Central Office and Districts; and
 - d. The Broward MPO shall provide DBEs with job listings and listings of the potential prime bidders.
4. Providing services to help DBEs improve long term development, increase opportunities to participate in a variety of kinds of planning work, handle increasingly significant projects and achieve eventual self-sufficiency. These services may include but are not limited to:
- a. Providing semi-annual workshops for newly certified DBE businesses to explain Broward MPO business processes; and
 - b. Conducting conferences at least once a year in order to bring together DBEs and the Broward MPO's prime contractors.

In order to ensure that the Broward MPO's DBE program will be narrowly tailored to overcome the effects of discrimination, if the Broward MPO uses contract goals, the Broward MPO will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see §26.51(f)) and the Broward MPO will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry 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.

The Broward MPO estimates that, in meeting the overall goal of 8%, the Broward MPO will obtain 6% from race-neutral participation and 2% through race-conscious measures; however, these percentages may vary during the establishment of each three (3) year goal.

The Broward MPO is using past participation to project the race/gender-neutral participation the MPO expects in the future. The MPO has consistently reached 11.62% DBE participation from 2011 to 2013. The overall DBE goal for this time period was set at 6.0%. The Broward MPO has met and exceeded its overall goal by 5.62%. This difference between the goal and achievement represents participation that went beyond what contractors should do in order to meet the 6% goal. The 5.62% participation, then, was not made necessary by race/gender-conscious provisions of the program. Therefore, it is reasonable to assume that contractors will again be able to achieve 5.62% participation over and above the race/gender-conscious portion of the overall goal. The Broward MPO expects to meet its overall Goal by 6% (5.62% rounded) race neutral and 2% race conscience means.

Year	Contracting Opportunities			DBE Participation		
	Total	Non DBE	DBE (No DBE Primes)	Achieved	Set	Difference
2011	\$559,833	\$494,778	\$65,055	11.62%	6%	5.62%
2012	\$981,866	\$867,768	\$114,098	11.62%	6%	5.62%
2013	\$1,562,594	\$1,381,013	\$181,581	11.62%	6%	5.62%

The Broward MPO DBE goal from 2011 to 2013 was 6%. In this time frame the MPO has consistently exceeded this goal by 5.62%. There were no DBE prime contractors from 2011 to 2013. The Broward MPO's estimated breakout of race-neutral or race-conscious DBE participation is based upon projected contracting opportunities for the fiscal year. The Broward MPO will adjust the estimated breakout of race-neutral or race-conscious participation as needed to reflect actual DBE participation and the Broward MPO will track and report race-neutral or race-conscious participation separately.

C-5 Contract Goals (§26.51)

The Broward MPO will use contract goals to meet any portion of the overall goal the Broward MPO does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.

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

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

C-6 Good Faith Efforts Procedures (§26.53)

Information to be Submitted

The Broward MPO treats bidder's compliance with good faith efforts requirements as a matter of responsiveness.

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

1. 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 contractors commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

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

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

Administrative Reconsideration

Within three (3) working days of being informed by the Broward MPO that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. A bidder should make this request in writing to the following reconsideration official: Deputy Executive Director, Broward MPO, Trade Centre South, 100 West Cypress Creek Rd., Suite 850, Ft. Lauderdale, FL 33309-2112. The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

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

Good Faith Efforts When a DBE is Replaced on a Contract

The Broward MPO will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE to the extent needed to meet the contract goal. The Broward MPO will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the Broward MPO will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, the Broward MPO Executive Director or his designee 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 Executive Director or his designee may issue a termination for default proceeding.

C-7 Counting DBE Participation (§26.55)

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

SUBPART D - CERTIFICATION STANDARDS

D-1 Certification Process (§26.61-73)

It is the policy of the Broward MPO to accept DBE certifications from agencies that have reviewed and certified the DBE firms in accordance with 49 CFR, Part 26. The Broward MPO is not a certifying agency and will utilize the Unified Certification Program (UCP). For information about the certification process or to apply for certification, firms should contact FDOT's Equal Opportunity Office (<http://www.dot.state.fl.us>).

D-2 Re-certification (§26.83)

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

D-3 De-certification (§26.87)

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

D-4 Certification Appeals (§26.89)

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

SUBPART E - CERTIFICATION PROCEDURES

E-1 Unified Certification Programs (§26.81)

The Broward MPO is a member of a UCP but is a non-certifying member.

E-2 “No Change” Affidavits & Notices of Change (§26.83)

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

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

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

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

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

SUBPART F - COMPLIANCE AND ENFORCEMENT

F-1 Confidentiality (§26.109)

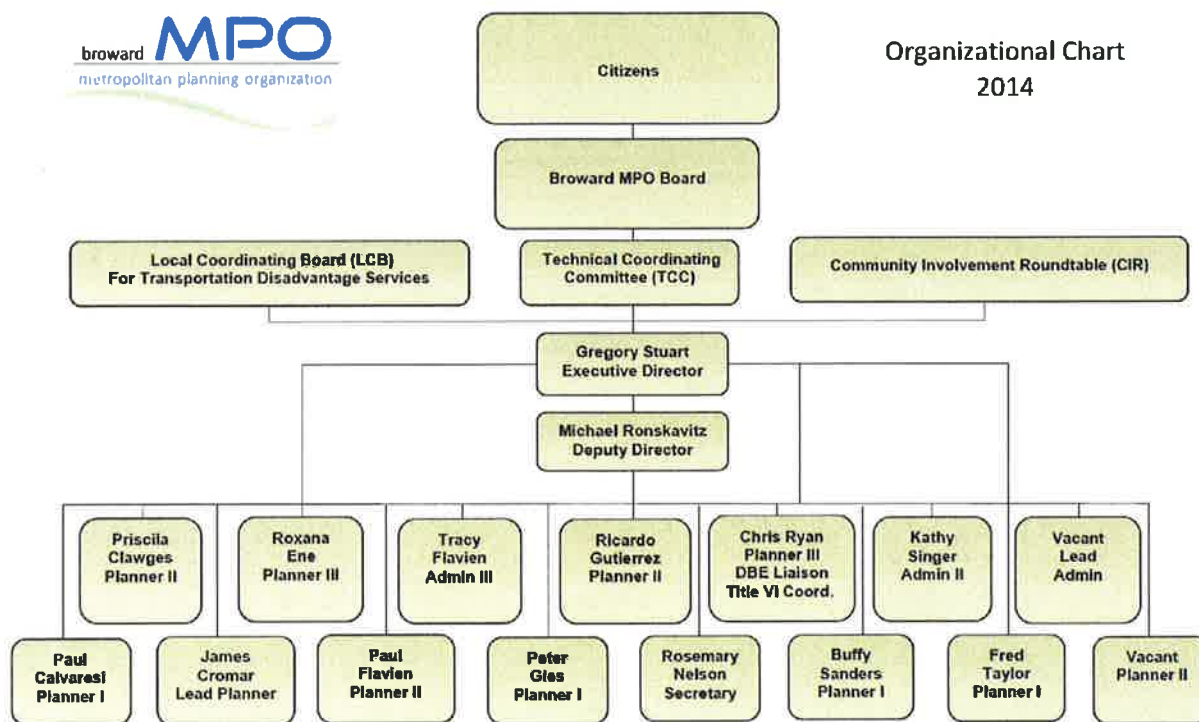
The Broward MPO will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, the Broward MPO will not release personal financial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

F-2 Consequences of Non-compliance

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

1. Withholding of payments to the contractor under the contract until the contractor complies; and/or
2. Cancellation, termination or suspension of the contract, in whole or in part.

ATTACHMENT 1 - BROWARD MPO ORGANIZATIONAL CHART



*staff shown in alphabetical order by last name

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For complaints, questions or concerns about civil rights or nondiscrimination, or for special requests under the American with Disabilities Act, please contact: Christopher Ryan, Public Information Officer/Title VI Coordinator at (954) 876-0036 or ryan@cibrowardmpo.org

ATTACHMENT 2 - OVERALL GOAL CALCULATION

In accordance with §26.45, the Broward Metropolitan Planning Organization (Broward MPO) uses a two-step process to calculate its DBE program goal. The following is a summary of the methodology used to calculate this goal.

Step 1: §26.45(c)

In accordance with §26.45, the Broward MPO has employed a two-step process to calculate its DBE program goal. Step 1 involves determining a “base figure” for the relative availability of DBEs in the area. The base figure is a percentage calculated as the ratio of available and potentially eligible DBEs to all available firms.

The data sources used to derive available DBEs and “all available” firms was as follows:

- “Available DBEs” is derived from the total number of certified DBEs in the Florida Department of Transportation (FDOT), DBE directories with the North American Industry Classification (NAICS) of 541820, and 541330 or whose work type was listed as website development, public relations, and architecture and engineering. The 2014 DBE program limited the search to these fields based on the types of contracts anticipated for the upcoming year.
- All available” firms is derived from the total number of firms with the NAICS of 541820 and 541330 found in Census Bureau’s County Business Patterns (CBP) database in the following counties: Broward, Indian River, Martin, Palm Beach, St. Lucie, Miami-Dade and Monroe.

Total Number of Available Firms, 2011 County Business Patterns (NAICS)				
Industry code	Industry code description	DBE Firms	Total Firms	DBE%
541820	Public Relations	25	219	11.42%
541330	Architecture & Engineering (A&E)	25	1201	2.08%

Base Rate = 3.52%			
Industry code	DBE Firms**	Total Firms	DBE%
541820	25	219	11.42%
541330	25	1201	2.08%
Total	50	1420	3.52%

*** Current FDOT UCP Directory*

Percent of Funding for Contracting		
Contract Type	Contracting Opportunities	Contract Percent of Funds
Public Relations*	\$309,800	22.01%
A&E*	\$1,098,000	77.99%
Available funds for contracting	\$1,407,800	100.00%

*Anticipated

Weighted Rate = 4.14%				
Industry code	Calculation			Result
541820	11.42%	X	22.01%	2.51%
541330	2.08%	X	77.99%	1.62%
Total				4.14%

The base figure is 4.14%, rounded to 4.0%

Step 2: §26.45(d)

Step 2 of the goal setting calculation process is intended to adjust the Step 1 base figure to make it as precise as possible. Under the rule, available evidence must be considered within the Broward MPO jurisdiction to determine whether such an adjustment is necessary. In this context, the Broward MPO considered two additional factors:

1. Past participation (the volume of work DBEs have performed in recent years);
 - o The Broward MPO past DBE participation median (2011 to 2013) is 11.62%.

Year	Broward Contractor Attainment			DBE %
	Non DBE	DBE	Total	
2011	\$494,777.82	\$65,055.37	\$559,833.19	11.62%
2012	\$867,767.95	\$114,097.60	\$981,865.55	11.62%
2013	\$1,381,012.57	\$181,581.06	\$1,562,593.62	11.62%

2. Historical participation data from FDOT and the South Florida Regional Transportation Authority (SFRTA)

FDOT and SFRTA have administered federal DBE programs within Broward market area for more than five (5) years and have extensive knowledge of DBE contractors and services. FDOT is currently responsible for FHWA DBE goals and SFRTA establishes FTA DBE goals.

1. FDOT's historical DBE achievement median value during 2011-2013 for the Broward metropolitan area is 8.6%. FDOT provides highway construction, maintenance,

planning, and public engagement on the federal aid highway system and utilizes DBE firms in scopes of work. FDOT's public engagement and planning projects in the Broward metropolitan area utilize the same potential prime contracting opportunities (NIACS 541820 and 542330) as anticipated by the Broward MPO.

2. SFRTA's historical data documenting their DBE achievement median value during 2011-2013 is 9%. SFRTA provides transit planning in the Broward metropolitan area and utilizes DBE firms in scopes of work that are similar to the MPO's federal procurement opportunities. Some of these include, but are not limited to corridor; land and transit service planning; and public engagement (NIACS 541820 and 542330).

To better reflect DBE participation the Broward MPO averaged the DBE participation median values of all entities including the Step 1 base line figure to better reflect an overall reasonable representation. Although FDOT's and SFRTA's service deliverables and contracting specifications may differ, there are procurement similarities in planning and public engagement that reflect the MPO's procurement opportunities.

1. Averaged FDOT and SFRTA median DBE attainment:

$$\frac{\text{FDOT } 8.6\% + \text{SFRTA } 9.0\%}{2} = \frac{17.6\%}{2} = 8.8\%$$

2. Averaged FDOT/SFRTA and Broward's past participation and baseline:

$$\frac{\text{FDOT/SFRTA } 8.8\% + \text{Broward's Past Participation } 11.62\% + \text{Baseline } 4.14}{3} = \frac{24.6\%}{3} = 8.19\%$$

Final adjusted DBE program goal is 8.19%, rounded to 8.0%



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