

THE CITY OF ST. GEORGE

DBE PROGRAM

TRANSIT



PREPARED JUNE 2003
REVISED MAY 2009
REVISED FEBRUARY 2012
REVISED MAY 2012
REVISED APRIL 2016

ST. GEORGE CITY DBE PROGRAM

POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

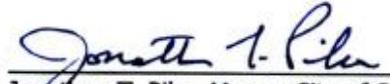
St. George City has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. St. George City has received Federal financial assistance from the Department of Transportation, and as a condition of receiving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

It is the policy of St. George City 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 promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients;
7. To assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The Transit Manager has been delegated as the DBE Liaison Officer. In that capacity, the Transit Manager is responsible for implementing all aspects of the DBE program in regards to the Bus system. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by St. George City in its financial assistance agreements with the Department of Transportation.

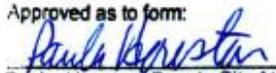
St. George City has disseminated this policy statement to the St. George City Council members and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts via inclusion of the statement in project bidding documents for which DBE participation is required.


Jonathon T. Pike, Mayor, City of St. George

5/5/16
Date


Attest: City Recorder



Approved as to form:

Paula Houston, Deputy City Attorney

SUBPART A – 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

St. George City is the recipient of Federal Transit Funds authorized by Titles I, III, V, and IV 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.

26.5 Definitions

St. George City will use terms in this program that have the meaning defined in Section 26.5.

Section 26.7 Non-discrimination Requirements

St. George City 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, St. George City 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)

St. George City will report DBE participation to DOT as follows:

St. George City will report DBE participation on a semi-annual basis with due dates of June 1 and December 1. These reports will reflect actual awards, commitments, payments on DOT-assisted contracts.

Bidders List: 26.11(c)

St. George City will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts, for use in helping to set our future overall goals. The bidders list will include the name, address, DBE-non-DBE status, age, and annual gross receipts of firms.

The City will collect this information in the following ways:

A contract clause requiring prime bidders to report the names/addresses, and other required information of all firms who quote to them on subcontracts. Also, a form entitled "Bidders List" will be included in bidding documents of each project for which DBE participation is required. The completed form is required to be submitted by the prime bidder as part of their bid.

Section 26.13 Federal Financial Assistance Agreement

St. George City has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance 26.13(a)

St. George City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to St. George City 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 will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13b

St. George City 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, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since St. George City does foresee awarding prime contracts that exceed \$250,000 in FY16, the City will implement this DBE Program and the goal will be set at 0.7% pursuant to 46 CFR 26.45 (Page 274) revised October 1, 2002. The City will provide to DOT updates representing significant changes in the program. The City will submit an updated goal annually on August 1 if there is intention to award contracts exceeding \$250,000 in FTA funds in that Federal fiscal year.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this DBE Program.

Section 26.25 DBE Liaison Officer (DBELO)

St. George City has designated the following individual as our DBE Liaison Officer for the Transit (Bus) System:

Mr. Fred Davies, Transit Manager
City of St. George
953 East Red Hills Parkway
St. George, Utah 84770
(435) 627-4013
e-mail address: fred.davies@sgcity.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that St. George City complies with all provisions of 49 CFR part 26. The DBELO has direct, independent access to the St. George City Council members concerning DBE Program matters. An Organization Chart displaying the DBELO's position in the organization is found in Attachment 1 to this DBE 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 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 purchase requisitions for compliance with this program.
3. Develops 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, both race-neutral methods and contract specific goals, are included in solicitations and investigates ways to improve progress.
6. Analyzes St. George City's progress toward DBE goal attainment and investigates ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the City Council on DBE matters and achievement.
9. Provides DBEs with information in preparing bids and obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Acts as liaison to the Uniform Certification Process in Utah.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Provides for availability of the UUCP's directory on certified DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of St. George City to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. Representatives of the City have had contact with each of the existing financial institutions in the St. George City area. As of the date of this DBE Program, there are no said institutions within the City that are owned nor controlled by certified socially and economically disadvantaged individuals. City representatives will continue

to monitor the status of said institutions within the City on an annual basis. Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Section 26.29 Prompt Payment Mechanisms

St. George City 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 contractor received from St. George City.

Retainage 26.29(b)

St. George City may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of St. George City. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement 26.29

The City will also implement a prompt payment monitoring mechanism to ensure that subcontractors are paid promptly according to DBE provisions. This mechanism will include periodic audit samples of prime contractor payments to subcontractors on St. George DOT-assisted projects.

Failure by the contractor to carry out these prompt payment requirements is a material breach of this contract which St. George City may take action described in Section 26.13 of St. George City DBE program plan.

Section 26.31 Directory

St. George City will make available a copy of the UUCP, a directory identifying all firms eligible to participate as DBEs within the State of Utah. 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. The UUCP revises the Directory semi-annually. The Directory link may be found in Attachment 2 to this Program document. The Directory is available either from the Utah Department of

Transportation, Civil Rights Office, or from the St. George City DBELO at the following location:

Mr. Fred Davies
Transit Manager
City of St. George
953 East Red Hills Parkway
St. George, Utah 84770
(435) 627-4013
e-mail address: fred.davies@sgcity.org

Section 26.33 Over-concentration

St. George City has not identified that over-concentration exists in the types of work that DBEs perform. St. George City will evaluate the existence of over-concentration triennially during the DBE goal setting period.

Section 26.35 Business Development Programs

St. George City has not established a business development program.

Section 26.37 Monitoring and Enforcement Mechanisms

St. George City will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR part 26.

1. The City will bring to the attention of the Department of Transportation and the FTA any false, fraudulent, or dishonest conduct in connection with the Program, so that DOT and FTA 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 will also bring to the attention of the UUCP those same misconducts. Attachment 3 lists the regulation, provisions and contract remedies available to us in the event of non-compliance with the DBE regulations by a participant in our procurement activities.
3. The City will also implement a monitoring mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. This will be accomplished by comparing quantities

awarded verses quantities performed by the DBE firms and documenting actual payment by the prime contractor to the DBE subcontractor.

4. Reports of DBE participation submitted to DOT and FTA will show both commitments and attainments, as required by the DOT and FTA reporting form.

Section 26.39 Fostering Small Business Participation

A small business concern is defined by the United States Small Business Administration (SBA) as one that is independently owned and operated, is organized for profit and is not dominant in its field. Size standards for eligibility as a small business concern have been established by the SBA and description codes for classifying the type of business through the North American Industry Classification System (NAICS). Personal net worth for an eligible small business is not more than \$1.32 million. St. George City's small business program is race-neutral.

In order to promote small business participation, St. George City will assist small business concerns in participating as prime contractors or as subcontractors in contracts and projects that receive FTA funding.

1. Where economically practicable and feasible, the City will ensure there will be no unnecessary and unjustified bundling of goods and services into single contracts that may preclude small business participation in procurements as either prime contractors or subcontractors.
2. Where economically practicable and feasible for large contracts, the City will require the bidders on the prime contract to specify elements of the contract that are of a size that can be reasonably performed by small businesses, including DBEs. These prime contracts will be advertised in plan rooms that cater to small businesses and DBEs.
3. The City will keep the bonding process as simplified as possible and provide assistance to small business concerns and DBEs in understanding and overcoming concerns to obtaining bonding.
4. The City will maintain a list of certified small businesses and DBEs and will send Requests for Proposals (RFPs) and Requests for Bids (RFBs) for projects and contracts that are funded with FTA monies to these businesses. In order to minimize fraud and abuse, the City will verify the status of a small business concern through the Central Contractor Registration (CCR) database. Firms will not be allowed to self-certify/verify as a small business. DBEs will be verified through the Utah Unified Certification Program (UUCP) and the Unified DBE Directory maintained by the UDOT.
5. The City will track Small Business Concerns on our DBE tracking form for FTA funded projects and contracts at the start of a project and on an on-going basis throughout the project.
6. Good Faith Effort Forms will also be provided as part of the solicitation documents for small business concerns.

7. Full implementation of this element of St. George City's DBE Program will begin within 30 days of receiving approval of the overall revised DBE Program from the Operating Administration or by June 21, 2016.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

St. George City does not use quotas in any way in the administration of this DBE Program.

Section 26.45 Overall Goals

St. George City will annually establish overall goals if it is anticipated that the City will award prime contracts exceeding \$250,000 in FTA funds (excluding vehicle purchases) in a Federal fiscal year, in accordance with the 2-step process as specified in 49 CFR part 26.45. If St. George City does not anticipate awarding more than \$250,000 in FTA funds in prime contracts within the Federal fiscal year, an overall goal will not be developed; however, the existing DBE Program will remain in effect and St. George City will seek to fulfill the objectives outlined in 49 CFR part 26.1. In regard to the 2-step process, the first step is to determine the relative availability of DBEs in the market area, the "base figure". The second step is to adjust the "base figure" percentage from step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program.

In accordance with Section 26.45(f), St. George City will submit its overall goal to FTA on August 1 of each year. Before establishing the overall goal each year, St. George City will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations in the St. George area to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses. St. George City will strive to establish a level playing field for the participation of DBEs.

Following this consultation, St. George City will publish on its website and may publish a notice of the proposed overall goals in the local newspaper, and other applicable publications/organizations, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the City Office for 30 days following the date of the notice and informing the public that St. George City and FTA

will accept comments on the goals for 30 days from the date of the notice. Normally, the City will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and the address where the proposal may be reviewed.

St. George City's overall goal submission to FTA will include a summary of information and comments received during this public participation process and the City's response to those comments.

St. George City will begin using the overall goal on October 1 of each year, unless other instruction is received from FTA. If the City establishes a goal on a project basis, use of the goal will begin at the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturers Goal

St. George City will require each transit vehicle manufacturer (TVM), 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, St. George City may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 26.51 (a-c) Breakout of Estimated Race-Neutral and Race Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 4 to this program. This section of the program will be updated triennially when the goal calculation is updated.

Section 26.51 (d-g) Contract Goals

St. George City will use contract goals to meet any portion of the overall goal the City 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 City's overall goal that is not projected to be met through the use of race-neutral means.

The City will establish contract goals only on those FTA-assisted contracts that have subcontracting possibilities. The City 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 City will express the contract goals either as a percentage of the total amount of an FTA-assisted contract or as the Federal share of a DOT-assisted contract, as directed by FTA.

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 DBELO, the City Attorney, and representatives of the City Council are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

St. George City will ensure, to the extent possible, that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

Information to be Submitted (26.53(b))

St. George City treats bidder/offeror's compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidder/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 2 days of being informed by St. George City that it is not responsive 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 following Reconsideration Official:

Gary Esplin, Administrator
City of St. George
175 East 200 North
St. George, Utah 84770
(435) 627-4000
e-mail address: gesplin@sgcity.org

The Reconsideration Official 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 Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The City will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder/offeror did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation, or respective branch thereof.

Good Faith Efforts When a DBE is Replaced on a Contract (26.53(f))

St. George City 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 City will 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, St. George City will require the prime contractor to obtain the City's 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 will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

The requirements of 49 CFR part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of St. George

City 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 ____ 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, (6) if the contract goal is not met, evidence of good faith efforts.

When a contract goal is established pursuant to the recipient's DBE Program, the sample bid specification can be used to notify bidders/offerors of the requirements to make good faith efforts. The forms found in Attachment 5 can be used to collect information necessary to determine whether the bidder/offeror has satisfied these requirements. The sample specification is intended for use in both non-construction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.

Section 26.55 Counting DBE Participation

St. George City will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. The City will not count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

St. George City will participate as a member of the Utah Unified Certification Program (UUCP) administered by the Utah Department of Transportation following approval of that program by FTA. The UUCP will meet all of the requirements of this section. The following is a description of the UUCP:

The Utah Unified Certification Program (UUCP) has been established by three primary or certifying agencies, each of which has established DBE Programs. The primary agencies are the Utah Transit Authority, Salt Lake City Corporation for the Benefit of the Salt Lake City Department of Airports, and the Utah Department of Transportation. These three agencies have entered into an agreement to create such a program for the State of Utah, in compliance with 49 CFR Section 26.81.

The work of the UUCP will be performed by the certifying agencies meaning that the Utah Department of Transportation (UDOT), the Utah Transit Authority (UTA), and the Salt Lake City Department of Airports (SLCDA) will certify DBEs on behalf of all other member recipients. All certification actions under this UUCP shall be binding on all USDOT recipients within the State of Utah.

UDOT has agreed to house and maintain a unified DBE directory for the State of Utah, in accordance with 49 CFR Section 26.31. UDOT will maintain the directory for recipients within the State of Utah in an electronic format, and will also make the directory available to the public.

Section 26.83 Procedures for Certification Decisions

"No Change" affidavits and Notice of Change (26.83(j))

St. George City requires all DBEs to inform the UUCP, 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 DBE's application for certification.

The City also requires owners of all certified DBE firms to submit to the UUCP, 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: (this is sample language consistent with the regulatory provision):

I (insert name of DBE firm owner(s), swear (or affirm) that there have been no changes in (insert name of DBE firm)'s circumstances affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26 and 13 CFR part 121. I swear (or affirm) there have been no material changes in the information provided with

(insert name of DBE firm)'s application for certification, except for any changes about which I have provided written notice to St. George City under 26.83(j). (insert name of DBE firm) meets the 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 pervious three fiscal years do not exceed \$_____.

The UUCP will require DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

Personal Net Worth (26.67(b))

All disadvantaged owners of applicant firms and of currently-certified DBEs whose eligibility under part 26 is reviewed will be required by the UUCP to submit a statement of personal net worth. Said firms will be directed to contact the UUCP for a copy of the required personal net worth form and the documentation respondents must submit with it.

Section 26.85 Denials of Initial Requests for Certification

If the UUCP denies a firm's application or decertifies it, that firm must follow the procedures established by the UUCP in order to reapply for certification.

Section 26.87 Removal of a DBE's Eligibility

Removal of a DBE's eligibility will also be the responsibility of the UUCP. The eligibility removal process will be in accordance with the UUCP rules of operation and will be consistent with 26.87.

Section 26.89 Certification Appeals

Any firm or complainant may appeal the UUCP decision in a certification matter to DOT. Such appeals may be sent to:

Department of Transportation
Office of Civil Rights Certification Appeals Branch
400 7th Street, SW
Room 5414
Washington D.C. 20590

St. George City will honor any DOT certification appeal decision, when confirmed by the UUCP, affecting the eligibility of DBEs for DOT-assisted contracting.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

St. George City will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state and local law. St. George City will classify said records as confidential or private in accordance with such requirements. St. George City recognizes that it is the responsibility of persons seeking records to comply with the applicable provisions of the Utah Governmental Records Access Management Act (GRAMA).

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

Monitoring Payments to DBEs

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

The City will 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 to dollar amounts stated in the schedule of DBE participation.

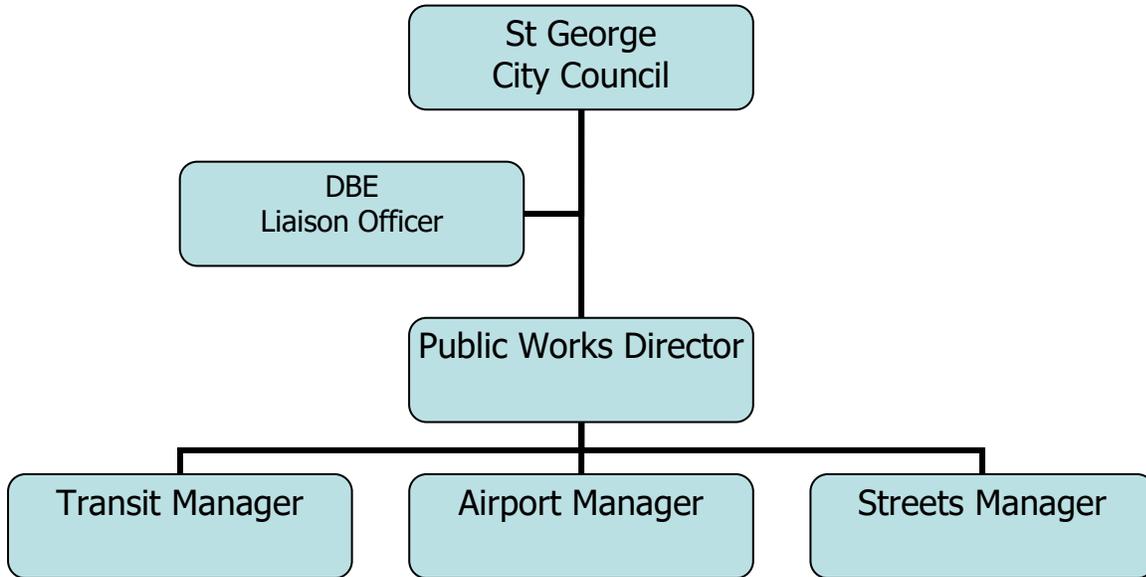
ATTACHMENTS

| | |
|--------------|--|
| Attachment 1 | Organizational Chart |
| Attachment 2 | DBE Directory |
| Attachment 3 | Monitoring and Enforcement Mechanisms |
| Attachment 4 | Overall Goal Calculation, Breakout of Estimated Race-Neutral and Race-Conscious Participation, Public Participation, and Contract Goal |
| Attachment 5 | Form 1 and Form 2 for Demonstration of Good Faith Efforts |
| Attachment 6 | Regulation: 49 CFR part 26 |

ATTACHMENT 1

**ST. GEORGE CITY
ORGANIZATIONAL CHART**

ATTACHMENT 1
ORGANIZATIONAL CHART



ATTACHMENT 2

DBE DIRECTORY

Most current directory can be found at this link

<https://www.udot.utah.gov/main/f?p=100:pg:0::::V,T,2252>

ATTACHMENT 3

**MONITORING
AND
ENFORCEMENT MECHANISMS**

MONITORING AND ENFORCEMENT MECHANISMS

St. George City has available remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to Utah State Code, Title 15, Chapter 4.

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.

ATTACHMENT 4

DBE GOAL METHODOLOGY AND CALCULATIONS

FFY 2016 - 2018

DBE Goal and Methodology



City of St. George

Transit Division

FFY 2016 - 2018

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Introduction

The City of St. George (City) is a recipient of Federal Transit Administration (FTA) funding to subsidize capital and/or operating activities of its transportation system. The City anticipates awarding more than \$250,000 (exclusive of transit vehicle purchases) of FTA funds in prime contracts in one or more fiscal year during the triennial period. Therefore, the City is required to submit an overall goal for DBE participation in the projected FTA-assisted activities. The goal methodology contained herein represents anticipated FTA-assisted activity from Federal Fiscal Years (FFY) 2016 to 2018.

Background

The Disadvantaged Business Enterprise (DBE) overall goal setting methodology is a requirement set for in the United States Department of Transportation (USDOT) DBE regulations, 49 Code of Federal Regulation (CFR) Part 26.45. The DBE regulations require USDOT recipients to set an overall goal based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on DOT- assisted contracts. The goal must reflect your determination on the level of DBE participation you would expect absent the effects of discrimination.

FTA-Assisted Contracting for FFY 2016 – 2018

If you are a FTA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or less in FTA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA for that fiscal year. However, if you have an existing DBE program, it must remain in effect and you must seek to fulfill the objectives outlined in §26.1. The City anticipates awarding less than \$250,000 in FTA funds for FFY 2017 and 2018. However, the City will continue to maintain and implement its DBE program. Table A.1 outlines the FTA funded portions on the anticipated City projects during the triennial period.

Table A.1

| FTA Funds on St. George Projects | 2016 | 2017 | 2018 | FY 2016 - 18 |
|--|-------------------|-------------------|------------------|---------------------|
| Capital Projects | | | | |
| Construction (restrooms, remodeling, benches) | \$ 93,600 | \$ 15,000 | \$ 15,000 | \$ 123,600 |
| Professional Services | | | | |
| Professional & Technical Services | \$ 7,650 | \$ 7,500 | \$ 7,500 | \$ 22,650 |
| Travel & Meetings | \$ 7,000 | \$ 3,750 | \$ 3,750 | \$ 14,500 |
| Materials, Goods & Supplies | | | | |
| Vehicle Maintenance | \$ 121,500 | \$ 90,000 | \$ 90,000 | \$ 301,500 |
| Fuel & Lubricants | \$ 65,000 | \$ 80,000 | \$ 80,000 | \$ 225,000 |
| Uniforms | \$ 2,000 | \$ 2,000 | \$ 2,000 | \$ 6,000 |
| Office Equipment & Supplies | \$ 1,500 | \$ 11,200 | \$ 11,200 | \$ 23,900 |
| Total FFY 2016-18 Contracting Opportunities | \$ 298,250 | \$ 209,450 | \$209,450 | \$ 717,150 |

Goal Methodology

DBE regulations require that you include with your overall goal submission a description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence you relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust your base figure.

Step 1: Determination of a Base Figure

The DBE regulations require that you begin your goal setting process by determining a base figure for the relative availability of DBEs. The City examined various sources identified in the US DOT *Tips for Goal Setting* to measure the relative availability data. It was determined that the DBE directory and census data were the most feasible sources available to derive the relative availability of DBEs and non-DBEs in the market area. The city examined procurement data to determine where the substantial majority of firms were located for the City contracting spend. The local market area was determined to be the St. George metropolitan statistical area (MSA) which includes St. George, Washington City, Santa Clara and Ivins.

The base figure was calculated using the methods prescribed in the US DOT *Tips for Goal Setting* for DBEs ready, willing and able as the numerator and all firms (DBEs and non-DBEs) as the denominator. The City examined the relationship on relative availability and size of projects during the triennial period. Through incorporation of weighting, the city was able to further refine the data based on relative availability for applicable projects. After establishing weights, the City determined the best sources for DBEs and census data were the Utah Unified Certification Program (UUCP) and US County Business Patterns, respectively. Table B.1 presents the weighted amounts on the FFY 2016-18 City projects.

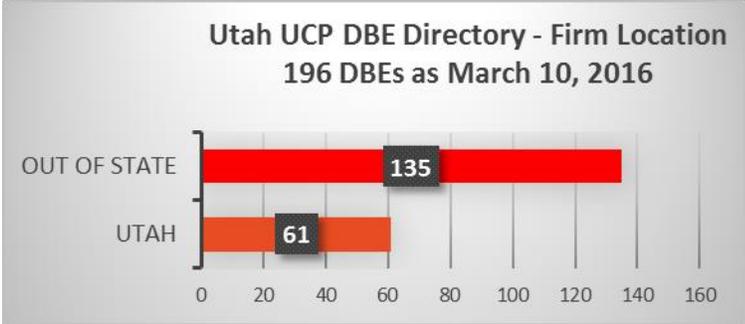
Table B.1

| FTA Funds on St. George | | | | | | |
|--|-------------------|-------------------|------------------|-------------------|----------------|--|
| Projects | 2016 | 2017 | 2018 | FY 2016 - 18 | Weight | |
| Capital Projects | | | | | | |
| Construction | \$ 93,600 | \$ 15,000 | \$ 15,000 | \$ 123,600 | 17.23% | |
| Professional Services | | | | | | |
| Professional & Technical Services | \$ 7,650 | \$ 7,500 | \$ 7,500 | \$ 22,650 | 3.16% | |
| Travel & Meetings | \$ 7,000 | \$ 3,750 | \$ 3,750 | \$ 14,500 | 2.02% | |
| Materials, Goods & Supplies | | | | | | |
| Vehicle Maintenance | \$ 121,500 | \$ 90,000 | \$ 90,000 | \$ 301,500 | 42.04% | |
| Fuel & Lubricants | \$ 65,000 | \$ 80,000 | \$ 80,000 | \$ 225,000 | 31.37% | |
| Uniforms | \$ 2,000 | \$ 2,000 | \$ 2,000 | \$ 6,000 | 0.84% | |
| Office Equipment & Supplies | \$ 1,500 | \$ 11,200 | \$ 11,200 | \$ 23,900 | 3.33% | |
| Total | \$ 298,250 | \$ 209,450 | \$209,450 | \$ 717,150 | 100.00% | |

The US Census County Business Patterns data identified a total 4,195 business establishments in the St. George MSA. This data was further refined through establishing North American Industry Classification System (NAICS) codes to the corresponding types of work the City forecasted to procure during the triennial goal period.

Upon review of the UUCP directory, it was determined that a majority of the DBEs were located outside of the St. George MSA and a substantial majority located outside the state of Utah. In an effort to have an “apples to apples” compilation of data and not restrict the denominator to St. George MSA and numerator to state-wide, it was determined that the local market area should be the entire state. Table B.2 compares the number of out-of-state DBEs to those located in-state in the Utah UCP directory.

Table B.2



The City also attempted to use the most refined data available by searching the UUCP directory based on six-digit NAICS codes and noticed limitations on the variations in code designation for DBEs performing similar types of work. Therefore, the City used a four to six digit NAICS code to ensure that the data was not too refined as to restrict the DBE relative availability based on the UUCP directory.

The City determined the step one base figure was 0.70%. Table C.1 outlines the specific NAICS code, relative availability and weighted base figure for each project category.

Step 2: Adjusting the Base Figure

Once you have calculated a base figure, the regulations require you to examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at your overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

The City contracted less than \$250,000 in FTA funds for FFY 2013-15 and was subsequently not required to develop an overall DBE goal. Therefore, no historical information is available to examine relating to past participation of DBEs in City of St. George contracts. There also is no known information from disparity studies or other availability studies for the City to consider. Based on these factors, the City determined that an adjustment to the step one base figure was not warranted.

Table C.1

| NAICS | FFY 2016-18 Projects | FTA Funds | Relative Availability | Weight | Weighted Base Figure |
|--------------|--|-------------------|------------------------------|---------------|-----------------------------|
| | CONSTRUCTION CAPITAL PROJECTS | \$ 123,600 | 0.0062 | 0.1723 | 0.0011 |
| 23622 | Commercial building construction | | | | |
| 23822 | HVAC contractors | | | | |
| 23819 | Other exterior contractors | | | | |
| 23839 | Other finishing contractors | | | | |
| | PROFESSIONAL & TECHNICAL SERVICES | | | | |
| | Consulting | \$ 22,650 | 0.0124 | 0.0316 | 0.0004 |
| 54161 | Management consulting | | | | |
| | Travel & Meetings | \$ 14,500 | 0.0000 | 0.0202 | 0.0000 |
| 56151 | Travel agencies | | | | |
| | MATERIALS, GOODS & SUPPLIES | | | | |
| | Vehicle Maintenance | \$ 301,500 | 0.0084 | 0.4204 | 0.0035 |
| 81131 | Commercial equipment repair and maintenance | | | | |
| 811111 | General automotive repair | | | | |
| 811118 | Other automotive mechanical and electrical repair | | | | |
| 42313 | Tire and tube merchant wholesalers | | | | |
| 42312 | Motor vehicle supplies and new parts | | | | |
| 42386 | Transportation equipment and supplies | | | | |
| 334118 | Computer terminal and peripheral equipment manufacturing | | | | |
| | Fuel & Lubricants | \$ 225,000 | 0.0039 | 0.3137 | 0.0012 |
| 42471 | Petroleum bulk stations | | | | |
| 42472 | Petroleum products merchant wholesalers | | | | |
| 42512 | Wholesale trade agents | | | | |
| | Uniforms | \$ 6,000 | 0.0612 | 0.0084 | 0.0005 |
| 81233 | Linen and uniform supply | | | | |
| 3152 | Cut and sew apparel manufacturing | | | | |
| | Office Equipment & Supplies | \$ 23,900 | 0.0068 | 0.0333 | 0.0002 |
| 45321 | Office supplies stores | | | | |
| 4234 | Professional and commercial equipment supplies wholesalers | | | | |
| | TOTAL | \$ 717,150 | | 100% | 0.70% |

a. Public Participation

In establishing an overall goal, you must provide for consultation and publication. This includes: (i) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused

on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review. You must document in your goal submission the consultation process you engaged in as per DBE regulations.

Consultation

The City searched for available contractor groups and community organizations in St. George, Utah and surrounding areas. Table D.1 highlights the groups invited to participate in a video conference scheduled for March 31, 2016.

Table D.1

| Consultation Groups |
|--|
| Utah Procurement Technical Assistance Centers at |
| Southern Utah University* |
| Dixie Business Alliance* |
| Utah Office of Multicultural Affairs |
| Salt Lake City, DBE Liaison Officer* |
| Associated General Contractors of Utah |

*denotes participation in the consultation meeting

The comments received from the consultation meeting involved scopes of work that DBEs may participate on City projects, the low number of Utah based DBEs and strategies to encourage more minority and women-owned firms to get DBE certified. The information gathered as a result of the consultation process did not warrant any changes to the goal setting process or the City’s methodology to level the playing field for socially and economically disadvantaged individuals.

Publication

The City published a notice announcing the proposed overall goal before its submission to the Federal Transit Administration. The notice was posted on the City of St. George official internet web site. If FTA requests any changes to the proposed goal after their initial review, the revised goal will be posted on the City’s official internet web site.

Proposed Overall DBE Goal

The proposed overall FFY 2016-18 DBE Goal for the City of St. George will be 0.70%.

The DBE regulations require you to include your projection of the portions of the overall goal you expect to meet through race (and gender)-neutral and race (and gender)-conscious measures, respectively. When an FTA grantee contracts directly with DBE firms, it is considered race-neutral participation. The City will most likely contract directly with all firms participating in the anticipated FTA-assisted projects due to limited/no subcontracting opportunities. Therefore, the City anticipates meeting 100% of the overall DBE Goal through race-neutral measures.

Race-Neutral Implementation Measures

DBE regulations require you to meet the maximum feasible portion of your overall goal by using race-neutral means of facilitating race-neutral DBE participation. The City will implement mechanisms outlined in its DBE program plan to foster and promote Small Business Enterprise participation. The City will maintain a list of certified small businesses and DBEs and will send Requests for Proposals (RFPs) and Requests for Bids (RFBs) for projects and contracts that are funded with FTA monies to these businesses.

One of the strategies recommended in the DBE regulations is providing technical assistance and other services to DBEs. The City does not maintain the resources to directly provide technical assistance. However, the City will maintain relationships with the Utah Procurement Technical Assistance Centers (PTAC) and other advocacy groups to foster participation from DBEs and other small businesses. The City will also encourage minority and women-owned businesses to seek DBE certification and refer these firms to PTAC for assistance with certification application preparation.

In order to ensure that the St. George City DBE Program will be narrowly tailored to overcome the effects of discrimination, if contract goals are to be used, the City will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)). St. George City 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 of a prime contract that does not carry a DBE goal; and,
- DBE participation of a prime contract exceeding a contract goal.

St. George City will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

ATTACHMENT 5
GOOD FAITH EFFORT FORMS

ATTACHMENT 5

FORMS 1 & 2 for Demonstration of Good Faith Efforts

Forms 1 & 2 are to 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 and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature)

Title _____

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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 representation in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)

ATTACHMENT 6

REGULATIONS: 49 CFR PART 26

Current one will be found at

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl