



BRAZOS TRANSIT DISTRICT
DBE PROGRAM PLAN

DECEMBER 2017

POLICY STATEMENT

OBJECTIVES/POLICY STATEMENT

Section 26.1, 26.23

Brazos Transit District (BTD) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. BTD is the recipient of federal financial assistance from the Federal Transit Administration (FTA) and as a condition of receiving this assistance, BTD 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. BTD understands its legal obligations to implement this DBE Program plan. Failure to carry out the program shall be treated as a violation of the Federal Financial Assistance Assurance with FTA and BTD may be subject to sanctions and enforcement actions under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

It is the policy of BTD to ensure that DBEs as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy to:

1. Ensure nondiscrimination in the award and administration of U.S. DOT FTA-assisted contracts in the transit financial assistance programs;
2. Create a level-playing field on which DBEs can compete fairly for U.S. DOT FTA-assisted contracts;
3. Implement the DBE Program plan in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to be counted as DBEs.
5. Refer firms to Office of Small & Disadvantaged Business Utilization (OSDBU) and Brazos Valley Small Business Development Center (BVSBD) so DBE's can compete successfully outside the DBE program and assist in removing barriers.
6. Monitor and enforce the requirements of the DBE Program on FTA assisted contracts.

Shirley Richards, Vice President of Financial Affairs, has been delegated as the DBE Liaison Officer (DBELO). The Vice President of Financial Affairs is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by BTD in its financial assistance agreements with the FTA.

BTD has disseminated this policy statement to the BTD Board of Directors and all transit related components of BTD. BTD will post this statement on its website to reach DBE and non-DBE business communities such as BVSBA, LULAC and National Association of Women Business Owners.

By signature of the DBE Policy Statement, BTD gives it assurance to FTA to comply with 49 CFR Part 26.

John McBeth
President/CEO
Brazos Transit District

Date

GENERAL REQUIREMENTS – SUBPART A

Objectives – Section 26.1

The objectives of a DBE program, as listed in 49 CFR Part 26.1, are included in the first page of this program plan.

Applicability – Section 26.3

BTD is the recipient of FTA funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III and V of the TEA-21, Pub. L. 105-178. Titles I, III and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

Definitions – Section 26.5

BTD accepts the definitions contained in 49 CFR Section 26.5 for this program plan.

Non-discrimination Requirements – Section 26.7

BTD and its contractors 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, BTD 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.

Reporting and Record Keeping Requirements – Section 26.11

Reporting to FTA: 26.11(b)

BTD will report DBE participation to FTA on a biannual basis using the Uniform Report of DBE Awards or Commitments and Payments Form. Due dates for these reports are June 1 (for the period October 1 – March 31) and December 1 (for the period April 1 – September 30). BTD will begin collecting and analyzing the DBE awards or commitments and payments at least 60 days prior to the actual due dates of the reports. These reports will reflect payments actually made to certified DBEs on FTA assisted contracts. The reports will not include information on contracts BTD may execute using only local funds and state funds.

Bidders List: 26.11(c)

BTD will maintain a vendor list in its accounting software consisting of information about all DBE and non-DBE firms that bid or quote on FTA assisted contracts. The vendors list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of the firms.

BTD will collect and maintain the vendor information by conducting a survey once every three years to firms who have pursued BTD procurements and have indicated an interest in BTD procurements. The purpose of this requirement is to consider the results in the use of the bidder's list approach to calculating the overall triennial goals.

Federal Financial Assistance Agreement – Section 26.13

Assurances – Section 26.13 (a)

The signed DBE assurance of compliance with 26.13(a) is found in the policy statement on the first page of this program plan.

Contract Assurance: Sections 26.13(b) and 26.53(h)

We will ensure that the following clause is placed in every FTA assisted contract and subcontract:

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

- *Withholding monthly progress payments;*
- *Assessing sanctions;*
- *Liquidated damages; and/or*
- *Disqualifying the contractor from future bidding as non-responsive.*

Exemptions or Waivers: Section 26.15

BTD understands we can apply for an exemption or waiver from any provisions to Sub Parts B and C of 49 CFR Part 26 including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. In the event BTD requests an exemption or waiver, BTD will follow the procedures in section 26.15 and the request will document the special or exceptional circumstances for the exemption or waiver being requested.

ADMINISTRATIVE REQUIREMENTS – SUBPART B

DBE Program Updates – Section 26.21

BTD has received, and expects to receive grants of \$250,000 or more in FTA planning capital, and/or operating assistance in current and upcoming federal fiscal years. BTD will continue to carry out this program until all funds from FTA financial assistance have been expended. BTD will provide to FTA updates representing significant changes in the program on an as needed basis and routinely every three years.

Policy Statement – Section 26.23

The signed Policy Statement is provided on the first page of this program plan.

DBE Liaison Officer (DBELO) – Section 26.25

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

Shirley Richards
Vice President of Financial Affairs, DBELO
Brazos Transit District
1759 N. Earl Rudder Freeway
Bryan, TX 77803
shirley@btd.org
979.778.0607 ext. 4481

The DBELO is responsible for implementing all aspects of the DBE program and ensuring that BTD complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to President/CEO of BTD, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment 1** to this program plan.

The DBELO coordinates, implements and monitors the DBE program, in coordination with other appropriate officials within BTD such as the Grants Coordinator, Procurement Officer, Finance and the Senior Vice President for Maintenance and Operations. There is an additional staff member to assist the DBELO 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 and submitted on time.
2. Works with BTD's management to set overall triennial goals and the individual race-conscious goal as applicable.
3. Ensures that construction bid notices and requests for proposals are available on BTD's website in a timely manner. Works with the Procurement Officer to contact DBE's on the TUCP list with TxDOT for available opportunities.
4. Analyzes BTD's progress toward DBE goal attainment and prepares shortfall analysis, if needed.
5. Informs the President/CEO on DBE matters and achievements.
6. Monitors contracts with DBE participation for compliance with the DBE Program requirements.
7. Provides DBEs and Small Business with information, through the BTD website on where they may obtain assistance.
8. Communicates with DBEs and business organizations to inform them of upcoming opportunities.

DBE Financial Institutions – Section 26.27

BTB has searched the TxDOT DBE directory for qualified companies offering financial and related services. There is no DBE-certified financial services institution operating in the BTB service area. BTB will search the TxDOT DBE directory on an annual basis to determine if there is a DBE-certified financial services institution operating in the Bryan and Lufkin region. Should there be such an institution, BTB will make reasonable efforts to use the institution.

Prompt Payment Mechanisms – Section 26.29

Prompt Payment: 26.29(a)

BTB will include the following clauses 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 BTB. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval by BTB.

BTB has established the following mechanisms to monitor and enforce prompt payment and return of retainage:

1. The bidder shall provide the DBELO with a copy of DBE subcontracts or purchase orders upon request. The subcontracts between the contractor and its subcontractors must contain the above reference prompt payment clause as set forth herein.
2. During the term of the contract and when there is DBE participation, the prime contractor shall submit a monthly DBE Contractors Payment Report Form to the DBELO **Attachment 2**

3. The prime contractor must 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 BTD or DOT.
4. Upon completion of the contract where there is DBE utilization and prior to final payment, the prime contractor shall submit the DBE Contract Close-out Statement of Compliance form to the DBELO **Attachment 3**

BTB has available several remedies to enforce the DBE utilization and prompt payment and return of retainage requirements which includes but not limited to, the following:

1. Withholding monthly progress payments;
2. Disqualifying the contractor from future bidding as non-responsible; and/or
3. Delay final contract payment until compliance with this section, if needed.

Directory – Section 26.31

BTB uses a directory developed and maintained by the Texas Department of Transportation (TxDOT) to identify firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The Directory is available online on the TxDOT website at www.txdot.txdotcms.com.

Overconcentration – Section 26.33

During preparation of the overall triennial DBE goal, BTB will assess whether there is an overconcentration of DBEs in certain types of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work. If there is a possible overconcentration, BTB will consider varying our use of the type of work to establish the individual DBE contract goals and the triennial DBE goal. Currently, BTB has not identified that an overconcentration exists in the types of work that BTB solicits from DBE subcontractors.

Business Development Programs – Section 26.35

BTB has not established a business development program. BTB will refer small businesses and DBEs to the Office of Small & Disadvantaged Business Utilization (OSDBU) www.state.gov/s/dmr/sdbu, Brazos Valley Small Business Development Center (BVSBD) www.bvsbdc.org, and Prairie View A&M University's Small Business Development Center (PVAMU SBDC) www.pvamu.sbdcnetwork.net, for business development assistance in areas such as bidding, marketing, accounting and access to capital.

Monitoring and Enforcement Mechanisms – Section 26.37 26.53

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

1. We will bring to the attention of the DOT any false, fraudulent or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in Section 26.109.

BTB has a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. BTB will:

2. Complete an on-site Commercially Useful Function (CUF) review by a BTB staff member, on a construction project to inspect if the DBE work is being performed by the DBE as specified in the contract;
3. Keep a running tally of payments made to DBEs (Section 26.29) for work performed. The

- DBELO will track payments made by the contractor to DBEs.
4. Review the construction contractor's DBE Contract Compliance Closeout report before issuing final payment to the contractor.
 5. As needed, require the contractor to provide the DBELO with a copy of the DBE subcontracts and/or purchase orders.
 6. Submit semi-annual uniform report of DBE Awards or Commitments and Payments (Section 26.11) to report DBE participation on BTD DOT-assisted procurements.

Fostering Small Business Participation – Section 26.39

BTD is committed to fostering small business participation in its procurements. Participation of SBEs is incorporated into this DBE program in accordance with 49 CFR Part 26.

BTD will use the following strategies to promote SBE participation:

- Including in the BTD contract clauses, the request to bidders on large contracts to identify subcontract opportunities appropriate for small business participation.
- Refer SBEs to the SBA and Small Business Development Centers by providing websites address for assistance.
- Strongly encourage SBEs to pursue procurement opportunities by registering their interest through BTD's website.

GOALS, GOOD FAITH EFFORTS, AND COUNTING – SUBPART C

Set-asides or Quotas – Section 26.43

BTD does not use set-asides and/or quotas in the administration of BTD's DBE Program.

Overall Goals – Section 26.45

A description of the methodology to calculate the overall goal and the goal calculations can be found in the DBE Goal documentation.

In accordance with Section 26.45(f), BTD will submit its overall goal to FTA by August 1 at three-year intervals based on a schedule as specified by FTA. BTD may adjust the three-year overall goal during the three-year period to reflect changed circumstance, but FTA must review and approve the change.

Before establishing the overall goal every three years, BTD will consult with local agencies and organizations, such as LULAC, BVSBA and National Association of Women Business Owners to determine the availability of DBEs, and non-DBEs, the effects of discrimination on opportunities for DBEs and BTD's efforts to improve the participation of DBEs. Based on BTD's vendor's list, which includes DBEs and non-DBEs, BTD will send a notice to these firms requesting input.

BTD will prepare its overall DBE goal and methodology and post a notice of the proposed overall goal on BTD's website for input. The overall DBE goal will be posted until the goal is updated. The notice will inform the public about the proposed goal, the rationale for establishing the goal, a location where the proposed goal and rationale can be reviewed for 30 days following the date of the notice and an address where comments can be sent. BTD will accept comments about the goal and rationale for 30 days from the date of the notice. BTD's overall DBE goal submission to FTA will include a summary of information and comments received during the public consultation and participation process and our responses, if needed. BTD will begin using the overall goal on October 1 unless BTD receives other instructions from FTA.

Meeting the Overall Goal – Section 26.47

If the awards and commitments shown on our Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, BTD will provide assurance to FTA that we are implementing our DBE program in good faith. We will prepare a shortfall analysis to:

1. Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year; and
2. Establish specific steps and milestones to correct the problems identified in our analysis and to enable meeting our goal for the new fiscal year.

If needed, we will prepare the shortfall analysis and corrective action plan with timetables and have it available by the last working day in December in which the shortfall occurred. The analysis will be available to FTA upon request.

Transit Vehicle Manufacturers Goals – Section 26.49

BTD will require each transit vehicle manufacturer, as a condition of being authorized to propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of Section 26.49. BTD will rely on the FTA Headquarters, Office of Civil Rights process to approve a TVM's DBE Program plan and goal. BTD will submit the notice of TVM award within 30 days of the award to FTA Headquarters, Office of Civil Rights.

Race-Neutral Measures – Section 26.51(a-c)

BTD's DBE Program is designed to be race-neutral and its overall DBE participation goal will similarly have a DBE race-neutral goal. If an annual review of BTD's record of DBE participation in its contracts indicates a need to consider race-conscious goals, BTD will follow the guidance in 26.51(d-g) to establish race-conscious measures.

BTD will implement Race-Neutral measures to meet the maximum portion of the Overall Triennial DBE Goal in accordance with 49 CFR Part 26.51, including but not limited to:

- Post timely solicitations for bids in ways that facilitate DBE participation.
- Where possible break-down large contracts to encourage DBE's to bid as prime contractor.
- Encourage prime contractors to identify subcontract work that DBE's may bid on.
- Refer DBEs to the local Small Business Development Center, the TxDOT Business Development Assistance, and OSDBU, for technical assistance and other business development services that will enable the DBE to bid BTD's procurements. (Refer to **Business Development Programs – Section 26.35** for web address of agencies providing business development assistance.)
- Provide information on contracting procedures and specific contract opportunities on BTD's website.
- Disseminate bid opportunity information to Minority and Women Business Organizations.

Race-Conscious Participation through Contract Goals - Section 26.51(d-g)

BTD will use contract goals to meet any portion of the overall goal, BTD 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 our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We 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 methodology, to setting an individual race-conscious DBE goal on a contract, will generally follow the steps to establish the overall triennial DBE goal.

We will express our contract goal as a percentage of the Federal share of a DOT-assisted contract.

Good Faith Efforts Procedures – Section 26.53

Demonstration of good faith efforts Section 26.53(a) & (c)

The obligation of the bidder is to make good faith efforts with respect to a contract with a DBE contract goal. 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 49 CFR Part 26.

The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive:

We will ensure that all information is complete and accurate and adequately documents the bidder/offer met the DBE goal or demonstrated a good faith effort to meet the goal before we commit to the performance of the contract by the bidder.

For discussion on Section 26.53, a bidder has the same meaning as a proposer or offeror. Bid has the same meaning as purchase order or cost proposal. A contractor has the same meaning as a construction contractor, prime consultant or material supplier, unless specified differently.

Award of Contract when the DBE Contract Goal is Met: Section 26.53(a)(1)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, BTD will award the contract to a bidder who documents that it has obtained sufficient DBE participation to meet the goal. The bidder will submit the DBE Commitment form with a copy of the DBE quote within 5 days of bid opening to the DBELO. See **Attachment 4** or DBE Quote Confirmation form.

Award of Contract when the DBE Contract Goal was Not Met and a Demonstration of Good Faith Effort was made: Section 26.53(a)(2)

In those instances where a contract-specific DBE goal is not met, BTD will evaluate the bidder's good faith effort documentation to determine if adequate good faith efforts were made to meet the DBE goal. The bidder will submit the DBE Commitment form with a copy of the DBE quote; and good faith effort documentation with related supporting documents within 5 days of bid opening to the DBELO.

Information to be Submitted: Section 26.53(b)(2)

Each solicitation for which a contract goal has been established will require the bidders to submit the DBE Quote Confirmation form (**Attachment 4**) for each DBE on the contract with 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 confirmation from the DBE that it is participating in the contract as provided in the prime contractor's bid; and,
5. Include a copy of the DBE quote.

Demonstration and Evaluation of Good Faith Efforts: Sections 26.53(a)(2) and (c)

The DBELO is responsible for determining whether a bidder who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive to the DBE requirements. BTB treats bidders' compliance with good faith efforts' requirements as a matter of responsiveness.

The bidders will complete and submit the DBE Good Faith Effort form and associated documentation; DBE Commitment form and DBE quotes within 5 days of bid opening to the DBELO. The process used to determine whether good faith efforts have been made by a bidder will include consideration of the following:

- A. Documentation that the bidder attended a pre-bid meeting, if any, to network with DBEs on subcontracting opportunities under a given solicitation.
- B. Documentation that for at least 5 business days before bids are due, advertisements were placed in publications that DBEs use to find subbid opportunities. The advertisement should include but not be limited to the description of the project; subcontracting opportunities; date the subbid is due, who to contact at the bidder's office on questions regarding the project plans and specifications, bidder's subcontract conditions and other pertinent project information that will impact the subbid price and subbid conditions.
- C. Documentation that written solicitations were sent to sufficient number of DBEs, who could reasonably perform the subcontracting opportunities. The written solicitation will provide similar information as included in the notice of publication and where the DBE may obtain business service assistance in order to prepare the subbid.
- D. Documentation on the follow-up efforts made with DBEs who did not respond to the initial written solicitation for subbids. Documentation to support the initial written and follow-up solicitation will include:
 - 1. The names, addresses, and telephone numbers of DBEs that were contacted and the date(s) of contact.
 - 2. A copy of the written information provided to DBEs regarding the project plans and specifications and general contract requirements for the work to be performed.
 - 3. The result of the solicitation, to include the DBE's comments.
- E. Documentation of efforts made to assist the DBEs who requested assistance in obtaining bonding or insurance or other bidding assistance such as equipment, supplies, materials or related assistance or services.
- F. Documentation of efforts to utilize the services of minority/women/small business organizations, community and contractor groups to locate qualified DBEs.
- G. Documentation that the bidder has broken out contract work items into economically feasible units in fields where there are available DBE firms to perform the work.
- H. Documentation for each DBE bid that was rejected, the reason the DBE bid was rejected.

The DBELO will analyze the information for truthfulness, completeness and that it adequately documents the bidder's good faith efforts.

If the DBE goal was met and/or a demonstration of good faith effort was made, the bid package will be forwarded to BTB's Procurement Officer for further bid processing.

If the DBE goal was not met and the bidder did not demonstrate adequate good faith efforts, the DBELO will prepare a report of findings and submit it to BTD's Procurement Officer for further processing. The bidder may request an Administrative Reconsideration meeting.

Administrative Reconsideration 26.53(d)

Within 15 days of being informed by BTD that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. The bidder should make this request in writing to the following reconsideration official:

Wayne Rife, General Counsel
The Law Office of Wayne Rife
3205 Earl Rudder Freeway, South
College Station, TX 77840
Email: w.rife@rifelaw.com

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. Or, the bidder will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We 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 DOT.

SAMPLE BID LANGUAGE IN CONTRACT PROVISIONS

When BTD specifies a contract goal versus a general goal, we will insert into affected contracts language similar to that set out below:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of BTD 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 X percent has been established for this contract.

BTB will award the contract to a bidder who documents that it has met the DBE goal or demonstrated a good faith effort to meet the goal. The bidder will submit the DBE Commitment form with a copy of the DBE quote within 5 days of bid opening to the DBELO. The DBE Commitment form requires the 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 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);

The bidder/offeror shall make good faith efforts, as defined in BTB's DBE Program Plan Section 26.53.

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goal: Section 26.53(f) and (g)

BTD requires that prime contractors not terminate a DBE subcontractor listed on a contract with a DBE contract goal without BTD's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to BTD its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to BTD prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise BTD on why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, BTD will require the prime 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. BTD 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, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

The contractor is advised to complete and submit the DBE Substitution/Termination Request to the DBELO.

If the contractor fails or refuses to comply in the time specified, BTD will issue an order stopping all or part of payment until satisfactory action has been taken.

Counting DBE Participation – Section 26.55

BTD will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55 (a) - (h).

BTD will also follow commercially useful function as provided in 49 CFR 26.55 (c)(3). When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. BTD may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

SUBPART D – CERTIFICATION STANDARDS

Sections 26.61 – 26.73 Certification Process

BTD will rely on the list of DBE-certified companies maintained by the TxDOT to determine those firms eligible to participate as DBEs. Firms desiring to establish DBE certification can do so by completing forms that can be found on the TxDOT DBE website at: www.txdot.txdotcms.com

SUBPART E – CERTIFICATION PROCEDURES

Sections 26.81-26.91 Unified Certification Program and Certification Procedures

BTD is a member agency of the State of Texas Unified Certification Program (TUCP) administered by the TxDOT. The TxDOT UCP has an approved UCP and USDOT has certified their certification standards and procedures to make certification determinations as required in sections 26.61 through 26.91.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

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

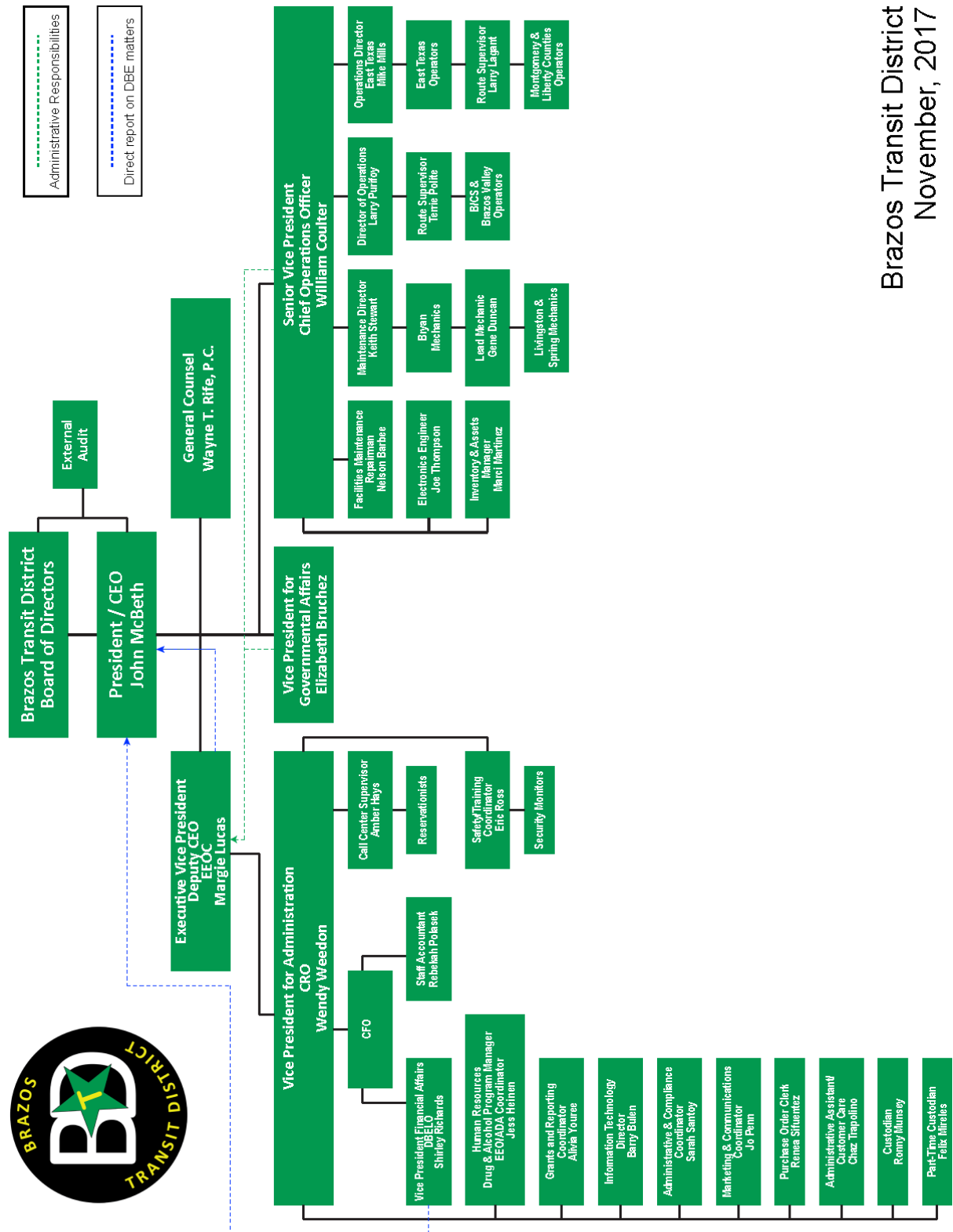
BTB will cooperate fully and promptly with DOT and other government agencies in an investigation related to compliance and enforcement of 49 CFR Part 26.

BTB will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by 49 CFR Part 26 or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 49 CFR Part 26.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Contractors Payment Report Form
Attachment 3	DBE Contract Close-out Statement of Compliance
Attachment 4	DBE Quote Confirmation Form
Attachment 5	Certification Application Forms
Attachment 6	Procedures for Removal of DBE's Eligibility
Attachment 7	Regulations: 49 CFR Part 26
Attachment 8	UCP Certification

Attachment 1 – Organizational Chart



Brazos Transit District
November, 2017

Attachment 2 – DBE Contractors Payment Report Form



BRAZOS TRANSIT DISTRICT CONTRACTOR PAYMENT REPORT FORM

TO BE INCLUDED WITH EACH PAY APPLICATION UNTIL FINAL PAYMENT OF THE CONTRACT HAS BEEN MADE

CONTRACTOR PAYMENT REPORT FORM

Instructions: Contractors are required to complete and submit this report, as specified in the contract or as requested, until final payment of the contract has been made. Failure to comply with the DBE provisions may result in contract termination, or the suspension or debarment of the contractor from doing business with Brazos Transit District in the future in accordance with the procedures set forth in the DBE Program. This report must be submitted with each invoice. Instructions for completing this report can be found on the following sheet.

1 Contract Number, if applicable	2 Invoice Number	3 Reporting Period		4 Contractor's Business Name	5 Contact Person	6 Address
		From:	To:			
7 Telephone Number	8 Date of Contract Award	9 Schedule Date of Completion	10 Schedule Date of Completion	11 Current Contract Modifications	12 Total Amount Received to Date	13 Total Amount Owed
14 Committed DBE%	15 Actual DBE Participation to date	16 Actual DBE % to date				

17 Name of DBE Subcontractor	18 Description of Work	19 Amount of payments made during current invoice period	20 Date of payments made during current invoice period	21 Subcontract Dollars	22 Amount paid to date	23 Percent paid to date	24 Amount of this invoice allocated to DBE Subcontractor

(Add rows to the table, as needed, to complete this section)

By completing this form, the Contractor acknowledges BTB's prompt payment policy, which requires the Contractor to pay all subcontractors within 10 days of receiving payment from BTB.

Signature	Date Signed	Name and Title of Individual Completing Report

Instructions on how to fill out BTB's Contractor Payment Report Form:

- 1. Contractor Number**
Fill in the Contract number, if any, assigned to your project
- 2. Invoice Number**
Fill in the invoice number for this report
- 3. Reporting Period**
Fill in dates covered
- 4. Contractor's Business name**
Fill in your company's name
- 5. Contact Person**
Fill in the first and last name of the person to contact
- 6. Address**
Fill in your company's address
- 7. Telephone Number**
Fill in your company's phone number
- 8. Date of Contract Award**
Fill in the date the contract was executed by both you and Owner
- 9. Schedule Date of Completion**
Fill in the completion date of the contract as written
- 10. Original Contract Amount**
Fill in the dollar amount of the original contract agreed upon by you and Owner
- 11. Current Contract Modifications**
Fill in the dollar amount of the original contract plus/minus the dollar amount agreed upon at the later date as a result of contract modifications, if applicable. Include date the modification was executed.
- 12. Total Amount Received to Date**
Fill in the dollar amount you have received to date
- 13. Total Amount Owed**
Fill in the dollar amount of the contract minus the amount paid to you
- 14. Committed DBE %**
Fill in the percentage of DBE participation you committed to obtain in the contract
- 15. Actual DBE Participation to Date**
Fill in the calculated dollar amount paid to the DBEs
- 16. Actual DBE % to Date**
Calculated field
- 17. Name of DBE Subcontractor**
Name all DBE subcontractors (*Add rows to the table, as needed, to complete this section*)
- 18. Description of Work**
Fill in a short description of the work performed
- 19. Amount of Payments Made During Current Invoice Period**
State the amount of last payment made to each DBE subcontractor.
Submit evidence of payment, i.e. cancelled check, check register, etc.
- 20. Date of Payments Made During Current Invoice Period**
State the date of last payment made to each DBE subcontractor.
- 21. Subcontract Dollars**
Fill in the committed dollar value to the DBE subcontractor
- 22. Amount Paid to Date**
Add all amounts paid to each DBE subcontractor to date
- 23. % Paid to Date**
Fill in the dollar amount paid to the DBE subcontractor divided by the amount committed to them (Item 20 divided by Item 19)
- 24. Amount of this Invoice Allocated to Subcontractor**
Fill in how much of this invoice will be paid to each DBE subcontractor

Attachment 3 –
DBE Contract Close-out Statement of Compliance



Project No: _____

Project Name: _____

DBE CONTRACT CLOSE-OUT STATEMENT OF COMPLIANCE

I, _____, undersigned, am _____
(Name – Print) (Position)

with the authority to act for and on behalf of _____,
(Name of Agency)

certify under penalty of perjury that this federal-aided project has been monitored in
conformance with Part 26 of Title 49 of the Code of Federal Regulations.


Date: _____ Signature: _____

Comments/Exceptions (Explanation):

Enclosures: DBE Final Payment and Prompt Payment Verification (Form XX)

Mail or email to:

Attachment 4 – DBE Quote Confirmation Form

	DBE QUOTE CONFIRMATION DBE to Complete this Section and submit to Bidder/Proposer																																				
Contract Number: _____ Bidder/Proposer's Name: _____ DBE Name, Address, Telephone Number: _____ _____ Sub Bid/Proposal Amount: \$ _____ Sub Bid/Proposal Submittal Date: _____ DBE Certified by: _____ DBE Certification Number: _____																																					
DBE Quote Confirmation Information																																					
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding: 5px;">Description of services to be Performed by DBE</th> <th style="text-align: center; padding: 5px;">Quantity</th> <th style="text-align: center; padding: 5px;">Dollar Amount</th> </tr> </thead> <tbody> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> <tr><td style="height: 20px;"></td><td></td><td></td></tr> </tbody> </table>	Description of services to be Performed by DBE	Quantity	Dollar Amount																															<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%; text-align: right; padding: 5px;">DBE Total Dollar Amount Quoted</td> <td style="width: 20%; padding: 5px;">\$ _____</td> </tr> </table>		DBE Total Dollar Amount Quoted	\$ _____
Description of services to be Performed by DBE	Quantity	Dollar Amount																																			
DBE Total Dollar Amount Quoted	\$ _____																																				
<p style="text-align: center; margin: 0;">Important Information</p> <p style="font-size: small; margin: 10px 0;">IMPORTANT: Identify all scope of work to be performed by the DBE. Supplier quotes received 60% credit towards the DBE goal, regardless of tier. The DBE scope of work must be consistent with the work code/scope issued by the DBE certification agency.</p> <p style="font-size: small; margin: 10px 0;">A copy of the DBE quote and or proposal is required as an attachment with this form.</p> <p style="font-size: small; margin: 10px 0;">Submit this completed form and copy of the DBE quote to the bidder/proposer within 5 days of the bid/proposal submittal date.</p> <p style="font-size: small; margin: 10px 0;">If you have any questions on the completion of this form, call DBELO at: 979-778-0607 ext. 4481</p> <p style="font-size: small; margin: 10px 0;">The Bidder/Proposer is responsible to ensure the accuracy and completeness of the information contained in this form.</p>	<div style="border-bottom: 1px solid black; margin-bottom: 10px; height: 30px;"></div> DBE Preparer's Signature																																				
	<div style="border-bottom: 1px solid black; margin-bottom: 10px; height: 30px;"></div> Preparer's Name (Print)																																				
	<div style="border-bottom: 1px solid black; margin-bottom: 10px; height: 30px;"></div> Preparer's Title																																				
	Date: _____																																				

Attachment 5 – Certifications Applications Forms

The Texas Unified Certification Program (TUCP) website potential certified DBE Firms, <https://www.txdot.gov/inside-txdot/office/civil-rights/tucp.html>, and SBE Firms, http://www.dot.state.tx.us/business/business_outreach/sbe.htm, with applications and instructions

Attachment 6 – Procedures for Removal of DBE's Eligibility

The TUCP maintains their Standard Operating Procedures, including DBE eligibility removal, on their website, <https://www.txdot.gov/inside-txdot/office/civil-rights/tucp.html>.

Attachment 7 – Regulations: 49 CFR Part 26

A copy of 49 CFR part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, can be viewed at <http://www.gpo.gov/fdsys/pkg/CFR-2010-title49-vol1/pdf/CFR-2010-title49-vol1-part26.pdf> or requested from the DBELO.

Attachment 8 –
UCP Certification

TEXAS UNIFIED CERTIFICATION PROGRAM
LETTER OF AGREEMENT

Federal Regulation, 49 CFR, Part 26, Subpart E, section 26.81 states that each state must implement a “one stop” certification process for Disadvantaged Business Enterprises (DBEs). Each entity receiving Department of Transportation (DOT) funds is required to enter into and sign an agreement establishing and supporting a Unified Certification Program (UCP) within the state. In response to this mandate, six agencies have agreed to perform the certification of DBEs within the state of Texas under the Texas Unified Certification Program (TUCP). The six agencies are: Texas Department of Transportation, North Central Texas Regional Certification Agency, South Central Texas Regional Certification Agency, City of Houston, City of Austin and the Corpus Christi Regional Transportation Authority.

The regulation requires the TUCP to construct and maintain a database directory in which the Texas Department of Transportation (TxDOT) has agreed to maintain. Specific responsibilities of the certifying entities and the territories for which they are responsible are specified in the attached Memorandum of Agreement.

By signing this Letter of Agreement, Brazos Transit Dist certifies that it is willing to participate in the certification decisions of the six certifying agencies of the TUCP, which will conduct certification evaluations for DBEs within the state of Texas, according to the guidelines promulgated in 49 CFR, Part 26.

Brazos Transit Dist. also acknowledges that the TUCP Memorandum of Agreement is, as currently structured, only a DBE certification program. Any changes to the structure of the TUCP will be placed before each recipient and its respective authority for consideration at least thirty days (30) prior to any changes being enacted. It may be amended if 49 CFR, Part 26 is amended by Congress.

Signed this 20th day of September, 2011

By  President / CEO
Signature Title

Print Name John M. McBeth