

COLLIER COUNTY BOARD OF COUNTY COMMISSIONERS

Collier Area Transit Disadvantaged Business Enterprise Program

4/23/2013

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Collier County Board of County Commissioners Disadvantaged Business Enterprise Policy Statement

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

It is the policy of the BCC to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

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

Corine C. Williams, Public Transit Manager has been delegated as the DBE Liaison Officer. In that capacity, Ms. Williams is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the BCC in its financial assistance agreements with the Department of Transportation.

By placing this item on a regularly scheduled BCC agenda, Ms. Williams has disseminated this policy statement to the BCC 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 as an attachment to each contract. The signed program statement will be posted on the Collier County website www.colliergov.net

Steve Carnell
Chief Executive Officer

Date

1. GENERAL REQUIREMENTS

Section 1.1 Objectives [26.1]

It is the policy of the Collier County Board of County Commissioners (BCC) to ensure that Disadvantaged Business Enterprises (DBE)s are defined in part 26, have an equal opportunity to receive and participate in Department of Transportation (DOT)–assisted contracts. It is also our policy:

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

Section 1.2 Applicability [26.3]

The BCC is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178 and as a condition of receiving this financial assistance, the BCC has signed an assurance that it will comply with 49 Code of Federal Regulations (CFR) Part 26. In accordance with these regulations, the BCC has established a DBE Program.

Section 1.3 Definitions [26.5]

The BCC will adopt the definitions contained in Section 26.5 of 49 CFR Part 26 for this program.

Section 1.4 Non-discrimination Requirements [26.1 & 26.7]

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

In administering its DBE program, the BCC 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 1.5 Record Keeping Requirements [26.11]

The BCC will report DBE participation on a quarterly basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Section 1.6 Bidders List [26.11]

The BCC approved an agreement with DOT and the Florida Department of Transportation (FDOT) that establishes the BCC as a non-certifying member of the national Unified DBE Certification Program (UCP) in September 2005. The BCC maintains a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder's list will include the name, address, and other relevant contact information about the firm. However, it does not collect annual gross receipts information of firms. Such information is collected by certifying members of the National Unified Certification Program (UCP). Attachment 7 includes a copy of the UCP Agreement executed by the Collier County Board of County Commissioners.

FDOT's website provides a list of UCP agencies that provide certification services and non-certification services in the State of Florida.

<http://www.dot.state.fl.us/equalopportunityoffice/DBECertification/UCP%20CERTIFYING%20ADDRESSES.pdf>

The BCC will create a listing of offerors by requiring offerors to report the required information, for their firm, and all firms who quote to them on subcontracts, by issuing a requirement that will be placed in all federally funded solicitations.

Section 1.7 Federal Financial Assistance Agreement [26.13]

The BCC has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

1.7.1 Assurance

The BCC 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 the BCC 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.

1.7.2 Contract Assurance

In each DOT-assisted contract, the following language will be utilized:

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.

2. ADMINISTRATIVE REQUIREMENTS

Section 2.1 DBE Program Updates [26.21]

Since the BCC has received a grant \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, this program will be carried out until all funds from DOT financial assistance have been expended. Updates representing significant changes in the program will be provided to Federal Transit Administration (FTA).

Section 2.2 Policy Statement [26.23]

The BCC will issue a signed and dated policy statement that expresses its commitment to the DBE program, states its objectives, and outlines responsibilities for its implantation. The statement will be circulated throughout the organization and to the DBE and non-DBE business communities that work on BCC DOT-assisted contracts. The policy statement is found on page 4 of this program document.

Section 2.3 DBE Liaison Officer (DBELO) [26.25]

We have designated the following individual as our DBE Liaison Officer:

*Corine C. Williams, Public Transit Manager
Collier County Public Transit & Neighborhood Enhancement Division
3299 East Tamiami Trail, Suite 103
Naples, Florida 34112
(239) 252-5832
Corine.Williams@colliergov.net*

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the BCC complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Collie County Board of County Commission Chair concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of two 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. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes BCC's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO governing body on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Acts as liaison to the Uniform Certification Process in Florida.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the BCC's updated directory on certified DBEs.

Section 2.4 DBE Financial Institutions [26.27]

It is the policy of the BCC to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. Notification of solicitations for financial services will be sent to the institutions identified in the United States Department of Treasury, Financial Management Services Division, Minority Bank Deposit Program (MBDP) listings of financial institutions in the State of Florida. The availability of such institutions can be obtained at the U.S. Department of Treasury website http://www.fms.treas.gov/mbdp/current_list.html. The BCC has reviewed FDOT's website DBE Directory and has determined there are no financial institutions owned and controlled by socially and economically disadvantaged individuals. This element will be re-evaluated at least every three years to coincide with the triennial goal setting process or when the Program is updated, whichever is earlier.

Section 2.5 Prompt Payment Mechanisms [26.29]

Prompt Payment: 26.29 (a)

The BCC will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the BCC. If retainage from DBE subcontractors is allowed per the contract, the prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the BCC. This clause applies to both DBE and non-DBE subcontracts.

Retainage: 26.29 (b)

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced times frame bay occur only for good cause following written approval of the BCC. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement: 26.29(d)

The BCC shall require in all DOT funded contracts language that allows it to monitor and enforce that prompt payment and return of retainage is in fact occurring on any contract which involves sub-contracting. The BCC will continue to require all prime contractors to report the DBE payments made to DBE subcontractors on all pay requests to monitor and enforce that prompt payment and return of retainage is in fact occurring. Failure of the Contractor to provide the DBE Participation Report may result in the invoice not being paid until the Contractor has provided the report. Further monitoring and enforcement is detailed in Section 2.9 and Attachment 5 of this document.

Section 2.6 Directory [26.31]

The BCC is required to participate in the Uniform Certification Program (UCP). The combined statewide directory, identifying all firms eligible to participate as a certified DBE, may be located at the Florida Department of Transportation website <http://www.dot.state.fl.us/equalopportunityoffice/>. The BCC utilizes the FDOT website DBE Directory. The directory lists the firm's name, contact person, address, phone number, and the type of work the firm has been certified to perform as a DBE. The DBE Directory is updated in "real time" and is the single source for establishing program eligibility.

Section 2.7 Overconcentration [26.33]

The BCC has not identified that overconcentration exists in the types of work that DBEs perform. This was determined based upon a review of feedback provided by DBE's and non-DBE's during attendance at trade fairs and vendor meetings. This element will be re-evaluated at least every three years to coincide with the triennial goal setting process or when the Program is updated, whichever is earlier. If the BCC determines that there is an overconcentration in a certain type of work that unduly burdens the opportunity of non-DBE firms to participate in this type of work, appropriate measures will be developed and approved by the Federal Transit Administration to address this overconcentration.

Section 2.8 Business Development Programs [26.35]

The BCC has not established a formal business development program. We will re-evaluate the need for such a program every three years to coincide with the triennial goal setting process or when the Program is updated, whichever is earlier. While the BCC does not have a formal business development program, it does participate in the following activities designed to ensure that DBEs and Small Business Enterprises (SBEs) have the equal opportunity to participate in contracts:

- Participate in training seminars and community outreach activities for the purpose of informing potential contractors of available business opportunities.
- Email procurement advertisements to business that have been identified as certified DBEs and SBEs, which are likely to participate on the contract.
- Attend trade fairs which include representatives which include representatives from these enterprises.
- Encourage DBE and SBE attendance at solicitation conferences.

Section 2.9 Monitoring and Enforcement Mechanisms [26.37]

The BCC will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts, removal of firms from the prequalified bidders and consultants' lists or revocation of DBE certification if applicable, pursuant to Section 337.105; 337.16; and 339.0805, Florida Statutes. The regulation, provisions, and contract remedies available to in the events of non-compliance with the DBE regulation by a prime contractor include: actions for breach of contract; prosecution for any criminal activity or violation of County Code or Ordinance; enforcement of claims against any retainage, bond,

surety or insurance provided by contractor or any subcontractor, legal action on any County cause of action created under the applicable provisions of state or federal law; revocation, cancellation or termination of the contract between the BCC and the prime contractor for the project; any other action permitted at law or in equity; or, any self-help measures that the BCC may lawfully undertake to rectify the default.

3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by:
 - a. Requiring the Contractor, prior to undertaking work on the project, provide the BCC with an accurate list of all DBEs who are or who are anticipated to be subcontractors working on the project, which list shall include an accurate detailed description of all work to be done by each DBE. This list shall be updated any time there is a change in the DBEs working on the project or a change in the allocation of work between or among DBEs.
 - b. BCC review of the DBE list provided by the prime contractor and confirm its accuracy. The BCC may request, and prime contractor shall provide, copies of any subcontracts or other contractual documentation between prime contractor and any subcontractors to confirm the scope of work for each.
 - c. Requiring the prime contractor to notify the BCC of the dates/times when the DBEs are anticipated to be performing each contractual task related to the project, so that the BCC can verify DBE participation in the project, and can verify that the DBEs identified in the Contractor provided list are participating in the project.
 - d. Requiring the prime contractor to identify each DBE receiving payment on all payment notifications required to be provided to the BCC. Any DBE receiving payment shall indicate its status as a DBE on its payment notifications. The prime contractor must provide a DBE Participation Report to the BCC with each invoice submitted to the BCC for payment. Failure of the Contractor to provide the DBE Participation Report may result in the invoice not being paid until the Contractor has provided the report.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.
5. The BCC will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. The records will be made available for inspection upon request by any authorized representative of the BCC or DOT. This reporting requirement also extends to any certified DBE subcontractor.
6. We will perform interim reviews of contract payments to DBEs. The review will examine payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

Section 2.10 Fostering Small Business Participation [26.39]

The BCC has incorporated the following non-discriminatory elements to its DBE program, in order to facilitate completion on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses):

Small Business Program:

Definition – For the purpose of this section, a small business is defined as a firm that meets the definition as contained in 49 CFR Section 26.5 and Section 3 of the Small Business Act, 15 U.S.C. 631 et seq, which do not exceed the cap on average gross receipts specified in 49 CFR 26.65(b).

Small Business Concern is one that:

- Is organized for profit, with a place of business located in the United States, which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of America products, materials or labor;
- Has the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative.
- Is at least 51% owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States, except in the case of a joint venture, where each entity to the venture must be 51% owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States.

A Small Business Concern shall not have average annual gross receipts (over the firm's previous three fiscal years) in excess of \$22.41 million. How to calculate average annual receipts and average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectfully.

Program participants will be required to establish eligibility via (1) DBE certification in connection with the Florida Unified Certification Program; (2) U.S. Small Business Administration (SBA) 8A certification, or (3) documentation establishing participation as a registered Dynamic Small Business with SBA. This documentation must be provided in the submittal package in order to verify eligibility.

Certified DBEs are presumptively eligible to participate in the program. None of the provisions of this Section shall be interpreted to impose any geographic preferences or limitations, and the program is open to all small business concerns regardless of their location.

As part of this program element, the BCC will include the following strategies to begin immediately following FTA approval of the DBE program:

- Removal of unnecessary and unjustified bundling of contract requirements that may preclude SBE participation in procurements as prime contractors or subcontractors; and
- Letting prime contracts of a size that small business can reasonably compete for and perform.
- The BCC will include in its construction contract provisions a requirement that prime contractors affirmatively seek out small business as part of its subcontractor workforce. Prime contractors will be required to provide information with their bid that identifies the small businesses that will participate as subcontractors and the scopes of work that will be undertaken. Lack of small business participation will require the bidder to provide evidence of the good faith efforts that were made. The good faith effort requirement will be the same as identified in Section 3.0 – Goals, Good Faith Efforts, and Counting.
- Purchasing staff attendance at several annual trade fairs which include representatives from small businesses.
- Attending meetings (local chamber of commerce) and social events where in small business are represented.

3.0 GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 3.1 Set-asides or Quotas [26.43]

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

Section 3.2 Overall Goals [26.45]

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 3 to this program. The goal will be updated every three years based on the January 28, 2011, Federal Register.

In accordance with Section 26.45(f) the BCC will submit its overall goal to FTA on August 1, 2013 and every three years thereafter. The BCC may adjust the three year overall goal during the three year period to which it applies, in order to reflect changed circumstances. The BCC will submit an adjustment to FTA for review and concurrence.

The BCC will also request use of project specific DBE goals as appropriate, and/or will establish project specific DBE goals as directed by FTA.

The process generally used by the BCC to establish overall DBE goals is to first develop a base figure for the relative availability of DBE's. The relative availability of DBEs is the total number of ready, willing and able DBE firms in Collier County divided by the total number of all firms based on the US Census data. Once the base figure has been calculated, we must examine all of the evidence available to our area to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. Types of evidence to consider include current capacity of DBE's to perform the work, disparity studies, input from interested parties.

Before establishing the overall goal, the BCC will, at a minimum, consult with minority and general contractor's groups, community organizations, and other officials or organizations to

obtain information concerning the availability of disadvantaged and non-disadvantaged business, the effects of discrimination on opportunities for DBES, and the BCC's efforts to establish a level playing field for the participation of DBE's.

Following this consultation, the BCC will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice, and informing the public that the BCC and DOT will accept comments on the goals for 45 days from the date of the notice. The publishing of the notice of the proposed overall goal will be in a newspaper, or other media, of general circulation focused on minority readers. The notice will also be included on the BCC's Internet website. Normally this notice will be issued by June 1. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The overall goal submission to DOT will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and the BCC's responses; and proof of publication of the goal in media outlets listed above.

The BCC will begin using our overall goal on October 1, unless the BCC has received other instructions from DOT. If the BCC establishes a goal on a project basis, the BCC will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 3.3 Failure to meet Overall Goals [26.47]

If the BCC does not have an approved DBE Program or overall goal, or if the BCC fails to implement the program in good faith, the BCC is in noncompliance with its program and corrective action(s) must be documented. The analysis does not have to be transmitted to DOT. If the BCC fails to meet its overall goals in a given year, a determination of the reason(s) or unless the BCC is notified by DOT of the required analysis, the analysis and corrective action(s) will be retained for three years and it will be made available to the FTA upon request for their review.

Section 3.4 Transit Vehicle Manufacturers Goals [26.49]

The BCC will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, the BCC 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 3.5 Breakout of Estimated Race-Neutral & Race-Conscious Participation [26.51 (a-c)]

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 3 to this program. The BCC will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, the BCC will:

1. Arrange solicitations, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation.
2. Provide technical assistance.
3. Carry out information and communication programs on contracting procedures and specific contract opportunities. This will include the utilization of directories and other reference sources that list DBEs ensuring the dissemination to bidders on prime contracts of lists of potential DBE subcontractors.

Section 3.6 Contract Goals [26.51 (d-g)]

The BCC will use contract goals to meet any portion of the overall goal the BCC 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.

The BCC will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The BCC 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 BCC will express a contract goal as a percentage of total amounts of DOT-assisted contract. The BCC will arrange solicitations, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate participation by DBEs and other small business and by making contracts more accessible to small businesses, by means such as those provided in section 2.10 of this document.

Below is a sample bid specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation apply to this contract. It is the policy of the BCC 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 (5) if the contract goal is not met, evidence of good faith efforts.

Section 3.7 Good Faith Efforts Procedures [26.53]

3.7.1. Award of Contracts with a DBE Contract Goal: 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, the BCC will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

3.7.2. Evaluation of Good Faith Efforts: 26.53 (a) & (c)

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. The BCC evaluation of good faith efforts will be conducted in accordance with Appendix A to Part 26 – Guidance Concerning Good Faith Efforts.

The processes used by the BCC to determine whether good faith efforts have been made by a bidder are as follows:

1. If bidder/offeror does not meet the established DBE goal, and is required to submit documentation of good faith effort, then a good faith efforts submission shall be provided within three business days from the bid/proposal submittal date, which shall include documentation that the bidder/proposer made a good faith effort to meet the goal. The BCC may allow a longer period based on submittal of a request demonstrating good cause for such extension. Good faith efforts at a minimum include, the following items (where applicable):
 - a. Attendance at the pre-bid meeting;
 - b. Advertisement in trade association newsletters and minority-focused media within a reasonable time before bids are due for specific sub-bids that would be at least equal to the percent goal for DBE utilization specified for the project.
 - c. Notifications in writing to minority contractor associations within a reasonable time before bids are due of a solicitation for specific sub-bids.
 - d. Direct negotiation with DBEs for specific sub-bids.

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

3.7.3. Information to be Submitted: 26.53 (b)

The BCC treat bidders/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

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

3.7.4 Administrative reconsideration [26.53(d)]

Within 5 days of being informed by BCC 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: Joanne Markiewicz, Interim Purchasing Director, Purchasing Department, 3327 East Tamiami Trail, Naples, Florida 34112, (239) 252-8975 or joannemarkiewicz@colliergov.net. 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 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/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

3.7.5 Good Faith Efforts when a DBE is terminated or substituted on a contract [26.53(f)]

The BCC requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal with the BCC'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 the BCC 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 the BCC prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise the BCC of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, the BCC 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. The BCC 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, the BCC 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.

If the contractor fails or refuses to comply in the time specified, our contracting office 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.

Section 3.8 Counting DBE Participation [26.55]

The BCC will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. Only the value of the work actually performed by the DBE will count toward DBE goals. Such value will be counted as follows:

- The entire amount that is performed by the DBE;
- The entire amount of reasonable fees or commissions charged by a DBE firm for providing a bona fide service or for providing bonds or insurance required for the performance of the DOT-assisted contract;
- The value of work subcontracted by a DBE to another DBE is counted toward DBE goals.
- When a DBE performs as part of a joint venture, the portion of the total dollar value of the contract equal to the defined portion of the work of the contract that the DBE performs will be counted.

- A DBE's participation will not be counted toward DBE goals of the prime contractor or the BCC's overall goal until the DBE is paid.

4.0 CERTIFICATION STANDARDS [26.61 – 26.73]

The BCC is a non-certifying member of the Unified Certification Program (UCP) in the State of Florida. All firms must apply through the UCP to be certified in the State of Florida.

The local certifying agency in the southwest Florida area is the Lee County Port Authority located at the Southwest Florida International Airport. The BCC will use the DBE directory administered by the Florida Department of Transportation and listed on the UCP website to verify if a firm is DBE certified by the Florida UCP.

The Florida UCP certifies DBEs in accordance to the Federal Regulations. An Annual Meeting of the Florida UCP is scheduled for all members to attend and discuss any issues or needed changes to the UCP Program

5.0 CERTIFICATION PROCEDURES [26.81]

The BCC is a non-certifying member of a Unified Certification Program (UCP) administered by Florida Department of Transportation Equal Opportunity Office, 605 Suwannee Street, MS 65, Tallahassee, Florida 32399-0450. The EEO Office can be contacted by telephone: (850) 414-4747, fax: (850) 414-4879, and website at www.dot.state.fl.us/equalopportunityoffice/DBEProgram. The Florida UPC will meet all of the requirements of certification procedures.

6.0 DENIAL OF DBE STATUS AND APPEALS [26.83 – 26.91]

Any firm or complainant may appeal our 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 2104
Washington, D.C. 20590

7.0 INFORMATION, CONFIDENTIALITY, COOPERATION [26.109]

Section 7.1 Availability of records

The BCC will safeguard from disclose to third parties information that may reasonably regarded as confidential business information, consistent federal, state, and local law. In responding to requests for information concerning any aspect of the DBE program, the BCC complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a).

The BCC may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

Section 7.2 Confidentiality

Notwithstanding any contrary provisions, the BCC will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the firm that submitted the information.

Notwithstanding the provisions of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing.

Section 7.3 Cooperation

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

The BCC 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 the dollar amounts stated in the schedule of DBE participation.

All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved.

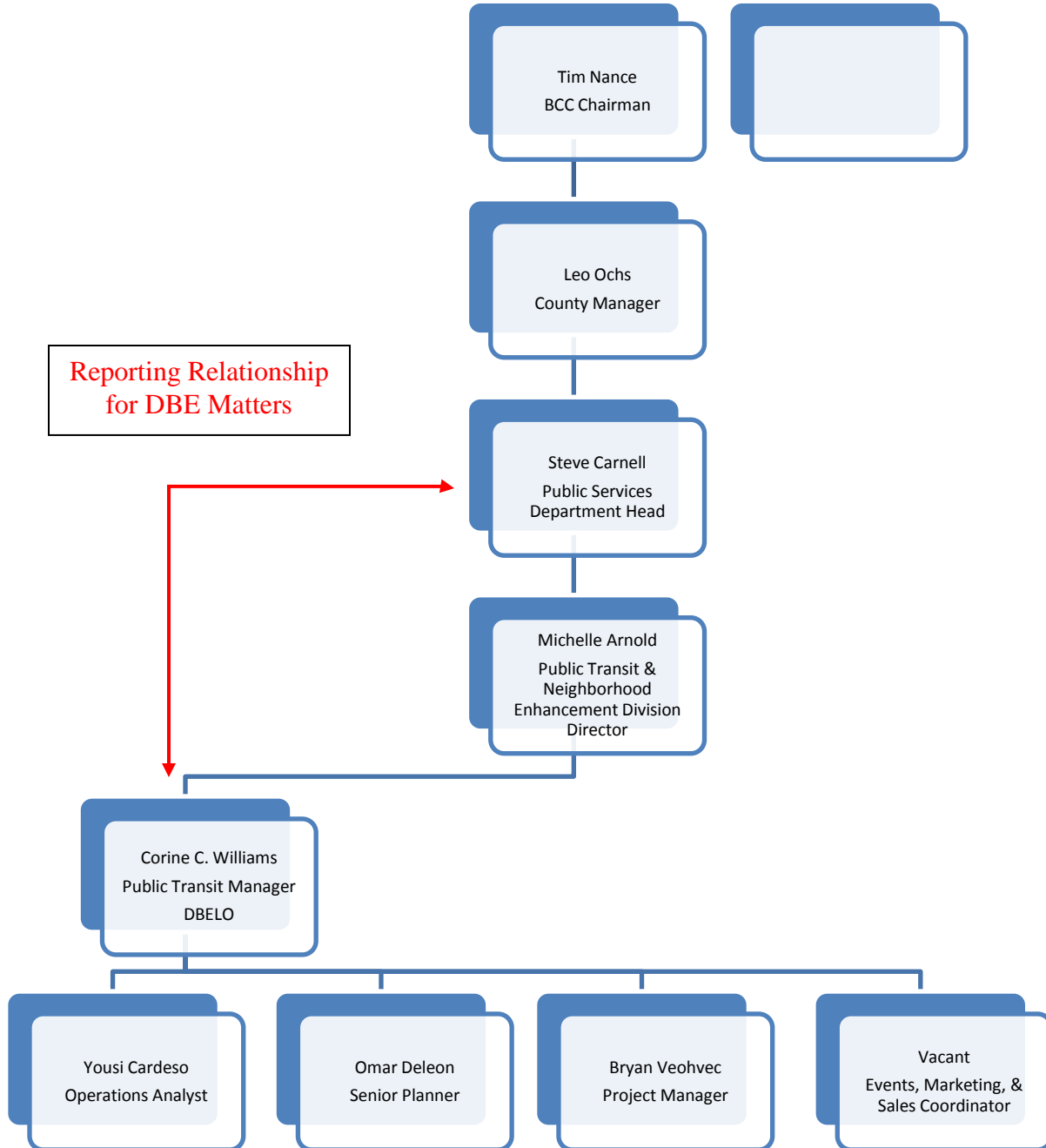
Section 7.4 Intimidation and retaliation

The BCC will not and will not allow a contractor, or any other participant in the program, to intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.

ATTACHMENTS

Attachment 1

Organizational Chart



Attachment 2

DBE Directory

The BCC does not certify DBEs but rather uses the list of DBEs identified in the Florida Department of Transportation (FDOT) Uniform Certification Program (UCP) Directory. The DBE directory can be found at:

<https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>

How to Use the System:

- **Introduction:**

BizNet is the web publication of the FDOT Business Directory. It displays all firms in the central BizTrak database regardless of whether they are certified or not. BizNet is open to the public and allows users to perform several critical functions:

- Search the directory by multiple criteria
- Source subcontractors or subconsultants for contract work
- Download directory listings to excel spreadsheets
- Submit a new bidder for inclusion in the Business Directory
- Edit their company's existing business profile
- Apply for DBE certification by completing the on-line application

- **Main Menu:**

The Main Menu is a navigational screen that directs users to the 5 different search screens, the Download Directory screen, Add New Bidder screen, and the DBE Certification Application. Other features include:

- Hyperlink to secure log on page for UCP member agencies
- Ability to 'quick search' the database by firm name
- Button to access on-line help including Glossary, FAQ, and technical support Contacts
- Button to access page for submitting comments and suggestions for site improvements
- Exit the Biz Net System button to log off and exit BizNet.

- **Searches:**

BizNet searches are divided into three layers.

- Search Selection Screens

- Results Screens
- Detail Business Profile Screens

- **Search Selection Screens:**

Search selection screens display different criteria that can be used to narrow a search of the Business Directory. Below is the list of the Search Selection Screens and the criteria each offers:

- Search by Firm Name – The firm name search allows users to search for business using letters that either “begin” or are “included in” the business name.
- Search by Business Description – The business description search allows users to search for businesses by inputting all or part of a work description and includes optional criteria for certification status, county (physical location and available work locations) and district (physical location and available work locations).
- Search by Specialty Code – The specialty code search allows users to search for businesses by selecting an FDOT specifically industry code and includes optional criteria for certifications status, county (physical location and available work locations) and district (physical location and available work locations).
- Search by NAICS (North American Industry Classification System) search allows users to search for businesses by selecting a NAICS industry code and includes optional criteria for certification status, county (physical location and available work locations) and district(physical location and available work locations).
Note: If a user does not know the Specialty or NAICS Code needed, he/she can click on the Specialty or NAICS Lookup hyperlinks provided below the code listings on each Search Selection page.

After choosing your search options from the selected search screen, click on view results to display the search results. If you wish to exit the screen, there are a series of navigational buttons at the bottom of the screen that allow users to quickly navigate between search screens without having to return to the main menu.

- **Results Screens:**

Search results are displayed in an alphabetized list for easy viewing. Each business that meets the search criteria is displayed.

- The total number of matching businesses are listed in red at the top of the page.
- If results include more than 50 firms, hyperlinks will appear at the top of the page for each group of 50. Group 1-50 will be displayed on the first page.
- To view a business profile of any business listed on the results screen, click the underlined firm name.
- To send an email to a business, click on the firm’s underlined email address.

- At the bottom of each results screen is a series of navigational buttons that can be used to change screens rather than view a business profile.
- **Business Profile Screens:**

The business profile provides a printable report of a business's contact information, certification status, and industry codes.

Attachment 3

Overall DBE Goal Calculation

Amount of Goal

The BCC's overall goal for the following time period 2011-2013 is the following: 5.67% of the Federal financial assistance we will expend in DOT-assisted contracts (exclusive of FTA funds to be used for the purchase of transit vehicles.

Methodology used to Calculate Overall Goal

Step 1

Determine the base figure for the relative availability of DBE's.

The base figure for the relative availability of DBE's was calculated as follows:

$$\text{Base Figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing and able}}$$

The data source used to derive the numerator and denominators were: The Unified Certification Program of the State of Florida and the U.S. Census respectfully.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 5.67%.

Step 2

After calculating a base figure of the relative availability of DBE's, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

The types of data or information that can be considered when adjusting the base figure include: BCC DBE's to perform work on FTA assisted contracts. Determining current BCC DBE's to perform work on FTA assisted contracts as measured by the volume of work DBEs have performed in recent years.

The historical overall DBE goals accomplished by the BCC on FTA projects for several recent fiscal years are examined relative to the above consideration.

The BCC will continually assess the availability of research documents and demographic studies that may provide additional data on the extent to which DBE firms are "ready, willing and able" to engage in contracting opportunities, and successfully performing on contracts as determined by subcontract and prime awards.

Public Participation

Before establishing the overall goal, the BCC will, at a minimum, consult with minority and general contractor's groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged business, the effects of discrimination on opportunities for DBES, and the BCC's efforts to establish a level playing field for the participation of DBE's.

Following this consultation, the BCC will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice, and informing the public that the BCC and DOT will accept comments on the goals for 45 days from the date of the notice. The publishing of the notice of the proposed overall goal will be in a newspaper, or other media, of general circulation focused on minority readers. The notice will also be included on the BCC's Internet website. Normally this notice will be issued by June 1. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Breakout of Estimated Race-Neutral & Race Conscious Participation

The BCC will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, the BCC will carry out information and communication programs on contracting procedures and specific contract opportunities. This will include the utilization of directories and other reference sources that list DBEs ensuring the dissemination to bidders on prime contracts of lists of potential DBE subcontractors.

The BCC estimates that, in meeting the overall goal of 5.67%. The 5.67% will be obtained from race-neutral participation and 0% through race-conscious measures.

In order to ensure that the BCC's DBE program will be narrowly tailored to overcome the effects of discrimination, if the BCC uses contract goals, we will adjust the estimated break-out of race-neutral and race-conscious participation as needed to reflect the actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

The BCC will maintain data separately on DBE achievements in those contracts with and without contract goals, respectfully.

***Collier Area Transit's Disadvantaged Business Enterprises
Program FY 2011-2012-2013***

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM GOAL SETTING
PROCESS FY 2011-2012-2013**

The Collier County Board of County Commissioners (BCC) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The BCC has received Federal financial assistance from the Federal Transit Administration (FTA), and as a condition of receiving this assistance, the BCC agrees to comply with 49 CFR Part 26.

It is the policy of the BCC to ensure that DBE's as defined in part 26, have an equal opportunity to receive and participate in FTA-assisted contracts.

The BCC will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the BCC 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.

The Goal setting process contained in this Attachment to Collier County's Disadvantaged Business Enterprise Program outlines the adopted process to determine the relative availability of DBE's to perform the types of contracts anticipated in FY 2011; 2012 and 2013.

The purpose of this process is to determine the percentage of all ready, willing and able "Establishments" that are DBE'S and to establish a DBE Goal.

U.S. Department of Transportation (DOT), 49 CFR Part 26 establishes a Three Step Process. Each step used by Collier County is outlined below.

Step 1

Collier County / Collier Area Transit has executed the Florida Unified Certification Program Agreement. 49 CFR Part 26 Subpart E- Certification Procedures Section 26.81, requires that all United States Department of Transportation (USDOT) Recipients participate in a statewide Unified Certification Program. Collier County / Collier Area Transit is committed to operate in full compliance with 49 CFR Part 26, Subpart E.

Collier County / Collier Area Transit will utilize certified D.B.E. vendors through the Florida Unified Certification Program Agreement.

Collier County / Collier Area Transit expects to have contracting or subcontracting possibilities in the following areas, paratransit services, motor vehicle parts, building contractors and electrical contractors.

On March 19, 2010, Collier Area Transit staff utilized the Florida Department of Transportation Equal Opportunity Office Disadvantaged Business Online Directory for certified DBE vendors in Collier County and FDOT District One.

Staff identified 5 ready, willing and able certified DBE's (certified by the FDOT, Equal Opportunity Office, in the Disadvantaged Business Enterprise Directory) as published as transit certified for Collier County and FDOT District One as of March 19, 2010.

Staff identified 162 ready, willing and able TOTAL establishments transit certified DBE's (certified by the FDOT, Equal Opportunity Office, in the Disadvantaged Business Enterprise Directory) that currently provide service in our service area.

The process used to obtain the percent of DBE's to TOTAL establishments by NAICS code and the potential contract percent is illustrated below.

Regional Certified by FDOT UCP Program DBE	$\frac{5}{162} = 5.67\%$	Weighted average
Total FDOT UCP Program DBE Potential Bidders	162	

The percent of DBE establishments by NAICS codes available in the Collier County and FDOT District One area is 5.84%. Collier Area Transit has 3 paratransit subcontractors that appear to qualify for FDOT UCP Transit Certification as a DBE Vendor. Each has been provided repeated information on becoming certified, and each continues to receive such information.



Collier Area Transit Disadvantaged Business Enterprise Program
Fiscal Year 2011/2012/2013 Review

April 9, 2010


Name of Grantee:

Collier County / Collier Area Transit

Approximate number of un-obligated funds available for contracting in Fiscal Year 2011-2012-2013:

Based on the Program of Projects submitted the last three years and taking into consideration the future projects for the next three years as outlined in the financially feasible Transportation Development Plan (TDP) Collier Area Transit is forecasting the submission of 5307 grant applications FY 2011, 2012 and 2013 as outlined below.

5307 Program of Projects			
Item/ALI	FY 2010/2011	FY 2011/2012	FY 2012/2013
1% Enhancement	\$25,629	\$27,679	\$29,894
1% Security	\$25,629	\$27,679	\$29,894
10% ADA	\$256,291	\$276,794	\$298,938
Rolling stock Replacement	\$1,088,000	\$1,132,900	\$1,132,900
Preventive Maintenance	\$689,883	\$825,412	\$1,020,275
Operations	\$477,477	\$477,477	\$477,477
Total Amount	\$2,562,909	\$2,767,942	\$2,989,377

- 
- ◆ Public notice has been published and copies of the notice, as well as a copy of the affidavit of publication are included in the grantee's submission.

Yes. Please find enclosed a copy of the published Public Notice, and a copy of the affidavit of the publication.


- ◆ Public notice for Fiscal Year 2010/11; 2011/2012; 2012/2013 October 1, 2010 through September 30, 2013 and the appropriate FTA Region is included in the notice.

Yes, please find closed copies of the published Public Notice for Fiscal Years 2010/11; 2011/2012; 2012/2013.

- ◆ DBE notice was published in general circulation media available, minority-focused media, and trade association publications. Note: Using the grantee's website does not meet the DOT DBE regulations requirement as outlined in 49 CFR Part 26.45 (g) (2).

Collier Area Transit published the public notice in the Naples Daily News (general circulation media) and the Spanish news paper Nuevos Ecos. Collier County has limited availability on Creole focus media.

- ◆ Grantee's DBE goal submission includes information regarding the grantee's consultation with minority and women organization, general contracting groups, and other interested persons or groups and evidence that these entities were provided an opportunity in the development of the goal as outlined in 49 CFR Part 26.45 (g) (1).



Collier Area Transit has paratransit subcontractors, the majority of whom could be classified as Disadvantaged Business Enterprise businesses. It is noted that none of them are certified as such through the State of Florida. Collier Area Transit consults with these minorities owned subcontractors, and provides information on our DBE program through flyer distribution at all of our community outreach programs. These efforts are utilized to contact business, and community organizations concerning the availability contracting opportunities with Collier Area Transit. Please find enclosed samples flyers that are used in this effort as well as the outreach distribution list and a copy of our Power Point presentation.

- ◆ The proposed DBE goal is based on contracting opportunities projected to take place in the upcoming federal fiscal years 2010/11; 2011/2012; 2012/2013, (October 1, 2010 to September 30, 2013).


Yes.

- ◆ The amount of federal funds available for contracting has been provided, broken out into categories of contracting, and calculations have been verified for accuracy.

Yes.

- ◆ The goal is based on a two step process.

No. Please find enclosed Collier Area Transit's goal setting process. Collier Area Transit uses a three step process, Step III is Race/Gender-Neutral and Race/Gender-Conscious Split methodology.

- 
- ◆ In developing the Step II calculation, a disparity study was used. If so, the study was current.

Step 2 of the Goal setting process is designed to adjust the Step One base figure to make it as precise as possible. All "relevant and reliable" data must be gathered and considered during this step of the process. (Relevant and reliable data include past participation, evidence from "disparity" studies, statistical disparities in the ability of DBE's to obtain financing, etc., data on self employment, education and training, and any other data that would help to better measure the percentage of work that DBE's would be likely to obtain in the absence of discrimination.) (Many different types of studies have been referred to as disparity studies. The term is broadly used in the regulation to mean any type of study designed to investigate the existence of discrimination in contracting.) Staff is not aware of any disparity studies pertaining to this area.

- ◆ The overall annual goal which results from the adjustment in #7 above has been divided into race neutral and race conscious split.

Race/Gender-Neutral and Race/Gender-Conscious Split methodology.

Staff reviewed the "U.S. Department of Transportation Office of Small and Disadvantaged Business Utilization" guidelines prior to preparing the DBE Goal. The guidelines for step 3 provide assistance in determining what factors to consider in projecting the overall portion of the goal that will be met through race/gender-neutral means. With one exception, the examples are based on past participation or experience. As in step 2, this is our eighth plan. Therefore, in determining the race/gender-

neutral and race/gender-conscious split, staff used the available data below.

Race/Gender-Neutral		5.67%
Total DBE		6%

This data will be continually reviewed and updated throughout the balance of FY 2010, and reviewed for FY 2011 D.B.E. goals.

- ◆ Is there a justification for the race neutral / race conscious split?

Collier County's 2010/11; 2011/2012; 2012/2013 goal has been based on Race/Gender Neutral.

- ◆ The grantee is a current (active) member of the state UCP.

Yes. Collier County's Board of County Commissioners approved participation in the State of Florida UCP.

Collier Area Transit's Mission is to identify and safely meet the transportation needs of Collier County, through a courteous, reliable, cost-effective, and environmentally sound team commitment.



U.S. Department
of Transportation
**Federal Transit
Administration**

REGION IV
Alabama, Florida, Georgia,
Kentucky, Mississippi,
North Carolina, Puerto
Rico, South Carolina,
Tennessee

61 Forsyth Street, S.W.
Suite 17T50
Atlanta, GA 30303-8917
404-562-3500
404-562-3505 (fax)

Glama Carter
Public Transit Manager
Collier Area Transit (CAT)
2885 S. Horseshoe Drive
Naples, Florida 34104

20 October 2010

RE: DBE Program Goal Approval
Federal Transit Administration ID #1032

Dear Ms Carter,

Based upon our review, we find that all of the required elements are present and that that your program meets the requirements of part 26. You are not required to submit regular updates to your DBE program as long as you remain in compliance; you are required to notify FTA of any significant changes to the program.

In assessing the program, we examined the overall goal submitted for FY 2010.

Your DBE goal information for the period of August 1, 2010 through August 1, 2013 is as follows:

Overall Goal	Race Neutral	Race Conscious
5.67%	5.67%	0%

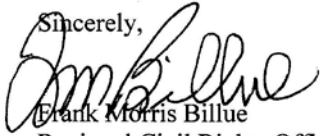
FTA's review considered the overall goal as well as the description of the data and methodology used in arriving at the overall goal, including the base figure calculation and evidence supporting the calculation; adjustments, if any, made to the base figure and the evidence supporting the adjustments; a summary of the relevant evidence in your jurisdiction; the projection of the proportion of your overall goal that you will meet through race neutral as opposed to race conscious means and the basis of your projections; and the evidence of public participation in setting your overall goal.

After reviewing this information, we have determined that the goal setting methodology you used is consistent with the requirements of 49 CFR §26.45 and that you have followed the requirements for public participation in setting your overall goal consistent with 49 CFR §26.45(g). Further, we have also reviewed your projection of the portion of your overall goal that you expect to meet through race neutral and race conscious means. That projection is subject to modification during the fiscal year as provided in 49 CFR §26.51.

Since an annual review of your goal is required, if you haven't already done so, please submit an updated goal as soon as possible. As you are aware, you must submit a separate overall DBE goal for programs funded by the Federal Highway Administration and the Federal Aviation Administration.

If you have any questions or need assistance, please contact me at 404-865-5628 or contact me via e-mail Frank.Billue@dot.gov.

Sincerely,



Frank Morris Billue
Regional Civil Rights Officer

Attachment 4

**Collier Area Transit DBE Vendor Process & Forms Including Good Faith Efforts (Forms 1
& 2)**

**DISADVANTAGED BUSINESS ENTERPRISE
FTA FUNDED PROJECTS / EXPENDITURES**

All DBE requirements will be provided to the vendor through the following means:

- **Formal IFB**
 - Review federal DBE clause language is included in IFB package
 - Bidders List submittal required to bid
 - DBE Participation Statement required to bid
 - Check DBE validity (after bidder selected) at <https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>.
 - Print out BizNet Profile for record.
 - Review federal DBE clause language is included in contract
- **Formal RFP**
 - Review federal DBE clause language is included in RFP package
 - Review federal DBE clause language is included in contract
 - Prior to work order / purchase order issued:
 - Bidders List submittal required
 - DBE Participation Statement required
 - Check DBE validity at <https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>.
 - Print out BizNet Profile for record.
- **Purchase Order** (when no formal IFB or RFP is required)
 - Prior to purchase order issued, forms to be attached to REQ:
 - Bidders List submittal required
 - DBE Participation Statement required from vendor
 - Check DBE validity at <https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>.
 - Print out BizNet Profile for record.
 - Attach DBE clause language to purchase order
- **Vendor DBE Payment Reporting**
 - Subcontractor Payment Report required monthly from Prime if participation
 - Reporting Requirement is in clause language but form and reporting is reiterated through through NTP and/or precon, kickoff meeting, etc.
 - Invoices submitted without Subcontractor Report concurrent to billing period will be rejected by Project Manager
 - Budget Analyst / Grant Coordinator will retain an additional copy of Subcontractor report in separate file for preparation of biannual DBE reporting.

ANTICIPATED DBE OR MBE PARTICIPATION STATEMENT

COLLIER COUNTY DEPARTMENT INFORMATION

DEPARTMENT NAME	COLLIER CONTRACT # (FB/RFP/PO)	FUNDING SOURCE

PRIME VENDOR/CONTRACTOR INFORMATION

PRIME NAME	PRIME FID NUMBER	CONTRACT DOLLAR AMOUNT

IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED OR MINORITY BUSINESS ENTERPRISE (DBE/MBE) ?	DBE? Y N	IS THE ACTIVITY OF THIS CONTRACT...	CONSTRUCTION? Y N
	MBE? Y N		CONSULTATION? Y N
			OTHER? Y N
IS THIS SUBMISSION A REVISION?	Y N	IF YES, REVISION NUMBER _____	

IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS DBE/MBE, PRIME IS TO COMPLETE THIS NEXT SECTION

DBE	MBE	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
TOTALS:						

SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR

NAME OF SUBMITTER	DATE	TITLE OF SUBMITTER
EMAIL ADDRESS OF PRIME (SUBMITTER)	TELEPHONE NUMBER	FAX NUMBER

NOTE: This information is used to track and report anticipated DBE or MBE participation in federally-funded or state-funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a County contract, the prime will be asked to update the information for the grant compliance files.

ETHNICITY	CODE
Black American	BA
Hispanic American	HA
Native American	NA
Subcont. Asian American	SAA
Asian-Pacific American	APA
Non-Minority Women	NMW
Other (Identify ethnicity in code box to the right)	

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**BID OPPORTUNITY LIST FOR PROFESSIONAL CONSULTANT
 SERVICES, AND COMMODITIES & CONTRACTUAL SERVICES**

375-040-62
 PROCUREMENT
 04/07

Prime Contractor/Prime Consultant: _____

Address/Phone Number: _____

Procurement Number/Advertisement Number: _____

49 CFR Part 26.11 The list is intended to be a listing of all firms that are participating, or attempting to participate, on DOT-assisted contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and supplies materials on DOT-assisted projects, including both DBEs and non-DBEs. For consulting companies this list must include all subconsultants contacting you and expressing an interest in teaming with you on a specific DOT-assisted project. Prime contractors and consultants must provide information for Numbers 1, 2, 3 and 4, and should provide any information they have available on Numbers 5, 6, 7, and 8 for themselves, and their subcontractors and subconsultants.

1. Federal Tax ID Number: _____
 2. Firm Name: _____
 3. Phone: _____
 4. Address: _____

 5. Year Firm Established: _____

6. DBE
 Non-DBE
 7. Subcontractor
 Subconsultant

8. Annual Gross Receipts
 Less than \$1 million
 Between \$1 - \$5 million
 Between \$5 - \$10 million
 Between \$10 - \$15 million
 More than \$15 million

1. Federal Tax ID Number: _____
 2. Firm Name: _____
 3. Phone: _____
 4. Address: _____

 5. Year Firm Established: _____

6. DBE
 Non-DBE
 7. Subcontractor
 Subconsultant

8. Annual Gross Receipts
 Less than \$1 million
 Between \$1 - \$5 million
 Between \$5 - \$10 million
 Between \$10 - \$15 million
 More than \$15 million

1. Federal Tax ID Number: _____
 2. Firm Name: _____
 3. Phone: _____
 4. Address: _____

 5. Year Firm Established: _____

6. DBE
 Non-DBE
 7. Subcontractor
 Subconsultant

8. Annual Gross Receipts
 Less than \$1 million
 Between \$1 - \$5 million
 Between \$5 - \$10 million
 Between \$10 - \$15 million
 More than \$15 million

1. Federal Tax ID Number: _____
 2. Firm Name: _____
 3. Phone: _____
 4. Address: _____

 5. Year Firm Established: _____

6. DBE
 Non-DBE
 7. Subcontractor
 Subconsultant

8. Annual Gross Receipts
 Less than \$1 million
 Between \$1 - \$5 million
 Between \$5 - \$10 million
 Between \$10 - \$15 million
 More than \$15 million

AS APPLICABLE, PLEASE SUBMIT THIS FORM WITH YOUR:

- BID SHEET (Invitation to Bid – ITB)**
- LETTERS OF RESPONSE (LOR)**
- PRICE PROPOSAL (Request for Proposal – RFP)**
- REPLY (Invitation to Negotiate – ITN)**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**CONSTRUCTION CONTRACTORS
BID OPPORTUNITY LIST**

275-030-10
EQUAL OPPORTUNITY OFFICE
02/08

Please complete and mail or fax to:
Equal Opportunity Office
605 Suwannee St., MS 65
Tallahassee, FL 32399-0450
TELEPHONE: (850) 414-4747
FAX: (850) 414-4879

This information may also be included in your bid or proposal package.

Prime Contractor/Consultant: _____

Address/Telephone Number: _____

Bid/Proposal Number: _____

Quote Submitted MM/YR: _____

49 CFR Part 26.11 requires the Florida Department of Transportation to develop and maintain a "bid opportunity list." The list is intended to be a listing of all firms that are participating, or attempting to participate, on DOT-assisted contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and materials supplies on DOT-assisted projects, including both DBEs and non-DBEs. For consulting companies this list must include all subconsultants contacting you and expressing an interest in teaming with you on a specific DOT assisted project. Prime contractors and consultants must provide information for Nos. 1, 2, 3 and 4 and should provide any information they have available on Numbers 5, 6, 7, and 8 for themselves, and their subcontractors and subconsultants.

1. Federal Tax ID Number: _____	6. <input type="checkbox"/> DBE	8. Annual Gross Receipts
2. Firm Name: _____	<input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than \$1 million
3. Phone: _____		<input type="checkbox"/> Between \$1 - \$5 million
4. Address: _____	7. <input type="checkbox"/> Subcontractor	<input type="checkbox"/> Between \$5 - \$10 million
_____	<input type="checkbox"/> Subconsultant	<input type="checkbox"/> Between \$10 - \$15 million
_____		<input type="checkbox"/> More than \$15 million
5. Year Firm Established: _____		

1. Federal Tax ID Number: _____	6. <input type="checkbox"/> DBE	8. Annual Gross Receipts
2. Firm Name: _____	<input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than \$1 million
3. Phone: _____		<input type="checkbox"/> Between \$1 - \$5 million
4. Address: _____	7. <input type="checkbox"/> Subcontractor	<input type="checkbox"/> Between \$5 - \$10 million
_____	<input type="checkbox"/> Subconsultant	<input type="checkbox"/> Between \$10 - \$15 million
_____		<input type="checkbox"/> More than \$15 million
5. Year Firm Established: _____		

1. Federal Tax ID Number: _____	6. <input type="checkbox"/> DBE	8. Annual Gross Receipts
2. Firm Name: _____	<input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than \$1 million
3. Phone: _____		<input type="checkbox"/> Between \$1 - \$5 million
4. Address: _____	7. <input type="checkbox"/> Subcontractor	<input type="checkbox"/> Between \$5 - \$10 million
_____	<input type="checkbox"/> Subconsultant	<input type="checkbox"/> Between \$10 - \$15 million
_____		<input type="checkbox"/> More than \$15 million
5. Year Firm Established: _____		

COLLIER AREA TRANSIT
DBE REPORTING
CONTRACTOR'S REQUEST FOR PAYMENT

Bidder/Contractor: _____ Reporting Period: _____ PRIME DBE STATUS: DBE NON-DBE

Project Description: _____ Bid No.: _____

Contract No.: _____ Contract Date: _____

Name of Business Performing Work (Subcontracting)	Certification Status (DBE, NONDBE)	Description of Commodity, Material, or Service	Contact Name/Phone	Amount Paid in a Previous Month	Amount Invoiced This Period
					\$
					\$
					\$
					\$
					\$
Dollar Amount of Work Completed by Non-DBE Subcontractors					
Dollar Amount of Work Completed by DBE Subcontractors					
Dollar Amount of Work Completed by the Prime					
Total Dollar Amount Requested for Payment					

All DBE Subcontractors/suppliers must be certified as such by FDOT. It is understood that CAT may audit any and/or all records of the Contract/vendor and conduct interviews of owners, principals, officers, employees and applicable subcontractors/contractors participating on the Contract.
 The above information is true and complete to the best of my knowledge and belief. The Contract Compliance Office reserves the right to recommend an audit on the submitted DBE information as deemed necessary.

Name and Title: _____
 (Please print or type)

Signature: _____ Date: _____

As defined in 49CFR26

Subcontractors have been paid in accordance with the prompt payment provision of the contract.

Demonstration of Good Faith Efforts

(Forms 1 and 2 should be provided as part of the solicitation documents)

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

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

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

Name of bidder's/offeror's firm: _____

State Registration No. _____

Date: _____

By: _____
Print Name

By: _____
Signature

Title

Demonstration of Good Faith Efforts

(Forms 1 and 2 should be provided as part of the solicitation documents)

FORM 2: LETTER OF INTENT

Name of bidder's/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

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

Affirmation

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

By _____
Signature Title

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

(Please submit this page for each subcontractor)

Attachment 5

DBE Monitoring and Enforcement Mechanisms

In the event that a DBE goal has been established by the Solicitation the prime contractor covenants and agrees as follows:

1. The BCC requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the BCC's prior written consent. Prior written consent shall 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 the BCC its request to terminate, the prime contractor shall give notice in writing to the DBE of its intent to do so. A copy of this notice shall be provided to the BCC prior to consideration of the request to terminate. The DBE shall have five (5) days to respond and advise the BCC why it objects to the proposed termination. The five day period may be reduced if the matter is one of public necessity, e.g., safety.

2. In those instances where "good cause" exists to terminate a DBE's contract, the BCC requires 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. The prime contractor shall notify the BCC immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.
3. The BCC requires the prime contractor to obtain the BCC 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 BCC may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the BCC may issue a termination for default proceeding.

4. The prime contractor shall provide the DBE Liaison Officer with at least thirty (30) days written notice prior to instituting any legal action against a DBE subcontractor.
5. The prime contractor shall provide the DBE Liaison Officer with monthly updates as to the prime contractor's continuing compliance with the DBE requirements set forth in the Solicitation.

The prime contractor shall submit with each invoice a report of DBE expenditures. Such report must show each DBE, the amount of such DBE's subcontract, the amount earned to date, the amount earned with respect to that invoice and the amount remaining to be earned.

6. The prime contractor shall make prompt and full payment to any DBE subcontractor (including the payment of any retainage) within the later of:
 - a. Thirty (30) days after the DBE subcontractor's work is satisfactorily completed,
or
 - b. Thirty (30) days after the prime contractor receives payment from the BCC for satisfactory completion of the accepted work.

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

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.

The BCC will also consider similar action under state legal authorities, including responsibility determinations in future contracts, removal of firms from the prequalified bidders and consultants' lists or revocation of DBE certification if applicable, pursuant to Section 337.105; 337.16; and 339.0808, Florida Statutes.

Attachment 6

49 CFR Part 26

The text of 49 CFR Part 26 can be found at the link:

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=4195360ce4431b02f1bc643ea0a6e638&rgn=div5&view=text&node=49:1.0.1.1.20&idno=49>

Attachment 7

State of Florida UCP Agreement

16B3
7/27/05

EXECUTIVE SUMMARY

16B3

Recommendation to approve, sign and execute an agreement with the State of Florida to participate in the Unified Certification Program (UCP).

OBJECTIVE: To acquire Board approval to execute the UCP agreement between Collier County and the State of Florida Department of Transportation per Federal Transit Administration Regulation 49 CFR Part 26.

CONSIDERATION: As a Federal Transit Administration grant recipient, Collier County must implement a Disadvantaged Business Enterprise (DBE) program to be in compliance with FTA regulations. FTA regulation 49 CFR 26, Subpart E – Certification Procedures Section 26.81 requires that all United States Department of Transportation (USDOT) recipients participate in a statewide Unified Certification Program (UCP). The Unified Certification Program agreement between Collier County and the Florida Department of Transportation is required in order to receive Federal Transit Administration grant funds for the transit system.

FISCAL IMPACT: There is no fiscal impact associated with this Executive Summary.

GROWTH MANAGEMENT IMPACT: Consistent with Objective 12 of the Transportation Element of the Growth Management Plan.

RECOMMENDATION: That the Board approve the execution of the Unified Certification Program agreement between Collier County and the State of Florida.

Prepared by: Lisa Hendrickson, Senior Planner, Alternative Transportation Modes

Attachment: Unified Certification Program Agreement

16B3

STATE OF FLORIDA
UNIFIED CERTIFICATION PROGRAM
UCP AGREEMENT
SIGNATURE and DECLARATION OF STATUS

IN WITNESS WHEREOF, the UCP Members execute this Agreement prepared
September 27, 2005, by authorized signatures, and attached resolutions if
appropriate.

Board of County Commissioners
Collier County, Florida
Signatory Entity Name, printed

ATTEST: Dwight E. Brock, Clerk
By Heidi R. Bockhold, DC
Signature Attest as to Chairman's
signature only.
Heidi R. Bockhold, DC
Name, printed

Fred W. Coyle
Signature and Title
Fred W. Coyle, Chairman
Name and Title, printed

This 27th day of August, 2005

Approved as to form:
[Signature]
(Attorney for Signatory)

Item # 16B3
Agenda
Date 9-27-05
Date
Rec'd 9-28-05
[Signature]
Deputy Clerk

Certifying Member Status Non-Certifying Member Status